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JORDAN FREE TRADE AGREEMENT

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

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TUESDAY, MARCH 20, 2001

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 2:30 p.m., in room 215, Dirksen Senate Office Building, Hon. Charles E. Grassley (chairman of the committee) presiding.

Also present: Senators Snowe, Baucus, and Kerry.

OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S. SENATOR FROM IOWA, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. To all of our distinguished witnesses, thank you very much for being here on time so that we can get going.

We are going to deal with the very important issue of the United States-Jordan Free Trade Agreement, signed October 24. It marked a very welcome development in relationships between the United States and the Kingdom of Jordan.

Of course, it is thanks, in large measure, to the high priority that King Abdullah has attached to economic reform in Jordan, in particular the negotiations that resulted in this agreement.

Also, thanks to the bipartisan support of these negotiations in the Senate, we are now on the brink of a more profound partnership with America's most reliable friend and ally.

When this partnership is ratified, Jordan then will become, it is my understanding, the fourth country in the world to have a bilateral free trade agreement with the United States.

If we are ever able to achieve a comprehensive regional peace in the Middle East, I think it will be, to a large part, due to the vision and personal commitment of leaders like King Abdullah, using the path of full engagement of the world through trade.

I will have the honor of introducing his Majesty to members of this committee early next month during the King's visit to the United States, and I hope our committee will take that opportunity to spend some time with him.

This free trade agreement is significant for another reason. Because the agreement will remove impediments to free trade, it signals a maturing of the economic relationships between our Nation and Jordan. The sole focus of our economic relationship then will no longer be one of foreign assistance.

With Jordan's accession to the World Trade Organization last April, and with the expansion of trade we will see under this agreement, entrepreneurs in both countries will have more predictable, more secure, and more abundant access to each others' markets.

I was delighted to see Jordan's accession into the WTO, which was delayed for a short period of time because of the turmoil in Seattle. The framework of rights and obligations which the WTO system has created plays a crucial role in developing trade in the fast globalizing world economy. In joining, Jordan is now an equal partner in observing the primary WTO principles of non-discriminatory free trade.

More importantly, through the WTO, Jordan is also our partner in making sure that the conditions for trade are stable, are predictable, and are transparent. Jordan can play a constructive role in the WTO in helping bridge the differences between the world's developed and developing nations so that we can, together, reap the rewards of peace and prosperity through trade.

It was in anticipation of Jordan's new role in the world trade community, and of its closer bilateral ties with the United States, that I strongly endorsed the negotiations that led to the agreement we are discussing today.

Now, there are some things about the agreement that I am surprised about that I would like to point out, and that Senator Baucus and I will have opportunity to discuss over the next few weeks.

I was surprised that the final agreement included somewhat exceptional provisions relating to labor and environment. They are exceptional for three reasons. First, is their lack of clarity. It is not clear legally whether the relevant articles are binding and enforceable, and if so, how.

Second, they are exceptional because the United States has no concerns about labor and environmental standards employed in Jordan, nor, as far as I know, does Jordan have any concerns with ours.

Finally, and most importantly, some of our most respected diplomats, legal scholars, and former trade negotiators have concluded that these provisions could lead to the use of trade sanctions.

Today, we have people who are witnesses that probably will deal with those issues. I put you in the category of respected diplomats and trade negotiators that might have a different view.

Given the nearly unanimous opposition of the world's developing nations to the use of trade sanctions to enforce labor and environment, opposition that led directly to the collapse of the last WTO ministerial in Seattle, these developments, as far as they relate to the negotiations on Jordan, concern me.

There are other, better ways to address labor and environmental concerns. The best way is the way advocated by the distinguished former chairman of this committee, Senator Moynihan. He strongly believed that labor concerns were best addressed at the International Labor Organization.

Now, it happens that Senator Baucus and I have to meet with trade ministers from foreign countries quite often. I meet with some who I think share the views of Senator Moynihan.

These trade ministers are from countries that have more extensive records of protecting core labor rights and advancing international environmental standards than even we do.

Yesterday, I had an opportunity to meet with the Trade Minister of Sweden. Sweden's record on protecting labor and environmental standards is second to none. I should also point out that Minister

Pagrotsky, who is from Sweden's Social Democratic Party, is a member of his country's parliament, which has long advocated progressive positions on labor and environmental standards.

But here is what Minister Pagrotsky said in his speech he delivered last year at the International Metalworkers Federation: "Trade ministers should not try to take over the fight against exploitative child labor or the right to collective bargaining from the International Labor Organization. Trade liberalization did not create those problems and, therefore, trade restrictions could not cure them."

It happens that I share Minister Pagrotsky's concerns, concerns that are being increasingly aired throughout the developed and developing world. Let us have then an informed discussion of these important issues at today's meeting, and down the road, until we make a final decision on Jordan.

Now I will turn to Senator Baucus.

OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM MONTANA

Senator BAUCUS. Thank you very much, Mr. Chairman.

In the fall of 2000, with attention focused on the U.S. election, any national and international events unrelated to the election did not, in my judgment, gain the attention that they would normally merit.

One of those news stories that slipped by the radar screen was the remarkable progress made by the Clinton administration in addressing a trade challenge that had tangled U.S. trade policy for more than a decade: addressing labor and environmental issues in trade agreements.

In free trade negotiations with Jordan, as well as in earlier negotiations with Cambodia on textiles, Clinton negotiators found creative ways to integrate labor and environmental issues into trade agreements without in any way compromising the agreement.

The United States-Jordan FTA signed on October 24, 2000 is the best example of this. The United States-Jordan FTA is a sound commercial agreement. The FTA eliminates tariffs and other trade barriers between the United States and Jordan, and establishes a dispute settlement mechanism to address future controversies.

It is very much on a par with the FTAs the United States has previously negotiated with Canada and Mexico. It closely parallels the FTA with Israel and a similar agreement with the Palestinian authority.

What is more notable, because of the effort to meaningfully address labor and environmental issues, the Jordan FTA also enjoys broader support than the previous agreements just mentioned.

The wide range of U.S. labor and environmental groups, as well as many business leaders, have endorsed the United States-Jordan FTA. In Jordan, the agreement enjoys wide support from virtually all elements of Jordanian society. By rights, this should avoid the bitter and divisive battle that took place on the North American Free Trade Agreement.

Beyond the direct commercial case for the United States-Jordan FTA, there is a compelling geopolitical case. Jordan has been a close and dependable ally of the United States in the Mid-East

peace process. Through crisis after crisis, Jordan has worked with the United States on Mid-East issues.

I have often expressed skepticism about mingling geopolitics with trade, but this is a case where the right trade policy outcome coincides with U.S. geopolitical interests.

The provisions of the United States-Jordan FTA that have attracted the most attention are those on labor and environmental issues. Jordan has strong domestic policies on both fronts, and enthusiastically negotiated understandings at the core of the agreement on labor and environment.

So for all the attention focused on these provisions are actually fairly modest. In essence, they call upon both the United States and Jordan to refrain from weakening their current labor and environmental standards with the aim of distorting trade.

The language in the United States-Jordan FTA is closely related to past language in U.S. laws, such as the African Growth and Opportunity Act, and side agreements to NAFTA.

These provisions are based upon the dispute settlement provision at the core of the agreement, which is largely consultative rather than binding; an arrangement which I believe will work well with Jordan.

Critics have attacked these modest provisions on many fronts. Apart from a general objection to addressing labor and environmental issues at all in trade agreements, two primary criticisms have been leveled.

First, some have argued that the United States-Jordan FTA opens the door to litigation by private parties. Those who make this argument need to read the agreement. The FTA is a government to government agreement. Only governments can bring complaints.

Second, some have suggested that the agreement could be used to stop the United States from taking steps such as weakening the Clean Air Act, or opening up the Alaskan National Wildlife Range to oil drilling.

As a past chairman of the Environment and Public Works Committee, I can guarantee that those who would seek to weaken U.S. environmental laws will face stiff opposition.

That said, the United States-Jordan FTA will not play a role in that debate unless the advocates of weakening those laws do so with the aim of distorting trade. There is simply no substance to this charge. In short, the arguments usually made against the environmental and labor provisions are red herrings, not real arguments.

I suspect the real motivation of critics is the concern that the United States-Jordan FTA creates a precedent. On this issue, I hope the critics are correct. The United States-Jordan FTA does set a precedent for addressing labor and environmental issues in a reasonable manner. It does set a precedent for concluding trade agreements that enjoy wide support in the United States.

What is more, the precedent has already been set. When the U.S. and Jordan signed the FTA, it proved that this kind of trade agreement can be negotiated. It is negotiation of the agreement, not its Congressional approval, that sets the precedent.

All that said, the United States-Jordan agreement is but one precedent. Certainly with regard to labor and environment, one

size does not fit all. Environment and labor issues should be on the agenda in all future FTA negotiations. The Jordan agreement provides one possible approach, but not the only approach.

I am disappointed that the Bush administration rejected an invitation to testify before the committee on this agreement. Apparently, they have not yet decided whether to endorse it or not.

When Bill Clinton took office in 1993, I urged him to go ahead with approval of NAFTA, which had been negotiated by the previous Bush administration. I did this, not because I thought that there was no way to improve upon NAFTA. The NAFTA was by no means perfect. I did it because I believe it is important to have continuity in trade policy.

If we reach a situation in which each incoming administration begins by undoing and disavowing the agreements negotiated by its predecessor, progress on trade policy will stop cold and U.S. credibility will be seriously undermined.

We need to approve the Jordan FTA, and approve it now. Hopefully, we can do this before the King of Jordan visits the United States in the first week of April. Toward this end, I plan to introduce legislation to implement the agreement next week, in conjunction with colleagues in both the House and the Senate.

The agreement should be approved on its own. I have been deeply troubled by the suggestion I have heard that the agreement should be packaged with a half a dozen other trade items, including the renewal of fast track.

In my view, such an omnibus bill is more likely to draw opposition than support and may well make it impossible to pass any trade legislation in 2001, or even in the entire 107th Congress.

The Jordan FTA, the new trade agreement with Vietnam, and a few other items could be considered on their own merits. On that basis, I believe they can win wide support from the Congress.

So, I urge the administration to work with the Congress to make that happen rather than trying to join them all in an overly broad package, which I think will threaten to stall progress.

It is time for supporters of trade liberalization on both sides of the aisle, supporters of the Middle East peace process, and supporters of environmental and labor causes to join together, join together and win quick passage of the United States-Jordan FTA.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Baucus, and also for your cooperation in this hearing process for this very important issue.

For both panels, any written statement you have that you want in the record, they will be put in as you submit them.

We would ask, for both Senator Baucus and myself, and other members who probably will not be able to come because it is so busy in the afternoon around here, that if you get questions in writing, we would like to have responses to those in a couple of weeks. That would apply to both panels as well.

It is my privilege to welcome to the table Ambassador Charlene Barshefsky, Mr. Sandy Berger, Ambassador Michael B. Smith, and Mr. Timothy Deal.

Charlene Barshefsky has had an opportunity to appear before this committee so many times, and I guess I am surprised you are

back here. But I am glad to have you back in your capacity now as a private citizen.

She most recently, as everyone knows, served as President Clinton's U.S. Trade Representative. She negotiated this Jordan-United States agreement. She is currently public policy scholar at Woodrow Wilson International Center for Scholars.

Mr. Sandy Berger most recently served as President Clinton's National Security Advisor. We welcome you.

Ambassador Michael B. Smith served as a Deputy U.S. Trade Representative in both President Carter and President Reagan's administrations. He was principal American bilateral trade negotiator during the 1980's. He concluded more than 200 agreements with more than 50 countries. That sounds like an awful lot of work, but I assume that that is accurate.

Our final witness on the first panel is Mr. Timothy Deal, senior vice president, the U.S. Council for International Business, and served on the National Security Council staff. Welcome.

We will go in the order of Ms. Barshefsky, Mr. Smith, Mr. Berger, then Mr. Deal.

STATEMENT OF HON. CHARLENE BARSHEFSKY, FORMER U.S. TRADE REPRESENTATIVE

Ms. BARSHEFSKY. Thank you very much, Mr. Chairman. It is a great pleasure to be before you and Senator Baucus on this important issue.

Let me begin by saying that it is also a pleasure to serve with such distinguished panelists. I think that this hearing today will be helpful to us all.

I strongly support the early enactment of the United States-Jordan Free Trade Agreement as both a critical element of America's Middle East policy, and on its general merits, as a fully market opening Free Trade Agreement. I applaud your decision to hold this early hearing.

If I could, let me take a moment to review the agreement's broader implications for the Middle East region and for U.S. trade policy.

In negotiating this agreement last year, the Clinton Administration had a number of strategic goals. In brief, we sought to encourage regional economic integration in the Middle East generally; second, to support Jordan's economic reform program in particular; and third, to develop a comprehensive and innovative free trade agreement which would set a new standard for rigorous trade liberalization and help to bolster bipartisan consensus for trade policy in the United States.

Let me take each of these goals, briefly, in turn. First off, encouragement for regional trade integration and liberalization. In most parts of the world, American trade policy today builds on both a general commitment to the multilateral trading system through the WTO, as well as our support of regional initiatives, whether the expansion of the European Union, the ASEAN free trade area, or Mercosur, or the Central American Common Market, and so forth, all of which are intended to foster regional economic integration.

The Middle East is an exception to today's trend. Its nations are more economically isolated from one another and from the outside world than those of any other region in the world.

Not only are the region's trade barriers high with respect to the outside world, but there is less intra-regional trade in the Middle East than in any other region of the world.

Throughout the past two decades, only about 6 percent of Middle East trade has been internal to the nations of the Middle East, compared to about 10 percent for Africa, 20 percent for Latin America, almost 40 percent for Asia.

Over time, this isolation has come with a high economic and political cost. The Middle East share of world trade has steadily fallen. In our case, the Middle East provided 7.3 percent of U.S. exports 20 years ago, and today, 2.5 percent. Its exports also remain concentrated in natural resource areas, particularly energy, with much less potential to create jobs for growing urban populations.

So the region has lost opportunities to diversify and develop economies of scale that could spur investment in technological progress. As a result, its growth has stagnated and poverty has persisted.

This, in turn, has raised social tensions within countries, creates greater potential for political instability, and denies governments and nations the opportunity to find areas of common ground.

American trade policy, with bipartisan support, has sought to encourage nations of the region to open their economies to one another and to the world. This has included encouraging them to join the WTO, with recent success in the accession of Jordan and Oman, together with negotiations on aspiring WTO members such as Lebanon, Saudi Arabia, Algeria, and Yemen. This has included the development of bilateral relationships and agreements throughout the region.

The most ambitious, of course, was the United States-Israel Free Trade Agreement, but other examples include trade and investment framework agreements with Egypt, Jordan, and Morocco, as well as bilateral investment treaties with Jordan and Bahrain.

The trade relationship with Jordan is of special importance in regional trade policy. Of course, as Sandy Berger will testify, Jordan has been a strategic partner for decades in the search for peace in the Middle East, in its own right as one of two Arab nations to sign a peace treaty with Israel, and as a source of creative ideas and encouragement for negotiations.

Second, under King Abdullah, Jordan's government has begun a program of economic reform which is absolutely a model for the region. Over the past 2 years, Jordan has thoroughly reformed and modernized its trade, domestic, and economic regimes, drastically reduced barriers to trade, upgraded intellectual property laws, deregulated services industries, joined the World Trade Organization, and worked toward liberalized trade with its neighbors, ending participation in the boycott of Israel, and proposing free trade agreements with neighboring Arab states such as Lebanon.

The U.S. worked very closely with the government of Jordan throughout this reform process, whether in helping Jordan through its WTO accession, the Bilateral Investment Treaty, the Trade and Investment Framework Agreement, as well as encouraging Jor-

dan's participation in the Internet for Economic Development Initiative, the LELAND initiative.

Of greatest significance as we consider the free trade agreement is the unique qualifying industrial zone program to encourage bilateral trade and economic integration.

The United States-Jordan Free Trade Agreement was designed to build on this experience, liberalizing trade across the full range of industrial goods, farm products, and services.

It is a rigorous agreement, covering all of the principal sectors and issues that FTAs have traditionally addressed, but it is also an innovative agreement to address new issues.

Not only will goods and services trade open completely within 10 years, but agricultural trade will be subject to sanitary and phytosanitary scientific standards and procedures.

This is the first agreement to contain substantial provisions on electronic commerce and Internet trade, which I believe will form a model for future agreements. As you pointed out, Mr. Chairman and Mr. Baucus, it is the first agreement to include labor and environmental provisions.

If I may stop for just one moment here, and then I will conclude. While restating the existing commitment of both countries to strong environmental protection and to the ILO's core labor standards, this agreement neither imposes new standards nor bars change or reform of national laws as each country sees fit with respect to the labor and environmental regimes it has.

But it does enable each partner to request consultations and, if necessary, impartial dispute settlement in the event that one FTA partner believes another is systematically avoiding enforcement of existing national laws with the intent of gaining a trade or investment advantage.

The FTA is accompanied by a separate technical assistance agreement that will offer practical help in very complex policy areas, beginning with cooperative arrangements on the environment.

This approach fully respects the sovereignty of the Hashimite Kingdom of Jordan, as well as the United States, addresses trade-related environmental and labor issues in an appropriate manner, we believe, and bolsters the overall agreement's commitment to free trade and the rule of law.

In sum, this is an agreement of substantial importance to the United States. I welcome your decision to hold this hearing and urge the agreement's earliest implementation.

Thank you very much, Mr. Chairman and Mr. Baucus.

[The prepared statement of Ms. Barshefsky appears in the appendix.]

The CHAIRMAN. Thank you, Ambassador Barshefsky.

Now, Ambassador Smith?

STATEMENT OF HON. MICHAEL B. SMITH, FORMER DEPUTY U.S. TRADE REPRESENTATIVE, WASHINGTON, DC

Mr. SMITH. Thank you, Mr. Chairman. Thank you for inviting me to testify regarding the United States-Jordan Free Trade Agreement.

I am sure all of us can support, on political grounds, the concept of a free trade agreement between Jordan and the United States. However, there are provisions in the October 24 text which, on trade grounds, are very troublesome.

I refer, specifically, to Articles 5 and 6, and by reference, Article 17 of the agreement. I believe the inclusion of Articles 5 and 6 in this trade agreement is unwise, and at the very least, premature. I believe they should be removed entirely from the agreement or specifically made not subject to Article 17 dispute settlement coverage, for the following reasons.

First, to my knowledge, the United States itself has no consensus regarding to what degree, if any, environmental and labor issues should be included in trade agreements. There has been no credible national debate on this highly contentious matter, and the Congress itself is divided.

Yet, the Congress is being asked to approve a trade agreement containing not only environmental and labor provisions within the formal text of the agreement, but also, and far more significantly, provisions for sanctions for vague, unspecified violations of such environmental and labor provisions.

In this agreement, what does failure to enforce "effectively" mean? By whose standards? What are the "obligations" in Articles 5 and 6?

Second, it is not clear whether the provisions of Article 5 and 6 are actionable if not lived up to. I am informed that the words "strive to" in paragraphs 1 and 2 of both articles were purposely chosen to convey the meaning that the undertakings therein were not legally binding, i.e., not actionable in case of failure.

Yet at the same time, I am informed that Articles 5(3)(a) and Article 6(4)(a), which both use the words "shall not fail to effectively enforce," are viewed by the United States as legally binding and actionable.

What is the correct interpretation here? Are the articles binding or not and, thus, enforceable or not? Article 17(1)(ii) of the agreement authorizes a party to seek consultations with the other if the first party believes the other party has failed to carry out its "obligations" under the agreement. Article 17, elsewhere, presents the possibility of sanctions if the consultations fail.

Hence, the question of whether or not Articles 5 and 6, in part or in their entirety, are enforceable, actionable obligations becomes critical. Until there is a clear understanding by both parties and the Congress regarding these articles, I believe they should be deleted or, at the very least, clarified by the U.S. Government as not subject to Article 17.

Third, while Jordan, for political reasons, may have been willing to tolerate the inclusion of Articles 5 and 6, there is certainly no guarantee that other WTO members, particularly from the developing world, will be so accommodating.

Indeed, the United States was put on notice in Seattle by a large number of developing nations, with whom we have far more important trading relations than Jordan, that, in their view, "sanctionable" environmental and labor provisions have no place in trade agreements.

Fourth, there is no consensus in the WTO regarding the placement of environmental and labor provisions in trade agreements coming under its purview, as does this agreement. Indeed, the WTO remains divided on whether or not a member may take punitive trade actions against another member because of the latter's alleged domestic environmental or labor "violations."

Since the WTO itself has no consensus on either the role or legitimacy of environmental and labor provisions in trade agreements, Articles 5 and 6 of the United States-Jordan Free Trade Agreement should be deleted or clarified regarding their compatibility with GATT/WTO.

In my view, Articles 5 and 6, as written, are largely fluff, open to widely differing interpretations, and, as such, causes for possible differences between Jordan and the United States.

Articles 5 and 6 do not advance the "cause" of either international environmental or labor affairs, and only add confusion to what should have been a straightforward free trade agreement.

Indeed, the only result I can foresee is countries adopting lower environmental and labor standards for fear of themselves being unable to effectively enforce higher standards, hardly a desired result.

The provisions on labor and environment are a double-edged sword. U.S. enforcement, possibly as a waiver under our Clean Air Act, or any exercise of discretion by enforcement agencies, prosecutors, or courts could become a trade agreement violation subject to trade sanctions. This is a dangerous precedent and one that the Congress should not consider lightly.

In conclusion, from a broader perspective, I have real questions regarding the advisability of making trade agreements carry burdens they are incapable of handling, or at least handling well.

The linkages between trade and environment, for example, are exceedingly complex and to this day not well understood, even by experts in both fields. That there may be some linkage cannot be denied. But until we have a better understanding of the linkages, both helpful and harmful, and how to craft agreements which advance both trade and environment/labor issues, we are best advised not to include such imperfectly understood matters in trade agreements.

Thank you, Mr. Chairman.

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

The CHAIRMAN. Thank you, Mr. Ambassador.

Now, Mr. Berger? Thank you very much.

STATEMENT OF HON. SAMUEL R. "SANDY" BERGER, FORMER NATIONAL SECURITY ADVISOR, WASHINGTON, DC

Mr. BERGER. Thank you, Mr. Chairman, members of the committee. I am pleased to have this opportunity to discuss the United States-Jordan Free Trade Agreement with the committee, and to urge its early approval by the Congress.

Ambassador Barshefsky and Ambassador Smith have, and I am sure will, address further the various trade issues that are involved in this agreement. Let me tell you why I believe it is so important from the perspective of America's strategic interests in Jordan and the Middle East.

I know this committee is acutely aware that the nature and outcome of this debate is important, not only for trade policy, but also for our relations with a critical country at a critical time.

The Kingdom of Jordan has been one of America's most stalwart friends in the Arab world, both under the leadership of the late King Hussein, and now under King Abdullah II. Both have been strong, clear voices for reconciliation with Israel and for close relations with the United States.

The torch of peace that was held with such dignity by the father is carried with equal conviction by the son, particularly at a moment of volatility and danger in the Middle East. We need the voices of reason and moderation to be strong and confident. We have an enormous stake in the stability of Jordan and the success of its leaders.

Prompt passage of this agreement is important to that success, both in real and symbolic terms. King Abdullah has undertaken a serious program of economic reform, including difficult actions needed for Jordan's accession to the WTO. These include stronger intellectual property laws and a better climate for both foreign and domestic investors.

Nonetheless, the economic situation in Jordan is difficult. Unemployment is high, in the neighborhood of 25 percent. GDP growth, which began to increase last year, then turned downward in the last quarter as the Palestinian Intifada seriously interrupted Jordan's tourism industry, an important part of Jordan's economy.

As is often the case, Mr. Chairman, there has been a gap between the long-term benefits of structural reforms and the results people can feel in their daily lives. It is critical that the people of Jordan see, sooner rather than later, that modernizing the Jordanian economy, despite its difficulties, will change their lives for the better. Prompt approval of this agreement will help make that happen. Protracted delay would be a setback.

We have strong evidence that this agreement will provide genuine benefits to Jordan from our experience with the Qualified Industrial Zones that were initiated with Jordan and Israel in 1996. These zones have enabled Jordan to expand its export sector, creating thousands of jobs for the Jordanian people.

Mr. Chairman, I believe there is a second, broader reason why it is important to approve this agreement. King Abdullah has gone further than most all of his Arab colleagues in seeking to build a modern economy. Indeed, much of the region has fallen further behind in the global economy in recent years. That is a prescription for future division and instability.

By reaching and approving this agreement we send a powerful message to the entire region, that economic modernization is a genuine path to a better life for the people of the region.

If we strengthen the reformers, we make it easy for others to follow. I can assure you that others in the region are watching what we do carefully and will hear that message clearly.

Mr. Chairman, a new generation of leaders is emerging in the Arab world. They either will choose the path of peace, moderation, and global integration, or they will slide further from the global mainstream and the chasms of poverty and bitterness will widen.

King Abdullah has chosen the path of global integration, both economic and strategic. It is essential for the United States that he succeed and that we provide concrete support to that effort.

Prompt action by the Congress to approve this agreement would be an important step in that direction.

Thank you, Mr. Chairman.

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

The CHAIRMAN. Thank you, Mr. Berger.

Now we go to Mr. Deal, then we will ask questions.

STATEMENT OF TIMOTHY E. DEAL, SENIOR VICE PRESIDENT, THE U.S. COUNCIL FOR INTERNATIONAL BUSINESS, WASHINGTON, DC

Mr. DEAL. Mr. Chairman, thank you for the opportunity to appear before this committee to discuss the United States-Jordan FTA.

I represent the U.S. Council for International Business, which has approximately 300 members, including multinational companies, law firms, and trade associations.

Last year when the Clinton Administration announced its intention to launch free trade negotiations with Jordan, we applauded the initiative on both political and economic grounds.

We saw then, as we see now, that the principal attraction of such an agreement is the contribution it could make to Middle East peace. We also saw an additional benefit: it could breathe new life into U.S. efforts to liberalize trade and investment, efforts that have languished since the conclusion of the Uruguay Round.

Given these aspirations, we were concerned by the decision of the Clinton Administration to include labor and environmental provisions into the agreement. We argued that the inclusion of such provisions in the agreement was undesirable and might prove contentious if and when the agreement came before the Congress.

Of course, the U.S. Council shares the growing concern and interest in improving the conditions of workers, not only in this country, but globally. We also see the need to protect the ecology of the planet.

Where we and the business community part company with the past administration, organized labor and environmental groups, is over the most effective means to pursue these objectives.

Labor and environmental NGOs support a sanctions-based approach, where trade is used as a club to impose U.S. objectives and standards on others. We consider that approach a recipe for undermining the rules-based trading system in which the U.S. has a vital stake.

Let me now turn to our specific concerns about the signed agreements. Articles 5 and 6 include environmental and labor provisions directly in the operational part of the agreement. We have consistently argued, during the NAFTA debate and since, that such provisions should be addressed in side agreements.

Further, the emphasis should always be on ways to promote cooperation in the labor and environmental fields, not force compliance through trade sanctions.

Our experts tell us that the inclusion of labor and environmental provisions in the body of the agreement can be read to mean that

either government may impose trade sanctions for any violations of Articles 5 and 6.

Article 17 on dispute settlement allows either government to take "any appropriate and commensurate measures" for a failure by the other party to carry out its obligations under the agreement, including the environmental and labor commitments. These measures presumably could include punitive trade sanctions.

While the changes are probably remote that either Jordan or the U.S. would impose trade sanctions for failure to meet labor and environmental commitments, the United States-Jordan FTA could become an important precedent for future trade negotiations. That is why it is vitally important to get this agreement right, even if the commercial stakes are relatively small.

Looking beyond Jordan, we must take account of the attitudes of our other trading partners. We do not negotiate trade in isolation. This agreement will be anathema to many in the developing world because they do not accept the right of other governments to enforce their domestic labor and environmental laws and practices.

What, then, is the proper course for dealing with this agreement? Clearly, from our standpoint the preferred course would be the renegotiation of the agreement, first, to eliminate the labor and environment provisions, and second, to ensure that the dispute settlement article does not permit retaliatory trade measures for any alleged violation of labor or environmental laws and regulations.

Reopening the negotiations may not be practical or politically feasible. Given the importance of Jordan to Middle East peace, the Bush Administration may not wish to go down that route.

A sensible alternative then might be the conclusion of a memorandum of understanding between the two governments that makes clear that the measures referred to in Article 17 do not include trade sanctions, at least with respect to the labor and environment provisions.

Another possibility would be an administration policy statement that allowable measures under Article 17 do not include trade sanctions for labor and the environment. The problem with that option is that a future administration could change the policy unilaterally.

Therefore, we would urge the Congress to make clear in any implementing legislation that trade sanctions are not an authorized response to any perceived violation of the labor and environment provisions of the FTA.

In closing, let me say that U.S. Council members fully support a concept of sustainable development that recognizes the importance of improving labor and environmental standards, while encouraging economic growth and trade.

However, we believe that there are more effective and less contentious alternatives to trade sanctions to promote those standards. A positive, forward-looking approach stressing cooperation, not coercion, should be the U.S. policy objective.

Thank you, Mr. Chairman.

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

The CHAIRMAN. Thank you all very much for your outstanding performance and analysis of the situation we are in.

I am going to ask questions of specific members of the panel, but if anybody else wants to dispute or add, whatever is your desire, feel free to do so after the person responds.

I will start with Ambassador Barshefsky. When this agreement was being negotiated and it contained the labor and environment provisions, I was somewhat surprised because they seemed to me to be very much unlike anything we've seen before in prior trade agreements. I will give you an example: Article 17, mentioned here so much by other witnesses.

The language in paragraph two, which says that "the parties can take appropriate and commensurate measures." Resolving a dispute, it seems to me, to be very vague. It also sets up a procedure very different from NAFTA, where parties can at least develop a factual record.

Is it vague? I think it is. Does the lack of any specific ability of the parties to establish a factual record trouble you at all?

Ms. BARSHEFSKY. Let me say that Article 17 is a direct lift from the United States-Israel Free Trade Agreement. The only word added that is different, apart from the substitution of "Hashimite Kingdom of Jordan" for "Israel", is the addition of the word "commensurate" after the notion that, if at the end of the day one can not reach resolution, then the complaining country can take appropriate action.

We added the word "commensurate" because we wanted to make clear that trade sanctions, generally, are to be avoided, if at all possible. That was not sufficiently clear in the Israel agreement.

With respect to Article 5 and Article 6 on labor and the environment, the notion of enforcing one's own law, the notion of not having a systematic effort to undermine the law as a means of distorting trade, is almost a direct lift from the NAFTA.

So, in answer to your question, Article 17 has absolutely been used before in the United States-Israel agreement. Articles 5 and 6 are from the NAFTA side agreements.

The CHAIRMAN. There must be some difference, though, from NAFTA on the establishment of a factual record. Some difference, otherwise, it would not have been pointed out.

Ms. BARSHEFSKY. Bear in mind that Articles 5 and 6 make clear that one would have to demonstrate that the foreign country has engaged in a "sustained or recurring course of action or inaction" in a manner that distorts trade.

Obviously, for a consultation to be at all meaningful and for a panel to be formed, if that is what happens at the end of the day, one would plainly need a factual record to demonstrate the sustained or recurring course of action at issue.

There is a tension, Mr. Chairman, in the degree to which one wants to keep dispute settlement open and largely consultative in nature and the degree to which one would rather have a more highly structured, juridical form of dispute settlement, as we have, for example, in the WTO.

Given the success of the informal consultative form of dispute settlement in the United States-Israel agreement, and given the extent of our trade with Jordan, we opted, and I think it was the right decision, to retain an informal, largely consultative, less juridical form of dispute settlement with Jordan. The United States-

Israel agreement has been in effect for over 15 years. The dispute settlement system has been invoked once.

The CHAIRMAN. Is the application of Article 17 to labor and the environment not unprecedented?

Ms. BARSHEFSKY. The application of consultation, dispute settlement, and potential remedy to labor and environmental issues is spelled out in the NAFTA side agreements.

The Jordan FTA, to be sure, contains those provisions in the body of the agreement. But, frankly, I have never been much impressed with the argument that obligations are somehow less meaningful if in a side agreement versus in the main body of an agreement, or more meaningful if in the main body of an agreement versus a side agreement. Either an agreement is enforceable or not, whatever its title or positioning.

In this case, these provisions are in the body of the agreement, but the substance of them and the degree of enforceability is not unlike the NAFTA side agreements.

The CHAIRMAN. Let me get Ambassador Smith in here before we break for another person.

How troubled are you with the apparent lack of language in paragraph 2(b) that allows the parties to establish a factual record? Then I will go to Senator Baucus.

Mr. SMITH. 2(b) of Article 17?

The CHAIRMAN. 2(b) in regard to the establishment of a factual record.

Mr. SMITH. I am troubled by the whole thing, Mr. Chairman. To take " any appropriate and commensurate measure" is, to use the phrase, wide enough of a loophole to drive a Mack truck through. It depends on the whim and will, if you will, of the action-taking agency, whether it is USTR, the Congress, or whoever as to what is appropriate and commensurate.

I am not soothed in any way by Ambassador Barshefsky's words that they added "commensurate." In fact, it bothers me more that they added "commensurate." I am also bothered, Mr. Chairman, by the contradiction, at least which is not explained thus far, between the words "shall strive to ensure"—which I understand from USTR are unique words, and were not used in other agreements—"that its laws provide for high levels," et cetera, as opposed to the interpretation, again, which I understand from USTR, of Article 5(3)(a) and 6(4)(a), that those are legally binding commitments. That "strive to," somehow, between those paragraphs 1 and 2 of each article as they go down become, instead of a striving to, i.e., not legally binding, to a provision in that which is legally binding.

Right now, I would just like to know, what is the correct interpretation? Are the articles, in their entirety or in their part, legally binding or not, and therefore enforceable or not? I think that needs to be clarified, or otherwise we are going to have misunderstandings.

The CHAIRMAN. Thank you, Ambassador Smith.

Now, Senator Baucus.

Senator BAUCUS. Thank you, Mr. Chairman.

One of the concerns we have heard about all this, is this is somewhat new. Whenever we face something somewhat new, it is al-

ways a bit difficult. There is no doubt about that. By definition, it is difficult. But that does not necessarily mean we should not try.

I can think of another area where something was new, was difficult, there was not consensus, but we tried, and that was intellectual property. There was no consensus on how to deal with intellectual property, but we, as a country, decided to proceed anyway the best we could and tried in the best manner we could. I think we have been quite successful in encouraging other countries to come along. It is kind of a bumpy road, it is not smooth, but by and large there has been considerable progress in helping organize support for protection of intellectual property.

So, I would like to ask you, Ambassador Barshefsky, with the back of your mind thinking about Ambassador Smith's concern about developing countries, and no consensus on trade and environment, and so forth, intellectual property might be an example. I do not know whether it is or not. But just your thoughts on how we deal with the general question, because it is a legitimate question that he raises.

Ms. BARSHEFSKY. I think it is a legitimate question that Ambassador Smith has raised. There are two issues with respect to consensus: one is the question of international consensus, the other is a question of our own domestic consensus, also raised here on the panel.

On the international side, of course, there was no consensus on the appropriate inclusion of intellectual property rights protections in the GATT system, or ultimately in the WTO.

The U.S. played a leadership role—indeed, took the lead—in helping to ensure that that happened, despite the fact that many developing countries and some of our developed country partners thought the inclusion of intellectual property rights protection was completely inappropriate on a global basis.

With respect to the domestic consensus, there was certainly no domestic consensus about NAFTA when President Clinton decided to move ahead and gain support for its passage. There was certainly no consensus in the Congress on PNTR for China when President Clinton decided to move ahead, and forge consensus.

Either the United States is going to take a leadership role—domestically an administration is going to take a leadership role—and force a discussion of these issues on concrete terms or it is not.

I much prefer the debate on labor and environmental issues in the context of a concrete agreement with provisions people can look at and question, as Ambassador Smith has done—I think that is a very positive thing—than have this debate in the abstract on some theoretical ground, giving rise to all sorts of paranoid fantasies about trade agreements and their intersection with labor and environmental issues.

In this situation, President Clinton decided that he wanted to proceed, to put in writing in a concrete way his vision and his view of a way in which to meld free trade and globalization with enhanced public support for trade agreements and trade liberalization.

Certainly the Jordan agreement is not the only model, not at all, and it may not be appropriate in every case. But in this particular instance with respect to the two countries involved—the United

States and Jordan—it is certainly a reasonable, pro-trade approach.

Senator BAUCUS. Thank you very much.

Ambassador Smith, you make it pretty clear you are not too wild about this agreement. The question I have for you, though, is how do we get from here to there? We have heard lots of here to theres.

What I am thinking about is fast track. How do we get support for fast track? We have twice failed in the last 2 years to get fast track negotiating authority.

We all know what happened in Seattle. Seattle collapsed, for a lot of reasons. I think, basically, the ministers just were not ready for all of these converging events that were occurring in the world, converging on Seattle.

Not to be difficult, but you have got a lot of complaints about the Jordan FTA. So give us some positive ideas on how we can get fast track passed, and can we get fast track passed without dealing with labor and environment? My judgment of that is we cannot, without dealing meaningfully with labor and environmental issues. We just cannot ignore them. I think one reason Seattle collapsed is because we did not know how to deal with them.

In listening to Ambassador Barshefsky, which is good instinct, namely, if we want to deal with something we try to figure out a way to do it, so how do we get fast track passed, and how do we deal with labor and environmental issues, if you are against the Jordan agreement?

Mr. SMITH. First of all, let me be very clear. I am not against the Jordan agreement, I am against two paragraphs, or two articles.

Senator BAUCUS. You are against the labor and environment provisions.

Mr. SMITH. I am, for the reasons I stated.

Senator BAUCUS. Right. Right.

Mr. SMITH. But I do not think the passage, or the non-passage, of the United States-Jordan agreement is critical to our passage—that is, the United States' passage—of fast track, which is a domestic procedure.

But I would fault the Clinton Administration, and soon I will fault the Bush Administration, if they do not start using the bully pulpit that the White House presents in trying to reeducate the American people about the value of international trade.

The only way, in my belief, that you are going to get fast track with broad support up here on the Hill is if the Congressmen and the Senators themselves have support for a pro-trade position. They only have that thing if we can start to reeducate, reinform the American people about the importance of international trade to this economy.

That, since Seattle, has disappeared. We are both—I hope all are—realists here. We know Seattle was perhaps the worst international economic diplomatic disaster since the second World War for the United States. It was akin to Smoot-Hawley.

Quite frankly, the pro-traders are in the minority right now. The only way we are going to get the pro-traders force is to go out and tell the American people why international trade is an important issue.

I would agree with you, that somehow we have got to find a way to incorporate labor and environment into the discussion. I do not know the way to do that yet.

I have spent, since the time I was Deputy U.S. Trade Representative and pushed the Reagan Administration to negotiate the Montreal Protocol, which was, if you will, an environmental issue, but we persuaded the administration to treat it as a trade issue as well. We have been talking between what I call the traders and the enviros for years, and we have not found common ground yet.

Senator BAUCUS. Is this not a good start?

Mr. SMITH. No, I do not think these provisions are a good start.

Senator BAUCUS. All right.

Mr. Berger?

Mr. BERGER. Senator, let me make a small point and a larger point. The small point, is just because I cannot let my friend Mike Smith's statement go unremarked upon.

I cannot think of any subject that President Clinton spent more time on the bully pulpit in 8 years than trade, whether that was WTO, whether that was China PNTR, whether that was NAFTA. So let us put that aside. That is just a little historical correction of Mike's misstatement.

The more important point here I want to make, is this. I hope this agreement does not become, and is not seen, as the battlefield for the ultimate argument about how we deal with trade, the environment and labor. We are shooting with real bullets here, Mr. Chairman and members of the committee.

This is an agreement that is extremely important to a key ally of the United States, Jordan. For this to become a political football or to be a canvas in which we argue out broader trade policy issues, I think, will be misunderstood in Jordan, will be seen as a rejection of Jordan's fundamental course towards modernization and its continued solidarity with the United States.

So, I would urge, although these are important issues and I do not in any way mean to minimize them, I think this agreement crafts a fair balance here which builds on existing agreements on these issues.

But if this becomes, as I say, a surrogate for the ultimate debate about how we go forward on this cluster of issues, our relations with Jordan will suffer, the Middle East will suffer, King Abdullah will suffer, and the United States will suffer.

Senator BAUCUS. Thank you very much, Mr. Chairman.

The CHAIRMAN. Senator Kerry of Massachusetts?

OPENING STATEMENT OF JOHN KERRY, A U.S. SENATOR FROM MASSACHUSETTS

Senator KERRY. Thank you very much, Mr. Chairman.

I want to make a couple of comments, if I can. Then, if I have an opportunity to question, I will do so.

But let me, first of all, welcome all the members of the panel, and particularly thank Mr. Berger and Ms. Barshefsky for their recent service.

Sometimes it is hard to get people to see what is really in their interests. This appears to perhaps be one of those moments where the Bush Administration may miss a golden opportunity. I know,

Mr. Smith, you are not representing them specifically here, but I think the point of view is certainly similar to what we are hearing from them.

I want to say a couple of things. Ambassador Zoellick has indicated that the administration intends to send an omnibus trade package to Congress, including the Jordan agreement, the United States-Vietnam Bilateral Trade Agreement, fast track authority, and other items in an effort to force one up or down vote on trade.

Let me say to the administration, which I assume is listening, that this is a really bad idea and, I think, threatens to undo the capacity we might have to build bipartisanship and consensus on this.

It will unnecessarily delay consideration of the Jordan and Vietnam agreements, both of which enjoy strong support, because they will become embroiled in the larger, and very contentious issue of fast track itself, or as we now say, trade promotion authority.

These two agreements are ready to go. They can be acted on separately and quickly, and they can be passed in the form in which they were negotiated.

I believe the administration should send the Vietnam agreement to the Congress immediately so it can be moved under the fast track procedures mandated by Title 4 of the 1974 Trade Act, and it should send a signal to Congress that it supports immediate action on both of these agreements.

Now, why do I say this, and where am I coming from, in this missing of, perhaps, an opportunity that is in front of people? Mr. Smith, I heard your comment a moment ago about the most significant diplomatic/economic failure since Smoot-Hawley.

I do not know how you rate Munich, or the Holocaust, or Vietnam, and a number of other things, but I have to tell you genuinely, sir, that I think you are misreading what is happening globally and to the politics of our own country with respect to trade.

I was the only member of my delegation in Massachusetts that held out for fast track last time, supporting it. I saw the numbers of supporters whittled down. I was on the receiving end of President Clinton's pretty effective and consistent use of the bully pulpit to talk about the virtues of trade again, and again, and again.

I will say to you, what is happening is the consensus is frayed right now, dangerously frayed. To force a vote on it in a context that seems to be challenging common sense with respect to these two agreements, I think, threatens to fray it even further.

It is frayed because globalization has not yet succeeded in proving to many people, in our country and elsewhere, that it is passing on all the upside benefits to everybody. That is enhancing the argument with respect to labor and trade.

Now, here is an extraordinary opportunity where a previous administration has already negotiated a bilateral agreement which has serious foreign policy implications with respect to stability in the region, the long-term aspirations of Jordan, the expectations of King Abdullah, and which, not withstanding, Mr. Smith, some of the questions you raised.

I do not deny the legitimacy of some of them, but what harm on earth is there in passing two separate bilateral models, one with

Vietnam, one with Jordan, and put to test the question of how this, in fact, may unfurl?

It is very obvious that, given this administration's views on labor and environment, they are not about to negotiate another bilateral agreement in the next four years that includes them, or I doubt it very sincerely.

Therefore, what harm is there in accepting this freebie handed to them by another administration that allows us to put to test whether it can work, whether it can be enforced, what the complications may be, where it may take us, unless some people are simply trapped in an ideological box, that they just want to press so hard because they fear what the up-side implications might be with respect to other treaties if it does work.

Now, I do not understand that. I do not understand why we would put at risk building a consensus around fast track itself by showing a willingness to move forward and move in a bipartisan way, given that both treaties would pass the Congress if they were, in fact, sent up here with the request to the administration to do so.

So we are begging for a fight, Mr. Chairman, we do not have to have. We are looking for a way to divide the Congress even further at a time when the administration has a chance to say to the labor interests, to say to the environmental interests, here is something the other administration tried.

It is a tiny country, it is not a huge impact on our economy, it is not going to have a profound up-side/down-side on our trades, but it does have a profound impact on Jordan itself and on the potential for future resolution of this trade issue.

I will say to the administration, as a willing and interested participant in the world economic forum deliberations, I have been stunned by the degree to which finance ministers, trade ministers, prime ministers, presidents, and business leaders from all over the globe are struggling with the question of how we are going to resolve some of these labor questions and the environmental issues in a way that builds consensus rather than creates further division.

So I think this is a golden opportunity. I am baffled, frankly, by the sort of resistance to taking what has been offered that offers no threat to one iota of negotiations that Mr. Zoellick is now going to enter into.

In fact, it even offers an opportunity to say to people, well, we have got a treaty we just signed. Let us see how it works before we negotiate some others. We need to put to the test some of these questions of enforceability and commensurate powers.

So, Mr. Chairman, I purposely just wanted to make that statement without asking questions at this point, because I think we are really about to find ourselves in a fight that threatens our capacity to make progress on trade, which I would like and a lot of others would like, and have a fight that we do not have to have.

The CHAIRMAN. Maybe I should be able to speak for the administration in response, and I can. But let me suggest to you, it would be one thing if you wanted to see the Jordan agreement on labor and environment as kind of a laboratory to see how it works over the next few years. That is one thing.

But the extent to which some people will use this as a precedent for everything else we want to do on fast track trading authority, for instance, I think gives us reason to raise some questions.

I would like to suggest to you, not for discussion at this point, I might be able to look at it as a laboratory for how labor and environmental issues work on trade agreements. But I would like to also be able to move ahead and see what sort of arrangements we could make on fast track trading authority to get some authority to the President to negotiate.

Senator KERRY. I understand that, Mr. Chairman. That is precisely what I am saying to you. I am one of those votes that has helped the President be able to do that.

I am saying to you, unless we see some genuine, bona fide outreach to listen to people who are raising legitimate concerns, my vote, and the vote of a lot of other people who care about trade, who have put their political careers on the line to support it, are going to be at issue and you are not going to pass fast track under those circumstances.

The CHAIRMAN. We know nothing will get done if we do not listen and try to work something out.

Senator KERRY. Well, when I hear people say, as they do, why do we not negotiate this in a side agreement, that would be terrific, if those negotiations every took place or you ever had some kind of side agreement that was meaningful.

But I am very sympathetic to those who have been arguing. We have been hearing that for years and it never happens. It never happens. So here we are with an opportunity. If the Kingdom of Jordan was willing to do this, and all we are doing is saying we are going to enforce current law, we are duty-bound to do that anyway in this country.

So if they are willing to hold themselves up and say we will do the same thing, what better advantage could there be with respect to meeting the demands and needs of people who feel legitimately aggrieved? I do not understand that.

What I see here is a kind of ideological, knee-jerk reaction that wants to make things more complicated rather than really try to solve the problem. Trade will not be advanced globally, I promise you, not because of anything I do, or our party does, or anyone else does, unless the world, the trading partner developed world, begins to deal with these issues of disparity, and the divide that is growing, not closing, even as our Nation grows richer and the trading partners grow richer.

The politics of this are clear. People who do not share in it will continue to pressure and feel that grievance and express it in the political process, and it will become harder, not easier, to pass fast track and to have a trade regime which I think all of us understand is in our long-term interest.

The CHAIRMAN. I think we will move on. I think I have said all I can for the moment on that.

I want to ask one question of Ms. Barshefsky, and maybe a question of Mr. Berger if we have time. If no one else comes, then I will call the second panel, unless Mr. Baucus wants to ask some questions.

To Ambassador Barshefsky, given most of the Nation's objections to the language on sanctions and trade agreements, including what I think is nearly unanimous opposition by the world's developing nations, are there any types of provisions on labor and the environment that might entail sanctions that would be acceptable to these developing nations negotiating at the multilateral level, like in a new WTO round? And would you please be specific in your answer and tell us what this countries this might apply to, if you feel that there are some that would accept.

Ms. BARSHEFSKY. Mr. Chairman, I am not sure I can answer your question, except to say that when the Clinton Administration inaugurated free trade agreement negotiations with Singapore, which, as you know, is considered the world's most free trading nation, as well as free trade agreement negotiations with Chile, neither expressed any concern about having labor and environmental provisions in the scope of the agreement.

Singapore indicated it could adopt the Jordan model of dispute settlement as it was. The Chileans expressed some reservation with respect to any potential of trade sanctions, but otherwise indicated to President Clinton that they felt comfortable with the general model.

So I would just say that certainly there are countries that are willing to look at the question with an open mind, even if there are specific concerns with specific provisions.

If I might, Mr. Chairman, add one other point, not apropos of your question, but I think apropos of the discussion that you and Senator Kerry had.

I would urge the committee to move forward on the Jordan agreement and on the Vietnam agreement as separate matters. Nations are not fungible. What may work for one nation may not work for another nation, or may not be appropriate for another nation.

The Vietnam agreement was negotiated by the Clinton administration and designed to rectify an historic anomaly, that is, that Vietnam remains one of only six countries in the world that does not have an NTR relationship with the United States.

That stems, as you know, from the Vietnam War and the breach in relations between the countries. But that period, thankfully, is quite behind us and we need to correct this historic anomaly. That should be done promptly.

The agreement that was negotiated with Vietnam goes far beyond the requirements of Jackson-Vanik. With respect to market opening and reform, it constitutes a critical first step in Vietnam's movement toward WTO accession, which we should all desire.

So I would urge the committee to move forward on that agreement as it is. Likewise, for all of the reasons that Senator Baucus, Senator Kerry, and former National Security Advisor Berger pointed out, I think it is imperative that the committee move forward with the Jordan agreement.

Again, agreements with different countries will differ. Some of their purposes differ, the historic backdrop of our relations with those countries will differ, and there is not, to use a famous phrase by Madeleine Albright, a cookie-cutter approach that is necessarily appropriate for all agreements, in all countries, at all times.

But here are two agreements fully ripe for Congressional action. I believe it is fair to say both Houses of Congress would support both of these agreements by overwhelming majorities, and I would urge the committee to move forward on them and to build confidence as the rest of the trade agenda unfolds.

Thank you, Mr. Chairman.

The CHAIRMAN. My last question will be to Mr. Berger. To what extent do you believe that the environmental and labor provisions were very, very important to Jordan or their willingness to accommodate the United States?

Mr. BERGER. I think these were provisions that were acceptable to Jordan, and thought to be a set of provisions that would build on existing agreements and, therefore, could be passed by the Congress.

Mr. Chairman, I would just say one last thing here. Having spent part of my last 30 years making trade policy and part of the last 30 years involved in foreign policy, you are doing both here in this committee, even though this is the Senate Finance Committee and not the Senate Foreign Relations Committee.

This is a very important foreign policy issue before you. It also has trade policy implications, obviously. Again, I would urge you not to see this agreement as the battleground over the ultimate shape of trade on the environment and labor and hold this agreement hostage to that debate.

If we stumble on this agreement, if we become engaged in divisive debate over something I think most in this Congress support, that is, intensified economic relations with Jordan, we can do real harm at a very dangerous point in the Middle East.

We need Jordan to be strong, we need Jordan to be stable, we need Jordan to see the United States as its friend, as its ally. I am not sure that the nuance of our trade and environmental debate will be understood on the streets of Iman.

So I would urge this committee to move forward on this agreement, both because I think it is sensible trade policy, but more importantly because I think it is important to our strategic interests in the region.

The CHAIRMAN. Senator Baucus?

Senator BAUCUS. Thank you very much, Mr. Chairman.

I might say, this is not directly relevant, but I was speaking to the ambassador from Jordan not too long ago. I was very impressed with the advances that country is making, particularly in technology, with the goal in the next several years for every classroom to have a computer.

If I understood the ambassador correctly, it might have been even every child to have a computer by the age of three, or six, or something like that. It was astounding. Listening to the ambassador, it was pretty clear they are going to get there. It struck a nerve with me, because I know in my State of Montana we are trying to do the same thing, and they seem to be ahead of us, frankly.

Madam Ambassador, you mentioned that different countries have different relationships and there are different historical backdrops which dictate different provisions and agreements, and that is clearly true.

Could you also expand on some variations of trade environmental provisions that might occur with respect to some countries as opposed to some others? I am thinking a little bit about the Cambodian agreement, which has incentives in it, for example.

Can you just tell us what some of the various ways are to skin this cat, to realize it is not one-size-fits-all, there is not cookie-cutter approach here.

Ms. BARSHEFSKY. Right. I think there are a lot of different approaches one can use. Of course, a rejuvenated and strengthened ILO is terribly important on the labor side.

The ILO today is much more activist than in the past. But certainly the United States should be urging the ILO to take a greater and greater role, particularly with respect to slave labor and the most exploitative forms of child labor.

There are changes in our own national laws that can help promote labor and environmental issues, not in a sanctions-based way, but by using a carrot. The Cambodian agreement to which you refered is one where the United States has promised increased market access to Cambodia in the textile and apparel sector in exchange for positive changes in Cambodia's labor regime in the apparel industries in Cambodia.

Cambodia, over the course of the past several years, has made some important changes, positive changes, in its labor regime. For that, the Clinton Administrative gave Cambodia additions to its textile and apparel quota.

The GSP program, our duty-free treatment program, could be similarly restructured, so that we are not taking benefits away for lack of compliance, but instead we are providing new and expanded benefits to countries for improvements in enforcement or improvements in labor and environmental standards.

Of course, free trade arrangements can provide a vehicle, at a minimum, as in the case of Jordan, for maintaining some existing baseline standards that currently pertain in that country.

So I think there are a number of varied approaches, all of which are important. As you know, the U.S. pursues these issues in various regional forums, in APEC in terms of manpower training programs, in the FTAA in terms of civil society participation and greater transparency in the negotiations, with respect to our involvement, of course, with the European Union where we are allied internationally on many important multilateral environmental and labor issues. So, I think there is not any one formula that is necessarily decisive, but a combination of common sense action.

The only point I would add, is that the Clinton Administration—I think this is fair to say—was a free trade administration. We were very pro-trade, negotiating hundreds of trade agreements, completing the NAFTA, the Uruguay Round, the China Agreement, the Global Agreements on Telecom, on Duty-Free Cyberspace, Financial Services, and all the rest.

As we look at labor and environmental issues, I do not think we should think of them as in opposition to a free trade ideology. I think, instead, we can see them as companionable with more open trade if we have sensible provisions on both counts.

Senator BAUCUS. I appreciate that very much. This is not the subject of today's hearing, but the Chairman and I are wrestling

with fast track legislation and we just need some advice and some help on how to address labor and environment in the body of any fast track bill.

So, let us know, all of you. I see other people in the audience who have deep thoughts about this. This is a plea from me, and I think I speak for the Chairman, to say we welcome your suggestions.

The CHAIRMAN. Well, we have sure had a difference of opinions this afternoon. We thank all of you for the presentation of those views in the consideration of this very important, as Mr. Berger says, both foreign policy and trade issue. So, thank you all.

I will call the second panel, now. I am going to accommodate Rodger Schlickeisen, president of the Defenders of Wildlife, to be the first witness because he is under time constraints.

Our second witness will be Thomas J. Donohue, president and chief executive officer of the U.S. Chamber of Commerce.

The third witness for our second panel will be Professor Jagdish Bhagwati, the Arthur Lehman Professor of Economics and Professor of Political Science, Columbia University, and Andrew Meyer, senior fellow in International Economics at the Council of Foreign Relations, New York City.

Our fourth witness for this panel is Hon. John Sweeney, president of the AFL–CIO.

Would each of you come, please? Mr. Schlickeisen said he is not under the time constraints that I was told that he was under. I mean, what difference does it make? Let us go in the same way. Maybe there is protocol. If there is, then I am guilty of being unprotocol-able, or something. But it does not make a big difference to me.

So why do you not proceed, Mr. Schlickeisen?

STATEMENT OF RODGER SCHLICKEISEN, PRESIDENT, DEFENDERS OF WILDLIFE, WASHINGTON, DC

Mr. SCHLICKEISEN. Thank you, Mr. Chairman and Mr. Baucus. Thank you for inviting me to testify today on a trade agreement that is important unto itself, and also has significance for the broader trade debate the Senate will likely have this year.

Just for the record, Defenders of Wildlife is a national not-for-profit conservation organization, with over 400,000 members all dedicated to the protection of biological diversity.

Our organization believes that the real value of any trade agreement is determined not by whether it leads to increased trade, per se, but whether it leads to a higher standard of living and improved living conditions, including a cleaner environment for the people impacted by it. It is in light of this principle that we assess the outcome of the Jordan FTA negotiations.

From an environmental perspective, the outcome represents, in our view, a small, but significant, step towards sustainability. We urge you on this committee to support that step and to support the Jordan FTA.

Before I dwell on the reasons why we are supporting it, I wish to make clear from our perspective that the Jordan FTA is not by any means perfect in reflecting and responding to environmental concerns. In fact, there are obvious weaknesses in the agreement, in our view.

For example, the U.S. and Jordan recognized in the FTA that it is inappropriate to encourage trade by relaxing domestic environmental laws. But the FTA does not prohibit parties from doing so. Instead, it simply urges the parties to strive to ensure that their environmental standards are maintained.

In a similar vein, the Jordan FTA expressly declares that a party to the agreement shall not fail to effectively enforce its environmental laws. This is an eminently sensible provision. Part of the discussion earlier made me a little concerned that perhaps people were thinking that we should not be enforcing our own environmental laws. Hopefully that was not the import of that.

But, while it is an eminently sensible provision, the rule set out in Article 5, paragraph 3 is subject to so many caveats and exceptions, as we read it, that it is effectively unenforceable, a discussion that was entered into in the previous panel.

Finally, the Jordan FTA includes a savings provision that expressly provides that the parties' rights and obligations under the WTO supersede those under the FTA. But, interestingly, it makes no mention at all of the relationship between the FTA and other treaties, such as multilateral environment agreements, CITES and the Montreal Protocol, to name two, to which the U.S. and Jordan may be parties.

Thus, it leaves unresolved one of the most persistent issues in the trade and environment debate: what happens when a party's obligations under an environmental treaty conflict with its obligations under a trade agreement?

In light of these concerns, you might wonder why we are here to offer our support to the Jordan FTA. The answer is simple. As small as it is, the Jordan FTA represents an important step forward in the effort to reconcile trade and environmental policy.

There are important developments, both in the process and the substance of the agreement, that make it worthy of our support. One of the most important of these lies in the fact that this agreement was reached at all. The Jordan FTA represents a cooperative effort between two very different countries on the very difficult issue of reconciling trade and environmental policies.

The U.S. and Jordan are separated by vast cultural, economic, and technological divides, yet they were able to bridge these divides in this agreement, establish common goals for sustainable development, and adopt concrete measures to advance those goals. This is a powerful demonstration that the gaps that separate industrialized and developing countries on these issues can be overcome.

There are a number of other important developments in the Jordan FTA. To name just a few of them, the FTA establishes a cooperative process for environmental protection that could lead to very significant benefits for the people and the environment of Jordan. Second, the parties agreed to work toward continual improvement of their environmental laws.

Third, the FTA establishes a joint committee process, charged with reviewing the progress under the agreement, and allows NGOs, persons and groups, to provide input to that process.

Fourth, it incorporates a memorandum of understanding on dispute resolution that provides for real transparency and public participation in a process that has long needed both. The MOU re-

quires parties to solicit and consider public comments when adopting positions in a trade dispute.

It requires the parties to make their submissions to a dispute panel publicly available; and it requires dispute panels to open their proceedings to the public and to consider public submissions in reaching their decisions. These are all important and positive steps.

In short, the Jordan FTA, while admittedly imperfect, brings us one critical step closer to reconciling trade policy with the larger public interest. It does so by creating a more open trade process and allowing more input into that process, and by creating a cooperative framework in which the U.S. and Jordan can work together to make development more sustainable.

Final comments, Mr. Chairman. Looking to the future, we believe that when considering trade authority for the President to enter into new, and much larger trade agreements, this committee should build on the Jordan FTA.

We do not suggest that it is a model. There should be a mandate for our trading partners to enforce their existing environmental laws and to resist weakening them for short-term investment opportunities.

There must be greater access to information and more opportunities for public participation. There must be recognition that, from the standpoint of the environment and the people that live in that environment, how a product is made is as important as the product itself.

There must be an attempt to end environmentally damaging subsidies that can radically distort markets. Any trade agreement or legislative proposal that does not address these issues, we believe, will collapse under its own weight. Ensuring that trade policies do not so is the challenge of this committee.

Thank you.

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

The CHAIRMAN. I am going to go vote, so I had just better call a recess. At some time I am going to have to do it, and I am afraid if I wait for you, Mr. Donohue, then maybe it will run short.

Mr. DONOHUE. No. That is fine, Mr. Chairman.

[Whereupon, at 4:05 p.m., the hearing was recessed to reconvene at 4:15 p.m.]

The CHAIRMAN. I am sure you understand how the Senate works. I always like to, and feel the necessity, for apologizing to busy people like you who come to testify and give us the benefit of your research and expertise, representing your members, and all that stuff. I know it does not do much good, but I say I am sorry.

Would you proceed, Mr. Donohue?

STATEMENT OF THOMAS J. DONOHUE, PRESIDENT AND CHIEF EXECUTIVE OFFICER, U.S. CHAMBER OF COMMERCE, WASHINGTON, DC

Mr. DONOHUE. Well, thank you, Mr. Chairman. We have been here talking about everything from Ireland to energy independence.

I am here today to stir up the soup and tell you about a major flaw in the United States-Jordan Free Trade Agreement, one that could have enormous negative implications in future negotiations.

Reservations about a free trade agreement may sound very strange coming from my mouth. After all, the Chamber is one of the Nation's leading advocates for free and fair trade. As we well know, we are always on the front lines when it comes to free trade deals like China and NAFTA because they mean more jobs and more opportunities.

Now, Jordan is certainly a country the United States itself has to be interested in. It is strategically located. The King is an important ally of ours, and we need to deal with this.

But let us be clear about the economics. The whole trade arrangement is less than $300 million, and this deal was put together for strategic purposes, not for trade purposes. The President went ahead in an intentional way and added environmental and labor standards, because he made sure could get them in there without any objection.

So why would the Chamber hesitate to endorse this when it has strategic reasons? Well, we want to see that part of it passed. But if we are going to have a debate on the whole question of labor and environmental issues, let us do it without using this subterfuge of the national security issue.

It is no ordinary free trade agreement. It is the first U.S. deal that contains, totally in the agreement, unrelated provisions addressing these labor and environmental issues.

The business community does not oppose discussion of labor and environmental issues, as long as they are held apart or on the side of the free trade agreement. Mr. Sweeney and I have talked about that, and I have tried to encourage us to work together on that in the past.

Adding labor and environmental provisions to trade agreements, per se, invites a slew of economic sanctions and criticisms that will hurt U.S. business and their workers.

Under the terms of this agreement, a United States or Jordan private citizen—although I understand Senator Baucus has another view that I am anxious to learn—or an NGO or special interest group could file a complaint against the U.S. Government or individual organizations for whether they meet these objectives or not.

We do not want other people doing that to American companies and the American government. Several potential negotiating parties have made it clear going forward that they would not discuss agreements that had these labor and environmental provisions.

If we are locked out of the free trade deals, the U.S.'s major companies are going to be forced to do what they are doing all over the world now, Mr. Chairman. If it costs them 11 percent more to sell a tractor here from the United States to somewhere around the world, and they can build it in Brazil and sell it in the third country without the 11 percent duty, you do not have to be a genius to figure out what they are going to do. We can no longer afford to sit on the sidelines while our competitors are busy cutting deals.

Now, one estimate said that 130 free trade agreements are in force around the world, and only 2 include the United States. Only

11 percent of the world's exports are covered by U.S. free trade agreements, compared with 33 percent of others.

And while Western European nations have negotiated 909 bilateral investment treaties, we only have 43. I was in Mexico Thursday and Friday. When I got there, they had 30 trade agreements. When I left, they had 32. We need to catch up to this train before it gets away.

We too often are cut out of the loop because of these arguments about labor and environmental issues, and we need to get in it very quickly.

If we really want to improve labor and environmental standards around the world then we should champion free trade, because increased trade increases income, increases disposable expenditure, and takes care, in part, of labor and environmental standards.

This treaty in front of us, as written, is particularly troublesome because the last administration intended to use it as a template, and said so. But no two of our trading partners are the same. We are all talking to the Singapore people. We do not need that in the Singapore agreement. We can pass it.

Adoption of the labor and environment provisions in this bill and the possibility of trade sanctions resulting from it as a model for trade policy sets, in my view, a dangerous precedent.

Now, the comment I am going to make now, Mr. Chairman, is to stimulate the debate and let you know where we are going to be in this discussion. While we push free trade and while we are absolutely committed to our National security interests, we will use the resources of the Chamber to oppose the Jordan agreement if it has all of these extraneous issues in it. We believe that the agreement should be passed, and that this committee and this Congress can take those other issues out and find another place to debate them.

There is a second, related topic that would bear your attention. That is trade promotion authority, which has been discussed here while we were waiting at the previous panel. How do we get what people used to call fast track looked at?

If we are to have a debate on the questions of labor and environment, then let us have it. Let us talk about what the implications are. But, while we are having it, remember two things.

Number one, while we keep talking and not negotiating free trade agreements, other people around the world are doing them all the time. You should just look at what the European Union is doing, what Mexico is doing, what Canada is doing. All of our trading partners are out there making business while we are here arguing.

The second thing, Mr. Chairman, is to remember that major companies can get around this problem. They can operate from foreign-based operations. But medium-sized and small companies do not have that benefit.

So I came up here today to say that we are very anxious to work with your committee. We are anxious to work with Mr. Sweeney. We have common interests on a lot of these issues.

We are committed to working to make sure that we do something about the problem of free trade agreements. We need them. That

we do something about our competitive position around the world. We need it.

That we do something about unilateral economic sanctions. Every time we put another one in, out go all of our trading partners, all of our allies, and have a cocktail party and celebrate our stupidity and their good luck.

We need to get down to the practical matters of what is before us, what is good for this country, and what is good for the environment and the workers of this world. We can do that in an orderly way.

This free trade agreement with Jordan was a cute effort to tie national security and domestic political interests together, and it is not going to fly.

Thank you, Mr. Chairman.

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

The CHAIRMAN. Professor Bhagwati?

STATEMENT OF PROFESSOR JAGDISH BHAGWATI, ARTHUR LEHMAN PROFESSOR OF ECONOMICS AND PROFESSOR OF POLITICAL SCIENCE, COLUMBIA UNIVERSITY, AND ANDREW MEYER, SENIOR FELLOW IN INTERNATIONAL ECONOMICS AT THE COUNCIL OF FOREIGN RELATIONS, NEW YORK, NY

Professor BHAGWATI. Mr. Chairman, thank you very much for inviting me.

I would broadly like to support your witnesses who have argued against inclusion of these provisions in the Jordan-United States Free Trade Agreement. I just want to complement them with a variety of other reasoning which would really underline that view point.

But, first, let me just say that I heard Senator Kerry basically say that it was ideological to oppose the inclusion of these provisions. I do not know what ideology means, actually.

In fact, if you take a pragmatic approach and say, look, which is the best way, as Mr. Donohue was saying, to advance these agendas, I am afraid putting them into trade treaties is not the way to do it. In fact, there are better ways of doing it, and that is what I want to argue.

Nor do I think we ought to judge this issue in terms of an apocalyptic vision about how, if we denied anything or if we have a delay in looking at the Jordan agreement because of our reservation on this issue, that somehow all hell will break loose in the Middle East, and so on.

I am sure Jordan can live with a few months of delay while we really sort this out. There is absolutely no reason to imagine such gross outcomes and to seal off debate. This debate is important, exactly as some of the witnesses have pointed out.

Now, why is it important? I think the main reason, of course, is that it is a template. It is not the agreement itself. It is meant as a template. Ambassador Barshefsky was very reasonable, just before us, and said different countries may have templates.

But she is on record on television; I have heard her say that this is template. In fact, the game plan was exactly to turn this agreement into a way in which we would then influence other FTAs, or

even influence the formulation of fast track so as to include labor and environmental provisions.

So it really is not correct to say that this is not a template, that it is all very flexible, and so on and so forth. In fact, Senator Kerry even suggested, what is the point of taking these provisions out and putting them into the side agreements?

At the same time, Ambassador Barshefsky said it really does not make any difference where you put them. But if it does not make any difference, why do you not take them out and put them into a side agreement? They will not do that, when it comes to the proponents however. So I think if you look at it in the eye, there is rather specious reasoning here.

Let us take it a template at a time. Let us take it as a template for just other FTAs. I am not a great fan of free trade agreements, exactly for the reason that Mr. Donohue was pointing out. Everybody feels they are frozen out by these agreements and you get into a competitive game with preferences multiplying.

There are about 400 such agreements. If we get cracking, and Asia gets cracking in joining up, and the Europeans, it will get even worse and we will probably have a thousand by next year. You can imagine what that means. But that is a separate story and you have to address that in a different meeting.

But if we have a template and imagine we go to India, a big country which is opening up. The India-United States Free Trade Area is being discussed. I have already been approached, both by American friends and Indian friends, about working on it. But there is no way India will ever sign anything like this template.

So there is already a discussion going on in India that they will go with the EU and Japan, which do not insist on such provisions, which is exactly your point, Mr. Donohue.

So either this is a template for other FTAs or it is not. If it is not, then the Committee should say so. You could take these provisions out of the text. Or, as Ambassador Smith said, eliminate them altogether. But, in any case, let us be aware that these provisions are going to create difficulties.

The name of the game on the part of the proponents is, in fact, to create a template. But it is not just that. If you look at the FTAs which we have signed, and there are only four, each time we have ratcheted these provisions up. The first time, the United States-Israel one did not have, to my knowledge, any such provisions at all. Then we had CUFTA Gehveen, Canada and the United States. I do not think that had anything, really, either on such provisions.

NAFTA certainly had side agreements. Now we put them into the text. I am not in politics. You are, Mr. Chairman. So you know that this is a game of building up legitimacy, upscaling each time. The next game plan, of course, is to affect fast track, and the WTO where people want a Social Clause, for instance. Is that wise? I would say it is not wise. There are better ways of doing it.

Why do we want this in the WTO? For two reasons. One is that a lot of people feel that trade is a cause of adverse effects on worker welfare, on environment, and so on. I think we can agree—and I speak now as a scholar—that unions have a fear of a race to the bottom.

I do not blame them, because it does sound credible. But the evidence for a race to the bottom is practically zilch. The evidence for trade liberalization or trade with poor countries affecting the workers' wages is also zilch.

So when you go down that road, there is really reason to argue that economic liberalization, trade liberalization, helps, not harms, these causes. Therefore, there is no need to put Social Clause into the WTO.

The other aspect is the use of trade sanctions. As soon as you put the matter into the WTO, it becomes subject to trade sanctions, no two opinions about it.

Why is that wrong? Because just think of a little role reversal. It can come back at us. Take "core labor rights", like freedom of the right to associate. I work with the Human Rights Watch Advisory Committee on Asia. They just brought out a 200-page report saying, "Millions of workers" in the United States are denied the freedom of their right to associate.

Now, this is for reasons like the Taft-Hartley provisions, and our ability to hire replacement workers, and all sorts of things. Something like the action of the President the other day in relation to the airline strike. All of that would, in principle, be subject to dispute settlement, because "right to associate" is just a phrase, Mr. Chairman.

You put it in and you will kill the WTO because you will have case after case against us, not just against others as we think. I think that is the craziest way to go. Instead, it is more sensible to take this complex issues to places like the ILO, beef up the ILO, restructure the ILO because it needs that, put our cash in there, and use other agencies, appropriately developed, and so on, to go after these agendas without the use of trade sanctions. I think that would be far more creative.

On child labor, I will just make one final point. The Harkin bill, the Child Deterrence Act, according to an OXFAM study, as soon as that bill was being debated by all of you, immediately the female children in Bangladesh factories were laid off and they wound up in prostitution.

It needs heavy lifting to accelerate the removal of child labor. Economic development and prosperity reduces it, and we certainly want to accelerate that removal. But to do that, you have to work with NGOs, you have got to work with foreign aid funds, you have got to make sure children are taken off from work and go into schools, that parents do not keel over and die, because it is poverty that lends to child labor. The ILO has an international program for the eradication of children, which really does all of this heavy lifting.

So we really need to simply say that the trade sanctions approach is simply unproductive, counterproductive, and non-trade sanctions approaches on these complex social issues, including those which Mr. Sweeney naturally and correctly worries about, should be taken. This agreement will make us take a step, whether we like it or not, in the wrong direction.

[The prepared statement of Professor Bhagwati appears in the appendix.]

The CHAIRMAN. Now, President Sweeney?

STATEMENT OF JOHN J. SWEENEY, PRESIDENT, AFL–CIO, WASHINGTON, DC

Mr. SWEENEY. Thank you, Mr. Chairman, and thank you Senator Baucus. I really thank you for the opportunity to speak today about the Jordan Free Trade Agreement on behalf of the 13 million working men and women of the AFL–CIO.

I will summarize my testimony and submit my full statement for the record.

The agreement signed by the United States and Jordan last October represents a significant first step towards incorporating enforceable workers' rights and environmental protections into a bilateral trade agreement.

I commend Ambassador Barshefsky and her team for the hard work they did, and for the progress represented by this agreement. The commitments made by the United States and Jordan to safeguard workers' rights and the environment could not be more reasonable or modest.

The agreement received overwhelming and diverse support in Jordan from both the Jordanian unions and also from the Jordan-American Chamber of Commerce.

I find it extraordinary that objections to this agreement are now coming from many here in the United States who are proud to call themselves free traders.

Let me take a moment here to reinforce just how moderate and reasonable these provisions are. As I know, both the Bush Administration and many in the business community have expressed concern about the troubling precedent established by this agreement.

The United States and Jordan simply agreed to enforce their own labor and environmental laws and to live up to their international obligations to respect core workers' rights.

These obligations are enforceable by the same dispute resolution mechanism as the rest of the agreement. I find it hard to believe that anyone can stand up with a straight face and argue that the United States is unable, or unwilling, to live up to these commitments.

Apparently, it is a very remote possibility that a trade sanction might be levied to protect the rights of workers in Jordan or the United States that has aroused such deep concern over these provisions.

While trade sanctions are used routinely to protect copyright or patent laws, or to enforce commercial provisions of trade agreements, many in the policy elite here in Washington seem to feel that such sanctions should be reserved to protect corporate concerns, but not those affecting workers or the environment.

We in the labor movement do not accept the argument that trade sanctions only work when protecting profits and corporate rights. We believe that the protection of workers' fundamental human rights in the workplace and the protection of the environment are no less important and deserve equal, equivalent treatment to corporate concerns in trade agreements.

This committee should schedule an early vote to approve the Jordan trade agreement without any changes, certainly before King Abdullah's visit in April.

I also want to express strong opposition to the administration's proposal to bundle the Jordan agreement with other trade bills, including fast track renewal, in order to force a binary decision on whether one is for or against trade, as USTR Ambassador Robert Zoellick told the Washington Post last week.

I think we all know that the trade debate in the United States and around the world is not about being for or against trade, but about writing rules that will guide global competition into constructive, high-road channels so that the benefits of increased global trade and investment flows can be equitably distributed.

Forcing a vote on the diverse grab-bag of trade bills prevents Congress, and by extension the American people, from exercising its voice over the content of these agreements. If the administration has confidence in the democratic process, it will allow each of these agreements to be debated and approved or rejected on its own merits.

I also want to take this opportunity to clarify that the Jordan labor rights language, while appropriate to the United States-Jordan FTA, is not automatically applicable to other trade agreements.

While these commitments were an important breakthrough, they are likely to be effective only in the case of trading partners whose laws already conform to the ILO standards, as do Jordan's.

But countries whose labor laws are inadequate, much more elaborate mechanisms must be put in place to ensure that domestic laws are brought up to international standards on a clear time table.

Neither does the labor movement see the Jordan FTA as an appropriate model for fast track negotiating authority. Choices over how, whether, and under what circumstances to extend trade negotiating authority involve a completely different set of issues than those addressed in the Jordan agreement.

The entire process of negotiating trade agreements needs to be made more transparent, democratic, and accessible to ordinary citizens, not just the business community.

Any grant of fast track negotiating authority must require the inclusion of enforceable workers' rights and environmental standards in the core of any fast track agreement. It is not sufficient simply to list workers' right and environmental protections among the negotiating objectives. Workers' rights have been among our negotiating objectives for more than 25 years, with very little progress being made.

The present administration, in its first 2 months in office, has already shown it is overly hostile to the interests of working families. Given this hostility, it is clear that, unless workers' rights and environmental standards are mandated by fast track authority, there is no chance that this administration will expend the necessary political capital to make progress in this area.

The labor movement stands ready to oppose any fast track bill that falls short of this standard. I look forward to working with you on these important issues.

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

The CHAIRMAN. Thank you.

Let me take off, President Sweeney, where you just left off, somewhat asking your reaction to what Senator Moynihan has argued for for many years about the importance of core labor standards developed and promoted by the ILO, whether or not that is not a more appropriate venue to discuss the issues of the linkage between labor standards and trade agreements, your reaction.

But also, specifically, if your answer is that that is not very adequate, is there anything that could be done to that process that would satisfy you to take the place of trade sanctions being applicable to the WTO process on labor so that we would not then have it as part of the fast track process?

Mr. SWEENEY. I certainly think that the ILO can play a major role in this area. We have heard several expressions here today about trying to find better ways, finding new ways, heavy lifting. This discussion has been going on, and on, and on. There is no meaningful movement in this area.

We have a relatively new director general at the ILO, Juan Salmovilla, who I think is moving the dialogue along. But I think it also requires some ways that the IMF and the World Bank could be involved.

But this was the big battle in Seattle. The WTO was not reaching out to any of these other international institutions and involving them in the process. Our own government, our own new administration, has in the budget reduced substantially the monies for the ILO and for the child labor project, as well as some of the other international labor programs.

We have talked with Senator Moynihan many times about his proposal and his familiarity with the ILO, but we have to move. Right now we have the Jordan agreement, which does provide for core labor standards, and which is a process that should be tried.

The CHAIRMAN. Involving all the international organizations you mentioned, including the ILO, have you thought out, if you went far enough in that direction to satisfy you, is there anything that could take the place of trade sanctions applicable to labor standards?

Mr. SWEENEY. I am sure there is, but I am not sure what the best way is to move on this. I think that that is the kind of discussion that has to take place.

The CHAIRMAN. All right. But at least that is a possibility.

Mr. SWEENEY. Yes.

The CHAIRMAN. That there are things that could be done in that area.

Mr. SWEENEY. Yes.

The CHAIRMAN. All right.

Mr. Donohue, do you oppose all provisions on labor and the environment, or only those that are linked to trade sanctions?

Mr. DONOHUE. I oppose only those provisions which are mandated and supported by sanctions and put into the clear text of the absolute trade agreement. I have made very clear, on behalf of the American business community, a willingness to have legitimate sidebar discussions, objectives, commitments that are not sanctions-based, but that move us in the direction of positive results on these subjects.

Mr. Sweeney was on a panel. Everybody is talking about Davos. It seems to be the reference point these days. He was on a panel in Davos, and he mentioned the World Bank.

I thought the point that was made by Mr. Wolfeson, who leads the World Bank, who said that they share the same concerns that business does and that labor does. But he said there was one factor nobody should forget, that these problems of labor and environment far, far precede the globalization of this economy, and that the situation is getting better, not getting worse. We want to deal with this matter.

But if you take labor and environment and make it a mandatory part of this issue and you make it a mandatory issue that is supported with sanctions, as indicated by the Professor, first of all, a lot of very important countries that we want to do trade with are not going to sign a free trade agreement with us.

Second of all, we are going to open a can of worms that is going to take a long time to put back together. There is no objection in the business community to improving the environment. Many, many companies all around this world use the same environmental standards they use here in the United States. There is no objection to decent worker standards and comparable wages.

Many, many companies around this country, as they work outside of the country, are doing that at a very high level. We just have to get something that works, not something that takes care of some other political objectives and has not got anything to do with the trade agreement.

The CHAIRMAN. President Sweeney, in regard to your support for the Jordan Free Trade Agreement and the labor and environmental issues there, why is that a more important breakthrough, from your standpoint, over, let us say, NAFTA and its labor and environment side agreements? These have been actively used by labor and by environmental NGOs to bring some sunshine to the process, and have brought some change about.

Mr. SWEENEY. Well, the side letters are usually not enforceable. The mechanism or the process really does not address the issues.

The CHAIRMAN. I am sorry. Side letters. I meant, like the side agreements that are in NAFTA, where there is a process for dispute settlement on labor and environment.

Mr. SWEENEY. It is a very complicated issue. It is our position that the NAFTA agreement is not working, and that the lives of workers in Mexico are not improving. There are still horror stories in terms of the conditions that workers are living in, and the conditions that they are working under.

Mr. DONOHUE. Mr. Chairman, if I might just make one small comment about that. There is no question that there are serious employment problems in Mexico. But that part of Mexico that is engaged in trade with the United States, particularly the maquillas, where American companies have gone to Mexico and, working with Mexican companies and with Mexican workers, have set up operations down there. I would suggest, I know Mr. Sweeney has probably gone to visit them. I have been in many of them.

The standards there have improved extraordinarily, to the point that they are comparable. I am not saying the wages are comparable, John, but the working standards, the education issues, the

health care questions that are provided there, we have seen, because of NAFTA, are a major improvement in workers' well-being in Mexico.

Mr. SWEENEY. Well, I do not know what part of the maquilladoras Mr. Donohue has been to, but the parts that I have seen, we have seen new plants built right in the midst of the worst housing, and the worst education facilities, and the worst pollution of streams that people are using, polluted by the corporations and the companies that are there. It is a real horrible situation in terms of how workers are treated.

Mr. DONOHUE. John, I agree with you that the surrounding environment is not one that I would like to move into. But you are not going to go down there and find modern plants that are polluting the streams. You will find these very same plants in these very difficult areas that are providing health care and some education.

Mr. SWEENEY. I will take you to visit a few.

Mr. DONOHUE. I will take you to visit a few. Let us go together. [Laughter.]

The CHAIRMAN. It might be all right if you did.

Senator BAUCUS. Mr. Donohue, I hear you say you do not want any labor and environmental language in the core provisions of an agreement. I listened very closely as to what that really meant, and I wanted to try and find out whether that means any.

Mr. DONOHUE. Shall I try again?

Senator BAUCUS. Yes. Whether that means any, or whether that means provisions which contain sanctions. The real question is, what about incentives? For example, the Cambodia agreement. It does not contain sanctions.

Mr. DONOHUE. Senator, if we had a trade agreement with, you pick the country, a series of statements and objectives on environmental and labor and other matters that were not sanctionable offenses for failure to meet whatever it is people decided it should be, or that it had incentives in there in the agreement, for example, Ambassador Barshefsky mentioned today, which allowed greater penetration in the market, and so on, that the Chamber would look on that with a very open mind and a willingness to negotiate that. We would have to make sure of the language. John always says the devil is in the details.

The second thing, is we would take NAFTA-type of side agreements which were adjudicated through various different organizations but do not, themselves, become part of a sanction process within the trade agreement.

We are committed to these issues, but we need to move very, very quickly to get trade agreements to catch up with the EU, Mexico, Canada, and everybody else.

You were not here when I mentioned, sir, I was in Mexico last week. While I was there, they signed two more. We are falling far behind what is going on here. We are 29 percent of the global economy.

The EU is 31 or so percent of the global economy. They are out cutting their own deals around the world in a fashion that is to advance their member countries and to slow down the United States' competitive position.

Senator BAUCUS. I do not deny that. I am just trying to find a solution here.

Let me ask Mr. Sweeney, the Cambodia agreement, is that the kind of provision you favor, or do not favor? What do you think of that?

Mr. SWEENEY. We are very optimistic about the Cambodia agreement. It is a little soon to make a judgment on it, but the process that they have set up there, I believe it is in textiles, monitoring the core labor standards and union rights, and environmental issues seems—and this is with the ILO doing the monitoring—to be a good approach, but we would like to see how it works over a period of time.

Senator BAUCUS. Mr. Sweeney, you said from your listing of labor and environmental considerations in a fast track or trade promotion is not sufficient. I understand that. You did say, however, that Cambodia incentives is something that makes sense.

Mr. Donohue, on the other hand, does not want any of these provisions, but does like, apparently, the Cambodia provision. At least, he is looking favorably at it.

Mr. DONOHUE. I am open to discussion on that. Yes.

Senator BAUCUS. So at least we have incentives, potentially, as common ground.

What else is common ground here besides incentives?

Mr. SWEENEY. The list is very short.

Mr. DONOHUE. Well, that tells you something. The common ground ought to be that we want to have access to markets around the world on a free, competitive basis so that we can create jobs in this country and export our products abroad.

What I said, Senator, while you were out voting, is I am not worried about big companies in terms of these free trade agreements. If Caterpillar wants to sell a tractor into areas where we do not have free trade agreements and it is going to cost them an 11 percent duty, it is very simple. They build the tractor in Brazil and then sell it into that thirde country.

If we fail to satisfactorily remove those barriers to trade and those tariffs to trade, then what major companies are going to do is make it somewhere else and sell it in a third party direction.

But who is going to be hurt are the medium-sized and small companies who, because of the Internet, because of technology, are now able to get themselves into the trading process. You know there are many, many of them that are going to be hurt because they cannot go around the system.

We need a fast track system only because whoever is the president of either party needs to represent the American economy in negotiations around the world. We do not have that business now, and nobody wants to negotiate an agreement that the Congress is going to rewrite at 4:00 in the morning.

Senator BAUCUS. Again, though, you heard Mr. Sweeney say that, as far as he is concerned, the labor movement will be opposed to any fast track which does not have meaningful language with respect to these two issues. That is not an unimportant statement for Mr. Sweeney to make.

Mr. DONOHUE. Why do I not put some balance in it, Senator?

Senator BAUCUS. That is what I am asking.

Mr. DONOHUE. The balance is, if you bring a fast track agreement up here that has mandatory sanctionable standards on labor and environment, it is not going to pass.

Senator BAUCUS. I am not here. That is not what I said. You are putting words in my mouth.

I am saying, we have heard Mr. Sweeney, which is a very important statement and that has very direct bearing on what happens with respect to this issue.

Now you are saying what you are saying.

Mr. DONOHUE. Yes, sir. I am.

Senator BAUCUS. We have got to find some common ground here or we are not going to get very far.

Mr. DONOHUE. That is a possibility.

Senator BAUCUS. So I am asking——

Mr. SWEENEY. May I just raise something?

Senator BAUCUS. Yes.

Mr. SWEENEY. The Chairman raised the issue of the ILO.

Senator BAUCUS. Right.

Mr. SWEENEY. We do not hear any support from the ILO, or any concern being raised about the reduction in the budget for our commitments to the ILO programs on child labor, and forced labor, and basic standards.

It would be a good point, in terms of labor and management, if we were both to be delivering the same message to our own government about support for the ILO and living up to the commitments that have been made to support those programs.

If we are going to move this process in some international forum, then we have to be doing it together. I mean, we have to be really agreeing on what kind of recommendations we would be making regarding the ILO.

We should be looking together at what the Cambodia process is, and we should be monitoring it together to see if we can arrive at some consensus on this.

Mr. DONOHUE. Excuse me, Senator. I want to just say to John that I would be very happy to sit down and talk to him about the child labor issues and the ILO.

I believe those are important organizations, and actions of the Federal Government of the United States. Without having the numbers in front of me, I would be very happy to talk about that. I think those are outlets for legitimate objectives of this government and of this economy.

Senator BAUCUS. I agree. I wonder if we could further pursue the ILO, because I do have a feeling that that is going to be a fairly important piece of the puzzle here. My judgment is, we should encourage the administration to provide more dollars for the ILO.

Mr. DONOHUE. I think John's request, sir, is that they provide at least the same dollars they provided before. It seems that they are cutting it. I would be very happy to talk to him about that.

Senator BAUCUS. Is that something the Chamber would agree with, the same number of dollars as before? I do not want to put words in your mouth again.

Mr. DONOHUE. Senator, I raised the issue. I am very happy to look at it and see if we can be helpful. I believe that those are matters that ought to be invested in.

Senator BAUCUS. Good.

Mr. DONOHUE. I will not pick a number while I am sitting here.

Senator BAUCUS. Right. I appreciate that.

Professor BHAGWATI. It was a small amount, anyway, Senator.

Mr. DONOHUE. I think that is true.

Professor BHAGWATI. It was mainly German-financed, and then, as usual, we became the major financiers.

Senator BAUCUS. All right. Thank you.

If it is small, then it is probably——

Mr. DONOHUE. No. I think we can come to some agreement on that very quickly.

Senator BAUCUS. Good. That helps. Thank you.

The CHAIRMAN. President Sweeney, you do not have to comment on this. But this is just a bit of evidence that I wanted to add to the last question I asked you about the side agreements and NAFTA.

There was a case before the Mexican Supreme Court involving Sony workers who wanted nothing more than just the privilege to read their contract that was negotiated on their behalf by the union. The Supreme Court said—and this does not make sense—that the union did not have to share the contract with the workers, under Mexican law.

Those workers evidently took this appeal through the NAFTA labor agreement process. Whether it got through the process, I do not know, but it at least resulted in the issue being raised at the ministerial level and the Mexican minister saying that the contract should have been made available to the workers.

Now, I do not present that to you as a great breakthrough, that everything is working with the NAFTA side agreement process. But at least the extent to which we can keep trade sanctions being applied under the WTO process and can find some other way, as suggested by Senator Baucus, and even you suggested some leeway on your side on that, I think we need to pursue those.

Whatever follow-up Senator Baucus and I can have with you and people like Mr. Donohue, and even other labor leaders, I think we need to sit down and see what we can do.

Mr. SWEENEY. If I may just respond, Senator. The organization that supposedly represented the workers is, I do not think, a legitimate union. I would agree with the minister that the contract should be made available to the workers. But, to this day, it has not been made available to the workers.

The CHAIRMAN. It has not?

Mr. SWEENEY. No.

Let me just add one point on the NAFTA business. There is no provision in the NAFTA agreement for dispute resolution or for enforcing freedom of association or the right to bargain collectively, and those are some major weaknesses.

The CHAIRMAN. Yes. But those are agreements that could be worked out through the ILO, and enforcement of those issues as well.

Mr. SWEENEY. Well, it would have to be agreement between our government and the Mexican government.

The CHAIRMAN. Yes.

Mr. SCHLICKEISEN. Mr. Chairman, could I add a comment to this?

The CHAIRMAN. Yes.

Mr. SCHLICKEISEN. There has been a lot of attention, appropriately, to labor's reaction to NAFTA. I just want to make a point, that the environmental community, too, does not regard the NAFTA side agreement as an acceptable model any longer.

Just to refresh the committee's memory, we had many meetings with Senator Baucus, and in fact with Greg Mastel, in the early 1990's when we were going through NAFTA. At that point, I think, actually if we went back and counted, it ended up there was a majority of the national environmental groups that ended up supporting NAFTA.

But it was the experience under NAFTA and that approach to dealing with labor and environmental agreements that has turned the environmental community now to the position where—I would say unanimous, but as sure as I do I will find out there is one exception—there is at least near-unanimous in its view that they will never again agree to an approach that is a NAFTA-like approach.

Another comment I would like to make, just in general. There has been a great deal of concern expressed, especially by Mr. Donohue, and earlier on in the other panel by Ambassador Smith, that dealing with this issue in the Jordan FTA, the labor and environmental issues, is going to complicate this immeasurably, and kind of wishing that we could get back to a simpler time when we could just leave trade by itself. I do think Mr. Donohue referred to the unrelated provisions of labor and environment.

But, at the same time, Ambassador Smith said in one of his comments that he views those who are free traders now are in the minority in the United States. I do not think that is exactly correct. But it is certainly correct that, if you regard free trade in the traditional way, that trade values are the only ones that are considered and not labor and environmental values, then he is in the minority. Mr. Donohue, I am afraid, is in the minority.

The way to get through this and to not have complications, is to recognize that they are in the minority and to deal with the labor and environmental issues in these agreements, and to use this, not as a model, but as a building block to begin to put all these issues together, because they are not unrelated.

The CHAIRMAN. Just one follow-up. Not disputing anything that President Sweeney said about the Sony workers, but the fact is, there was a Supreme Court ruling that said they could not view the worker agreement, and there was a process under NAFTA that made it more transparent so that the workers did have access to it.

Now, obviously, if they have not seen it yet, it has not done any good. But the point is, the process is there that could force the Supreme Court judgment to be changed as a result of a minister intervention.

Do you have any more questions?

Senator BAUCUS. Just one question, Mr. Chairman.

I know, Mr. Schlickeisen, you and Mr. Sweeney both oppose NAFTA, but support this Jordan FTA. Maybe you already touched on it. Why did you oppose NAFTA, but support this?

Mr. SCHLICKEISEN. It is hard for me to remember exactly without going back and studying all of the debates over NAFTA. But, as I recall it, and I think you probably recall, Senator, the environmental community—speaking only for the environmental community—came together with a list of eight bottom-line issues that we wanted to see in NAFTA.

It turned out that some of them were rejected, but most of them were put into side agreements. We were assured that, although they were in side agreements, that the extra commissions and things that were set up were going to deal with these issues just as though they were as important as if they were in the main agreement.

A handful of us—and you are right, Defenders of Wildlife was one—ended up disagreeing with that, because our crystal ball showed us that they would not be dealt with in that manner. I think the AFL–CIO's crystal ball told them also that they would not be dealt with in a serious manner. It turned out that we were correct.

In the case of the Jordan Free Trade Agreement, we see it as a small step. We do not think this is the answer. There has been some question about whether it could be a model for future agreements.

We do not see it as a model, I am sure Mr. Sweeney does not see it as a model. He talked about it as an important first step. I think our language is, we see it as a building block. But it is a place to get to. It recognizes the principle that labor and environmental issues should be in these agreements and they should be dealt with seriously.

Senator Kerry, when he was here, said we ought to go forward and we ought to learn from this experience. That is what we think. You have to take a few steps and learn, then be ready to deal with it in a more comprehensive matter.

The CHAIRMAN. I would like any of you to comment.

Senator BAUCUS. Mr. Sweeney did not get a chance to answer the question.

The CHAIRMAN. I am sorry.

Mr. SWEENEY. I would just say that the potential of the Jordanian agreement, in terms of the provisions on labor rights and environmental issues, is much more advanced than the NAFTA agreement.

Senator BAUCUS. Thank you, Mr. Chairman.

The CHAIRMAN. I would ask any or all of you, and this will be my last question, something from the Canada-Chile Free Trade Agreement, having, on labor and environment, the allowance for fines as a last resort.

What would be your view of those provisions as a model for trade agreements, but specifically as an alternative to trade sanctions? And Mr. Sweeney, too. I would particularly like to have, Mr. Donohue, you and Mr. Sweeney.

Mr. DONOHUE. Mr. Chairman, two points. Just let me reiterate again that trade sanctions disadvantage this country all the time. You cannot find multilateral sanctions, where everybody got together, on the Iraq war. I am not talking about that. I am talking

about unilateral trade sanctions disadvantage this country at every single turn.

The substitute of fines for sanctions puts us in a position where people can do what they were going to do in the first place, and governments pay fines to each other. It is certainly a lot more desirable than sanctions that impede trade.

To say to our trading partners and our best allies all around the world—now, you just go take that market and we will stay over here and conduct our sanctions—I do not want to choose between them, but I would say that I think sanctions are the most negative things we do.

I know that John probably disagrees with that, but if you look at the NAFTA issue, we have already created 1.4 million jobs in this country. There are problems. Of course we had problems. We had a deal about the trucking issue, as you know, Senator. We are still fooling around about that.

I just think the first thing is, the more trade we do, the more jobs we create here. The more trade we do, the better the standard of living with the people we trade with. Therefore—and I think the professor has some pretty good scholarly contribution to that—we are improving the circumstances.

If I had to take fines, I would take it before I would take sanctions. I would like to keep the cleanest bills we can so we can go out and do some good things for this country and for the workers who are getting the jobs.

The CHAIRMAN. Mr. Sweeney?

Mr. SWEENEY. I would think that fines certainly are a consideration if we are going to impose something that provides meaningful economic consequences. I do not think we should consider token fines as a substitute, but a serious, enforceable fine formula is certainly a consideration.

The CHAIRMAN. Professor?

Professor BHAGWATI. I would just like to add one point. We are forgetting in this to and fro the fact that many countries on the other side, the poorer countries, the developing countries, actually object to the inclusion of these provisions in the first place, and not about the details like Article 17, and so on, which may make it worse.

The reasoning for that, of course, is precisely what, Mr. Chairman, you were asking President Sweeney, which was: are there other ways in which we can pursue these things when it comes to fast track, for example, which was your question earlier in the afternoon to some of the witnesses also.

It should be possible to advance, even on environment, the key critical issues which involve the WTO, via international protocols. These issues have to do with what we call value-related production process methods, like tuna, dolphins, shrimp, turtle, and so on. They have to be negotiated.

I do not know whether you do it under fast track. I think it is the sort of thing you should do under self-standing negotiations like Kyoto. You do not need fast track for many of the environmental issues at all.

I think what the environmental groups are trying to do is to piggy-back on trade negotiations to try and get these issues ad-

vanced. But I think environment is sufficiently understood these days to be an important issue. There is wide support for it. We do not need to go in for inefficient mechanisms, things which are going to create problems with negotiating a new round, just in order to put the environmental issues on the agenda. We can do that in a much better way.

Mr. SCHLICKEISEN. Mr. Chairman, a brief comment. Just to say, in general, in response to the professor, the environmental community, nor the labor community, did not pick this fight. We did not decide what somehow we wanted to become involved with trade because this is a way to advance our agenda.

We became involved with this because trade is hurting our agenda. Trade is hurting environmental standards around the world, environmental protection, and it is hurting worker fair rights. So we are not piggy-backing on this because of some agenda, we feel like we are forced into it.

A brief comment on the issue of, if we had to choose between sanctions and fines, I think our inclination would be, certainly, except in unusual circumstances, to favor sanctions.

We are not interested in economic punitive measures here, we are interested in a change in policy. Sanctions are liable to produce a change in policy, whereas fines would just end up being another cost of business that people factor into it.

Mr. DONOHUE. For the record, Mr. Chairman, I would take some issue with the fact of the simple statement that trade has been bad for the environment and for labor as a carte blanche. I think that a reasonable review of the progress we have made and the benefits that have come from trade throughout the world would refute that again and again.

Mr. SWEENEY. And that is the very reason that we are so focused on this issue. I mean, this is not about, against trade or against globalization. This is about, does it work for working families? Does it improve the lives of workers as well as capital and investment? If we cannot address the issues of workers and their role in globalization, then we are just not living up to our mission in terms of representing workers.

Senator BAUCUS. I think that, to some degree, everybody is right here.

Mr. SWEENEY. I would not go that far. [Laughter.] There is no piggy-backing here.

Senator BAUCUS. This is not a zero-sum game. There are advantages all around.

On the other hand, we have to worry about tyranny of the averages and tyranny of the majority. There are some definite gains in an aggregate basis, but when you disaggregate, there are some disadvantages. What we are trying to do, is deal with all this the best we possibly can.

Mr. SWEENEY. Thank you very much.

Senator BAUCUS. Thank you.

The CHAIRMAN. Thank you all very much for your participation. The hearing is closed.

[Whereupon, at 5:10 p.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF AMBASSADOR CHARLENE BARSHEFSKY

Mr. Chairman, Senator Baucus, thank you very much for inviting me to testify on the U.S.-Jordan Free Trade Agreement.

Let me begin by noting that I strongly support enactment of this agreement, as both a critical element of America's Middle East policy and on its general merits as a market-opening trade agreement, and I applaud your decision to hold an early hearing on it this spring. I will turn to its specific provisions in a moment, but let me begin by reviewing its broader implications for the Middle East region and for U.S. trade policy.

STRATEGIC GOALS OF U.S.-JORDAN FREE TRADE AGREEMENT

In opening negotiations for this agreement last year, the Clinton Administration had a number of strategic goals. In brief, we sought:

- To encourage regional economic integration in the Middle East generally,
- To support Jordan's economic reform program in particular; and
- To develop a comprehensive and innovative Free Trade Agreement which would set precedents for rigorous trade liberalization and bolster bipartisan consensus for trade policy in the United States.

Before turning to the specifics of the agreement, let me make a few comments on each of these wider goals.

I. ENCOURAGEMENT FOR REGIONAL TRADE LIBERALIZATION

In most parts of the world, American trade policy today builds on both general commitment to the multilateral trade liberalization through the WTO, and local initiatives—from the European Union to the ASEAN Free Trade Area, Mercosur, the Central American Common Market, and Africa's three regional economic associations—intended to foster regional economic integration.

The Middle East is the principal exception to this rule: its nations are more economically isolated, from one another and from the outside world, than those of any other region in the world. Not only are the region's trade barriers remain high with respect to the outside world, but there is less intra-regional trade in the Middle East than in than any other region. Throughout the past two decades, about 6% of Middle East trade has been internal, compared to about 10% for Africa, 20% for Latin America and almost 40% for the developing countries of Asia.

Over time, this isolation has come with a high economic and political cost. The Middle East's share of world trade has steadily fallen—in our case, the Middle East provided 7.3% of U.S. exports twenty years ago, and only 2.6% last year—and its exports remain concentrated in natural resource fields, particularly energy, with less potential to create jobs for growing urban populations. Thus the region has lost opportunities to develop economies of scale that could spur investment and technological progress; as a result, its growth has stagnated and poverty persisted. This in turn raises social tensions within countries, creates greater potential for political instability, and denies governments and nations the opportunity to find areas of common ground and strengthen peace.

American trade policy, with bipartisan support, has sought to encourage the nations of the region to open their economies to one another and the world. This has included encouraging the nations of the region to join the World Trade Organization, with recent successes in the accessions of Jordan and Oman, together with patient negotiations with aspiring members such as Lebanon, Saudi Arabia, Algeria

and Yemen. And it has included the development of bilateral relationships and agreements throughout the region. The most ambitious such agreement is the U.S. Free Trade Agreement with Israel, under which U.S.-Israel trade has grown from under $5 billion to $25 billion; recent additional examples include negotiation of Trade and Investment Framework Agreements with Egypt, Jordan, Morocco and Turkey; and Bilateral Investment Treaties with Jordan and Bahrain.

II. SUPPORT FOR ECONOMIC REFORM IN JORDAN

The trade relationship with Jordan is of special importance in this regional trade policy.

First of all, of course, Jordan has been a strategic partner for decades in the search for peace in the Middle East—in its own right as one of two Arab nations to sign a peace treaty with Israel, and as a source of creative ideas and encouragement for negotiations between Israel and other countries in the region. Its long-term political stability is thus of critical interest for the United States. Essential to political stability in a troubled region is a healthy and growing economy, and a growing bilateral trade relationship will help Jordan reach these goals.

Second, under King Abdullah II, Jordan's government has begun a program of economic reform which is a model for the region. Over the past two years, Jordan has thoroughly reformed and modernized its trade and domestic economic regimes: drastically reducing barriers to trade, upgrading intellectual property laws, deregulating a number of services industries; joining the World Trade Organization; and working toward liberalized trade with its neighbors through ending participation in the boycott of Israel and proposing Free Trade Agreements with neighboring Arab states such as Lebanon.

The United States worked very closely with the Jordanian government throughout this process—through our cooperative work on Jordan's WTO accession, in negotiating the Bilateral Investment Treaty and Trade and Investment Framework Agreement, and in technological cooperation initiatives such as Jordan's participation in the Internet for Economic Development Initiative. Of greatest significance as we consider the Free Trade Agreement, however, is the unique "Qualifying Industrial Zone" program to encourage bilateral trade and regional economic integration.

Under this program, which then-Minister Mulki and I launched together with Israel's Natan Sharansky in 1998, the United States provids duty-free treatment for products created in "Qualifying Industrial Zones"—that is, industrial parks run jointly by Israeli and Jordanian businesses. At its creation, this program included two such zones; today there are ten, across industrial sectors from luggage and apparel to information technology. After four years, the program's results are striking.

In 1996, the year the QIZ program was created, the U.S. imported about $25 million in goods from Jordan; by last year, the figure had tripled to $72 million. The results are particularly impressive in manufacturing industries with great potential to create jobs: Jordan's exports of apparel to the U.S. have grown from a total of approximately $3 million in 1997 to nearly $50 million last year, and its exports of luggage from zero in 1997 to $9 million in 2000.

This in turn has direct benefits for Jordanians in jobs and growth, as is especially clear when we examine the oldest QIZ—the Irbid Industrial Park. At its creation, the zone employed about 1100 people, at eight factories making clothing, watches, telecommunications equipment and other goods. Predictions at the time were that employment might ultimately grow to 1700 workers—but within a year the Irbid Zone had outgrown its original boundaries to include more than fifty factories, including some with a direct American stake; and as of last year, it had created jobs for over 6,000 men and women.

US-JORDAN FREE TRADE AGREEMENT

The Free Trade Agreement will build upon this experience, liberalizing trade across the spectrum of industrial goods, farm products and services. It is both a rigorous agreement covering all the principal sectors and issues that FTAs have traditionally addressed; and an innovative agreement addressing new issues. The major provisions include the following:

1. Goods and Services Trade

First, the Agreement includes a comprehensive set of commitments covering industrial goods, agricultural products and services industries, which opens up opportunities for both the U.S. and Jordan and sets important precedents for future FTAs and work at the WTO.

Across the spectrum of industrial goods and agricultural products, Jordan and the United States will eliminate virtually all tariff and non-tariff barriers within ten

years. In addition, the agreement enables us to secure other high-priority goals in goods trade, for example in ensuring science-based sanitary and phytosanitary procedures in agricultural trade. Together with commitments Jordan has already made in its accession to the WTO (e.g. committing not to use agricultural export subsidies), the agreement thus sets important precedents for goals the U.S. has long sought on a wider scale.

Likewise, the agreement breaks new ground through commitments to liberalize a number of important services sectors. Specific examples range from distribution to courier and express delivery, audiovisual, private education, environmental services, financial services, telecommunications and other fields. Again, this set of commitments not only creates important market access opportunities in Jordan itself, but sets precedents for future U.S. Free Trade Agreements and achievements at the WTO.

2. Electronic Commerce and the Internet

Second, the Agreement breaks new policy ground as the first Free Trade Agreement ever to address issues related to electronic commerce and the Internet. In this regard, both countries agreed to avoid imposing customs duties on electronic transmissions, creating unnecessary barriers to market access for digitized products, or impeding electronic delivery of services. Jordan has also committed to ratify (as the U.S. has already done) the World Intellectual Property Organization's newly drafted treaties ensuring protection of software and sound recordings on the Internet.

3. Transparency

Third, together with conclusion of the Agreement, both countries agreed to work together to strengthen transparency at the WTO, by opening bilateral dispute settlement panels to the public.

4. Labor and Environmental Provisions

Fourth, the Agreement includes provisions on trade-related labor and environmental issues. The agreement, while restating the existing commitment of both countries to strong environmental protection and the ILO's core labor standards, neither imposes new standards nor bars change or reform of national laws as each country sees fit. It does, however, enable each partner to request consultations and if necessary impartial dispute settlement in the event that one FTA partner believes another is avoiding enforcement of existing national laws with the intent of gaining a trade or investment advantage. Finally, the FTA is accompanied by a separate technical assistance agreement that will offer practical help in very complex policy areas, beginning with cooperative arrangements on the environment. Altogether, this set of commitments fully respects soveignty, addresses trade-related environmental and labor issues in an appropriate manner, and bolsters the overall agreement's commitment to free trade and the rule of law.

CONCLUSION

In conclusion, Mr. Chairman, the U.S.-Jordan Free Trade Agreement will help the United States achieve a series of important goals.

It will strengthen our bilateral trade relationship with Jordan. In doing so, it will support economic reform, rising living standards and long-term economic growth in a nation of critical importance to peace in the Middle East.

At the same time, it will serve as a model and example for other nations in the region, of the means by which trade liberalization can contribute to economic development and complement the political work of the peace process in easing political tension.

And it will serve broader American goals at the WTO and in the strengthening of consensus on trade policy at home.

This is, in sum, an agreement of great importance to the United States. I welcome your decision to hold this hearing, and urge the agreement's early implementation.

Thank you very much, Mr. Chairman and Members of the Committee.

PREPARED STATEMENT OF SAMUEL R. BERGER

Mr. Chairman, Members of the Committee:

I am pleased to have this opportunity to discuss the U.S.-Jordan Free Trade Agreement with this Committee and to urge its early approval by the Congress.

Ambassador Barshefsky and Ambassador Smith [have] [will] address the various trade issues that are involved in this agreement. Let me tell you why I believe it

is so important from the perspective of America's strategic interests in Jordan and the Middle East.

The Kingdom of Jordan has been one of America's most stalwart friends in the Arab world, both under the leadership of the late King Hussein and now under King Abdullah II. Both have been strong, clear voices for reconciliation with Israel and close relations with the United States. The torch of peace that was held with such dignity by the father is carried with equal conviction by the son. Particularly at a moment of volatility and danger in the Middle East, we need the voices of reason and moderation to be strong and confident. We have an enormous take in the stability of Israel and the success of its leaders.

Prompt passage of this agreement is important to that success, both in real and symbolic terms. King Abdullah has undertaken a serious program of economic reform, including difficult actions needed for Jordan's accession to the WTO. These include stronger intellectual property laws and a better climate for both domestic and international investors.

Nonetheless, the economic situation in Jordan is difficult; unemployment is high—in the neighborhood of 25%. GDP growth, which began to increase last year, then turned downward in the last quarter as the Palestinian Intifada seriously interrupted Jordan's tourism industry, an important part of the Jordan economy.

As is often the case, there has been a gap between the long-term benefits of the structural reforms and the results people can feel in their daily lives. It is critical that the people of Jordan see, sooner rather than later, that modernizing the Jordanian economy, despite its difficulties, will change their lives for the better. Prompt approval of this agreement will help make that happen. Protracted delay would be a setback.

We have strong evidence that this agreement will provide genuine benefits to Jordan from our experience with the Qualified Industrial Zones that were initiated with Jordan and Israel in 1996. These zones have enabled Jordan to expand its export sector, creating thousands of jobs for the Jordanian people.

Mr. Chairman, I believe there is a second, broader reason why it is important to approve this agreement. King Abdullah has gone further than most all of his Arab colleagues in seeking to build a modern economy. Indeed, much of the rest of the region has fallen further behind in the global economy in recent years. That is a prescription for future division and instability. By reaching and approving this agreement, we send a powerful message to the entire region that economic modernization is a genuine path to a better life for the people of the region. If we strengthen the reformers, we make it easier for others to follow. I can assure you that others in the region are watching what we do carefully and will hear the message clearly.

Mr. Chairman, a new generation of leaders is emerging in the Arab world. They either will choose the path of peace, moderation, and global integration, or they will slide further from the global mainstream, and the chasms of poverty and bitterness will widen. King Abdullah has chosen the path of global integration, both economic and strategic. It is essential that he succeed and that we provide concrete support to those efforts.

Prompt action by the Congress to approve this agreement should be an important step in that direction.

PREPARED STATEMENT OF JAGDISH BHAGWATI*

It is tempting to judge the US-Jordan FTA only in terms of whether it is an important component of our Middle East policy of promoting peace. But, even on that dimension, I find it hard to see how it can be seriously argued to be of any real importance relative to the numerous complexities that challenge us and which require political resolution. Nor can it, given the minuscule current and prospective trade between us and them, can it be regarded as of any importance relative to other more significant economic instruments such as aid. In fact, looking at FTAs being pursued worldwide, I find that often they are justified on "security" or "foreign policy" grounds: but this is little more than PR that sidetracks one from penetrating scrutiny of what the FTA in question is really about.

In truth, one may well ask why you and I should spend our valuable time on an FTA that appears so economically trifling. The answer is that this particular FTA

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raises two questions of extraordinary significance for our trade policy: one in regard to FTAs vis-a-vis multilateral Free Trade (FT) and the other in regard to its contents, specifically in relation to the issue of labor and environmental standards.

The *first* is a policy issue that a world leader in Trade Policy must concern itself with. We are not Chile, Singapore or Mexico; what we do matters much more than what each of them or all together do. We must address the questions raised by proliferating FTAs as they intrude into the world trading system in ever expanding numbers: do we join the stampede or do we seek to halt it using our power, such as it is, to persuade, bribe and punish other nations. But *any* FTA—not just the US-Jordan FTA—raises that question. I will therefore, in my oral testimony, not go beyond simply alerting you to this question which agitates a number of students of the trends in the world trading system, as was evident for instance at the Davos meeting this January and has been discussed in the more informed media such as *The Financial Times* and *The Economist* in recent years.

The *second* is a matter that is truly specific to the US-Jordan FTA for the simple reason that its incorporation of labor and environment within the very text, as distinct from side agreements in the NAFTA treaty, is considered by our labor union lobbies, chiefly the AFLCIO, and the Democratic politicians who accept and reflect these positions, to be a "template" of any future trade liberalizing agreement. In fact, it is a strategic elevation of labor (and certain environmental) concerns to an integral status within trade negotiations. It goes even further in its significance. For, it is also widely assumed, despite a few denials which seem less than credible to those of us who have followed the politics of this issue closely for over a decade, that it is also a legitimation of the demand for a Social Clause at the WTO. The US-Jordan "template" would establish so many legitimizing facts on the ground that the foot in the door would pave the way for putting the entire body, bloated belly and all, through the door when the "time was ripe."

This aspect of the US-Jordan FTA is therefore one that the Senate Finance Committee cannot ignore. Indeed, I need hardly remind distinguished members of the Senate who understand politics only too well, that the US-Jordan FTA was designed by the Democratic Clinton administration, as a priority item to be negotiated ahead of the change of administration, precisely with a view to creating this new "template" and to make it difficult, even for Republicans, to do anything but accept it.

But rejection of this template is precisely what needs to be done. And, if that is not done because it is too late to "disappoint" a friendly Kingdom which the earlier administration has brought more in its own labor lobbies' interest to the well, then there must be an explicit disclaimer that the US-Jordan FTA is not to be treated as a template in regard to future FTAs (such as with Singapore and Chile).

Besides, the Senate Finance Committee must add the explicit proviso that "substantial" trade liberalization as in the proposed FTAA and certainly in a new Multilateral Round, dashed by mismanagement by the last administration at Seattle but to be launched hopefully at Qatar this November when the WTO Ministerial meets again, will not incorporate labor (and certain environmental) issues into the negotiations, exactly mirroring the objections of the major developing countries' governments, and also of many intellectuals, NGOs and even labor unions (e.g. all of them in India) to a Social Clause and indeed to even a discussion of these issues in the context of trade negotiations.

Let me explain and justify all this. I will first address the question of the risks posed by multiplying FTAs generally. Then, I will turn to the more specific and even more dangerous "template" issue.

A: FTAS: THE SYSTEMIC ISSUES: THE "SPAGHETTI BOWL" PROBLEM AND THE QUESTION OF "STUMBLING" VERSUS "BUILDING" BLOCKS

I: PTAs, not FTAs: Trade Diversion

Several points must be kept in view. At the outset:

- Free Trade Agreements are two-faced: they lower barriers for members, not for non-members. So, they increase the handicap faced by non-members vis-a-vis members in the markets of FTA members. So, FTAs constitute freer trade for members, greater protection for non-members. They are therefore NOT identical with free trade. Only those who deal in sound bites and who cannot read more than two words at one time—something one cannot accuse Senators of, since they necessarily transcend incompetence and petty politics—will be in danger of beginning to read "Free Trade Agreements" and terminating their effort after the first two words!
- To underline this inherent and important difference between FTAs and FT (genuine Free Trade), the former constituting *preferential* or *discriminatory* trade liberalization and latter constituting *non-preferential* or *non-discriminatory*

trade liberalization, economists now call FTAs (and customs unions such as Mercosur) PTAs. That way, the costly sloppiness that equates FTAs with FT is less likely: as Orwell reminded us, language matters.

- All trade economists know that PTAs can lead to trade diversion: diverting trade from cheaper non-member suppliers to more expensive member suppliers, because the members face lower, eventually zero, tariffs and even differential exemptions from non-trade barriers like anti-dumping actions. This is clearly costly: the country imports at higher cost. Offsetting it may be increased trade from the members which displaces our own higher-cost production and also because cheaper tariff-inclusive consumer prices lead to increased consumption.
- In evaluating PTAs, it is remarkable that rarely is this key problem mentioned, and all trade increase is treated as if it was good, which would be the case if we were dealing with FT, *not* PTAs. Thus, look back on the DRI evaluation of NAFTA for the Clinton administration: it never mentioned trade diversion. That document would have been graded an F in an elementary class on International Economics 101. Several of the other studies cited are almost as bad, almost worthless, at a conceptual level. The Senators may recall for instance the pro-NAFTA study done at the Institute for International Economics, during the NAFTA debate. I hesitate to say it, particularly since that think-tank is usually on the side of freer trade which I embrace and espouse, but say I must: this study was flawed, characteristically for many reports from that Institute, because it calculated employment effects from NAFTA in a model that did not analytically permit aggregate employment effects to follow from changes in trade policy!

II. "Spaghetti Bowl": A Systemic Problem

But the problem that faces us today is a "systemic" one. These PTAs, most of them bilaterals and some plurilaterals (i.e. more than two members), have proliferated and are multiplying at an epidemic rate. The result is a maze of crisscrossing preferences With different rules of origin applied to different sectors in different countries in different bilaterals, with the same commodity often on different schedules of tariff abolition, so that the name of the game becomes defining which product comes from where—a matter that can make being a customs official a lucrative business aside from creating huge headaches for planning production location and product content decisions. I have called this the "spaghetti bowl" problem: an apt phrasing that has caught on among economists and was used by prominent Trade Ministers at the Davos meeting this year as well. The maze and the mess are, as the remarkable South African Trade Minister Alec Erwin noted, particularly acute for the developing countries: small nations and small businesses find it ever more difficult to operate within this (I should say, lack of a) system.

When I originally drew attention to this spaghetti bowl problem some years ago, the number of PTAs notified to the GATT were still around a hundred: a bad enough figure for me to ring the alarm bells. Today, there are well over 200 such notified PTAs, mostly bilaterals, and by some counts, the new ones being plotted, including the US-Jordan FTA, turn the aggregate number to over 400. Besides, the disease has spread to Asia which, until recently, was bravely holding on to non-discriminatory trade liberalization, including at APEC (which is *not* an FTA and had embraced nondiscriminatory trade liberalization for its members as its operating principle despite pressures from some of our people to the contrary). So, we have now Japan and Singapore breaking ranks with active exploration, even negotiation, of bilaterals of their own. Other nations of Asia will not be far behind.

And so we may soon expect the world trading system to be awash in preferences that will have reproduced the chaos and the mutually harmful ravaging of the world trading system, again with individual countries acting rationally in an uncoordinated fashion but arriving at collectively irrational outcomes, that we had in the 1930s after the Smoot-Hawley tariff. [The competitive nature of this proliferation is evident from the fact that nations that were wedded to the multilateral system have recently confessed to their "need" to have their own PTAs to offset the preferences that rule them out of other nations' PTAs. The Business Roundtable makes a similar argument, saying that the US also faces such dangers of "exclusion" because of others' PTAs and must pursue them herself.] This time, however, the world trading system, which would be far better served by a discrimination-free set of rules, will have been damaged by the world's politicians and their advisers in the name of Free Trade rather than in the name of Protection.

I invite the distinguished Senators to look at the two charts (1 and 2) that I have prepared, that illustrate the spaghetti bowl as of some time ago, for the EU and for Africa; things have gotten worse since. If that does not impress you enough, let me tell you that, in the EU today, I am told that there are only five countries that

enjoy access at the EU's MFN tariffs: all the rest are on some preferences or others, among them those embodied in the bilaterals!

III. "Building" versus "Stumbling" Blocks

One may fondly hope that this proliferation is only an "en route" chaos and that, to use another phrasing that I have introduced in the policy debate, they only represent a "building," not a "stumbling" block in **getting to** the goal or architecture of multilateral, non-preferential Free Trade.

But just consider that nearly every bilateral consists of numerous features that vary across the bilaterals. Even when "hegemonic" powers like the EU or US, and now Japan, are involved in a bilateral (and remember that there are numerous bilateral PTAs that do not involve these hegemons but are among the lesser powers only as with Mercosur), their own "core" templates on issues like labor standards and a whole host of "trade-unrelated" issues are not identical or even similar. How are these different blocks, with many different sizes and shapes, going to be used as building blocks for the multilateral project? That is a question that is now being raised, as it was at Davos too.

I raise these important systemic questions regarding FTAs, even as the Senate contemplates what superficially seems like a wholly inconsequential FTA with Jordan as whose passage should be a matter best relegated to the back pages of lesser newspapers, it is simply "received wisdom," or perhaps it is better to call it "received folly," in Washington that we can walk on "both legs" by going in for more PTAs and going as well for MTN (multilateral trade negotiations) under WTO auspices. Walking on two legs, I suggest, is likely to get us, a superpower that must lead with a vision, walking on all fours instead.

B: JORDAN FREE TRADE AGREEMENT AS A TEMPLATE ON LABOR AND ENVIRONMENTAL STANDARDS

But if the systemic questions I have raised above are those that must concern the Senate and the House, the USTR and the President more fully at a different time, but certainly before the FTAA meeting in Quebec in late April where these questions must be addressed and the matter addressed frontally, the main and currently pressing problem with the Jordan Agreement lies elsewhere.

This has to do with the fact that its real rationale is not as something its political proponents want to do for Jordan but as something that they wish to do for themselves in a broader and more ambitious agenda. They wish to use it as a *template*, as Ambassador Barshefsky said quite explicitly several weeks ago, for all future trade agreements when it comes to *incorporating labor and environmental provisions* **into trade agreements**. In this regard, the most important change from NAFTA, which is considered properly to be significant, is that the NAFTA treaty put such provisions into side agreements; in the Jordan Agreement, they are right *within* the text.

Again, it is important to remind ourselves: what exactly is the game plan? There are three possibilities.

- *Plan 1*: A modest game plan would be to consider this shift from side agreements to within-the-text provisions as an end in itself. It would represent, from the viewpoint of the lobbies and the Democrats, an upscaling that could then make it easier to demand such provisions in any bilateral PTAs we may sign in the future, say with Singapore or Chile.
- *Plan 2*: An ambitious game plan would be to treat this concession as one that undercuts objections to having a Social Clause in the WTO. Since such a Clause inherently implies the use of trade sanctions, this would imply providing political legitimacy to the use of sanctions to advance specified labor and environmental standards or objectives abroad.
- *Plan 3*: An equally ambitious objective would be to pave the way for the inclusion of such provisions in the grant of any new fast-track or "trade promoting" authority to the new President.

But all three plans are fraught with adverse consequences for the United States. Let me explain why.

Plan 1

Even if the template is only for all future FTAs, with the Jordan Agreement acting as a precedent we cannot walk away from, this will bring us harm because, in a world of proliferating FTAs (about which, I suspect, we plan to do little by way of leadership to halt such a development, despite the dangers that I have noted above), we will find ourselves in adverse competition with other nations who will not impose such provisions on prospective trade partners.

This is evident, to give just one example, of the FTA being proposed by some between India (a lucrative market that is rapidly opening up) and the US. India opposes the incorporation of labor and environmental standards in trade treaties. The EU and Japan do not require them currently. The danger is that India, faced with the need to create her own FTAs, will join with the EU and Japan instead: a proposal that has already surfaced as an alternative. That would freeze the US out of the Indian market, with preferences going to the EU and Japan instead. Trade diversion would strike, but at us as a non-member country.

Again, as of now, Brazil is a strong opponent of such incorporation of labor and environmental standards into trade treaties. What does that do to the prospect of FTAA? The Jordan Agreement template would have driven a stake through that project as well since Brazil remains the dominant economy in South America and also actively opposes US hegemony (one consequence of which has been a long-standing tension between Mercosur and NAFTA).

Plan 2

Of far greater consequence would be the game plan to use the Jordan Agreement precedent to actively pursue the insertion of a Social Clause into the WTO.

First, any likelihood that one might be able to sideline the issue by creating a Study Group on the question at the WTO or with WTO participation, proposals which were advanced as innocuous by the US and the EU but summarily rejected by major developing countries as foot-in-the-door measures craftily devised by our labor unions and NGOs, would become yet more remote.

Second, it would give dangerous credibility to the false doctrine that trade treaties must address labor issues because trade liberalization is a significant cause of fall in our workers' wages due to competition with the developing countries and, through a race to the bottom, also of decline in our labor standards. There is little, if any, evidence for these fears and assertions.

Indeed, it is the common surrender to these unsubstantiated fears that has led many unions and Democrats to support the demands to raise foreign labor standards with a view to raising the cost of production abroad in many labor-intensive industries such as textile where our competitive advantage has disappeared by and large and where we face intense competitive pressures from the low-wage developing countries. Since asking for outright protection is not kosher any more, why not try to raise production costs abroad by citing lower standards, lower "living wage" and the like, and saying that otherwise the competition and the trade are "unfair?" That is real smart, you must admit. It is what I call a form of "export protectionism" (i.e. getting the exporter to become uncompetitive) as against conventional "import protectionism" (i.e. raising import barriers). Alternatively, if import barriers are a form of "isolationism," the raising of foreigner's costs of production are a form of "intrusionism." Neither makes sense as good policy.

Third, those proponents of a Social Clause who are looking for trade sanctions as a way of spreading better labor and environmental standards abroad on *altruistic* grounds often assert that the issue belongs to the WTO because its trade sanctions imply that the "WTO has teeth" whereas the alternatives proposed by many developing countries, their intellectuals, NGOs and some labor unions as well, such as going to the ILO make no sense because the ILO has no teeth.

But this is one argument which, while it looks compelling to most people in the US who desire to have a better world, is totally wrong in my view. It presumes that trade sanctions are productive and efficient relative to non-trade-sanctions in promoting such social agendas. But that is not so. Let me give some of the reasons:

- When trade sanctions were threatened under the proposed Harkin Child Deterrence legislation, several children were fired and wound up in prostitution instead, according to a widely cited Oxfam study.
- Complex issues such as child labor, where over 100 million children work in the poor countries principally owing to poverty, cannot be solved meaningfully via trade policy. Only 5% of the output where children work is exported, for instance. If you bump children out of the exporting industries or firms, they will likely end up elsewhere, even if not in prostitution.
- The effective removal of child labour requires "heavy lifting": working with local NGOs, ensuring that children taken from work are put to schools which may require to be built, helping with moneys (which foreign aid can provide) poor parents who might starve if children's income is removed, and so on. This is, in fact, what the ILO's International Program for the Eradication of Child Labour (IPEC) is doing; and that is the correct answer, surely. Trade sanctions have no role in this program.
- It is wrong to believe, in any case, that the use of techniques other than trade sanctions is ineffective for most of the social agendas one may wish to advance.

In a debate with former Labor Secretary Robert Reich, I said: God gave us not just teeth but also a tongue. And, when it comes to morally compelling causes, a good tongue-lashing can be more effective today than biting with one's teeth. Today, with civil society actions and CNN, the power of moral suasion is far greater than when teeth were considered necessary: one can proceed from credible documentation by impartial and competent bodies such as a restructured ILO to unleash shame, guilt, and embarrassment to push societies towards greater progress on social and moral agendas. I call this the Dracula Effect: expose evil to sunlight and it will shrivel up and die. True, Dracula returns from time to time; but I believe nonetheless that the Dracula Effect captures reality pretty well.

And I would remind the Senators, especially when this administration is turning to the Christian faith, that the Pope has no troops, only the power that proceeds from his moral stature; that we no longer use the rack to convert the non-believers to true faith; and that the Inquisition showed that such use of teeth was simply ineffective: the Jews who could not take the torture pretended to convert but continued to embrace Judaism, declaring themselves when the Inquisition had passed.

- In addition, there are reasons to think that Appropriate Governance requires that issues be addressed at international agencies which have been designed to address these issues. For labor standards, or workers' rights as they are now characterized, are surely better addressed at the ILO; environmental standards at UNEP; children's rights at UNICEF; migrants' rights at an institution which must be created for that purpose: I have long written that we need a WMO, the World Migration Organization; and so on.
- Ruling out the rationale that the WTO provides trade sanctions and hence must deal with these standards, and rejecting also the reasoning that WTO must address these issues because trade creates a downside for our wages and our standards, as I have already argued, we are left with no reason to have the WTO involved in any way whatsoever in these matters.
- Besides, it is important to remember that the WTO's annual budget is $100 million, of which the US pays 15%. The WTO is leaner than it should be: it suffers from phenomenally inadequate resources compared to the huge amounts of funds that are available to the World Bank, for instance, and which are used by the Bank with an extravagance, relative to WTO's frugality, that would be scandalous only if known. Is it coherent to deny the WTO more funds for staff (which has less than ten economists in its Research division!) while adding to its burden the management of a Social Clause which, given its current funding, would allow perhaps half a person to manage these complex questions?
- Then again, the Senators must face up to the fact that we will surely destroy the WTO if we go the Social Clause route. Most of the proponents of the Clause assume that the defendants will be the developing countries, whose standards we fear and deplore whereas we will be the plaintiffs. It is difficult for them to see that we could well be the defendants. Even the so-called "core" workers' rights which are to proposed to be included in the Social Clause include broad declarations that can imperil our own exports. Thus, for instance, they include the right to associate freely, which refers to unions of course. But this is a very broad right. And Human Rights Watch has just issued a Report on this right in the US, concluding that "millions of workers" are denied that right, largely (but by no means exclusively) because the right to strike effectively is crippled by legislation that allows replacement workers and discourages sympathetic strikes. Thus, the fact that our union membership has steadily been falling and is around 12% of the labor force by now is a surefire symptom, though evidently not in itself proof, of this documented denial of the core workers' right to unionize. If then we had this right in the Social Clause, as we must if there ever were to be such a Clause at the WTO, we could well face the prospect of being taken to the Dispute Settlement Mechanism at the WTO for violation of this right in virtually all export industries. In that case, which way does the WTO rule? If against us, several Congressmen can be expected to march down the steps of Capitol Hill in condemnation; if for us, the unions, NGOs and intellectuals can be expected to take to the streets and to mount yet more effective attacks on the WTO. Do we want this?
- By contrast, if the ILO finds against our practices on these core rights, no trade sanctions follow and therefore none of this would happen. Instead, impartial findings like this would enable our unions, NGOs and politicians to argue more convincingly for reforms that advance better conformity to these rights nationally. And that could produce good results, not senseless wrecking of a necessary international institution like the WTO.

- Finally, the problem is that we could not even get to the Social Clause in the WTO, and indeed would have great difficulty in even getting an MTN Round going, if we were to insist on a Social Clause negotiation as part of such a Round. For, it is not just many of our economists, many Democrats, and several Republicans in the House and Senate who reject such a Clause; the developing countries do so equally passionately as witting or unwitting protectionism. By going this route, at the insistence of our union lobbies, we create a North-South divide that accentuates the difficulties we face in launching an MTN Round, a matter of some importance today.

And so, I think that Plan 2 of using the Jordan Agreement as a stepping stone towards the Social Clause is to go down a path that is fraught with far too many problems and dangers.

Plan 3

For many of the same reasons, the plan to use the Jordan Agreement as a signal that the grant of fast-track authority will be made contingent on accepting an integral link between trade liberalization and labor and environmental standards provisions, is to be deplored as well.

III: MY RECOMMENDATIONS

I would therefore urge the Finance Committee to vote for the following in regard to the Jordan Agreement:

- Approve it but subject to deletion of the labor and environmental provisions, instead adding a commitment to pursue these questions proactively at appropriate agencies such as the ILO and UNEP while taking meaningful steps to enhance their capabilities and improving their functioning;
- If labor and environmental provisions are retained as a compromise, they must be taken out of the text and put in NAFTA-style as side agreements, so that no signals are sent out that make concessions to the untenable view that there is an integral and adverse relationship between trade liberalization and our wages, labor standards and the environment, nor is a signal sent that we are taking a further step towards a Social Clause at the WTO.
- In fact, under the latter alternative, it would be a matter of urgency for the Senate Finance Committee to add unambiguously also that "the Jordan Agreement's side agreements have no implication whatsoever for the disputed question of the negotiation of such provisions in the next MTN Round or of a Social Clause at the WTO."

Ambassador Robert Zoellick has said in recent interviews that he would like to put FTAs, including FTAA, and a new MTN Round into a package that would be presented in a package to the Congress for grant of fast-track authority. With the Jordan Agreement suitably altered in the way I recommend above, and with labor and environmental requirements taken out of the proposed MTN to be launched hopefully in Qatar, the Zoellick proposal would seem to be just right.

But to get broad support, and indeed to do the right thing regardless of politics, it is important, I should like to reiterate, that the seeking of such fast-track be also accompanied by a declaration of a firm commitment to take proactive steps to advance workers' rights and environmental objectives in suitable fora and indeed by some actual steps to make such a declaration credible.

PREPARED STATEMENT OF HON. JEFF BINGAMAN

Thank you Mr. Chairman, and let me thank this very distinguished panel for coming to speak on the U.S.-Jordan Free Trade Agreement. I want to keep my comments short so we have plenty of time to listen to what you have to say today.

First, I would like both Senator Grassley and Senator Baucus for scheduling this hearing. I think it is to their credit that they recognize that exceedingly important issues are at stake in the U.S.-Jordan Free Trade Agreement. The Finance Committee and the Senate as a whole must take the time to examine the different perspectives on the issue. From where I sit, environmental and labor issues are going to have to be addressed by the international community from this point on—the question is how we do this in a way that promotes economic development, increases trade, integrates developing countries into the international economy, and allows everyone to share from the process of globalization. It is interesting that everyone here today states their explicit interest in attaining all of these goals. The difference lie in the strategies that are used to get there. This hearing begins the discussion in an intensive manner, and I think that is good.

Second, I have some questions about the basic intent and actual enforceability of the agreement. The notion of "appropriate and commensurate measures" referred to in Article 17 is ambiguous to me, as are any number of other provisions. I look forward to clarification from the panelists on this issue.

Finally, let me just say that this agreement must be seen in a much broader context, that being the foreign policy goals of the United States in the Middle East. Although the issues here are going to focus on international trade and economic liberalization, we shouldn't forget that the Middle East is currently extremely unstable and any political economic framework that offers additional incentive for peace should be carefully considered.

There is much more to say on all these issues, but I will leave my comments at that so we can get on with things. Thank you Mr. Chairman.

PREPARED STATEMENT OF TIMOTHY E. DEAL

Mr. Chairman, thank you for the opportunity to appear before this Committee to discuss the U.S.-Jordan Free Trade Agreement (FTA) signed last October. I represent the United States Council for International Business (USCIB), which has approximately 300 members including multinational companies, law firms, and trade associations. USCIB seeks to promote an open system of world trade, finance, and investment in which business can flourish and contribute to economic growth, human welfare, and protection of the environment. We advance the views of American business to the U.S. and foreign governments as well as the major international economic institutions.

We also represent U.S. business in the International Chamber of Commerce, the Business and Industry Advisory Committee to the OECD, and the International Labor Organization through our membership in the International Organization of Employers. Our President, Thomas Niles, is the U.S. employers' representative to the ILO's Governing Body and a member of USTR's Trade and Environment Policy Advisory Committee.

THE U.S.-JORDAN FTA: A POTENTIAL BOOST TO MIDDLE EAST PEACE AND TRADE LIBERALIZATION

Last year, when the Clinton Administration announced its intention to launch free trade negotiations with Jordan, we applauded the initiative on both political and economic grounds. We saw then as we see now that the principal attraction of such an agreement is the contribution it could make to the Middle East peace process. That process appears to be on life support at present. The Arabs, and Jordan in particular, must begin to see the economic benefits from the peace process if any agreement is to going to last. In that regard, the Jordanians clearly recognize that an FTA with the U.S. could help build a stable foundation for regional peace. The Clinton Administration deserves praise for pursuing this agreement and for completing the negotiations in a timely fashion.

We also saw an additional benefit to this agreement: it could breathe new life into U.S. efforts to liberalize trade and investment, efforts that have languished since the conclusion of the Uruguay Round. We continue to support policies designed to expand trade and investment opportunities through bilateral FTAs, regional initiatives, and multilateral undertakings within the World Trade Organization (WTO). The agreement with Jordan could be an important step in that direction.

LABOR AND ENVIRONMENT PROVISIONS IN THE FTA: AN UNNECESSARY ADDITION

Given these aspirations, we were concerned from the outset of these negotiations by the decision of the Clinton Administration to introduce labor and environmental provisions into the agreement. We argued, correctly judging from subsequent events, that the inclusion of such provisions in the agreement was undesirable and would prove contentious if and when the agreement came before the Congress, thereby delaying its approval or even causing its defeat. What was to be an agreement designed primarily to promote Middle East peace has become another vehicle to rehearse tired arguments about the need for trade sanctions to enforce global labor and environmental standards. The domestic political implications of including labor and environment in the body of the agreement were obvious at the time, and its signing on October 24 underlined that fact.

USCIB shares the growing concern and interest in improving the conditions of workers not only in this country, but also globally. We also see the need to protect the ecology of the planet. In our view, the most effective way to address these issues is through international cooperation and the development and implementation of

national laws and regulations. Meeting these objectives requires continued economic growth which, in turn, depends on further liberalization of trade and investment.

Where we in the business community part company with the past Administration, organized labor, and environmental groups is over the most effective means to pursue these objectives with other countries, particularly the developing world. Labor and environment groups support a sanctions-based approach, most often unilateral in nature, where trade is used as a club to impose U.S. objectives and standards on other countries. We consider that approach a recipe for unwinding the rule-based trading system in which the U.S. has a vital stake.

SPECIFIC CONCERNS

Let me now turn to our specific concerns about the signed agreement. As Members of this Committee know, Articles 5 and 6 introduce environmental and labor provisions directly into the operational part of the agreement, a first for U.S. trade policy, and probably for trade agreements worldwide. USCIB has consistently argued during the NAFTA debate and since that such provisions should be addressed in side agreements. Further, the emphasis should always be on ways to promote cooperation in the labor and environmental fields, not force compliance through trade measures. Yet, U.S. negotiators chose coercion in the form of trade sanctions. The text is artfully drafted. The key question is what is subject to trade action. Our experts tell us that the inclusion of labor and environment provisions in the body of the agreement can be read to mean that either government may invoke trade sanctions for any violations of Articles 5 and 6.

The dispute settlement provisions of the FTA seemingly would permit the use of trade sanctions as an enforcement mechanism. Article 17, Section 2 (b) is open-ended and allows either government to take "any appropriate and commensurate measures" for a failure by the other party to carry out its obligations under the agreement, including the environmental and labor commitments under Articles 5 and 6. These "appropriate and commensurate measures" presumably could include unrestricted punitive sanctions.

WHY THE SPECIFICS MATTER

Even though the chances that either Jordan or the U.S. would impose trade sanctions for failure to meet the labor and environmental commitments under the agreement may be remote, the U.S.-Jordan FTA could become, in effect, an important and unwelcome—precedent for future trade negotiations. For example, we know that the Clinton Administration sought to insert language on labor and the environment from the Jordan agreement into FTA negotiations with Singapore. No agreement was reached in that case, but the risk of the Jordan agreement becoming a template for other free trade negotiations is real, particularly in negotiations with smaller countries. That is why it is vitally important to get the U.S.-Jordan agreement right even if the commercial stakes are relatively small.

Looking beyond Jordan, we must take account of the attitudes of our other trading partners. We do not negotiate trade in isolation. This agreement will be anathema to many of our trading partners in the developing world because they do not accept the right of other governments to enforce their domestic labor and environmental laws and practices. They also see such an approach as a device for discriminating against their imports and undermining their WTO rights. WTO Director General Mike Moore addressed that point in a speech last week in London where he ruled out the use of trade sanctions to enforce labor and environmental standards. Specifically, on trade and labor Moore said:

> "WTO members will never agree to trade sanctions to enforce labor standards. It is a line in the sand that developing countries will not cross. They fear that such provisions could be abused for protectionist purposes."

NEXT STEPS

What then is the proper course for dealing with this agreement? Clearly, from our standpoint, the preferred course would be the renegotiation of the agreement to: (a) eliminate the labor and environment provisions; and (b) ensure that the dispute settlement article does not permit retaliatory trade measures for any alleged violation of labor or environmental laws and regulations. We actually have a historic precedent in the case of NAFTA. In 1993, the Clinton Administration took the agreement signed by the Bush Administration and sought, in the words of then US Trade Representative Mickey Kantor, to "improve it" by opening up new negotiations on labor and environment. Those negotiations led ultimately to the NAFTA side agreements on labor and environment. Consequently, those who say the U.S.-Jordan cannot be changed are ignoring our recent history.

Nonetheless, while reopening negotiations of the already signed agreement with Jordan might be desirable, it may not be practical or politically feasible. Given the importance of Jordan to the Middle East peace process, the Bush Administration may not wish to go down that route. And Jordan itself may not wish to reopen the agreement in the present political circumstances. Therefore, a sensible alternative might be the conclusion of a Memorandum of Understanding between the two governments that makes clear that the "appropriate and commensurate measures" referred to in Article 17 do not include trade sanctions at least with respect to the labor and environment provisions.

In our view, the renegotiation of the FTA or the conclusion of a separate Memorandum of Understanding along the lines I described would be the preferred course for the further development of U.S. trade policy. Under those circumstances, no one could argue that this agreement established any kind of precedent for the inclusion of labor and environmental provisions in trade agreements.

Another possibility, though less desirable in my opinion, would be an Administration policy statement or language in the transmittal letter for the agreement to the effect that allowable Article 17 measures do not include trade sanctions for labor and the environment. The problem with that option is that a future Administration could change the policy on its own authority and still be in full compliance with the agreement.

Therefore, we would urge the Congress to make clear in any implementing legislation that trade sanctions are not an authorized response to any perceived violation of the labor and environment provisions of the FTA. We hope the Administration and Congress will work together to address these problems and allow this important political agreement to go into effect as soon as possible.

CONCLUSION

In closing, let me say that USCIB members fully support a concept of sustainable development that recognizes the importance of improving labor and environmental standards, while encouraging economic growth and trade. We believe that there are more effective and less contentious alternatives to trade sanctions to promote internationally higher levels of environmental protection and labor standards. These include multilateral environment agreements, *The ILO Declaration of Fundamental Principles and Rights at Work and its follow-up*, and capacity building efforts in developing countries. A positive, forward-looking approach stressing cooperation, not coercion, is what our trading partners should expect from the world's political and economic leader.

PREPARED STATEMENT OF THOMAS J. DONOHUE

Mr. Chairman, thank you for inviting me to appear before this panel today. I am Thomas J. Donohue, President and Chief Executive Officer of the U.S. Chamber of Commerce. I appreciate this opportunity to testify on behalf of the Chamber on implementation of the U.S. Jordan Free Trade Agreement (JFTA) and its importance to America's commercial interests.

Signed on October 24, 2000, the JFTA will eliminate duties and commercial barriers to bilateral trade in goods and services originating in the United States and Jordan. The JFTA also includes, for the first time ever in the text of a trade agreement, separate sets of substantive provisions addressing trade and the environment, trade and labor, and electronic commerce. Other provisions address intellectual property rights protection, balance of payments, rules of origin, safeguards and procedural matters such as consultations and dispute settlement.

As noted by the last administration, two-way trade between Jordan and the United States totaled $287 million in 1999, $276 million in U.S. exports to Jordan and $11 million in U.S. imports from Jordan. An analysis by the U.S. International Trade Commission suggests the potential for growth under the new agreement, showing that if (a JFTA) had been in effect in 1998, U.S. exports of cereals (other than wheat) could have increased by 14 percent, electric machinery exports doubled, and exports of machinery and transport equipment grown by approximately 39 percent.

The last administration also made known its intention that the JFTA serve as a "template" by which subsequent trade agreements with other countries should be crafted. We respectfully but strongly disagree. That "template" was especially important, according to the last administration, because it incorporated, for the first time ever in the text of a trade agreement, separate sets of substantive provisions addressing trade and the environment, trade and labor, and electronic commerce. Jordan has made admirable progress against the backdrop of continuing Middle

East crises as it pursues economic modernization and liberalization. However, modeling our global trade negotiating strategy on our relationship with an economy as small and relatively uncomplicated as Jordan's would necessarily result in the neglect of a plethora of vital and much more complex U.S. national interests.

In addition, we regard adoption of the JFTA's labor and environmental provisions and the attendant possibility of trade sanctions deriving from labor or environmental policy disputes as a dangerous precedent that, if approved, could seriously threaten our negotiating posture vis-a-vis many far more important trading partners. We must find a basis for addressing substantive labor and environmental concerns without holding U.S. competitiveness hostage to special interest efforts to achieve extraterritorial application of policy objectives that are not relevant to international commerce.

Of paramount relevance to our global trade negotiating agenda is the provision of unfettered trade promotion authority to the President. Simply put, under trade promotion authority, Congress agrees to grant the President the privilege of an up-or-down vote, within a specified period of time, on agreements negotiated between the U.S. and its trading partners. Every President from Gerald Ford through Bill Clinton has enjoyed this authority. Access to trade promotion authority is a critical element to the success of any negotiating strategy. U.S. trade negotiators' credibility depends heavily on their ability to obtain Congressional approval of legislation to implement trade agreements as they were negotiated. As anyone in business knows, you do not waste your time making deals with negotiators who are not in a position to commit their principals whether they are companies or countries to an agreement.

In return for that privilege, Presidents have agreed to extensive consultation with the Congress so that, when the agreement is finally concluded, Congress will have enough confidence in the agreement's benefits to the United States that it will be willing to approve the changes in U.S. laws that are needed to implement the agreement.

By the same token, if the President fails to consult adequately or in good faith, Congress has the power to refuse to pass the implementing legislation. Or if it chooses, Congress can take an intermediate step rescind the trade promotion authority process, and send negotiators back to the table to seek revisions in the agreement.

Obviously, the Chamber strongly believes that the first scenario should prevail. Domestic disagreements between the executive and legislative branches should stop at the water's edge. It does us no good for our President's negotiators to reach arrangements with other countries, only to have them amended in numerous ways for whatever reason, after the fact. History shows that if the President and the Congress work closely together to craft a national trade agenda, real progress can be achieved. Without it, our trading partners will neither sit at the table with us, nor make vital market-opening concessions to America's most competitive products. Only the largest U.S. companies will be able to overcome the hurdles that remain or increase in the absence of pro-U.S. trade agreements generated with trade promotion authority.

In general, Congress should grant trade promotion authority to Presidents that permit our negotiators to obtain:

- More open, equitable and reciprocal market access;
- The reduction or elimination of barriers and other trade-distorting policies and practices;
- Strengthened international trading rules and procedures; and
- Increased economic growth and full employment in the U.S. and global economies.

More specifically, trade promotion authority negotiating objectives should include verifiable provisions providing for:

- Expanded competitive opportunities for the export of U.S. goods;
- More open and equitable conditions of trade for U.S. services, including financial services;
- Reduction and elimination of artificial or trade-distorting barriers to international direct investment;
- Maximum protection for intellectual property rights; and
- Transparent, effective and timely enforcement of agreements' rules and implementation of dispute settlement procedures.

The Chamber also believes that trade promotion authority should be unencumbered by requirements to advance unrelated labor, environment and other social agenda objectives as part of trade negotiations. These issues also would require a considerably expanded level of technical expertise at the negotiating table and there would be a very real risk that a wide array of domestic labor and environ-

mental laws could end up re-written on trade promotion authority timetables, with potentially serious consequences. Finally, numerous potential negotiating partners have stated repeatedly that they want these issues dealt with separately. Trade issues are contentious enough, with the well-being of tens of thousands of American companies and millions of American workers dependent on continued new access to foreign markets. What is already difficult to achieve could well become impossible if trade negotiations become loaded down with non-trade issues.

If the United States does not jump start negotiations with its major trading partners soon, U.S. businesses will find their current markets eroding. U.S. competitors won't be able to institutionalize favorable customer relationships because the U.S. can't negotiate the elimination of tariff and non-tariff barriers that other competitors don't have to face. The Chamber believes trade promotion authority is essential if the United States is to pursue a variety of legitimate and critical national objectives worldwide. These objectives include:

Completing the Unfinished Business of Seattle. Negotiating agendas for "post-Seattle" multilateral and other trade negotiations should include:

- Primary focus for services trade negotiations, with bilateral and regional cooperation playing a supporting role.
- An agricultural trading system free of restrictions and distortions on trade in processed and unprocessed foodstuffs.
- Prompt and full implementation of existing commitments undertaken by WTO members with respect to intellectual property rights (TRIPs), trade-related investment measures (TRIMs), services, telecommunications, tariff liberalization, government procurement, market access, subsidies and antidumping coupled with expedited procedures where feasible to make the implementation process commercially meaningful.
- Continuing support for WTO "built-in agenda" negotiations that include, among other things, further tariff cuts for manufactured goods and greater liberalization in insurance, banking, telecommunications, legal and other financially related sectors.
- New rules to address foreign direct investment in non-service sectors to ensure fair and open investment opportunities. Within an economy there should be no discrimination between domestic and foreign-owned companies in the application of national law, regulations, or taxes.
- New multilateral rules that establish the highest standards for the liberalized treatment and full protection of investment. The WTO TRIMs agreement represents a useful step forward in multilateral cooperation but does not address numerous other important investment issues.
- Clarification of how multilateral environmental agreements (MEAs) relate to the WTO system. To avoid creation of potentially significant new trade barriers, strict guidelines for the application of trade measures under MEAs must be established, and trade sanctions as a toll for advancement of labor and environmental objectives must be opposed.
- More transparent and expeditious dispute settlement procedures.

Free Trade Area of the Americas. In December 1994, thirty-four western hemisphere heads of state committed to establishment of a FTAA—a market of over 750 million consumers by 2005. Such an agreement would create the world's largest free trade area, encompassing 755 million people with a collective GDP over $10 trillion. A Chile-U.S. FTA was envisioned as the first of many steps leading toward that goal. A successfully negotiated FTAA would:

- Eliminate existing tariff and non-tariff barriers and the avoidance of new ones
- Remove other restrictions on trade in goods and services, and investment unless specifically exempted;
- Harmonize technical and government rule-making standards;
- Exceed World Trade Organization disciplines, where possible;
- Provide national treatment and investor safeguards against expropriation;
- Establish a viable dispute settlement mechanism;
- Improve intellectual property rights protection

Since that time, various summits and ministerial meetings organized toward that end have taken place and real progress has been achieved. However, conclusion of a final agreement will require provision of trade promotion authority in order for us to participate credibly in setting the rules for trade in this region. The European Union and others clearly find these kinds of initiatives worthwhile. And while we stall, they are proceeding along, to our disadvantage.

Chile. On its own and as part of broader efforts to negotiate a hemisphere-wide FTAA, the U.S. should seek a FTA that achieves the following objectives, and will require trade promotion authority to succeed:

- Eventual zero tariffs such as are already in force between Chile, and Canada, Mexico and Central America. Moreover, Chile is an associate member of the Mercosur customs union, which embraces Argentina, Brazil, Paraguay and Uruguay. In addition, we recommend that the FTA also include an understanding that Chile will join in any sectoral agreement to eliminate tariffs that is undertaken in the WTO.
- Government procurement liberalization modeled after the WTO Government Procurement Agreement (GPA). Unlike the current GPA, the bilateral agreement should cover procurement of services as well as goods.
- Strengthened intellectual property rights protection, including a stronger patent law and legislation to implement Chile's WTO TRIPs obligations.
- National treatment for U.S. service providers.

While useful in its own right, a Chile-U.S. FTA also represents an opportunity to set standards that would "raise the bar" for the FTAA itself. By Latin American standards, Chile's economy is relatively advanced and open, and thus presents itself as a model for our other partners in the region to emulate

Singapore. On November 16, President Bill Clinton and Singapore Prime Minister Goh Chok Tong announced the intention of their governments to negotiate a bilateral FTA. The U.S. Chamber of Commerce strongly supports this step toward a closer economic relationship with one of America's most important allies in Asia. In 1999, the United States and Singapore had two-way trade of $34.4 billion, making Singapore America's tenth largest trading partner. The Singapore FTA will set an important precedent. It will be the first signed with an East Asian country and, for this reason, will be closely studied by other major trading partners in the region. Generally speaking, Singapore is already open to U.S. goods, services, farm products and investment. However, a variety of barriers and distortions disadvantage U.S. firms in that market. A properly negotiated FTA should address such issues as steep tariffs on selected products, improved intellectual property rights enforcement, service sector restrictions, discriminatory excise taxes, mutual recognition of standards, direct selling restrictions, and others.

Egypt. In 1997, Vice President Al Gore and Egyptian President Hosny Mubarak agreed to explore the possibility of establishing a U.S.-Egypt FTA. Since that time, U.S. and Egyptian officials have consulted on this matter and, in July 1999, the two nations concluded a Trade and Investment Framework Agreement (TIFA). The TIFA provides a mechanism for facilitating the concrete measures needed to continue moving the two countries to freer trade. Earlier this month, Egypt reportedly invited Jordan to set up a four-way free trade zone that would also involve Tunisia and Morocco. The initiative is proposed in the belief that such an alliance would bolster each country's economic position and increase investments between them as well as strengthen their ties with the European Union. Egypt, Jordan, Tunisia and Morocco are each bound by a "partnership" agreement with Europe. It is in the U.S. interest to be prepared to conclude an agreement that will advance our economic interests in the region. A properly negotiated agreement will reduce such impediments to U.S. business as may be caused by: discriminatory import restrictions; protectionist standards, testing, labeling and certification requirements; inadequate intellectual property protection; various banking, securities, insurance, telecommunications, transportation and other services barriers; and anti-competitive practices.

Creation of an Asia-Pacific Free Trade Area. While 2020 may seem a long way off for some, in 1994 Asia-Pacific area heads of state similarly agreed that our combined long-term interests require the progressive elimination of trade and investment restrictions by that time (19 years from now) in a region with over half the world's population. Already, ASEAN nations have agreed to reduce tariffs to 5 percent or less on a preferential basis—meaning for them but not us—by 2003. But we weren't there. And we won't be there for the rest of the negotiations without trade promotion authority.

As both this administration, its recent predecessors, and outward-looking businesses all over the United States believe, U.S. success in 21st century competition requires that we continue working to open global markets to U.S. businesses. And with smaller businesses rapidly getting more involved in trade in the wake of NAFTA and the Uruguay Round and at the same time continuing to grow most of the new jobs in this country America must stay engaged at both business and governmental levels. American business is quite capable of competing and winning against anyone in the world when doors are open and the field is level. But when other governments block the doors and tilt the fields against us, it is time for our government with the combined support of the legislative and executive branches to make sure that business has the freedom to do what it does best.

This concludes my testimony. I will be happy to try to answer your questions.

PREPARED STATEMENT OF RODGER SCHLICKEISEN

Thank you, Mr. Chairman and Senator Baucus, for inviting me to testify on an issue that is very important for my organization and the more than 430,000 members and supporters we represent.

Defenders of Wildlife is a national, not-for-profit organization dedicated to the protection of wild animals and plants in their natural communities. We focus our programs on what scientists consider two of the most serious environmental threats to the planet: the accelerating rate of extinction of species and the associated loss of biological diversity, and habitat alteration and destruction. Because we have long recognized that trade can both contribute to and help alleviate these threats, Defenders has worked for more than a decade now to encourage trade rules that are consistent with sound environmental policy. Our work in this field is premised on the belief that trade agreements are merely a means to an end, they are not an end in themselves. The real value of any trade agreement is determined not by whether it leads to increased trade, but by whether it leads to better living conditions, and a cleaner environment, for the people of the United States or the people of the Western Hemisphere, or of the World, for that matter.

It was with an eye to this principle that Defenders of Wildlife provided input last fall to the negotiations of the United States-Jordan Free Trade Agreement. And it is in light of this principle that we view the outcome of those negotiations. From an environmental perspective, that outcome represents a small but significant step toward sustainability. We urge you to support that step.

Before I explain the reasons for our support, I wish to make clear that the Jordan FTA is far from perfect in reflecting and responding to environmental concerns. In fact, there are very significant weaknesses in the agreement. To give but a few examples:

- The U.S. and Jordan recognize in the FTA "that it is inappropriate to encourage trade by relaxing domestic environmental laws." (Art. 5 (1)). But the FTA does not prohibit the Parties from doing so; instead, it simply urges the Parties to "strive to ensure" that their standards are maintained.
- In a similar vein, the Jordan FTA expressly declares that a Party to the agreement "shall not fail to effectively enforce its environmental laws." (Art. 5(3)). This is an eminently sensible provision and one environmentalists have long sought, but the "rule" set out in Article 5, paragraph 3 is subject to so many caveats and exceptions that, in reality, it is hard to imagine any circumstance egregious enough to constitute a "violation" of the rule.
- The Jordan FTA recognizes the right of Parties not to issue patents for inventions that may threaten animal or plant life or health or prejudice the environment. At the same time, however, it forbids either Party from denying a patent for an invention "merely because the exploitation [of the invention] is prohibited by their law." (Art. 4(18)) This creates the nonsensical result that a species might be protected from commercial exploitation under the Endangered Species Act but nonetheless subject to patenting under this agreement.
- Finally, the Jordan FTA includes a savings provision which expressly provides that the Parties' rights and obligations under the WTO supersede those under the FTA. (Art. 1(3)) But it makes no mention of the relationship between the FTA and other treaties, such as multilateral environmental agreements, to which the U.S. and Jordan may be Parties. Thus, it leaves unresolved one of the most persistent issues in the trade and environment debate what happens when a Parties' obligations under an environmental treaty conflict with its obligations under a trade agreement?

In light of all these concerns, you might wonder why I am here to offer Defenders' support to the Jordan FTA. The answer is simple: as meager as it may be, the Jordan FTA represents an important step forward in our efforts to reconcile trade and environmental policy. This agreement should not be a model for future negotiations; but it is most certainly a building block. There are important developments both in the process and the substance of the agreement that make it worthy of support.

- First and foremost is the fact that this agreement represents a cooperative effort between two very different countries on a very difficult issue. The United States and Jordan are separated by vast cultural, economic and technological divides. Yet they were able to bridge these divides in this agreement, establish some common (if modest) goals for sustainable development, and adopt concrete measures to advance toward those goals. This is a tremendous symbolic victory and a powerful demonstration that the gaps that separate North and South, industrialized and developing countries, can be overcome.
- Although the provisions in the Jordan FTA on maintaining and enforcing high environmental standards do not go far enough, they are nonetheless important.

They reflect a recognition by both Parties of the important principle that environmental standards should never be reduced or waived in pursuit of trade objectives. This is a principle we have been struggling to resurrect since it was first acknowledged in the NAFTA package.

- The Jordan FTA encourages both Parties to "strive for continual improvement" in their environmental laws. (Art. 5(2)) To this end, it establishes a truly cooperative process for environmental protection. In an Annex to the agreement, the Parties have identified "Selected Environmental Technical Cooperation Programs" on which they can cooperate to improve the Jordanian environment and the lives of the Jordanian people. These programs include joint efforts to protect water resources and improve water resource management; improve the management of solid and hazardous wastes; strengthen Jordan's environmental laws and regulations; improve Jordan's capacity to conduct environmental impact assessments; and help safeguard important nature reserves and protected areas in Jordan, as well as the country's fragile and threatened coral reef ecosystems. Properly implemented and properly supported, this cooperative program could have tremendous benefits for Jordan and could contribute significantly to improving U.S. relations with the Arab world.
- The Jordan FTA establishes a Joint Committee process for "reviewing the results of this Agreement in light of the experience gained . . . and considering ways of improving trade relations between the Parties, and furthering the objectives of the Agreement, including through further cooperation and assistance." (Art. 15(2)) The FTA makes clear that the Joint Committee may "seek the advice of non-governmental persons or groups" in developing guidelines, explanatory materials and rules under the Agreement. This formal recognition of a role for NGOs is a significant step forward in increasing public participation and improving transparency in trade agreements.
- Perhaps most importantly, the Jordan FTA is the first trade agreement to include a Memorandum of Understanding expressly providing for public participation and transparency in the dispute resolution process. Specifically, the MOU requires parties to "solicit and consider the views of members of their respective publics" promptly after receiving a request for consultations under the Agreement. In the event that a dispute is referred to a dispute resolution panel, Parties must make their submissions to that panel available to the public in a timely manner. Moreover, the MOU requires that at least a portion of every hearing be open to the public. Finally, each panel must accept and consider *amicus curiae* submissions by NGOs or other members of the public. For the first time, therefore, the public's right to receive information on ongoing disputes and provide input to the dispute resolution process is explicitly recognized.

Each of these provisions represents a small but important improvement over the status quo. Together, they represent a significant step forward in the development of the trade and environment dialogue, and bring us one step closer to successfully reconciling the often competing policies underlying that dialogue. We do not believe that the Jordan FTA should become a model for future trade agreements. Nonetheless, it will serve as an important building block for future cooperation across geographic and idealogical lines. Adopting the Jordan FTA will not have a substantial affect on U.S. trade flows. But it could prove an important milestone in U.S. trade policy.

For this reason, we offer our support for the agreement, and ask that you support it.

Thank you.

PREPARED STATEMENT OF AMBASSADOR MICHAEL B. SMITH

Chairman Grassley and distinguished members of the Senate Finance Committee:

Thank you for inviting me to testify regarding the U.S.-Jordan Free Trade Agreement.

I am sure all of us can support *on political grounds* the concept of a free trade agreement between Jordan and the United States as part of promoting political and economic stability in the Middle East.

However, there are provisions in the October 24, 2000 text which, on trade grounds, are very troublesome. I refer specifically to Articles 5 and 6, and by reference, Article 17, of the Agreement before you. The American negotiators, in their drive to conclude a precedent-making trade agreement in the waning days of the previous Administration, appear to have forgotten Seattle 1999 and the outrage the

developing world expressed after President Clinton embraced the notion of possible sanctions for so-called violations of environmental and labor standards.

I believe the inclusion of Articles 5 and 6 in this trade agreement is unwise and, at the very least, premature. I believe they should be removed entirely from the Agreement, or specifically made *not* subject to Article 17 dispute settlement coverage, for the following reasons:

1. To my knowledge, the United States itself has no consensus regarding to what degree—if any—environment and labor issues should be included in trade agreements. There has been no credible national debate on this highly contentious matter, and the Congress itself is divided. Yet the Congress is being asked to approve a trade agreement containing not only environmental and labor provisions within the *formal* text of the Agreement but also, and far more significantly, provisions for sanctions for vague, unspecified violations of such environmental and labor provisions (i.e., ". . .shall not fail to effectively enforce its [environmental][labor] laws. . ." {Articles 5 and 6} and ". . .failed to carry out its obligations. . ." {Article 17}).

What does failure to enforce "effectively" mean? By whose standards? What are the "obligations" in Articles 5 and 6? And, parenthetically, what right does one Party have to oversee or judge the enforcement by the other Party of its domestic laws?

2. It is not clear whether the provisions of Article 5 and 6 are actionable if not lived up to. I am informed that the words "strive to" in paragraphs 1 and 2 of both Articles were purposefully chosen to convey the meaning that the undertakings therein were not legally binding, i.e., not actionable in case of failure. Yet at the same time, I am informed that Article 5 (3)(a) and Article 6 (4)(a) which both use the words ". . .shall not fail to effectively enforce. . ." are viewed by the U.S. as legally binding and actionable. What is the correct interpretation here? Are the Articles binding or not and, thus, enforceable or not enforceable? Article 17 (1)(ii) of the Agreement authorizes a Party to seek consultations with the other if the first Party believes the other Party has failed to carry out its "obligations" under the agreement. Article 17 elsewhere also presents the possibility of sanctions if the consultations fail. Hence, the question of whether or not Articles 5 and 6, in part or in their entirety, are enforceable, actionable "obligations" becomes critical.

Until there is a clear understanding by both parties and by the Congress regarding these Articles, I believe they should be deleted or, at the very least, clarified by means of a formal written statement of the U.S. Government.

3. While Jordan, for political reasons, may have been willing to tolerate the inclusion of Articles 5 and 6, there is certainly no guarantee that other WTO members, particularly from the developing world, will be so accommodating. Indeed, the U.S. was put on notice in Seattle by a large number of developing nations—with whom we have far more important trading relations than Jordan—that in their view, "sanctionable" environmental and labor provisions have no place in trade agreements, be those agreements bilateral, plurilateral, or multilateral in structure.

4. Furthermore, there is no consensus in the WTO regarding the placement of environmental and labor provisions in trade agreements coming under its purview. Indeed, the WTO remains divided on whether or not a member may take punitive trade actions against another member because of the latter's alleged domestic environmental or labor "violations." All WTO members agree that bilateral trade agreements must be submitted to the WTO for review and approval. Since the WTO itself has no consensus on role or even legitimacy of environmental and labor provisions in trade agreements, Articles 5 and 6 of the U.S.-Jordan Free Trade Agreement should be deleted or clarified regarding their compatibility with the GATT/WTO.

In my view, Articles 5 and 6 as written are largely fluff, open to widely differing (even if plausible) interpretations and, as such, causes for possible unfortunate differences between Jordan and the United States in the years ahead as the agreement is implemented. Articles 5 and 6 do not advance the "cause" of either international environmental or labor affairs and only add confusion to what should be a straightforward free trade agreement. Indeed, the only result I can foresee is countries adopting *lower* environmental and labor standards for fear of themselves being unable to effectively enforce higher standards—hardly a desired result. These provisions on labor and environment are a double-edged sword. U.S. enforcement, possibly as a waiver under our Clean Air Act or any exercise of discretion by enforcement agencies, prosecutors, or courts, could become a trade agreement violation subject to trade sanctions. This is a dangerous precedent, and one that the Congress should not consider lightly.

From a broader perspective, I have real questions regarding the advisability of making trade agreements carry burdens they are incapable of handling, or at least handling well. The linkages between trade and the environment, for example, are exceedingly complex and to this day not well understood even by experts in both

fields. That there may be some linkage cannot be denied. But until we have a better understanding of the linkages—both helpful and harmful—and how to craft agreements which advance *both* trade and environment/labor issues, we are best advised not to include such imperfectly understood matters in trade agreements.

Thank you, Mr. Chairman. I would be pleased to answer, to the best of my ability, any questions other Members of the Committee and you may have.

PREPARED STATEMENT OF JOHN J. SWEENEY

Mr. Chairman, members of the Committee, I thank you for the opportunity to speak to you today about the Jordan Free Trade Agreement (FTA), on behalf of the thirteen million working men and women of the AFLCIO.

The agreement signed by the United States and Jordan last October represents a significant first step towards incorporating enforceable workers' rights and environmental protections into a bilateral trade agreement, and I would like to commend Ambassador Charlene Barshefsky and her team for the hard work they did and for the progress represented by the agreement.

The commitments made by the United States and Jordan to safeguard workers' rights and the environment could not be more reasonable or modest. The agreement received overwhelming and diverse support in Jordan from both the General Federation of Jordanian Trade Unions and from the Jordanian American Business Association (the American Chamber of Commerce in Jordan) when it was signed last fall by King Abdullah and President Clinton. I find it extraordinary that the objections to this agreement are coming from many here in the United States who are proud to call themselves free traders.

What exactly does the agreement do? The Jordan FTA reaffirms both countries' commitments to uphold the core workers' rights identified by the International Labor Organization's (ILO) Declaration on Fundamental Principles and Rights at Work and requires both countries to effectively enforce their own labor and environmental laws, with the possibility of invoking dispute resolution in the case of failure to do so. The ILO is a tripartite agency of the United Nations, in which more than 174 countries are represented by governments, employers, and workers' delegates. In the Declaration, all members of the ILO pledged to uphold these core rights, regardless of whether they had ratified the underlying conventions.

The Jordan agreement also commits both Parties to significant transparency-enhancing measures, both at the WTO and in the dispute resolution procedures of the FTA. They agree to solicit and consider public views, to make public their dispute resolution panel submissions within ten days, to open oral presentations to the public, to accept friend-of-the-court submissions by individuals or non-governmental organizations, and to release reports to the public at "the earliest possible time." Both Parties also agree to support discussions on workers' rights at the WTO.

Let me take a moment here to reinforce just how moderate and reasonable these provisions are, as I know that both the Bush Administration and many in the business community have expressed concern about the "troubling precedent" established by this agreement. **The United States and Jordan both agreed to enforce their own labor and environmental laws and to live up to their international obligations to respect core workers' rights**. These rights include freedom of association and the right to bargain collectively, and prohibitions on child labor, forced labor and discrimination in employment. I find it hard to believe that anyone can stand up with a straight face and argue that the United States is unable or unwilling to live up to these commitments.

These modest commitments will be enforced through a simple and straightforward dispute resolution mechanism. A process beginning with consultations gives four separate opportunities for the Parties to reach a mutually agreeable resolution to the dispute. If, at the end of that process, the matter is still not resolved, then "the affected Party shall be entitled to take any appropriate and commensurate measure." In the case of a dispute over labor rights, an "appropriate measure" might be an ILO delegation, a training program for workplace inspectors, a monetary fine, or the withdrawal of trade benefits under the agreement.

Apparently, it is the very remote possibility that a trade sanction might be levied to protect the rights of workers in Jordan or the United States that has aroused such deep concern over these provisions. While trade sanctions are implemented routinely to protect copyright or patent laws or to enforce commercial provisions of trade agreements, many in the policy elite here in Washington seem to feel that such sanctions should be reserved to protect corporate concerns, but not those affecting workers or the environment.

We in the labor movement and many of our colleagues in the environmental movement do not accept the argument that trade sanctions only work when protecting profits and corporate rights. We believe that the protection of workers' fundamental human rights at the workplace and the protection of the environment are no less important than and deserve equivalent treatment to corporate concerns in trade agreements.

And the American public overwhelmingly agrees with us. The University of Maryland's Program on International Policy Attitudes found in a 1999 poll that 93% of those surveyed agreed that "countries that are part of international trade agreements should be required to maintain minimum standards for working conditions," and 77% felt "there should be more international agreements on environmental standards." Polls conducted by Business Week and the Association of Women in International Trade find similarly high levels of support (ranging between 75% and 95%) for including workers' rights, human rights, and environmental standards in trade agreements. In fact, unless we begin to see concrete progress in this area, the opposition to current trade policies and the international financial institutions will continue to grow both here and around the world.

Our brothers and sisters in the Jordanian unions told us these labor rights provisions would help them in their efforts to ensure that Jordanian labor laws are effectively enforced, especially in some of the newly established export processing zones. And we certainly hope that these provisions will reinforce the obligations of the U.S. government to enforce our own laws vigorously and to live up to our international obligations to "respect, promote, and realize" the ILO's core labor standards.

Despite the support of both governments, unions in both countries, and the Jordanian business community, some elements in the American business community have come out publicly against the labor and environmental provisions in the agreement. When the agreement was signed last October, the U.S. Chamber of Commerce issued a press release declaring its opposition to including workers' rights in trade agreements and vowing to work with Congress to "remove the unnecessary non-trade provisions" from the Jordan agreement. Some Republican members of Congress have since echoed this call.

In the past, opponents of protecting workers' rights and the environment in trade agreements have argued that the main problem with attempting to negotiate these provisions in trade agreements is that the developing country governments are opposed to them (and that therefore such demands will derail the negotiating process). That argument obviously does not apply in this situation, so it is worthwhile asking: what is the real objection of the American big business community to including enforceable workers' rights and environmental protections in trade agreements if both sides are willing to make this commitment?

The truth is that if so-called free trade agreements don't protect the rights of some businesses to exploit and repress workers and trash the environment, then the multinational corporations represented by the Chamber of Commerce do not actually support trade liberalization.

The multinational corporations have revealed themselves as the real protectionists in the global economy: If they can't control the agenda and the contents of trade agreements to protect their interests and none others, they will threaten to derail the entire agreement (which is exactly what the Chamber's promise to "work with Congress" to strip out negotiated elements would do) despite the damage this might do to a delicate and precarious political situation in the Middle East.

This committee should insist on an early vote to approve the Jordan Trade Agreement without any changes certainly before the King's visit in April. Jordanian businesses, unions, and government, and the vast majority of the American people are united in calling for enforceable workers' rights and environmental protections in trade agreements. The American business community stands isolated in resisting this constructive and reasonable path forward.

I also want to express strong opposition to the Administration's proposal to bundle the Jordan agreement with other trade bills, including fast track renewal, in order to force a "binary decision on whether one is for or against trade," as U. S. Trade Representative Robert Zoellick told the *Washington Post* last week.

I think we all know that the trade debate in the United States, and around the world, is not about being for or against trade but about writing rules that will guide global competition into constructive, high-road channels, so that the benefits of increased global trade and investment flows can be equitably distributed. Forcing a vote on a diverse grab bag of bilateral trade agreements, unilateral grants of preference, and fast track authority deprives Congress (and by extension, the American people) from exercising its voice over the content of these agreements. If the Administration has confidence in the democratic process, it will allow each of these agreements to be debated and approved or rejected on its own merits.

The Jordan Free Trade Agreement is not going to solve all the problems of the world, or even fix everything that needs fixing in the labor conditions and environmental standards of the two signatories. But it represents an important first step in recognizing that workers' rights and environmental protections are an integral element of global trade relations and therefore deserve to be addressed on a par with the traditional trade concerns.

I also want to take this opportunity to clarify that the Jordan labor rights language, while appropriate to the U.S.-Jordan FTA, is not automatically applicable to other trade agreements.

While these commitments were an important breakthrough, it should be understood that they are likely to be effective only in the case of trading partners whose laws already conform to ILO standards, as do Jordan's. For countries whose labor laws are inadequate, much more elaborate mechanisms need to be put in place, to ensure that domestic laws are brought up to international standards on a clear timetable.

Labor laws in both Singapore and Chile, two countries with which negotiations toward bilateral free trade agreements have been initiated, do not currently meet ILO standards. Therefore, it is essential that they either reform their labor laws to bring them up to international standards before a trade agreement goes into effect, or that the labor rights language included in the trade agreements contain adequate measures to ensure that such upward harmonization takes place in a timely and structured fashion.

Furthermore, the Jordan FTA was limited to a relatively narrow scope. It did not, for example, cover investment issues, as these were dealt with in a separate agreement. To the extent that new trade agreements cover investment and incorporate new and sweeping commitments in the area of trade in services, then additional provisions will be necessary to ensure that the agreement strengthens and protects workers' rights and does not unduly restrict the ability of governments to regulate in the public interest or provide public services.

Just as trade agreements tailor commercial commitments to the particular circumstances of each trading partner or region, it is also necessary to ensure that labor and environmental provisions are appropriate to each country and agreement to which they are applied.

Neither does the labor movement see the Jordan FTA as an appropriate model for fast track negotiating authority. Choices over how, whether, and under what circumstances to extend trade negotiating authority involve a completely different set of issues than those addressed in the Jordan agreement. The entire process of negotiating trade agreements needs to be made more transparent, democratic, and accessible to ordinary citizens not just the business community. And as fast track authority is quite likely to apply to agreements with countries whose laws fall short of ILO standards, the Jordan language will clearly not be appropriate in this context.

Any grant of fast track negotiating authority must **require** the inclusion of enforceable workers' rights and environmental standards in the core of any fast-tracked agreement. New trade agreements must provide for upward harmonization, so that countries are in compliance with the core labor standards laid out by the ILO's 1998 Declaration on Fundamental Principles and Rights at Work. Workers' rights and environmental standards must be covered by the same dispute resolution and enforcement provisions as the rest of the agreement.

It is **not sufficient** *simply to list workers' rights and environmental protections among the negotiating objectives. Workers' rights have been among our negotiating objectives for more than twenty-five years, with very little progress being made.*

The present Administration, in its first two months in office, has already acted aggressively to weaken unions and eliminate crucial workplace protections. Moreover, President George W. Bush has repeatedly stated that he does not believe that standards safeguarding workers' rights and the environment belong in trade agreements.

Given this overt hostility to the interests of working families, it is clear that unless workers' rights and environmental standards are mandated by fast track authority, there is no chance that this Administration will expend the necessary political capital to make progress in this area. The labor movement stands ready to oppose any fast track bill that falls short of this standard.

As I said in a public statement when the Jordan agreement was signed, it represents both an important step forward and "only a small step toward our ultimate goal of making workers' rights and environmental protections an integral part of universally applied international trade rules." Let us protect that small step forward, but ensure that we keep our eyes also on our ultimate goal.

I look forward to your questions and to working with you on these important issues in the months to come.

COMMUNICATIONS

STATEMENT OF THE NATIONAL RETAIL FEDERATION

The National Retail Federation (NRF) respectfully submits the following comments for the record on behalf of the U.S. retail industry regarding the free trade agreement (FTA) between the United States (U.S.) and the Hashemite Kingdom of Jordan (Jordan). These comments focus on the commercial issues in the Jordan FTA rather than the side issue of how labor and environmental issues are addressed in the agreement that has so far dominated the debate. We believe an evaluation of the commercial significance of the Jordan FTA has been largely overlooked as a result of the attention focused on the agreement's labor and environment provisions and the foreign policy implications of the agreement.

As a general principle, U.S. retailers support the negotiation of free trade agreements. The retail industry is united in its belief that the elimination of trade barriers, even on a comparatively small amount of trade, generates important economic benefits to our industry, our customers—the American consumer—and to the U.S. economy as a whole. Unfortunately, in our view, the Jordan FTA offers *no commercial benefits of any consequence* to the many American retailers who sell textile products and clothing. Accordingly, we do not believe that the Jordan FTA should serve as a model for future FTA's with respect to textile and apparel trade.

In 1999, the total value of imports from Jordan was approximately $11 million and in terms of total trade (approximately $287 million in 1999) Jordan ranked 176th among U.S. trading partners. With respect specifically to textile and apparel products, Jordanian exports to the U.S. fall mainly into two categories—men's and boys' wool suits, which totaled a mere 10,106 suits or 38,000 square metre equivalents (SMEs) in 1999, and other man-made fibre products, which totaled only 861,000 SMEs in 1999. By way of comparison, Nicaragua, a country, like Jordan, with a population of just over 4 million people, exported apparel to the United States in 2000 totalling 83 million SMEs,. Apparel exports from Jordan to the U.S. during the same year totalled a scant 9 million SMEs.

Given this comparatively miniscule level of trade with the U.S., it was the position of the retail industry during the FTA negotiations that no consumer product from Jordan, including textiles and apparel, should be considered import sensitive with respect to trade with Jordan. Therefore, we argued that the FTA should provide for *immediate* duty-free treatment by the U.S. for all such products made in Jordan. Although Jordan is not subject to U.S. quotas, U.S. textile and apparel tariffs are among the highest in the tariff schedule with an average duty rate of 16 percent and duties on some categories of over 30 percent. NRF argued that countries not subject to U.S. duties and quotas will have a significant advantage in attracting U.S. investment and business—one of the stated central goals of the Jordan FTA.

Unfortunately, in the rush to complete the negotiations as quickly as possible while avoiding possible complications created by protectionists in the U.S. textile industry, U.S. trade negotiators insisted on a formula for tariff reductions in the Jordan FTA that resulted in a ten-year phaseout of U.S. duties on Jordanian textile and apparel products. The bulk of the tariff reductions will be in the tenth year—at least six years after global textile and apparel quotas terminate on December 31, 2004. That date is critical. Once the burdensome restraint system the U.S. has imposed on global textile and apparel trade is lifted, countries, like Jordan, that do not have any significant textile and apparel manufacturing capacity and who are still subject to the high U.S. tariffs on textiles and apparel, will *never* be able to compete successfully for the investment and sourcing contracts from American importers and manufacturers necessary to develop their industry. American importers will concentrate their business on the most efficient producers, including those in

Mexico and the Caribbean Basin, which will already have duty-free access to the U.S. market for many of their products. Jordan will be left on the sidelines.

Another policy goal of the Jordan FTA—encouraging regional economic integration in the Middle East—is also likely to be frustrated by the deal on textiles and apparel that U.S. trade negotiators pushed during the negotiations. The development of co-production arrangements between Israel and Jordan for textiles and apparel has already begun through the creation of Qualifying Industrial Zones (QIZs) along the Israeli-Jordanian border. In 1996, H.R. 3074 provided duty-free benefits available under the U.S.-Israel FTA to goods produced in the QIZs in order to encourage economic development in Jordan, economic integration in the Middle East region, an end to the Arab boycott of Israel, and the Middle East peace process. Many retailers currently use the QIZs to source mainly apparel.

NRF argued that in order to expand textile and apparel co-production arrangements between Israel and Jordan beyond the border region, the Jordan FTA should include the same terms and rules of origin for textiles and apparel as the Israel FTA. Under this program, textile and apparel products made in Jordan using inputs from Israel would qualify for duty-free treatment with no limitations on the value or percentage of the Israeli inputs. Unfortunately, the textile and apparel rule of origin in the Jordan FTA is different than the Israel FTA, with the result that textile and apparel trade will not expand beyond the current status quo and, with the exception of the QIZ system, may even decrease.

The long phaseout of textile and apparel duties and a different textile and apparel rule of origin than the Israel FTA, could have seriously negative repercussions on the ability of Jordan to expand its economy generally and develop any significant manufacturing capacity. Traditionally, the establishment of textile and apparel production has been the first rung on the ladder for developing countries, like Jordan, in creating a manufacturing base upon which they can build their economies. Without any incentives in the FTA to attract the business and investment necessary to build textile and apparel manufacturing, it is unlikely that Jordan will be able to realize the full benefits of an FTA with the U.S.

These problems in the Jordan FTA could also have serious repercussions for achieving the larger goals of U.S. trade and foreign policy, including convincing developing countries to embark on a new round of trade liberalization negotiations for goods, services, and agricultural products at the World Trade Organization (WTO) and to conclude the Free Trade Area of the Americas (FTAA). The failed 1999 WTO Ministerial in Seattle highlighted the growing complaints from developing countries that, while agressively pushing its trade agenda at the WTO, the U.S. is unwilling to address the interests of developing countries, including quicker action by the U.S. to eliminate its market access barriers to textile and apparel trade. Developing countries also complain that, while the U.S. is pressuring them to endure the difficult process of opening their markets, often in the face of fierce domestic opposition, the U.S. lacks the political will to stand up to entrenched political interest groups at home that are opposed to eliminating U.S. trade barriers to products from the developing world. These concerns of developing countries will not be assuaged if the U.S. is unable to offer in a free trade agreement anything more generous on textiles and apparel than the meager benefits it has given to a small country like Jordan.

Therefore, NRF and the retail industry believe that the Jordan FTA's textile and apparel provisions, and the tariff phaseout timetable in particular, should not serve as a model for future FTAs. If the United States is serious about expanding trade with other countries through the negotiation of free trade agreements, then a ten-year phaseout of U.S. duties on textile and apparel is patently unreasonable.

Fortunately, Congress will have an opportunity to redress these deficiencies in the Jordan FTA through the implementing legislation. As the Jordan FTA is not subject to "fast-track" procedures, the implementing legislation is fully amendable. If it chooses to do so, Congress could, at a minimum, add provisions in the implementing legislation to eliminate immediately all U.S. textile and apparel duties on imports from Jordan. This change would not require any renegotiation of the agreement and, since it would provide additional market access into the U.S., would be supported by the Jordanian Government.

NRF looks forward to working with the Committee on Finance on this important trade initiative.

By way of background, the **National Retail Federation (NRF)** is the world's largest retail trade association with membership that comprises all retail formats and channels of distribution including department, specialty, discount, catalog, Internet and independent stores. NRF members represent an industry that encompasses more than 1.4 million U.S. retail establishments, employs more than 20 million people—about 1 in 5 American workers—and registered 1999 sales of $3 tril-

lion. NRF's international members operate stores in more than 50 nations. In its role as the retail industry's umbrella group, NRF also represents 32 national and 50 state associations in the U.S. as well as 36 international associations representing retailers abroad.