

ORIGINAL

1 EXECUTIVE COMMITTEE MEETING: H.R. 2853 RELATING TO MOST
2 FAVORED NATION STATUS FOR BULGARIA; H.R. 1642 RELATING TO
3 MOST FAVORED NATION STATUS FOR CAMBODIA; AND H.R. 3074
4 RELATING TO TARIFF TREATMENT OF PRODUCTS IMPORTED FROM
5 THE WEST BANK AND GAZA STRIP, WITH A COMMITTEE AMENDMENT
6 RELATING TO THE OECD SHIPBUILDING AGREEMENT, EXTENSION OF
7 THE GENERALIZED SYSTEM OF PREFERENCES (GSP) PROGRAM AND
8 REVENUE OFFSETS

9 WEDNESDAY, MAY 8, 1996

10 U.S. Senate,
11 Committee on Finance,
12 Washington, DC.

Gilmour
69 pp.

13 The meeting was convened, pursuant to notice, at
14 10:35 a.m., in room SD-215, Dirksen Senate Office
15 Building, Hon. William V. Roth, Jr. (chairman of the
16 committee) presiding.

17 Also present: Senators Chafee, Grassley, Hatch,
18 Pressler, Murkowski, Nickles, Gramm, Moynihan, Baucus,
19 Bradley, Pryor, Rockefeller, Breaux, Conrad, Graham, and
20 Moseley-Braun.

21 Also present: Lindy L. Paull, Staff Director and
22 Chief Counsel; Mark A. Patterson, Minority Staff Director
23 and Chief Counsel.

24 Also present: Jennifer Hillman, General Counsel,
25 U.S. Trade Representative; Leslie Samuels, Assistant

1 Secretary for Tax Policy, Treasury Department.

2 Also present: Ken Kies, Staff Director, Joint Tax
3 Committee; Erik Autor, Trade Counsel; Jeremy Priess,
4 Trade Counsel; and Marcia Miller, International Trade
5 Counsel, Minority.

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1 OPENING STATEMENT OF THE HON. WILLIAM V. ROTH, JR., A
2 U.S. SENATOR FROM DELAWARE, CHAIRMAN, COMMITTEE ON
3 FINANCE
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5 The Chairman. The committee will please be in
6 order. I am pleased to convene this Executive Session of
7 the Finance Committee to mark up international trade
8 legislation dealing with, 1) Most Favored Nation status
9 for Bulgaria; 2) MFN status for Cambodia; 3) tariff
10 treatment of imports from the West Bank and Gaza Strip;
11 4) legislation to implement the OECD shipbuilding
12 agreement; and 5) reauthorization of the Generalized
13 System of Preferences program.

14 Now, these five matters have been at the top of trade
15 priority lists for over a year and, of course, enjoy
16 broad bipartisan support. So, in essence, this mark-up
17 is a housekeeping exercise to deal with some old business
18 that we need to take care of.

19 In addition, we have a June 15, 1996 deadline to
20 implement the shipbuilding agreement. Now, it took
21 almost six years to negotiate this agreement, which will
22 substantially reduce foreign shipbuilding subsidies.

23 Most of the other signatories have signed the
24 agreement. We must enact the implementing legislation
25 before us today in order for the U.S. to ratify the

1 agreement. And there is not much time left before the
2 June 15th deadline, so it is important--very important--
3 that this legislation be kept clean.

4 Let me also comment on the GSP program. We tried to
5 renew this program last year in the Balanced Budget Act
6 which was, of course, vetoed by President Clinton. The
7 delay in renewing the GSP program has put a lot of
8 companies, particularly small ones, in a real predicament
9 and some are facing bankruptcy as a result of having to
10 pay much higher duties on goods they had formerly
11 imported duty-free under the GSP program before it
12 expired.

13 The GSP program has widespread support on and off
14 this committee, and I am glad we will be reinstating it
15 soon. The budgetary impact of the trade proposals before
16 us today are fully offset by non-controversial revenue
17 items.

18 Now, I would like to make a few remarks about the
19 procedure for this mark-up. After opening statements,
20 the staff will, of course, walk through the proposals
21 before us. Then we will consider any amendments.

22 First, let me thank members of the committee for
23 refraining from filing amendments totally unrelated to
24 the subject of trade. I appreciate very much your
25 cooperation.

1 I know many members of the committee have technical
2 corrections to prior legislation and miscellaneous tariff
3 or duty suspension proposals that they would like to
4 include in this mark-up. I even have a few very
5 meritorious ones myself.

6 But if the shipbuilding bill gets weighed down with
7 loads of amendments, it will attract even more amendments
8 on the Senate floor and it will be difficult to schedule
9 floor time and meet the June 15th deadline.

10 This difficulty is compounded when we start adding
11 amendments that are controversial. As a result, I would
12 ask members to refrain from offering these amendments at
13 this time, and I will vote against any amendment that is
14 offered.

15 I would advise the committee, however, that the Ways
16 and Means Committee is currently working on miscellaneous
17 trade legislation, and I would hope could take quick
18 action on such legislation in the very near future.

19 Next week, I intend to ask for public comment on
20 miscellaneous trade bills pending before the Finance
21 Committee. This will allow the committee to be in a
22 position to act quickly on House miscellaneous trade bill
23 without the need of a hearing.

24 If you have not introduced a bill on a trade item
25 that you would like to have included on the list of bills

1 for public comment, please do so by Monday, May 13th. I
2 am hopeful that this procedure will result in timely
3 action on trade items of importance to the members on
4 both sides of the aisle.

5 Now, before yielding to Senator Moynihan, let me also
6 ask that opening statements today be kept short,
7 hopefully less than a minute each, so that we can
8 conclude this mark-up by early afternoon. We have a late
9 start, of course, because of the 10:00 vote.

10 At this time it is my pleasure to yield to our most
11 distinguished Ranking Member, Senator Moynihan.

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

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4 Senator Moynihan. Mr. Chairman, I thank you for the
5 way you have moved forward in these matters. The
6 shipbuilding agreement is a priority, as you make clear.
7 The General System of Preferences is surely a matter
8 which we should attend to. Persons have, in good faith,
9 expected us to extend it, and we should do.

10 May I just say about amendments, sir, would it be the
11 case that a Senator could file an amendment he or she
12 might otherwise offer today as a bill which would have
13 just public context of your expectation of floor action?

14 The Chairman. That's exactly right, Senator
15 Moynihan.

16 Senator Moynihan. That seems to me entirely
17 equitable, if I may say. Others might not agree, but I
18 certainly do.

19 Finally, and plaintively, Mr. Chairman, can we not
20 offer a prize for a better term than Most Favored Nation?
21 The public must be baffled about why Bulgaria is becoming
22 our most favored nation. Its usage is from a long time
23 ago; we simply mean equal treatment. I will put my mind
24 to that, and perhaps some others. Perhaps Secretary
25 Samuels, in these golden hours of his near-soon escape

1 from Washington, would give some thought to it.

2 But thank you, Mr. Chairman.

3 The Chairman. I would say to my distinguished
4 colleague, I agree, the term is very misleading and I
5 think often creates debate that could otherwise be
6 avoided.

7 Senator Moynihan. Yes. Yes.

8 The Chairman. We will be happy to contribute to the
9 award, if that is your purpose.

10 Senator Grassley?

11 Senator Grassley. I am going to pass up an
12 opportunity for opening statement. I will probably have
13 some comments during the walk-through of the legislation.

14 The Chairman. Senator Pryor.

15 Senator Pryor. I would like to momentarily pass,
16 Mr. Chairman, and maybe come back in just a second or
17 two, if that is possible.

18 The Chairman. Senator Baucus.

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1 OPENING STATEMENT OF THE HONORABLE MAX BAUCUS, A U.S.
2 SENATOR FROM MONTANA

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4 Senator Baucus. Thank you, Mr. Chairman. There is,
5 frankly, a lot to be said for this meeting here today.
6 We have a lot of partisan battles on the floor of the
7 Senate, much too partisan in most cases, in my judgment.
8 Here we are today doing something that is nonpartisan,
9 something that is very important, and I want to commend
10 you, Mr. Chairman, for bringing this together.

11 Senator Moynihan. And you have observed, there are
12 no cameras.

13 Senator Baucus. And there are no cameras. That
14 helps.

15 [Laughter]

16 Senator Baucus. Just a couple of words on Bulgaria
17 and Cambodia. Senator Simpson and I last year introduced
18 the base legislation for providing MFN status, what is
19 called equal trading status, for Bulgaria.

20 I am very happy to see that now before us. It was
21 not long ago that Bulgaria was one of the more repressive
22 regimes in this world, but President Shalev has done a
23 good job in bringing Bulgaria into the 20th century, and
24 it is only fitting that we accord equal trading status to
25 Bulgaria.

1 Second, with Cambodia, I think it was 1979 when
2 Senator Sasser Danforth and I were the first Americans
3 into Cambodia, at least into Phnom Penh after the
4 Vietnamese War.

5 We flew in and were there, in part, to do what we
6 could to, first, dramatize the plight of refugees
7 escaping Cambodia into refugee camps like Irunya, Prätet,
8 and others along the Thai border, but Cambodia, too, is
9 struggling. Equal trading status to Cambodia would be
10 very helpful to their economy.

11 Again, Mr. Chairman, thank you for the bipartisan
12 nature with which you have brought us all together.

13 The Chairman. Thank you, Senator Baucus.

14 Senator Breaux?

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1 OPENING STATEMENT OF THE HON. JOHN BREAUX, A U.S. SENATOR
2 FROM LOUISIANA

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4 Senator Breaux. Thank you, Mr. Chairman. I commend
5 the committee and the staff on the good work they have
6 done in putting all this package together. I am
7 particularly pleased that the OECD shipbuilding agreement
8 is in here. I think getting rid of subsidies in foreign
9 countries, as well as ours, is the right direction to go.

10 I think our companies can compete if they are not
11 competing against other governments, and this legislation
12 which has been five years in negotiation, both by
13 Republican negotiators and the Republican
14 administrations, as well as our current administration,
15 has produced a very valuable document that is going to do
16 great service to the industry and the United States, and,
17 indeed, the industries around the world.

18 Mr. Chairman, on your comment about not offering any
19 amendments, I am always aware that sometimes amendments
20 procreate other amendments. That is always a fear, I
21 suppose.

22 But I am really concerned. I have two of what I
23 think are relatively noncontroversial amendments, really
24 important; one dealing with coffee imports, and one
25 dealing with a tariff on lash barges, which this Congress

1 has already eliminated, but the elimination time has
2 expired. We need to do it one more time.

3 I think that everybody supports the two amendments.
4 I am just concerned that if I do not have this
5 opportunity to offer them on this legislation that the
6 time will pass me by and I will have been a good soldier,
7 but a bad legislator.

8 The Chairman. Well, as I indicated, we intend to
9 provide that opportunity for you and hope that you will
10 be able to withhold offering any amendments today.

11 Senator Breaux. Are we all going to hold hands and
12 do this together?

13 The Chairman. That would be my hope and my intent.

14 Senator Moynihan. Mr. Chairman, did you not agree
15 that what appear as amendments today can be offered as
16 bills for comment?

17 The Chairman. That is exactly right, Senator
18 Moynihan.

19 Senator Breaux. I mean, that would be for
20 consideration by this committee?

21 The Chairman. That is right. We would ask for
22 public comment on those proposals. Then it is our
23 intent, as soon as we get the bill from the House side,
24 to move forward without holding a hearing. That should
25 expedite the consideration of the legislation. So, as I

1 said, I have some, too, Senator Breaux, that I want to
2 offer, so we are all in the same mix. I would appreciate
3 your cooperation very much on this matter.

4 Senator Breaux. Well, if we are all in the same
5 boat that means it is a stronger boat, and I am willing
6 to comply.

7 The Chairman. I appreciate your help and your
8 cooperation.

9 Senator Nickles?

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1 OPENING STATEMENT OF THE HONORABLE DON NICKLES, A U.S.
2 SENATOR FROM OKLAHOMA

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4 Senator Nickles. Mr. Chairman, thank you very much.
5 I compliment you for bringing all three of these up, and
6 I hope that we will be able to pass them quickly. I
7 would follow up on something that Senator Moynihan said,
8 and maybe Senator Baucus as well, the idea of calling it
9 Most Favored Nation, I think, is misleading certainly to
10 the general public.

11 Senator Baucus may have a good suggestion; he said
12 something about equal trade status. Maybe we should
13 consider that as a substitute title for MFN. MFN is
14 very, very misleading. Equal trade status, or something
15 along those lines, I think, would help give people a
16 better picture for what we are trying to do, both for
17 this, for China, and for other areas.

18 Thank you, Mr. Chairman.

19 The Chairman. Senator Moseley-Braun.

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1 OPENING STATEMENT OF THE HON. CAROL MOSELEY-BRAUN, A U.S.
2 SENATOR FROM ILLINOIS

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4 Senator Moseley-Braun. Thank you, Mr. Chairman. At
5 the outset I want to congratulate you and the Ranking
6 Member also for giving us an opportunity to get done that
7 which we can agree on. Then this is an appropriate way
8 to handle the business, and I appreciate it and thank you
9 for your leadership.

10 I want also to commend Senator Moynihan for raising
11 the point, and Senator Nickles for underscoring the
12 point, about the use of the term MFN. The fact is, in
13 Cambodia, for example, there are some concerns about
14 human rights, particularly as it pertains to women in
15 that country.

16 So you begin to muddle the waters when you say, well,
17 they have all these problems with regard to women and
18 human rights, and yet we are going to make them our most
19 favored nation. I would endorse, maybe we should have a
20 prize, Senator Moynihan, for who can come up with another
21 catchy title that works here. But certainly MFN is
22 misleading.

23 I am also concerned--and I do not have an amendment,
24 which is just as well--about some fair trade issues
25 having to do with what is going on in Greece right now,

1 but I will raise that in another context.

2 So I will withhold on opening statement, perhaps file
3 something for the record after the fact. Again, I am
4 prepared to go forward with this, and I thank you both.

5 The Chairman. Thank you.

6 Senator Conrad?

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1 OPENING STATEMENT OF THE HON. KENT CONRAD, A U.S. SENATOR
2 FROM NORTH DAKOTA

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4 Senator Conrad. Thank you, Mr. Chairman. Just in
5 looking at the proposed funding here I see what seems to
6 me to be quite a contradiction between what is going on
7 here and what is going on on the floor of the United
8 States Senate.

9 On the floor of the United States Senate we see a
10 move to repeal the 4.3 cent gas tax on the argument that
11 fuel costs have risen dramatically and, therefore, in
12 order to provide some relief to consumers we should
13 repeal the 4.3 cent per gallon gasoline tax. Of course,
14 we have no assurance that would be passed on to
15 consumers.

16 But in this legislation, in order to fund it, there
17 is a proposal to repeal the credit for the diesel fuel
18 tax on autos, vans, and light trucks. It is interesting,
19 the potential effect on consumers. The 4.3 cent gasoline
20 tax, most estimates say the average consumer, if it got
21 passed through, would save about \$20 a year.

22 By repealing the credit for diesel fuel tax on autos,
23 vans, and light trucks we will be removing a credit of
24 \$102 for autos, and \$198 for vans and light trucks. So I
25 must say it makes me wonder, which is it?

1 Are fuel prices going up in a way that requires the
2 removal of the 4.3 cent gasoline tax? Well, then how is
3 it that we are repealing the credit for diesel fuel tax
4 on autos, vans, and light trucks that is going to have
5 about five times the effect on consumers? And this is a
6 case where we know it will affect consumers.

7 It seems to me we have got a complete contradiction
8 here between arguing on the one hand we have got to
9 eliminate the 4.3 cent gasoline tax, and on the other
10 hand we come into this committee and we have got to
11 repeal the credit for diesel fuel tax on autos, vans, and
12 light trucks.

13 I must say, I do not understand it. Why is it one
14 argument on the floor of the Senate and a completely
15 contradictory argument when we come into this committee?
16 I just have to ask the question, what is the priority?

17 The Chairman. Senator Chafee.

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1 OPENING STATEMENT OF THE HON. JOHN H. CHAFEE, A U.S.
2 SENATOR FROM RHODE ISLAND

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4 Senator Chafee. Thank you very much, Mr. Chairman.
5 First, it was two years ago, as I recall, that Senator
6 Moynihan and I suggested changing the name of Most
7 Favored Nation. At the time, I believe the one we
8 suggested was nondiscriminatory treatment. However, I
9 have not checked with Senator Moynihan, but I personally
10 think probably equal trading status is catchier and might
11 be more attractive.

12 But we keep talking about this. What is required to
13 do it? I am not being facetious. I really think that
14 every year we get in this battle over China and Most
15 Favored Nation, and nobody understands it and thinks we
16 are treating China in a very special fashion.

17 So I would hope that, however we go about it, we
18 wrestle with this problem and get it done with. Again, I
19 do not know what it requires to change the name.

20 Senator Moynihan. You could offer an amendment.

21 The Chairman. Not today, please.

22 [Laughter]

23 Senator Chafee. No, I will not do it today.

24 Senator Baucus. Mr. Chairman, if I could just, very
25 briefly, underscore the point. The MFN debate with China

1 is going to come up soon. It is called MFN, but the fact
2 is, 131 other countries will enjoy more favorable trading
3 status with us than we will with China with this trade
4 MFN extension. So, it really is the least favored nation
5 trading status.

6 Senator Chafee. The second point is, I looked over
7 the menu here and I can report, after a thorough survey
8 in Pawtucket, Rhode Island, that Most Favored Nation
9 status for Bulgaria is not a burning issue.

10 [Laughter]

11 Senator Chafee. Finally, Mr. Chairman, I am worried
12 about achieving passage of these noncontroversial
13 amendments which you urge us to withhold. The one I
14 have, I think you would support. It was a mistake that
15 is acknowledged. It was made when we did GATT.

16 I want to be a good soldier, but under the proposal
17 that you are suggesting I am not so sure how these things
18 are going to pass because if we wait, then they will be
19 attached to something that is filled with controversial
20 material, so the whole bill will get bogged down.

21 Can you give me any solace?

22 The Chairman. Well, its intent is to include
23 noncontroversial, miscellaneous, and technical
24 amendments, because any number of people have a number of
25 issues along that line. So as I understand, the House is

1 acting on this matter currently. We are hopeful that
2 they will act very quickly. My proposal is for you to go
3 ahead and put it in a bill. We will ask for public
4 comment and then we will proceed expeditiously as soon as
5 we get the legislation from the House side.

6 I think it is about as good a guarantee as you can
7 make that there will be opportunity. The problem is, if
8 we begin loading up--everybody has got one or two
9 amendments here that are noncontroversial and takes care
10 of a matter of importance to them--we are up against a
11 real time crunch.

12 I think it is critically important that we give the
13 Senate an opportunity to act upon the shipbuilding
14 legislation. But, if we begin loading it up with all
15 kinds of amendments, then we are going to be in a
16 difficult spot on the floor because others will assume
17 that they have the same right, so that I think we are
18 inviting no action.

19 I would hope that the distinguished Senator from
20 Rhode Island would agree to withhold for the present
21 time, as I said. And I make this commitment in good
22 faith, that we will try to assure you of the opportunity.

23 Senator Chafee. Well, Mr. Chairman, let us see how
24 things shake out today. My heart is in the right place,
25 I assure you, but I am not sure that is where my

1 consistent vote will be.

2 Senator Hatch. Mr. Chairman, on that point, I agree
3 with the distinguished Senator from Rhode Island. It is
4 a technical amendment that we ought to all correct.

5 The Chairman. Senator Pressler is next in line.

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1 OPENING STATEMENT OF THE HON. LARRY PRESSLER, A U.S.
2 SENATOR FROM SOUTH DAKOTA

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4 Senator Pressler. I thank the Senator very much. I
5 would agree with Senator Chafee. I do not want to cause
6 fireworks in this amicable committee, but I do have an
7 amendment regarding fireworks, the error in the Uruguay
8 Round. They are paying a 5.3 percent tariff, and it
9 should be two percent. With the 4th of July coming and
10 patriotism abounding, I came up with this amendment.

11 I do not want to be accused of being a mere tool of
12 the pyrotechnics industry, but, nevertheless, it is a
13 technical, noncontroversial amendment. So if any
14 amendments are adopted, I would offer this one. It will
15 not cause fireworks in the committee, Mr. Chairman.

16 The Chairman. Senator Graham.

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1 OPENING STATEMENT OF THE HON. BOB GRAHAM, A U.S. SENATOR
2 FROM FLORIDA

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4 Senator Graham. Mr. Chairman, I have a plea that is
5 similar to that made by the Senator from Rhode Island. I
6 have an amendment which is bipartisan. It has the
7 support of Senator Dole and the administration. It
8 passed the Senate by voice vote and it is time-sensitive.
9 It relates to perishable agricultural products.

10 There are substantial segments of the American
11 agricultural industry which will have to make a decision
12 this summer and fall as to what their planning will be
13 for 1997, and that decision is going to be influenced on
14 whether they believe that they have some greater degree
15 of assistance in terms of enforcing provisions that are
16 in U.S. trade laws than exist today.

17 So the delay in resolving this issue is going to put
18 substantial segments of American agriculture at risk. I,
19 at the appropriate time, would like to raise this in
20 hopes that the members of the committee would see this as
21 a matter which is apolitical and which has a sensitivity
22 in terms of resolution. This is a classic case in which
23 failure to decide becomes a decision, and the decision
24 is, substantial numbers of farmers will elect to go out
25 of business.

1 The Chairman. Senator Hatch.

2 Senator Hatch. I pass, Mr. Chairman.

3 Senator Pryor. Mr. Chairman?

4 The Chairman. Senator Pryor.

5 Senator Pryor. Mr. Chairman, I passed awhile ago,
6 but can I take just a moment at this time to ask a
7 question on procedure? If we had, say, a sense of the
8 committee amendment, not a sense of the Senate amendment
9 but a sense of this committee, at what stage would it be
10 appropriate, after the comments and after the statements
11 by our distinguished panel here, or would it be now?

12 The Chairman. I think it would be after the panel
13 discusses what is before us.

14 Senator Pryor. Might I ask about the Chairman's
15 feeling about declaring, say, sense of the committee
16 amendments in order or out of order; has the Chairman
17 made a determination there? Just so I can be up front.
18 I am glad Senator Hatch is here.

19 This relates to GATT, and it relates to correcting
20 the very onerous, and I should say odious, mistake that
21 we made in GATT by carving out the pharmaceutical
22 companies, a certain few of them, from all of the other
23 industries and other parts of our economy.

24 Since our delay in this, I might add, Mr. Chairman,
25 that four drug companies have reaped windfall profits.

1 Just since our vote on 12/7/95 on the floor of the Senate
2 they have reaped \$765 million in excess revenues that
3 they would not have had had they had generic competition.
4 We are keeping generic competition out of the marketplace
5 at this time. I am wondering if the Chairman has any
6 thoughts on such a sense of the committee resolution that
7 would address this.

8 The Chairman. Well, I would say to my distinguished
9 colleague and friend, as I indicated earlier, as to
10 whether or not a sense of the committee resolution was
11 appropriate, germane, would depend upon the subject
12 matter. I would have to say to the distinguished Senator
13 that that would be the basis of my ruling.

14 Senator Pryor. I thank the Chairman.

15 The Chairman. At this time I would like to both
16 welcome, of course, our committee staff, and particularly
17 our representatives from the administration. Ambassador
18 Hillman, from USTR; and, of course, Ken Kies, who is not
19 from the administration but from the Joint Tax Committee;
20 and Assistant Secretary Leslie Samuels, from Treasury.

21 I understand, Mr. Secretary, that you will soon be
22 departing from the Washington scene. I want to thank you
23 for your distinguished service. Certainly I know the
24 entire committee joins me in wishing you every success
25 and happiness in your future undertakings.

1 Secretary Samuels. Thank you, Mr. Chairman.

2 Senator Moynihan. You may be sure that we
3 unanimously agree.

4 Secretary Samuels. It has been a great privilege to
5 appear before you and participate in your proceedings for
6 the last three years.

7 The Chairman. Thank you.

8 At this time I would like to call on Eric Autor to
9 start the staff walk-through of the mark-up items. Eric?

10 Mr. Autor. Thank you, Mr. Chairman. The first item
11 for the committee's consideration is H.R. 2853,
12 legislation respecting Bulgaria's Most Favored Nation
13 status, which, perhaps in deference to Senator Moynihan,
14 I should refer to as Equal Trade Status.

15 Bulgaria currently receives conditional equal trade
16 status, renewed by the President on an annual basis
17 according to the requirements of Title 4 of the Trade Act
18 of 1974.

19 H.R. 2853 would give the President authority to
20 determine that Title 4 should no longer apply to
21 Bulgaria. After making such a determination, the
22 President would have the authority to proclaim the
23 permanent extension of unconditional equal trade status
24 treatment to products imported from Bulgaria.

25 The second item for the committee's consideration is

1 H.R. 1642, respecting Cambodia MFN status, with a
2 committee amendment. Cambodia is currently listed in
3 General Note 3 of the Harmonized Tariff Schedule among
4 those countries whose products are denied MFN treatment.

5 H.R. 1642 would grant Cambodia unconditional equal
6 trade status by striking it from the list of countries
7 under General Note 3 of the HTS.

8 The committee amendment would only change the
9 language in two of the four Congressional findings listed
10 in H.R. 1642 to recognize certain political problems in
11 Cambodia that have emerged since the House originally
12 passed the bill in July, 1995.

13 The next item for the committee's consideration is
14 H.R. 3074, which deals with preferential tariff treatment
15 to products imported from the West Bank, the Gaza Strip,
16 and certain qualifying industrial zones.

17 The Chairman's mark on H.R. 3074 contains the
18 original House language on the trade preferences for
19 products from the West Bank and Gaza Strip, and in
20 addition the Chairman's mark on H.R. 3074 includes
21 legislation to implement the OECD shipbuilding agreement,
22 a reauthorization of the Generalized System of
23 Preferences program, and a provision for revenue offsets.

24 With respect to the West Bank/Gaza legislation, by
25 way of background, before 1994 products from the West

1 Bank and Gaza Strip, marked as products of Israel, were
2 given preferential tariff treatment under the U.S.-Israel
3 Free Trade Agreement.

4 After implementation of the 1994 Declaration of
5 Principles by Israel and the Palestine Liberation
6 Organization to grant autonomy to the West Bank and Gaza
7 Strip, products from those areas are no longer marked as
8 products of Israel, and therefore no longer qualify for
9 preferential tariff treatment under the U.S.-Israel FTA.
10 Instead, imports from the West Bank and Gaza Strip are
11 assessed duties at the normal Most Favored Nation rate.

12 The Chairman's mark would permit a return to the
13 status quo prior to implementation of the Declaration of
14 Principles for products from the West Bank and Gaza
15 Strip. It provides the President the authority to
16 proclaim that imports from the West Bank, Gaza Strip, and
17 qualifying industrial zones encompassing the territory of
18 Israel and Jordan, or Israel and Egypt, will be given the
19 same tariff treatment as products from Israel currently
20 receive under the U.S.-Israel FTA.

21 The next item in the Chairman's mark is the
22 implementing legislation for the OECD shipbuilding
23 agreement. I will give a quick summary of the agreement
24 which was signed in December of 1994 by the United
25 States, the European Union, Japan, South Korea, and

1 Norway.

2 The agreement provides a discipline for shipbuilding
3 subsidies and provides for an injurious pricing code
4 under which countries may impose a charge, that is a
5 fine, against foreign shipyards that sell ships at
6 unfairly low--that is, dumped--prices. The agreement
7 provides a comprehensive set of rules on government
8 financing for ship sales and binding dispute settlement
9 procedures in the OECD.

10 The trade covered under the agreement is the
11 construction and repair of self-propelled seagoing
12 vessels of 100 gross tons and above, which covers
13 approximately 80 percent of ships engaged in global
14 shipping.

15 In addition, there is a standstill provision in which
16 the signatories agree that existing, but not increased,
17 government programs may apply to vessels contracted to be
18 built after the date of the signing of the agreement on
19 December 21, 1994, if constructed by December 31, 1998.

20 Currently, the target date for the entry into force
21 of the agreement is 30 days after all signatory parties
22 have approved the agreement, which would be June 15,
23 1996.

24 The Chairman's mark, first, provides that Congress
25 approves the OECD shipbuilding subsidies agreement. In

1 addition, it establishes a new Title 8 of the 1930 Trade
2 Act to create an injurious pricing mechanism, which is
3 analogous to the antidumping mechanism currently under
4 Title 7.

5 The injurious pricing mechanism sets up a procedure
6 for an investigation of whether a foreign producer is
7 selling a vessel in the United States for less than
8 normal value, which is usually the price charged in the
9 home market, a third country, or determined according to
10 constructed value.

11 Injurious pricing must injure or threaten injury to a
12 U.S. industry producing a like vessel. Existing WTO
13 antidumping provisions have been used as the model, in
14 this case the antidumping provisions under Title 7, but
15 revised to account for differences between the agreement
16 in the WTO and differences due to the unique nature of
17 vessels.

18 Countries subject to injurious pricing investigations
19 would require that respondents be from countries that are
20 parties to the agreement, or from non-parties who are not
21 members of the World Trade Organization.

22 The remedy under the new injurious pricing mechanism
23 differs from an antidumping remedy. It would be a one-
24 time export charge in an amount equal to the level of
25 injurious pricing assessed against the shipbuilder,

1 regardless of how many vessels enter or when they enter.
2 Once paid, there would be no continuing liability on
3 future sales or scrutiny of sales of other vessels.

4 Failure to pay an injurious pricing charge would
5 subject the foreign shipyard to the imposition of
6 countermeasures in the form of a temporary denial of up
7 to four years of privileges to load or unload in the
8 United States of vessels constructed by the subject
9 shipyard.

10 The Chairman's mark would also provide for judicial
11 review at the Court of International Trade.

12 The Chairman. Eric, would you yield just for a
13 moment? We do have 11 members of the committee here, a
14 quorum. After consulting with Senator Moynihan, I would
15 like to suggest that we report out the bills before us,
16 subject to whatever amendments may be adopted.

17 Senator Moynihan. I so move, Mr. Chairman.

18 The Chairman. Those in favor, signify by saying
19 aye.

20 [A chorus of ayes.]

21 The Chairman. Opposed, nay.

22 [No response.]

23 The Chairman. The ayes have it, it is so moved.

24 Thank you very much, gentlemen.

25 Eric, will you proceed, please?

1 Mr. Autor. Thank you, Mr. Chairman. With respect
2 to the countermeasures taken against a shipyard that
3 fails to pay the injurious pricing charge, as I said, it
4 would consist of a temporary denial of privileges to load
5 or unload in the United States for vessels constructed by
6 the offending shipyard. The Chairman's mark provides for
7 judicial review of injurious pricing and countermeasures
8 determinations at the U.S. Court of International Trade.

9 The Chairman's mark also provides that the current 50
10 percent duty that is assessed on repairs to U.S. flag
11 vessels, when the repairs are made outside the United
12 States, would be eliminated with respect to repair
13 activities occurring in an agreement on ships that are
14 covered under the shipbuilding agreement.

15 Finally, the Chairman's mark would make certain
16 amendments to the Merchant Marine Act, including
17 limitations as provided for under the shipbuilding
18 agreement on guaranteed government financing under Title
19 11 of the Merchant Marine Act.

20 I will now turn to Mr. Priess, who will walk the
21 committee through the provisions to renew the Generalized
22 System of Preferences.

23 Mr. Priess. Thank you. The Chairman's mark would
24 reauthorize the Generalized System of Preferences program
25 for one year and 11 months, retroactive to July 31, 1995.

1 The effective date of the renewal would be October 1,
2 1996.

3 The Congressional Budget Office estimates that the
4 Chairman's GSP proposal will have a budgetary impact of
5 \$778 million as a result of the lost tariff revenue over
6 the one year and 11 month period.

7 The Chairman's mark would implement four substantive
8 changes to the GSP program. Each of these changes was in
9 the GSP reauthorization proposal included in last year's
10 Balanced Budget Act.

11 First, the Chairman's mark would substantially reduce
12 the per capita GNP threshold for graduation of a
13 beneficiary developing country from the GSP program.
14 Specifically, the threshold would be lowered from \$11,800
15 per capita GNP under the expired program to \$8,600 per
16 capita GNP under the reauthorized program.

17 Second, the Chairman's mark would lower the GSP
18 program's annual ceiling on imports of a particular
19 product from a particular country, the so-called
20 competitive needs limits. The limits would be reduced
21 from the current level of \$122 million to \$75 million for
22 calendar year 1996. The new limit would be increased
23 annually by \$5 million thereafter.

24 Third, the Chairman's mark would clarify that the
25 President has the authority to designate additional

1 articles imported from the least-developed developing
2 countries as eligible for GSP duty-free treatment.

3 Fourth, the Chairman's mark would codify the so-
4 called three-year rule by prohibiting an interested party
5 in refiling a rejected petition to add an article to the
6 list of GSP-eligible items until three years after the
7 original petition was rejected.

8 In addition to these substantive changes, the
9 Chairman's mark on GSP includes several technical
10 amendments which delete anachronistic references and
11 dates in the statute's text and which also harmonize the
12 text with developments in world trade and politics.

13 For example, just to cite one example, one technical
14 change would modify the text so that all previous
15 references to the GATT will now refer to the World Trade
16 Organization. That concludes the walk-through on the
17 Generalized System of Preferences program.

18 I would turn it over now to Mr. Kies, who will talk
19 about the revenue offsets.

20 Senator Grassley. Mr. Chairman?

21 The Chairman. Senator Grassley.

22 Senator Grassley. One of the things on the GSP that
23 I think we ought to point out is ---- and by the way, I
24 support everything that has been said. This is
25 supplementary to that. The program has been criticized

1 because it has been benefitting some nations that
2 probably should not have the benefit.

3 The legislation before us changes the method of
4 graduation so that nations that are marginal in needing
5 its help will be determined to not need its help anymore,
6 and to move beyond the process of GSP so that we cannot
7 be accused anymore of using our help for countries that
8 are maybe marginal and needing the help.

9 I think I want to point this out, because there was
10 some question by some people whether or not this was a
11 worthy program. I think it is a very worthy program,
12 both for consumers, creating jobs, and, most importantly,
13 it satisfies the needs of those people that think we
14 ought to be--and I am one of them--promoting trade rather
15 than giving aid.

16 Senator Murkowski. Mr. Chairman, I would just ask
17 that my statement may be entered into the record.

18 The Chairman. Without objection.

19 [The prepared statement of Senator Murkowski appears
20 in the appendix.]

21 The Chairman. Mr. Kies?

22 Mr. Kies. Mr. Chairman, the package of legislation
23 before you contains three tax provisions. The first,
24 relates to the treatment of foreign trusts. These
25 proposals arose from initial administration proposals

1 made last February and have been the subject of extensive
2 bipartisan staff work since that time and were actually
3 included in the Balanced Budget Act, and most recently in
4 the administration's proposals, and were the subject of a
5 favorable Congressional statement in the record by
6 Senator Moynihan on April 19th.

7 The next provision repeals the tax credit for diesel-
8 powered cars and light trucks which exists under current
9 law. This proposal was also in the Balanced Budget Act
10 and is in the administration's most recent budget
11 submission.

12 Then finally, there is a provision imposing an
13 additional penalty for failure to disclosure that a
14 certain taxpayer is claiming exemption from U.S. tax on
15 shipping income, failure to disclose that they are
16 claiming such an exemption, would subject them to a
17 penalty.

18 It has come to our attention that this is a provision
19 that has a rather low compliance level, and that this
20 penalty would encourage taxpayers to comply with the
21 current law requirement that they disclose the claiming
22 of this exemption.

23 Those are the three proposals that are in the package
24 before the committee, Mr. Chairman.

25 The Chairman. Thank you, Ken.

1 Senator Conrad. Mr. Chairman?

2 The Chairman. Yes.

3 Senator Conrad. Are we able to question as we go
4 along?

5 The Chairman. Sure, go ahead.

6 Senator Conrad. I would just like to ask Mr. Kies
7 if the repeal of the diesel fuel credit does not amount
8 then to an increase in diesel fuel tax for drivers of
9 diesel autos, vans, and light trucks.

10 Mr. Kies. Senator Conrad, at least the anecdotal
11 evidence is that many of the taxpayers who qualified for
12 the credit were unaware that they were even entitled to
13 the credit when they purchased the diesel car or truck,
14 so it is unclear that anyone has been taking it into
15 account in the purchase of the automobile. It applies to
16 the purchase.

17 Senator Conrad. Well, that is not my question. My
18 question was as you heard it. My question was, if we are
19 giving a credit now, and the reason we give the credit,
20 of course, is because we made a difference between what
21 the fuel tax is and what the diesel tax is in order to
22 pay for taking the excise tax off of heavy trucks; is
23 that not accurate?

24 Mr. Kies. That is basically correct, Senator.

25 Senator Conrad. And since vans, light trucks, and

1 autos did not benefit by taking the excise tax off of
2 heavy trucks, they were provided a credit on diesel fuel.
3 If we eliminate the credit, are we not, in effect,
4 increasing the tax on diesel fuel for drivers of
5 automobiles, vans, and light trucks?

6 Mr. Kies. Well, actually, on that point,
7 technically, I think that is not correct. The tax on
8 diesel fuel remains where it is.

9 Senator Conrad. Well, let us not be disingenuous.
10 If you take away the credit, they then have to pay. They
11 have to pay anyway, but they are not getting an offset.
12 So the effect of this is to increase the diesel fuel tax
13 on drivers of automobiles, vans, and light trucks. Is
14 that not the practical effect?

15 Mr. Kies. Well, Senator Conrad, I think one could
16 certainly choose to view it that way. One could also
17 choose to view it as simply a credit that you get for
18 buying a diesel automobile.

19 Senator Conrad. But that is not what it is.

20 Mr. Kies. No, that is precisely what it is. It is
21 a credit.

22 Senator Conrad. No, that is not the history. As
23 you know, the history here is an offset because what
24 happened was, we raised the diesel fuel tax, did we not,
25 above what the fuel tax level was.

1 We did that to take the excise tax off heavy trucks.
2 Obviously, the drivers of vans, autos, and light trucks
3 did not benefit, so we gave them a credit for diesel fuel
4 tax. That is precisely what this is.

5 And if you take that away, you, in effect, have
6 raised the diesel fuel tax at the very time we have on
7 the floor of the Senate a measure to take away part of
8 the gas tax on the argument that people are being
9 pressured by high fuel prices. Now, if that is not
10 inconsistent, I do not know what is. I mean, I think
11 anybody can understand that that is inconsistent.

12 I would ask Mr. Kies, does that not strike you as an
13 inconsistent position, to on the one hand say, we have
14 got to repeal the 4.3 cent gasoline tax, and on the other
15 hand we are going to raise the diesel fuel tax, in
16 practical terms, on drivers of automobiles, vans, and
17 light trucks?

18 Mr. Kies. Well, Senator Conrad, I would just point
19 out, as the administration did in their submitting as
20 part of their budget proposal, that this particular
21 credit basically imposes administrative burdens for
22 relatively insignificant consequences to the particular
23 purchasers. The magnitude of the revenue associated with
24 it is substantially smaller than the 4.3 cent reduction
25 in the gas tax.

1 Senator Conrad. It is? Well, that is absolutely
2 not the case. The average driver in this country uses
3 550 gallons of gasoline. Four cents times that is \$22.
4 We are taking off here a credit for automobiles, which is
5 \$102, for vans and light trucks it is \$198. I do not
6 know what math would tell you \$102 is less than \$22. It
7 does not compute in my math.

8 Mr. Kies. Senator Conrad, I was just drawing a
9 comparison between the \$17 million effect for a tax year
10 versus the \$2.7 million.

11 Senator Conrad. Yes. You are looking at it from a
12 government point of view, I am looking at it from the
13 point of view of the driver of the automobile, van, or
14 light truck. I am just saying to you, to me, this is
15 totally inconsistent.

16 On the one hand we say, because fuel prices have gone
17 up we have got to repeal the 4.3 cent gasoline tax, and
18 on the other hand in this committee we are doing
19 precisely the opposite. We are, in effect, raising the
20 diesel fuel tax on every automobile, van, and light truck
21 operator out there. I do not know how we possibly
22 justify that.

23 Mr. Chairman, would it be appropriate to offer an
24 amendment to take this out of the package?

25 The Chairman. Let me say this to my distinguished

1 friend. We have been trying to put together a package
2 that has bipartisan support and the approval of the
3 administration. Now, we have to somehow pay for the cost
4 of the various changes we are making, the most important
5 being the Generalized System of Preferences.

6 Senator Conrad. We should raise the gas tax instead
7 of the diesel fuel tax.

8 The Chairman. We put in it a tax that had been
9 proposed by the administration.

10 Senator Grassley. And passed by the Congress last
11 year.

12 The Chairman. And passed by the Congress. So we
13 are trying to move forward in a bipartisan way on some
14 legislation that ought to be acted upon and on which
15 there is a time limit.

16 So I would hope, as I have urged the other members of
17 the committee, that they would not proceed with
18 amendments, because we do have a very, very serious time
19 limit. In the case of the shipbuilding, we have to act
20 by June 15th.

21 Now, if everybody adds another amendment, that means
22 it is going to be very difficult to get the matter up on
23 the floor. Once we get it up on the floor you are going
24 to have the problem of various people wanting to offer
25 amendments there.

1 So, I urge all of my colleagues, let us keep this
2 legislation clean so that we assure that there is action
3 taken within the deadline we have.

4 The Chairman. Marcia, would you care to comment at
5 this time?

6 Ms. Miller. Mr. Chairman, I do not have any
7 comments. We worked closely with your trade staff in
8 preparing for the mark-up, and appreciate the opportunity
9 to do so.

10 The Chairman. Thank you.

11 Senator Bradley. Mr. Chairman, what would be your
12 intention?

13 The Chairman. What do you mean, my intention?

14 Senator Bradley. On how to proceed.

15 The Chairman. Well, right now we are just trying to
16 complete the explanation. I was going to, next, ask the
17 Ambassador whether she would care to comment on the
18 proposed legislation, after which we would open it up to
19 amendments.

20 Ambassador Hillman, it is a pleasure to have you
21 here. Would you care to comment?

22 Ambassador Hillman. Thank you, Mr. Chairman. On
23 behalf of the administration, we would simply want to
24 thank you and the members of the committee for working
25 with us. The administration strongly supports each and

1 every piece of legislation before the committee today,
2 and we very much appreciate your willingness and efforts
3 to move this legislation along.

4 We would underscore your concern with respect to the
5 OECD shipping legislation. As you know, the deadline
6 there for entry into force is June 15th. All of our
7 trading partners in that agreement have either already
8 entered into the agreement in terms of implementing
9 legislation, or with respect to Japan, have indicated
10 that they will be in a position to do so. So we will be
11 in a very difficult position if the United States is the
12 only member of the agreement that is not able to ratify
13 the agreement by June 15th.

14 So, we would underscore the urgency of moving ahead
15 with this legislation as quickly as possible, and add to
16 that our strong support for the enactment of the GSP
17 legislation, the West Bank/Gaza legislation, as well as
18 Bulgaria and Cambodia. These are all priorities for the
19 administration, and we thank you for your efforts in
20 putting together this mark-up today.

21 Senator Breaux. Mr. Chairman?

22 The Chairman. Yes, Senator Breaux.

23 Senator Breaux. Mr. Chairman, if it is appropriate
24 now, I just want to ask Ambassador Hillman a couple of
25 questions about the OECD agreement that I think are

1 important for the record. Is it appropriate at this
2 time? I do not have any amendments.

3 The Chairman. Yes, please proceed.

4 Senator Breaux. I, first, want to commend the
5 administration and USTR, Ambassador Hillman, and
6 particularly Don Phillips, who has spent so much time
7 working on this. This has been a five-year effort,
8 through several different administrations. And also Jeff
9 Lang, the Deputy U.S. Trade Representative. This has
10 really been a wonderful effort, and very, very important.

11 I have just a couple of questions that I think are
12 important for the record. It is alleged, and my question
13 is, Ambassador, is it true, that the agreement somehow
14 allows subsidies by other countries to continue until the
15 end of 1998? We all know that the foreign governments
16 are subsidizing their shipbuilding industries to the tune
17 of about \$8 billion a year. Can these subsidies
18 continue?

19 Ambassador Hillman. No. The agreement very
20 expressly requires the subsidy programs to end upon the
21 entry into force of the agreement, and that date is set
22 for 30 days after enactment. In other words, July 15,
23 1996. That is really the urgency for why we think this
24 legislation needs to be moved forward by June 15th. The
25 subsidies must end as soon as the agreement enters into

1 force.

2 Senator Breaux. For all countries?

3 Ambassador Hillman. For all countries.

4 Senator Breaux. Now, there has been some question
5 about, there are a large number of exceptions to the
6 subsidies. I know we have dealt with research and
7 development.

8 I guess if that is a subsidy, that is one that would
9 be allowed, I guess, by all countries. We do a lot of
10 research and development in this country for our
11 industries, the Maritech program is one of them.

12 But would you comment on any exemptions to the
13 subsidies?

14 Ambassador Hillman. Sure. We feel this agreement
15 has been very, very tightly drawn because, clearly, the
16 effort here was to stop global subsidies and
17 shipbuilding.

18 There are really only two exceptions within the terms
19 of the text itself. One is for government assistance for
20 research and development, and the other is for certain
21 specific provisions for the exclusive benefit of workers
22 who have lost their jobs or benefits because of
23 downsizing. Those are the only two subsidies that would
24 continue to be permitted if the shipbuilding agreement is
25 adopted. There would be no exemption, for example, for

1 subsidies for vessel component manufacturers or other
2 such items. Those are the only two exceptions permitted.

3 Senator Breaux. The next question is regarding the
4 Title 11 program. I know that some have said, well, you
5 are decimating the Title 11 program for shipbuilding. I
6 think that actually ours is allowed to continue in a
7 stronger fashion than other countries for a period of
8 time, and even contracts that are entered into under the
9 current program would be allowed to be acted on and ships
10 completed under those new contracts. Can you comment on
11 the effect of this agreement on our Title 11 program?

12 Ambassador Hillman. Really the only major change to
13 Title 11 would be a change in the time period that a
14 guarantee can be issued for. Currently, Title 11 loan
15 guarantees can be provided over a period of 25 years.

16 In order to bring the Title 11 program into
17 conformity with the agreement that period would be
18 shortened to 12 years, so that the maximum loan guarantee
19 period would be a 12-year period.

20 But we clearly believe that on a level playing field,
21 where all the rest of the world is getting rid of their
22 very substantial subsidies, that will keep our Title 11
23 program effective and useful for our folks, but bring it
24 into compliance with the agreement itself.

25 Senator Breaux. In other words, no country would be

1 able to have a more generous similar type of Title 11
2 program as we have.

3 Ambassador Hillman. No. That is the whole point,
4 is to bring everybody into conformity. Therefore, our
5 program would remain in place but change from 25 years to
6 12 years, leaving it as a very effective program.

7 Senator Breaux. And my final question. Mr.
8 Chairman, I thank you for your indulgence. Will the
9 agreement, it has been alleged, not allow foreign
10 governments to take action against our Jones Act shippers
11 in some kind of a negative way? Is there a concern here,
12 or not?

13 Ambassador Hillman. No. Very clearly, the
14 agreement itself does not apply to our shippers, to those
15 that operate U.S. ships in U.S. waters, to those that
16 work on vessels. There is nothing in the agreement that
17 relates to shippers so, therefore, there can be no action
18 taken against our shippers themselves.

19 The other thing that the provision does is exempt our
20 home-build requirements so that we can retain those
21 requirements as part of this agreement.

22 Senator Breaux. Well, I thank the Ambassador and
23 the entire team for bringing us a very, very good
24 agreement. Thank you, Mr. Chairman.

25 Senator Moynihan. Mr. Chairman, may I just take the

1 occasion in this regard to comment? The last United
2 States ship sold abroad was built in Quincy,
3 Massachusetts in 1960. I say, in the presence of the
4 former Secretary of the Navy, that is not good enough.
5 We may have a chance to turn it around. We have seen
6 other industries turn around, and this may be our
7 opportunity to do it.

8 The Chairman. I want to thank you, Ambassador, for
9 your testimony. I think this is a very important piece
10 of legislation and I am hopeful that we can get it
11 through without any amendment.

12 Senator Grassley. Mr. Chairman?

13 The Chairman. Yes.

14 Senator Grassley. Mr. Chairman, I wanted to bring
15 up, as you remember, yesterday we visited. I am not
16 going to bring up the amendment, because you asked us not
17 to amend. But I discussed my interest in Most Favored
18 Nation status for Romania. The House is going to mark
19 that up very shortly, so I presume a bill will come over
20 here very shortly. You suggested that it would be very
21 good to have a hearing on it in the near future, and I am
22 glad to conduct such a hearing in the subcommittee.

23 I just wanted to express my view, though, that even
24 without a hearing I think that Romania has advanced,
25 first of all, having Most Favored Nation restored since

1 1992 or 1993, second, they have met all of the human
2 rights, immigration, and Jackson-Vanik type requirements
3 that we have always had concerned with Romania in the
4 past.

5 They have moved a long ways towards their
6 privatization of their industrial and agricultural
7 sectors. I think in every respect Romania, even more so
8 than Cambodia, as an example, is entitled to Most Favored
9 Nation status.

10 I wanted to express my thanks for your urging us to
11 have a hearing, and moving forward with it after the
12 hearing. Thank you.

13 The Chairman. Thank you, Senator Grassley.

14 I would now like to call upon Secretary Samuels for
15 any comments he may care to make.

16 Secretary Samuels. Mr. Chairman, as Ambassador
17 Hillman indicated, the administration supports the
18 proposals and we have looked at them from the tax policy
19 side and support them.

20 We note that one of the penalty provisions on the
21 shipping exemption is one that will apply only in unusual
22 circumstances, and we are satisfied with how that will
23 work.

24 Senator Graham. Mr. Chairman?

25 The Chairman. Yes, Senator Graham.

1 Senator Graham. Could I ask a couple of questions?

2 The Chairman. Certainly.

3 Senator Graham. On the foreign trust tightener,
4 which provides \$1.8 billion of the funding for this bill,
5 that provision has already been used in previous
6 legislation, including that it was the measure used to
7 finance Senator Domenici's mental health amendment in the
8 Health Insurance Reform Act.

9 What is the consequence of us utilizing that
10 particular provision in the context of the ongoing
11 conference committee as to whether to utilize it for
12 purposes of financing another provision in another piece
13 of legislation?

14 Mr. Kies. Senator Graham, it was included as part
15 of Senator Domenici's Mental Health Parity Amendment
16 during consideration of the Health Bill on the Senate
17 Floor.

18 However, subsequent to completion, when CBO had time
19 to score the other provisions that were included along
20 with Senator Domenici's amendment, plus this provision,
21 it turned out that there was a substantial excess of
22 resources in excess of the cost of Senator Domenici's
23 amendment, in fact, in excess of the entire amount that
24 would be raised by this particular provision, so that
25 even Senator Domenici's amendment were adopted as part of

1 the conference, it could be paid for without using this
2 revenue because of the other pay-fors that he included
3 with his amendment at the time, so that while it would
4 potentially be present in both, it is not necessary to
5 use it to fully fund Senator Domenici's amendment if the
6 conferees were to adopt it.

7 Senator Moynihan. May I just comment to my friend
8 from Florida, this was a measure introduced by Mr. Gibbons
9 and I in 1995, and I think it is fair to say that the
10 tax-writing committees have a proprietary interest in it.

11 Senator Graham. If I could ask a second question on
12 the reporting requirement for shippers claiming
13 exemption. The estimate is \$131 million of additional
14 revenue by the adoption of this provision. The summary
15 of the legislation that I have indicates that currently
16 shippers are required to file in order to claim this
17 exemption.

18 What is the total amount of claimed exemption under
19 the provisions that allow a foreign flag vessel to avoid
20 paying U.S. taxes if the country in which they are
21 flagged provides similar exemption to U.S. businesses, or
22 if there is a U.S. tax treaty?

23 Mr. Kies. Senator Graham, we do not know how much
24 exemption is currently claimed. We have been advised by
25 IRS officials who have responsibility in this area that

1 they believe compliance with this reporting requirement
2 in order to claim the exemption is extremely low, perhaps
3 as low as one percent.

4 So of all those who are currently claiming the
5 exemption, it is almost impossible to know how much is
6 involved because there is very little reporting that is
7 currently occurring, even though it is required to claim
8 the exemption.

9 The problem with current law is, while there is a
10 requirement that you file, there is no penalty if you do
11 not file. So, this provision is intended to try to get
12 taxpayers to comply with that filing requirement.

13 Senator Graham. So even if taxpayers do not file,
14 they still get the benefit of the exemption?

15 Mr. Kies. Under current law, if they are claiming
16 the exemption under a treaty they are required to make a
17 filing under a current provision of the code, and if they
18 do not there is a penalty, a \$10,000 penalty for
19 corporations, \$1,000 if it is a non-resident alien
20 individual.

21 However, if they are not claiming the exemption under
22 a treaty but merely because the country that they are
23 from provides reciprocal treatment, there is no penalty
24 for failure to not file. That is substantially what this
25 would address, because under current law they are

1 entitled to the exemption, even though they do not comply
2 with the filing requirement.

3 Senator Graham. Thank you, Mr. Chairman.

4 The Chairman. Thank you.

5 Are there any amendments? Let me, before I open it
6 to amendment, again state my very sincere hope that the
7 shipbuilding bill will not get weighed down with
8 amendments because, as I have already indicated, if we
9 amend it here it is going to be difficult to get it taken
10 up on the floor if it is already loaded with amendments.

11 Of course, once you proceed to the floor with an
12 amendment, then it is going to be open season. We have a
13 very, very narrow deadline in getting this legislation
14 enacted, so I, again, urge each and every one of you not
15 to amend this legislation.

16 Let me point out that the difficulty will only be
17 compounded, because once you start adding amendments that
18 are controversial, then we are in deep trouble.

19 Now, again, I would like to point out, as I earlier
20 advised the committee, that the Ways and Means Committee
21 is currently working on miscellaneous trade legislation.
22 When it arrives from the House, I will take quick action
23 on such legislation. So you will have your opportunity
24 with respect to these technical and miscellaneous
25 amendments.

1 Senator Moynihan. Mr. Chairman, is it your
2 suggestion that amendments be introduced as bills and
3 that you would place them for public comment next week?

4 The Chairman. That is exactly my proposal, Senator
5 Moynihan. So that will provide each member with the
6 opportunity to have the amendments important to him
7 considered, of the type that I have mentioned.

8 So, having said that, the legislation is now open to
9 amendment. Again, I would hope no one would offer an
10 amendment.

11 [Laughter]

12 Senator Graham. Mr. Chairman.

13 The Chairman. The Senator from Florida.

14 Senator Graham. Mr. Chairman, I respect your
15 position, but I would submit as an amendment the text of
16 S. 1463, which is pending before this committee, which
17 relates to modification of the International Trade
18 Commission's procedures as it relates to the treatment of
19 perishable agricultural products.

20 Mr. Chairman, just a brief introductory statement,
21 and then I would like to reserve time to discuss it
22 further. The reason I am offering this at this time is
23 the very severe time sensitivity of this amendment to the
24 agricultural industries that are affected.

25 These are industries which, this summer, are going to

1 be making decisions as to whether to stay in business in
2 1997. They will be securing their financing, they will
3 be preparing and actually putting seeds in the ground in
4 late summer, early fall.

5 Frankly, there will be literally hundreds of
6 businesses that will not do so unless they have some of
7 the sanctions which they thought they were going to
8 secure and which they represented that they would secure
9 at the time that various treaties, specifically the North
10 American Free Trade Agreement, was adopted.

11 This is an amendment which, yes, will have an impact
12 on my State, which happens to produce agricultural
13 products during a winter period, but it also will affect
14 virtually every other area of the country which has an
15 agricultural industry that produces a perishable product
16 during a specific growing season, such as the potato
17 industry of New England, and specifically of Maine. For
18 that reason, the American Farm Bureau and many other
19 agricultural organizations support this provision.

20 So, Mr. Chairman, with that introductory statement of
21 the sense of urgency and the respect that I have for your
22 desire to have a bill which is limited in its number of
23 issues, I do offer this amendment as an additional
24 amendment to H.R. 3074.

25 The Chairman. Senator Gramm.

1 Senator Gramm. Mr. Chairman, I am opposed to this
2 amendment. I can certainly understand the concerns of
3 the Senator from Florida, but I have a letter that is
4 signed by the Agriculture Commissioners of Texas, Ohio,
5 Michigan, Illinois, Oregon, and Minnesota.

6 The basic point they make is that for 10 years we
7 have been trying to enforce our trade agreements in our
8 dealing with our foreign competitors in markets where we
9 are selling American agricultural products in their
10 markets.

11 One of the biggest problems that we face is non-trade
12 barriers where, in essence, they try to change the
13 definition of a market, or to change packaging, or to
14 change the basic way products are sold in such a way as
15 to disadvantage us.

16 So I do not know how my colleagues, in general, feel
17 about this. Basically, Florida has dominated the winter
18 production of tomatoes. I am not sure how this is viewed
19 by my colleagues. But my concern is not only the impact
20 on the American consumer, but my concern is retaliation
21 against our own agricultural products where non-trade,
22 non-tariff barriers are used in terms of trying to impose
23 on us procedures that do not fit our production process,
24 trying to change the definition of industries which could
25 affect our ability to sell everything from feed grain to

1 cattle.

2 I see this as sort of the beginning of our whole GATT
3 agreement and NAFTA coming apart and, as a result, I
4 strongly oppose this provision. I think it should be
5 defeated. I think we are just inviting the same trading
6 partners that we have tried for 10 years to induce them
7 to stop doing these things to us. I think we are setting
8 an example here which will come back and haunt us and
9 hurt us in the process.

10 The Chairman. Senator Grassley?

11 Senator Grassley. Mr. Chairman, I suppose it is
12 easy to have a lot of sympathy for what Senator Graham
13 wants to do, but I oppose Senator Graham from Florida,
14 the sponsor of the amendment. You can have some sympathy
15 for the problems that he is presenting to us, because we
16 are all faced with these to some extent. In fact, in my
17 own farm organizations there is division within my State
18 to support or not to support Bob Graham's amendment. I
19 decided not to support it because of the importance of
20 this legislation and moving it so quickly.

21 But also, I think that there is the invitation to a
22 lot of other groups to seek legislative redress on trade
23 issues. For instance, right now an issue by the cattle
24 producers is the number of live cattle coming in from
25 Mexico right now, the number of live cattle coming in

1 from Canada, and the extent to which that has an impact
2 upon the dramatically low cattle prices that we have
3 right now. Obviously it is not just the imports that are
4 the reason for that, there are a lot of other reasons as
5 well, why the cattle producers are losing just
6 tremendously large amounts of money.

7 But I have not heard from the agricultural community
8 that are asking for that relief, at least not through
9 their organizations. I do not know where we stop once we
10 start doing this. That is a major concern of mine, not
11 just because it is on legislation that is very important
12 not to be amended at this point, but also because of kind
13 of letting our guard down, and where does this whole
14 process of seeking legislative redress for a very narrow
15 interest end, because it can be extended to a lot of
16 other agriculture as well.

17 The Chairman. Thank you, Senator Grassley.

18 Senator Graham?

19 Senator Graham. Mr. Chairman, this is not a
20 parochial issue, although it does happen to have a
21 particular impact on my State. What this provision does,
22 is it allows the International Trade Commission, in the
23 case of perishable agricultural products, to consider--it
24 does not require or mandate, but it allows the commission
25 to consider--seasonality of production in order to make

1 certain that it compares the relevant domestic producers
2 in a safeguard action.

3 Let me say, in response to the comments of my friend
4 and colleague from Texas, that the purpose of the
5 safeguard law is to allow domestic industries that suffer
6 serious injury as a result of trade liberalization to
7 seek temporary relief in order to have time to adjust.

8 There is a very high standard set by the ITC in terms
9 of granting an allegation of protection under the
10 safeguards law. This law has been filed for 64 times in
11 the last 20 years, and of those 64 cases that have been
12 filed in 20 years, 13 have resulted in relief.

13 So, we are not talking here about a gaping hole in
14 terms of the principles of free trade, but rather a rule
15 of law that will assure that the expectation of free
16 trade, and particularly the expectation that there be
17 standards against predatory practices, be maintained.

18 My amendment would not change the standard that is
19 used in safeguard actions. Its purpose is to allow the
20 ITC to consider perishable agricultural industries that
21 only produce in a specific period of year to be
22 considered as an industry for purposes of the application
23 of the safeguard standards.

24 Let me give as an example how this safeguard law
25 might work today. Suppose, for instance, that during the

1 summertime when Maine is producing potatoes, that there
2 is an allegation that Canada, under NAFTA, is importing
3 huge quantities into the United States and driving down
4 the price of potatoes secured by U.S. farmers. That
5 might be the basis of a safeguard action by Maine potato
6 growers.

7 But, if during the winter of that same calendar year
8 there had been a freeze or other climactic condition
9 which had caused potatoes in the winter to have a high
10 price, under the current law the ITC would have to look
11 at potato prices on an annualized basis and they would
12 conclude that, because there were high potato prices in
13 the winter, that Maine would be denied any consideration
14 for relief because of its situation in the summer.

15 That does not make any sense, and the practical
16 effect of that is to deny to an industry which has a
17 focused period of production the effective protections of
18 the U.S. law which are available to all other industries.

19 It is for that reason, Mr. Chairman, that Senator
20 Dole supports this legislation. In a letter written
21 April 24th to the Honorable Philip Crane, Chairman of the
22 Subcommittee on Trade on the House Ways and Means
23 Committee, Senator Dole stated--and I would file his
24 letter for the record, but I will quote two paragraphs--
25 "this legislation will allow the International Trade

1 Commission to consider the seasonal nature of perishable
2 agricultural commodities when making determinations of
3 trade relief. This relief already exists in current
4 trade law to assist domestic industries that are harmed
5 by price-based import surges."

6 Parenthetically, what Senator Dole has stated is that
7 we are not giving to this industry any relief that is not
8 available to other industries, we are just conforming the
9 law to the economic realities that exist in the
10 perishable agricultural production industries.

11 Senator Dole goes on to say that this law "will
12 ensure that this relief is made available to our Nation's
13 perishable commodities producers. Without this relief,
14 jobs in the perishable commodities industry will continue
15 to be seriously at risk."

16 Mr. Chairman, I could not agree more with the
17 statement of Senator Dole, and the fact that this risk is
18 immediate. If we do not take some action which gives to
19 producers in the perishable agricultural area assurance
20 that they will not continue to be subjected to these
21 predatory practices without an effective opportunity for
22 relief, that we are going to see a continued erosion in
23 the jobs and in the production in the United States of
24 our agricultural products.

25 So, Mr. Chairman, I urge that this bill, which has

1 been ruled to be consistent with the North American Free
2 Trade Agreement and with our GATT obligations, which has
3 broad bipartisan support, support by the United States
4 Trade Representative on behalf of the administration,
5 support by Senator Dole, an amendment which was adopted
6 when offered by Senator Mack and myself in January by
7 voice vote by the United States Senate, where there is a
8 high degree of time sensitivity, that this amendment be
9 considered for inclusion with the legislation that is
10 currently before us.

11 [The letter appears in the appendix.]

12 The Chairman. Well, I respect very much the concern
13 of the Senator from Florida about this matter, but I must
14 respectfully oppose it. I oppose it because it does
15 represent a change under safeguards, as interpreted by
16 the International Trading Commission.

17 But, more importantly, I am convinced that it is
18 necessary to keep this legislation free from amendments,
19 especially ones that may be controversial, if we are
20 going to be successful, as I know the administration
21 supports, and if we are going to be able to move in time
22 before the June 15th deadline.

23 For these reasons, I oppose Senator Graham's
24 amendment and at this time would call for a roll call
25 vote. The Clerk will call the roll.

1 The Clerk. Mr. Dole.
2 The Chairman. Aye, by proxy.
3 The Clerk. Mr. Chafee.
4 Senator Chafee. No.
5 The Clerk. Mr. Grassley.
6 The Chairman. No, by proxy.
7 The Clerk. Mr. Hatch.
8 The Chairman. Aye, by proxy.
9 The Clerk. Mr. Simpson.
10 The Chairman. No, by proxy.
11 The Clerk. Mr. Pressler.
12 Senator Pressler. No.
13 The Clerk. Mr. D'Amato.
14 The Chairman. Aye, by proxy.
15 The Clerk. Mr. Murkowski.
16 The Chairman. No, by proxy.
17 The Clerk. Mr. Nickles.
18 The Chairman. No, by proxy.
19 The Clerk. Mr. Gramm.
20 Senator Gramm. No.
21 The Clerk. Mr. Moynihan.
22 Senator Moynihan. No.
23 The Clerk. Mr. Baucus.
24 Senator Moynihan. Aye, by proxy.
25 The Clerk. Mr. Bradley.

1 Senator Moynihan. Aye, by proxy.
2 The Clerk. Mr. Pryor.
3 Senator Moynihan. Aye, by proxy.
4 The Clerk. Mr. Rockefeller.
5 Senator Moynihan. Aye, by proxy.
6 The Clerk. Mr. Breaux.
7 Senator Breaux. No.
8 The Clerk. Mr. Conrad.
9 Senator Conrad. Aye.
10 The Clerk. Mr. Graham.
11 Senator Graham. Aye.
12 The Clerk. Ms. Moseley-Braun.
13 Senator Moseley-Braun. No.
14 The Clerk. Mr. Chairman.
15 The Chairman. No.
16 The Clerk. The votes are 10 yeas, and 10 nays.
17 The Chairman. The amendment does not carry.
18 If there are no more amendments ----
19 Senator Conrad. Mr. Chairman.
20 The Chairman. The Senator from North Dakota.
21 Senator Conrad. Mr. Chairman, I would like to offer
22 an amendment to take out the diesel fuel provision to
23 which I previously referred and to provide an offset to
24 that by number 16 on page six of the BBA's scoring table
25 which provides for the repeal of the exemption for

1 withholding on gambling winnings from bingo and Keno
2 where proceeds exceed \$5,000. That had an effective date
3 in the BBA of 1/1/96. We had moved that to 1/1/97. Then
4 also take out, on page seven, number seven, technical
5 correction provision, which is a \$14 million item.

6 Those two would provide an offset, and then we would
7 be consistent here so we are not, on the one hand,
8 eliminating a 4.3 cent gasoline tax and turning right
9 around in this committee and increasing, in effect, the
10 diesel fuel tax for people who drive automobiles, vans,
11 and light trucks. I know the Chairman would like to move
12 this along. I would just like to have a vote on that
13 proposition.

14 The Chairman. If I might offer a substitute for
15 what you are proposing, which I think accomplishes your
16 basic purpose. That would be to drop the diesel tax, as
17 you propose, and to move the date of the GSP back
18 whatever days that requires. But that takes care of the
19 problem that you are concerned with.

20 Senator Conrad. I would certainly accept that, Mr.
21 Chairman.

22 The Chairman. Those in favor, signify by saying
23 aye.

24 [A chorus of ayes.]

25 The Chairman. Opposed?

1 [No response.]

2 The Chairman. The ayes have it.

3 I should announce that the other vote was 11 to 9
4 rather than 10 to 10, with 11 against.

5 Senator Moynihan. Mr. Chairman, I move the adoption
6 of the ----

7 Senator Pressler. Mr. Chairman, I have this
8 amendment on the Harmonized Tariff Schedule with regard
9 to fireworks. It is noncontroversial. It does not
10 affect the bill in any way. I know the Chair will have
11 to oppose it, but I would like to offer it.

12 The Chairman. I would urge the distinguished
13 Senator, if he would withhold and work on the legislation
14 that will come before us, we will work with him.

15 Senator Pressler. Can we get it done on time to be
16 effective for this year though?

17 The Chairman. Well, we will make every effort.

18 Senator Moynihan. I certainly hope we do, Mr.
19 Chairman.

20 Senator Pressler. If we adopted this here, it is
21 totally noncontroversial. I do not think there is any
22 opposition.

23 The Chairman. I just have got other people who have
24 withdrawn amendments that were noncontroversial. That is
25 the reason I proposed this alternate approach, to try to

1 take care of the legitimate concerns of the individual.

2 I would appreciate greatly if the Senator would ----

3 Senator Pressler. Well, I will respect the
4 Chairman's desires, but I hope we can deal with this very
5 quickly.

6 Senator Moynihan. I would like to second that, if I
7 may. Mr. Chairman, the situation and the hour having
8 arrived, I would move that we adopt the measure as voted
9 on and reported out.

10 Senator Chafee. Mr. Chairman, I wonder if I can
11 just say one quick word. Like Senator Pressler, I have
12 an amendment which I have held back dealing with so-
13 called tetroaminobiphenyl, also known as TAB, and I will
14 not present that but look forward to having the
15 opportunity later.

16 Second, I want to join in the farewell to Mr.
17 Samuels. He is one of a series of outstanding Assistant
18 Secretaries of the Treasury that have occupied this
19 particular position. You are part of a long line of
20 very, very distinguished individuals, and you have added
21 luster to the position. So, we want to wish you well in
22 whatever you undertake, Les.

23 Secretary Samuels. Thank you, Senator Chafee.

24 The Chairman. Those in favor of the minority ----

25 Senator Moynihan. No. I would like to have a vote

1 on those in favor of what Senator Chafee has just said
2 about Secretary Samuels.

3 [A chorus of ayes.]

4 The Chairman. Those in favor of the motion made by
5 Senator Moynihan, please signify by saying aye.

6 [A chorus of ayes.]

7 The Chairman. Opposed, nay.

8 [No response.]

9 The Chairman. The ayes have it, and the legislation
10 is reported out. Thank you very much, ladies and
11 gentlemen.

12 Senator Rockefeller. Mr. Chairman, could I just ask
13 a question? This is not for the committee. We had a
14 discussion coming over that we were going to keep this
15 clean and then there would be another chance, because I
16 have another amendment which affects six members on this
17 committee.

18 The Chairman. There will be another chance.

19 [Whereupon, at 12:06 p.m., the meeting was
20 concluded.]

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United States Senate

OFFICE OF THE REPUBLICAN LEADER

WASHINGTON, DC 20510-7010

April 24, 1996

Honorable Philip M. Crane
Chairman
Committee on Ways and Means
Subcommittee on Trade
1104 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

I would like to express my support for H.R. 2795, which is virtually identical to S. 1463 passed by the Senate earlier this year. I understand a hearing will be held on H.R. 2795 in the near future.

H.R. 2795 will allow the International Trade Commission to consider the seasonal nature of perishable agricultural commodities when making determinations of trade relief. This relief already exists in current trade law to assist domestic industries that are harmed by price-based import surges.

H.R. 2795 will ensure that this relief is made available to our nation's perishable commodities producers. Without this relief, jobs in the perishable commodities industry will continue to be seriously at risk.

I appreciate your consideration and support for this important legislation.

Sincerely,

BOB DOLE

**UNITED STATES SENATE
COMMITTEE ON FINANCE**

OPEN EXECUTIVE SESSION

Wednesday, May 8, 1996; 10:00 a.m.
215 Dirksen Senate Office Building

AGENDA

1. H.R.2853 relating to most favored nation status for Bulgaria.
2. H.R.1642 relating to most favored nation status for Cambodia.
3. H.R.3074 relating to tariff treatment of products imported from the West Bank and Gaza Strip, with a Committee amendment relating to the OECD shipbuilding agreement, extension of the Generalized System of Preferences (GSP) program, and revenue offsets.

Pursuant to Committee Rule 2(a), the official notification and this agenda are being delivered at least 48 hours in advance. The Chairman will rule out of order nongermane items (offered as a single amendment or as part of a larger amendment).

**DESCRIPTION OF REVENUE PROVISIONS
TO BE CONSIDERED
IN CONNECTION WITH A MARKUP OF
TRADE MATTERS**

Scheduled for Markup

by the

SENATE COMMITTEE ON FINANCE

on

May 8, 1996

Prepared by the Staff

of the

JOINT COMMITTEE ON TAXATION

May 1, 1996

JCX-15-96

INTRODUCTION

This document¹, prepared by the staff of the Joint Committee on Taxation, contains a description of revenue proposals to be considered by the Senate Committee on Finance in connection with a markup of trade matters, scheduled for May 8, 1996.

This document contains descriptions of the following revenue proposals: (1) provisions relating to the tax treatment of foreign trusts; (2) a provision to repeal the advance refunds of the diesel fuel tax for diesel cars and light trucks; and (3) imposition of a reporting requirement for shippers claiming exemption.

¹ This document may be cited as follows: Joint Committee on Taxation *Description of Revenue Provisions to be Considered in Connection With a Markup of Trade Matters* (JCX-15-96), May 1, 1996.

business. Thus, if a trust is taxed in a manner similar to a nonresident alien individual, it is considered to be a foreign trust. Any other trust is treated as domestic.

Section 1491 generally imposes a 35-percent excise tax on a U.S. person that transfers appreciated property to certain foreign entities, including a foreign trust. In the case of a domestic trust that changes its situs and becomes a foreign trust, it is unclear whether property has been transferred from a U.S. person to a foreign entity and, thus, whether the transfer is subject to the excise tax.

Information reporting and penalties related to foreign trusts

Any U.S. person that creates a foreign trust or transfers money or property to a foreign trust is required to report that event to the Treasury Department without regard to whether the trust is a grantor or a nongrantor trust. Similarly, any U.S. person that transfers property to a foreign trust that has one or more U.S. beneficiaries is required to report annually to the Treasury Department. In addition, if the transfer of any appreciated property by a U.S. person is subject to section 1491, the transferor is required to report the transfer to the Treasury Department.

Any person that fails to file a required report with respect to the creation of, or a transfer to, a foreign trust may be subjected to a penalty of 5 percent of the amount transferred to the foreign trust. Similarly, any person that fails to file a required annual report with respect to a foreign trust with U.S. beneficiaries may be subjected to a penalty of 5 percent of the value of the corpus of the trust at the close of the taxable year. The maximum amount of the penalty imposed under either case may not exceed \$1,000. A reasonable cause exception is available.

Reporting of foreign gifts

There is no requirement to report gifts or bequests from foreign sources.

Description of Proposal

Overview

The proposal would modify certain aspects of the tax treatment of foreign trusts with U.S. beneficiaries as follows:

- a. The grantor trust rules generally would apply only to the extent that they result, directly or indirectly, in income or other amounts (if any) being currently taken into account in computing the income of a U.S. person. Certain exceptions would apply.
- b. Beginning on January 1, 1996, the interest rate applicable to accumulation distributions from foreign nongrantor trusts would be the rate imposed on underpayment of tax under section 6621(a)(2), with compounding. The accumulation distribution generally would be allocated proportionately to prior trust years in which the trust had undistributed net income.

distributable from that portion during the lifetime of the grantor are to the grantor or the grantor's spouse. The general rule denying grantor trust status would not apply to trusts established to pay compensation, and certain trusts in existence as of September 19, 1995.² In addition, the grantor trust rules generally would apply where the grantor is a controlled foreign corporation. The grantor trust rules would apply in determining whether a foreign corporation is characterized as a passive foreign investment company ("PFIC"). Thus, a foreign corporation could not avoid PFIC status by transferring its assets to a grantor trust.

If a U.S. beneficiary, or a person related to such a beneficiary,³ of an inbound grantor trust transfers property to the foreign grantor, such beneficiary generally would be treated as a grantor of a portion of the trust to the extent of the transfer. This rule would apply without regard to whether the foreign grantor would otherwise be treated as the owner of any portion of such trust. However, this rule would not apply if the transfer is a sale of the property for full and adequate consideration.

In a case where a foreign grantor, that would be treated as the owner of a trust but for the above rule, actually pays tax on the income of the trust to a foreign country, it is anticipated that Treasury regulations would provide that, for foreign tax credit purposes, U.S. beneficiaries that are subject to U.S. income tax on the same income would be treated as having paid the foreign taxes that were paid by the foreign grantor. Any resulting foreign tax credits would be subject to applicable foreign tax credit limitations.

The proposal would provide a transition rule for any domestic trust that has a foreign person that is treated as the owner of the trust under present law. If such a trust becomes a foreign trust before January 1, 1997, or if the assets of such a trust are transferred to a foreign trust before that date, such trust would be exempt from the excise tax on transfers to a foreign trust otherwise imposed by section 1491. However, the proposal's new reporting requirements and penalties would be applicable.

Distributions by foreign trusts through nominees

The proposal generally would treat any amount paid to a U.S. person, where the amount was derived (directly or indirectly) from a foreign trust, as if paid by the foreign trust directly to the U.S. person. This rule would disregard the role of an intermediary or nominee that may be interposed between a foreign trust and a U.S. beneficiary. Unlike present law, however, the rule would apply whether or not the trust was created by a U.S. person. The rule would not apply to a

² The exception would not apply to the portion of any such trust attributable to any transfers made after September 19, 1995.

³ For this purpose, a person generally would be treated as related to the beneficiary if the person is a brother, sister, spouse, ancestor or lineal descendant of the beneficiary.

Effective date

The proposal to modify the interest charge on accumulation distributions would apply to distributions after the date of enactment. The proposal with respect to loans to U.S. grantors or U.S. beneficiaries would apply to loans made after September 19, 1995.

c. Outbound foreign grantor trusts with U.S. grantors

The proposal would make several modifications to the rules of section 679 under which foreign trusts with U.S. grantors and U.S. beneficiaries are treated as grantor trusts.

Sale or exchange at market value

Present law contains an exception from grantor trust treatment for property transferred by a U.S. person to a foreign trust in the form of a sale or exchange at fair market value where gain is recognized to the transferor. In determining whether the trust paid fair market value to the transferor, the proposal generally would not, except as provided by regulations, take into account obligations issued by the trust, by any grantor or beneficiary of the trust, or by any person related to a grantor or beneficiary. In addition, to the extent provided by regulations, similar treatment would apply to obligations guaranteed by any such persons.

Other transfers

Under the proposal, a transfer of property to certain charitable trusts would be exempt from the application of the rules treating foreign trusts with U.S. grantors and U.S. beneficiaries as grantor trusts.

Transferors or beneficiaries who become U.S. persons

The proposal would apply the rules of section 679 to certain foreign persons who transfer property to a foreign trust and subsequently become U.S. persons. A nonresident alien individual who transfers property, directly or indirectly, to a foreign trust and then becomes a resident of the United States within 5 years after the transfer generally would be treated as making a transfer to the foreign trust at the time the individual becomes a U.S. resident. The amount of the deemed transfer would be the portion of the trust (including undistributed earnings) attributable to the property previously transferred. Consequently, the individual generally would be treated under the rules of section 679 as the owner of that portion of the trust in any taxable year in which the trust has U.S. beneficiaries. The proposal's new reporting requirements and penalties (discussed below) also would be applicable.

Under the proposal, a beneficiary would not be treated as a U.S. person for purposes of determining whether the transferor of property to a foreign trust would be taxed as a grantor with respect to any portion of a foreign trust if such beneficiary first became a U.S. resident more than 5 years after the transfer.

trust. It is expected that this test would be satisfied in any case where fiduciaries that are U.S. persons hold a majority of the fiduciary power (whether by vote or otherwise), and where no foreign fiduciary, such as a "trust protector" or other trust advisor, has the power to veto important decisions of the U.S. fiduciaries. It is further expected that, in applying this test, a reasonable period of time would be allowed for a trust to replace a U.S. fiduciary that resigns or dies before the trust would be treated as foreign.

Under the proposal, a foreign trust would be defined as a trust other than a trust that is determined to be domestic under both the court-supervision test and the U.S. fiduciary test.

Outbound migration of domestic trusts

Under the proposal, if a domestic trust changes its situs and becomes a foreign trust, the trust would be treated as having made a transfer of its assets to the foreign trust and would be subject to the 35-percent excise tax imposed by present-law section 1491 unless one of the exceptions to this excise tax is applicable. The U.S. grantor also would be required to report the transfer under the reporting requirements described below. Failure to report such a transfer would result in penalties (discussed below).

Effective date

The proposal to modify the treatment of a trust as a U.S. person would apply to taxable years beginning after December 31, 1996. In addition, if the trustee of a trust so elects, the proposal would apply to taxable years ending after the date of enactment. The proposed amendment to section 1491 would be effective on the date of enactment.

f. Information reporting and penalties relating to foreign trusts

The proposal would expand the reporting requirements with respect to foreign trusts if there is a U.S. grantor of the foreign trust or a distribution from the foreign trust to a U.S. person. The proposal would require the responsible parties to file the designated information reports with the Treasury Department upon the occurrence of certain events. A failure to comply with the reporting requirements would result in increased monetary penalties under the proposal.

Information reporting requirements

First, the proposal would require the grantor, transferor or executor (i.e., the "responsible party") to notify the Treasury Department upon the occurrence of certain reportable events. The reportable events include direct and indirect transfers of property to a foreign trust, other than a nonexempt employees' trust described in section 402(b), and the death of a U.S. citizen or resident if any portion of a foreign trust was included in the gross estate of the decedent. The required notice would identify the money or other property transferred and report information regarding the trustee and beneficiaries of the foreign trust.

Department notifies the responsible party of such failure. The same penalties would be applicable to a failure to report (as required by present law) certain transfers to other foreign entities. Such penalties would be subject to a reasonable cause exception. In no event would the total amount of penalties exceed the gross reportable amount.

Effective date

The reporting requirements and applicable penalties generally would apply to reportable events occurring or distributions received after the date of enactment. The annual reporting requirement and penalties applicable to U.S. grantors would apply to taxable years of such persons beginning after December 31, 1995.

g. Reporting of foreign gifts

The proposal generally would require any U.S. person (other than certain tax-exempt organizations) that receives purported gifts or bequests from foreign sources totaling more than \$10,000 during the taxable year to report them to the Treasury Department. The threshold for this reporting requirement would be indexed for inflation. The definition of a gift to a U.S. person for this purpose would exclude amounts that are qualified tuition or medical payments made on behalf of the U.S. person, as defined for gift tax purposes (sec. 2503(e)(2)), and amounts that are distributions to a U.S. beneficiary of a foreign trust if such amounts are properly disclosed under the reporting requirements of the proposal. If the U.S. person fails, without reasonable cause, to report foreign gifts as required, the Treasury Secretary would be authorized to determine the tax treatment of the unreported gifts. It is intended that the Treasury Secretary's exercise of its authority to make such a determination will be subject to judicial review under an arbitrary or capricious standard, which provides a high degree of deference to such determination. In addition, the U.S. person would be subject to a penalty equal to 5 percent of the amount of the gift for each month that the failure continues, with the total penalty not to exceed 25 percent of such amount.

Effective date

The proposal would apply to amounts received after the date of enactment.

2. Repeal advance refunds of diesel fuel tax for diesel automobiles, vans, and light trucks

Present Law

Excise taxes are imposed on gasoline (14 cents per gallon) and diesel fuel (20 cents per gallon) to fund the Federal Highway Trust Fund. Before 1985, the gasoline and diesel fuel tax rates were the same. The predominate highway use of diesel fuel is by trucks. In 1984, the diesel fuel excise tax rate was increased above the gasoline tax rate as the revenue offset for a reduction in the annual heavy truck excise tax. Because automobiles, vans, and light trucks did not benefit from the use tax reduction, a provision was enacted allowing first purchasers of

country in which the corporation is organized grants an equivalent exemption to corporations organized in the United States (sec. 883(a)(1)).

Pursuant to guidance published by the Internal Revenue Service, a nonresident alien individual or foreign corporation that is entitled to an exemption from U.S. tax for its income from the international operation of a ship must file a U.S. income tax return and must attach to such return a statement claiming the exemption (Rev. Proc. 91-12, 1991-1 C.B. 473). If the foreign person is claiming an exemption based on an applicable income tax treaty, the foreign person must disclose that fact as required by the Secretary of the Treasury (sec. 6114). The penalty for failure to make disclosure of a treaty-based position as required under section 6114 is \$1,000 for an individual and \$10,000 for a corporation (sec. 6712).

At the time the 4-percent tax on U.S.-source gross transportation income was enacted, concern was expressed about whether compliance with the tax, which is collected by return, would be adequate. It was intended that the tax-writing committees of Congress and the Secretary of the Treasury would study the issue of compliance and that the Secretary would make recommendations if compliance did not prove adequate. Joint Committee on Taxation, General Explanation of the Tax Reform Act of 1986 (JCS-10-87), May 4, 1987, at 930.

Description of Proposal

Under the proposal, a nonresident alien individual or foreign corporation that claims exemption from U.S. tax for income from the international operation of ships but does not satisfy the filing requirements for claiming such exemption would be subject to the penalty of the denial of such exemption and any deductions or credits otherwise allowable in determining the U.S. tax liability with respect to such income. In addition, under the proposal, if a nonresident alien individual or foreign corporation that has a fixed place of business in the United States fails to satisfy the filing requirements for claiming an exemption from U.S. tax for its income from the international operation of ships, such person would be subject to the additional penalty that any foreign source income from the international operation of ships that is attributable to such fixed place of business would be treated as effectively connected with the conduct of a U.S. trade or business. Income so treated as effectively connected with a U.S. business would be subject to U.S. tax at graduated rates (and would be subject to the disallowance of deductions and credits described above). The Secretary of the Treasury could waive all or part of these penalties upon a showing by the foreign person that there was reasonable cause for the failure and the person acted in good faith. The proposal would not apply to the extent the application would be contrary to any treaty obligation of the United States.

The proposal also provides that the U.S. Customs Service would provide to the Secretary of the Treasury the information specified by the Secretary to enable the Secretary to identify foreign-flag ships engaged in shipping to or from the United States.

ESTIMATED BUDGET EFFECTS OF TAX AND TRADE PROVISIONS TO BE CONSIDERED AT A MARKUP OF THE
 SENATE FINANCE COMMITTEE ON MAY 9, 1996

Fiscal Years 1996 - 2005

(Millions of Dollars)

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	1996-00	1996-05
1. The Shipbuilding Trade Agreement [1].....	[2]	-2	-10	-12	-7	-4	-9	-6	-7	-11	-7	-35	-75
2. Extend GSP through 6/30/97 [1] [3].....	...	...	-778	...	...	...	...	...	...	...	...	-778	-778
3. Modify treatment of foreign trusts.....	[4]	52	143	171	180	188	197	206	214	223	245	734	1,819
4. Repeal advance refunds of diesel fuel tax for diesel cars and light trucks.....	DOE	2	17	19	19	19	19	19	19	19	19	19	170
5. Reporting requirement for shippers claiming exemption.....	[5]	...	2	4	8	10	11	10	9	8	8	24	70
6. Force-of-attraction rule.....	[5]	...	1	2	4	5	4	4	4	4	3	12	31
NET TOTALS.....		52	-625	184	204	218	222	233	239	243	269	32	1,237

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding.

Legend for "Effective" column: DOE = date of enactment

- [1] Estimate provided by the Congressional Budget Office.
- [2] Assumed to be effective 7/15/96.
- [3] Amounts are payable after 9/30/96.
- [4] Various effective dates depending on provisions.
- [5] Effective beginning after the later of the date H.R. 2754 takes effect or 12/31/96.

LEGISLATION TO EXTEND PERMANENT MOST-FAVORED-NATION
(MFN) TARIFF TREATMENT TO IMPORTS FROM BULGARIA

(Prepared by the Staff of the Senate Finance Committee)

Wednesday, May 8, 1996

This document provides background information relevant to the Committee's consideration of legislation (H.R. 2853) to extend permanent MFN tariff treatment to imports from Bulgaria.

Background. --Bulgaria's MFN status is currently governed by Title IV of the Trade Act of 1974, as amended by the Customs and Trade Act of 1990 ("Title IV"). Section 402 of Title IV (also known as the Jackson-Vanik amendment) sets forth requirements relating to freedom of emigration, which must be met or waived by the President in order for the President to grant non-discriminatory, MFN status to nonmarket-economy countries. Title IV also requires that a trade agreement remain in force between the United States and a nonmarket-economy country receiving MFN status and sets forth minimum provisions which must be included in such agreement.

The United States and Bulgaria signed a trade agreement on April 22, 1991, which, among other things, provides for the protection of intellectual property and the promotion and facilitation of trade between the two countries. In October 1991, Congress passed legislation approving MFN for Bulgaria, which the President proclaimed on November 22, 1991. Since then, the President has renewed Bulgaria's MFN status annually according to the requirements of Title IV. Since June 1993, the President has found Bulgaria to be in full compliance with the freedom of emigration requirements of Jackson-Vanik. Bulgaria has also instituted a constitutional republic, ruled by a democratically-elected government, as well as basic market-oriented reforms, including privatization of state-owned enterprises.

On July 10, 1995, the House passed legislation (H.R. 1643), which would authorize the President: (1) to determine that the requirements of Title IV should no longer apply to Bulgaria, and (2) proclaim the permanent extension of unconditional MFN treatment to the products of Bulgaria. H.R. 1643 was referred to the Committee on Finance on July 12, 1995.

On July 27, 1995, legislation identical to H.R. 1643 was introduced in the Senate by Senators Simpson and Baucus, and the bill (S. 1081) was referred to the Committee on Finance. On August 1, 1995, the International Trade Subcommittee of the Committee on Finance held a hearing on the Bulgaria MFN legislation, during which it received testimony in favor of granting Bulgaria unconditional MFN status and no testimony in opposition.

On January 2, 1996, the Committee on Finance was discharged from consideration of H.R. 1643, which passed the Senate with an amendment in the nature of a substitute to make appropriations for certain activities for fiscal year 1996. H.R. 1643, as amended, did not contain the original Bulgaria MFN legislative language. This amended form of the bill was signed into law by the President on January 6, 1996.

On March 5, 1996, the House again passed identical legislation to H.R. 1643, to authorize the extension of permanent and unconditional MFN status to Bulgaria. This second bill (H.R. 2853) was referred to the Committee on Finance on March 6, 1996.

Explanation of H.R. 2853.--H.R. 2853 sets forth four Congressional findings that support removing Bulgaria from the requirements of Title IV and extending to Bulgaria permanent unconditional nondiscriminatory MFN status:

1. Bulgaria has received MFN treatment under the requirements of Title IV since 1991 and has been in compliance with the freedom of emigration requirements of Title IV since 1993.
2. Bulgaria has instituted a constitutional republic with a democratically-elected government and has undertaken basic market-oriented reforms, including privatization of state-owned enterprises.
3. Bulgaria is in the process of acceding to the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO), and the extension of unconditional MFN treatment would allow the United States to avail itself of all rights under the GATT and WTO with respect to Bulgaria.
4. Bulgaria has demonstrated a strong desire to build friendly relationships and to cooperate fully with the United States on trade matters.

H.R. 2853 also notes the intention of the U.S. Trade Representative to negotiate with Bulgaria to preserve commitments made by that country in the U.S.-Bulgaria bilateral commercial agreement, that are consistent with the GATT and the WTO.

Finally, H.R. 2853 provides for the grant of authority to the President to determine that Title IV should no longer apply to Bulgaria. After making such a determination, the President would have the authority to proclaim the permanent extension of unconditional MFN treatment to the products of Bulgaria.

Budgetary impact.--The Congressional Budget Office estimates that H.R. 2853 will have no budgetary impact.

**UNITED STATES SENATE
COMMITTEE ON FINANCE**

OPEN EXECUTIVE SESSION

**Wednesday, May 8, 1996; 10:00 a.m.
215 Dirksen Senate Office Building**

LIST OF AMENDMENTS FILED MAY 6, 1996

1. **Breaux -- Duty exemption on LASH barges [Withdrawn]**
2. **Breaux -- Marking requirements for tea, coffee, and spices [Withdrawn]**
3. **Chafee -- Duty exemption on Tetraamino Biphenyl (TAB)**
4. **D'Amato -- Sense of the Senate resolution on Japan trade issues [Withdrawn]**
5. **Dole -- World Trade Organization (WTO) Commission**
6. **Graham -- Definition of the domestic industry in safeguards cases (tomatoes)**
7. **Grassley -- Romania most-favored-nation (MFN) status [Withdrawn]**
8. **Pressler -- Classification of fireworks**
9. **Pressler -- Congressional consideration of export embargoes on agricultural products (Banking Committee jurisdiction) [Withdrawn]**
10. **Pryor -- Sense of Committee on FDA provision regarding generic drugs (Labor Committee jurisdiction)**

1 Schedule of the United States (19 U.S.C. 1202 and
2 3001 et seq.); and

3 (2) any other material that is used in the pro-
4 duction of an agricultural commodity.

5 (b) REPORT.—If the President imposes an embargo
6 on the export of an agricultural commodity to a country
7 that is not part of an embargo on all exports to the coun-
8 try, not later than 5 days after imposing the embargo,
9 the President shall submit a report to Congress that de-
10 scribes the reasons for the embargo and specifies the pro-
11 posed period during which the embargo will be effective.

12 (c) APPROVAL OF EMBARGO.—If Congress enacts a
13 law approving the embargo during the 60-day period be-
14 ginning on the date of receipt of the report, the embargo
15 shall terminate on the earlier of—

16 (1) a date determined by the President; or

17 (2) the date that is 1 year after the date of en-
18 actment of the law approving the embargo.

19 (d) DISAPPROVAL OF EMBARGO.—If Congress enacts
20 a law disapproving the embargo during the 60-day period
21 referred to in subsection (c), the embargo shall terminate
22 on the expiration of the 60-day period.

Pryor

AMENDMENT intended to be proposed by Mr. PRYOR:

To express the Sense of the Committee on correcting the inadvertent error relating to the extension of patents in the Uruguay Round Agreements Act.

Whereas it is in the interest of the Senate Finance Committee to ensure that the implementation of reciprocal trade agreements, including and especially the Uruguay Round, are carried out in a manner consistent with the intent of Congress and of U.S. negotiators;

Whereas ensuring the integrity of the Uruguay Round and of the Uruguay Round Agreements Act is and continues to be of great importance to the Committee;

Whereas the U.S. officials who concluded the Uruguay Round negotiations unanimously agree that Section 532(a) of the Uruguay Round Agreements Act was "written neutrally because it was intended to apply to all types of patentable subject matter, including pharmaceuticals," but that a technical drafting error was made and a conforming amendment was inadvertently overlooked;

Whereas the unintended omission of such conforming amendment has prevented qualifying ~~generic drug manufacturers from going to market~~, thereby costing consumers (including and especially the elderly) and Federal and state governments millions of dollars, and providing an unintended windfall to a handful of pharmaceutical companies that Congress, US trade officials, and the companies themselves neither intended nor expected; and

Whereas the time left within which a conforming amendment may be enacted to effectively correct this windfall is rapidly diminishing;

Therefore, Be it resolved that it is the Sense of the Committee that the conforming amendment that accords with the intent of the U.S. negotiators be adopted by the Senate at the earliest possible time so as to rectify the inadvertent error, thereby ensuring the application of Section 532(a) of the Uruguay Round Agreements Act to the pharmaceutical industry, and benefitting consumers.

Bureau

LASH Barge —

Bureau

**PROPOSED AMENDMENT TO
CUSTOMS AND TRADE ACT OF 1990**

"SEC. ____ . Certain Unliquidated Vessel Repair Entries.

"(a) Temporary Exemption Extended — Section 484E(b)(2)(B) of the Customs and Trade Act of 1990 (19 U.S.C. 1466 note), as amended, is further amended by striking the word "and" at the end of paragraph (2)(B), by renumbering paragraph (3) as paragraph (4) thereof, and by inserting a new paragraph (3) to read as follows:

"(3) any entry made during the period from January 1, 1993 through December 31, 1994 which qualifies for the exemption prescribed by Section 466(h)(1) of the Tariff Act of 1930, as amended (19 U.S.C. 1466(h)(1)), and which was not liquidated on January 1, 1995, and"

MEMORANDUM IN SUPPORT OF
PROPOSED LASH BARGE AMENDMENT
TO CUSTOMS AND TRADE ACT OF 1990

I. INTRODUCTION — On August 20, 1990, Congress enacted the so-called LASH barge amendment, 19 U.S.C. 1466(h)(1), to exempt the cost of foreign repairs and equipment purchases for U.S.-flag LASH barges from imposition of oppressive, discriminatory 50 percent ad valorem vessel repair duty. The exemption was essential to eliminate a competitive inequity between competing U.S.-flag containership and LASH operators, and between U.S.-flag LASH operators and various forms of foreign-flag ocean transportation.

Because the U.S. Trade Representative (U.S.T.R.) was then negotiating the O.E.C.D. Shipbuilding Subsidy Agreement with foreign nations and was proposing to repeal the Vessel Repair statute in toto, the 1990 LASH barge amendment was temporarily restricted to two years. It was thus scheduled to expire on December 31, 1992.

When the U.S.T.R. failed to conclude the O.E.C.D. negotiations by December 31, 1992, Congress sought to extend the LASH barge exemption. However, legislative gridlock prevented enactment of the legislation to which that amendment was appended. The U.S. Customs Service, at the request of the Chairman of the Senate Merchant Marine Subcommittee, nevertheless suspended liquidation of LASH barge entries and collection of LASH barge vessel repair duty until Congress was able to act on the proposed extension, or to make the 1990 exemption permanent.

Thereafter, in December 1994, Congress enacted the GATT Uruguay Round legislation which made the 1990 LASH barge exemption permanent, effective January 1, 1995.

Because the last-mentioned permanent exemption did not specifically apply to the suspended 1993-1994 LASH barge entries, Congress endeavored to resolve that remaining problem in the 1995 Reconciliation bill (See Seven-Year Balanced Budget Reconciliation Act, H.R. 2491, § 12013), but that legislation did not become law.

Since the LASH barge exemption is now permanent and Congress is considering O.E.C.D. Shipbuilding Agreement Implementation legislation which would largely repeal the Vessel Repair statute, members of the House Ways and Means Committee and the Senate Finance Committee have drafted a tariff amendment, copy of which is attached hereto, which would extend the lapsed 1992 exemption to the suspended, unliquidated 1993-1994 LASH barge entries, but with only a de minimis revenue impact on the government.

II. The Proposed Amendment — The aforesaid proposal would amend Section 484E(b) of the Customs and Trade Act of 1990, as previously amended (See 19 U.S.C. 1466 note). Following the format of that section, it would simply extend the 1990 LASH barge exemption contained in 19 U.S.C. 1466(h)(1) to LASH barge entries made during the period from January 1, 1993 through December 31, 1994 which were not liquidated when the permanent exemption became effective on January 1, 1995.^{1/}

While this amendment would finally resolve the malingering LASH barge exemption issue, the revenue impact on the government would be de minimis when measured by the Congressional Budget Office's de minimis rule, to wit, \$500,000 or less per year.

In this regard, the U.S. Customs Service is apparently reviewing the unliquidated 1993-1994 entries to determine precisely what the proposed amendment's revenue impact will be, and Customs should be in a position to furnish that information to CBO and the interested Congressional committees later this week.

Since the amendment applies only to "unliquidated" entries, its enactment will not result in any refunds of duty previously paid.

^{1/} The 1993-1994 LASH barge entries covered by the proposed amendment remain unliquidated today. The January 1, 1995 date was selected to harmonize the proposed amendment with the other provisions of Sec. 484E.

Breaux

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104TH CONGRESS
1ST SESSION

S. 1502

To amend the Tariff Act of 1930 to provide that the requirements relating to marking imported articles and containers not apply to spice products, coffee, or tea.

IN THE SENATE OF THE UNITED STATES

DECEMBER 22, 1995

Mrs. HUTCHISON (for herself and Mr. BREAUX) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Tariff Act of 1930 to provide that the requirements relating to marking imported articles and containers not apply to spice products, coffee, or tea.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. MARKING OF SPICES, COFFEE, AND TEA.**

4 (a) IN GENERAL.—Section 304 of the Tariff Act of
5 1930 (19 U.S.C. 1304) is amended—

6 (1) by redesignating subsections (f), (g), (h),
7 and (i) as subsections (h), (i), (j), and (k), respec-
8 tively; and

1 (2) by inserting after subsection (e) the follow-
2 ing new subsections:

3 “(f) MARKING OF CERTAIN COFFEE AND TEA PROD-
4 UCTS.—The marking requirements of subsections (a) and
5 (b) shall not apply to articles described in or classified
6 under subheading 0901.21, 0901.22, 0902.10, 0902.20,
7 0902.30, 0902.40, 2101.10, or 2101.20 of the Har-
8 monized Tariff Schedule of the United States, as in effect
9 on January 1, 1995.

10 “(g) MARKING OF SPICES.—The marking require-
11 ments of subsections (a) and (b) shall not apply to articles
12 provided for under subheadings 0904.11, 0904.12,
13 0904.20, 0905.00, 0906.10, 0906.20, 0907.00, 0908.10,
14 0908.20, 0908.30, 0909.10, 0909.20, 0909.30, 0909.40,
15 0909.50, 0910.10, 0910.20, 0910.30, 0910.40, 0910.50,
16 0910.91, 0910.99, 1106.20, 1207.40, 1207.50, 1207.91,
17 1404.90, and 3302.10, and items classifiable in categories
18 0712.90.60, 0712.90.8080, 1209.91.2000, 1211.90.2000,
19 1211.90.8040, 1211.90.8050, 1211.90.8090,
20 2006.00.3000, 2918.13.2000, 3203.00.8000,
21 3301.90.1010, 3301.90.1020, and 3301.90.1050 of the
22 Harmonized Tariff Schedule of the United States, as in
23 effect on January 1, 1995.”

24 (b) EFFECTIVE DATE.—The amendments made by
25 this section apply to goods entered, or withdrawn from

- 1 warehouse for consumption, on or after the date of the
- 2 enactment of this Act.

○

B. W. W. F.

1954 Nov 10

1000X

US law (19 USC 1304) requires that imported products be labeled as to their country of origin. As part of a rule-making exercise necessitated by the North American Free Trade Agreement, the Customs Service has published a comprehensive set of proposed regulations amending the current regulations which implement section 1304.

The proposed regulations would require country of origin labeling of retail containers of soluble coffee manufactured in the United States from bulk powders imported from a variety of foreign sources and transformed through blending, agglomeration and the addition of flavors and essences. The proposal would impose a costly burden on the US producers of instant coffee and be of virtually no benefit to retail consumers.

The sources of bulk powders blended and transformed to produce a retail product vary regularly. They depend on price, availability and taste profile requirements. Obviously, it would be a difficult and costly process to change labels to reflect constantly changing sources of ingredients. Labeling retail packages to indicate every conceivable source of imported powder would provide no useful information to purchasers. It is well understood by virtually all US retail consumers that soluble coffee is produced from coffee beans produced outside the United States. Only the US manufacturers who purchase the bulk powder are interested in their origin.

The National Coffee Association has consulted with the Department of Treasury and the Customs Service concerning this matter. While products which are substantially transformed in the United States normally are exempt from rule of origin marking requirements, these authorities are reluctant, for policy reasons, to exercise their discretionary authority to exempt US manufactured instant coffee from these requirements. For a variety reasons, they have expressed a strong preference that the NCA seek legislative exemption for soluble coffee from the requirements of section 1304 and have offered to work with the association in this effort.

In view of the importance of this issue to its members, the NCA has determined to seek such an exemption.

AMENDMENT intended to be proposed by Mr. CHAFEE:
PURPOSE: To remedy the inadvertent deletion of
Tetraamino Biphenyl (a chemical used in the
production of a flame resistant fiber, PBI), or
TAB, from the final Schedule XX offer of the
Uruguay Round.

At the appropriate place in the bill, insert the following:

SECTION ____ . ELIMINATION OF DUTIES ON 3,3'-DIAMINO BENZIDINE
(TETRAAMINO BIPHENYL).

(a) ELIMINATION OF DUTIES.-The President-

(1) shall proclaim duty-free entry for 3,3'-diaminobenzidine
(Tetraamino Biphenyl), to be effective with respect to the entry
of goods on or after January 1, 1995, and

(2) shall take such actions as are necessary to reflect such
tariff treatment in Schedule XX, as defined in section 2(5) of the
Uruguay Round Agreements Act (19 U.S.C. 3501(5)).

(b) LIQUIDATION OR RELIQUIDATION AND REFUND OF DUTY PAID ON
ENTRIES.-

(1) LIQUIDATION OR RELIQUIDATION.-Notwithstanding section 514
of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision
of law, and subject to paragraph (2), the Secretary of the
Treasury shall liquidate or reliquidate any entry of goods
described in subsection (a) that was made on or after January 1,
1995, and before the proclamation is issued under subsection (a),
and refund any duty or excess duty that was paid on such entry.

(2) REQUESTS.-Liquidation or reliquidation may be made under
paragraph (1) with respect to any entry only if a request therefor
is filed with the Customs Service, within 180 days after the date
of the enactment of this Act, that contains sufficient information
to enable the Customs Service-

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

SEC. ____ . DEFINITION.

As used in this Act, the term "entry" includes a withdrawal from
warehouse for consumption.

MEMORANDUM

Monday, 6 May 1996

To: Amy Dunathan
Honorable John Chaffee
United States Senate

From: Stephanie Weiner
Congressional Budget Office

Subject: Tetraamino Biphenyl (TAB) Duty Free Treatment

The Congressional Budget Office has reviewed H.R. 2870, a bill to eliminate the duties on 3,3'-Diaminobenzidine or Tetraamino Biphenyl (TAB). CBO estimates that this provision would decrease revenues by \$1 million in fiscal year 1996 and would decrease revenues by less than \$500,000 in each of the fiscal years 1997 through 2002, net of payroll and income tax offsets.

The proposed legislation would amend Schedule XX of the Uruguay Round Agreements Act to provide TAB duty free treatment retroactive to January 1, 1995. Based on information from the International Trade Commission, CBO estimates that the refund of TAB customs duties paid since January 1, 1995 combined with the loss of future collections would total about \$1 million in FY 1996. CBO estimates that the proposal would reduce revenues in the following years by about \$337,500 annually.

104TH CONGRESS
2D SESSION**S. RES.** _____

IN THE SENATE OF THE UNITED STATESMr. D'AMATO submitted the following resolution; which was _____

RESOLUTION

Expressing the sense of the Senate regarding certain trade practices of the Japanese Government.

Whereas in an increasingly global economy, United States-owned businesses need every opportunity to sell their goods and services in all foreign markets in order to survive;

Whereas the United States continues to maintain the world's most open market, while foreign market barriers deny United States-owned businesses competitive opportunities in many sectors equivalent to those enjoyed by foreign-owned businesses in the United States market;

Whereas the inability of United States-owned businesses to compete fairly in foreign markets has a direct impact on the number and quality of United States jobs;

Whereas it is essential that the United States effectively utilize all leverage available to open foreign markets;

Whereas in a number of pending bilateral trade disputes, the Japanese Government has rejected requests by United States officials to discuss well-documented Japanese market barriers and the elimination of such barriers;

Whereas the refusal of the Japanese Government to negotiate is a new and provocative tactic that raises troubling questions about the overall trade relationship between the United States and Japan; and

Whereas serious government-to-government discussions in such cases must begin as soon as possible in order to avoid confrontations later that would not be in either country's interest: Now, therefore, be it

1 *Resolved*, That it is the sense of the Senate that—

2 (1) the United States Government cannot ac-
3 cept Japan's current tactic of refusing to discuss on
4 a government-to-government basis important bilat-
5 eral trade disputes, including disputes based on the
6 Japanese Government's toleration of anticompetitive
7 practices;

8 (2) the President and the President's trade ad-
9 visors should redouble their efforts to launch nego-
10 tiations to resolve these trade disputes, emphasizing
11 to Japanese officials that such efforts are backed by
12 the full authority provided to the President under
13 United States law; and

14 (3) prompt and firm use of all legal authority
15 available to the President is appropriate if the Gov-
16 ernment of Japan does not commit to the elimi-

1 nation of unreasonable and unjustifiable market bar-
2 riers.

Sen. Dole

A provision (based on S.1438) establishing a Commission, composed of five federal circuit court judges, to review every decision by the World Trade Organization that is adverse to the United States.

Graham

II

104TH CONGRESS
1ST SESSION

S. 1463

To amend the Trade Act of 1974 to clarify the definitions of domestic industry and like articles in certain investigations involving perishable agricultural products, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 11, 1995

Mr. GRAHAM introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Trade Act of 1974 to clarify the definitions of domestic industry and like articles in certain investigations involving perishable agricultural products, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. DEFINITIONS OF DOMESTIC INDUSTRY AND**
4 **LIKE OR DIRECTLY COMPETITIVE ARTICLES.**

5 (a) DEFINITION OF DOMESTIC INDUSTRY.—Section
6 202(c)(4) of the Trade Act of 1974 (19 U.S.C.
7 2252(c)(4)) is amended—

1 (1) by striking “and” at the end of subpara-
2 graph (B),

3 (2) by striking the period at the end of sub-
4 paragraph (C) and inserting “; and”, and

5 (3) by adding at the end the following new sub-
6 paragraph:

7 “(D) may, in the case of one or more do-
8 mestic producers who produce a like or directly
9 competitive perishable agricultural product dur-
10 ing a particular growing season, limit the do-
11 mestic industry to those producers if the pro-
12 ducers sell all or almost all of their production
13 of the article in that growing season and the
14 demand for the article is not supplied, to any
15 substantial degree, by other domestic producers
16 of the article who produce the article in a dif-
17 ferent growing season.”.

18 (b) DEFINITION OF LIKE OR DIRECTLY COMPETI-
19 TIVE ARTICLE; CONSIDERATION OF IMPORTED ARTI-
20 CLE.—Section 202(c)(6) of such Act is amended by add-
21 ing at the end the following new subparagraphs:

22 “(E) In the case of a perishable agricul-
23 tural product produced by a domestic industry
24 described in paragraph (4)(D), the term ‘like or
25 directly competitive article’ means only the arti-

1 cles produced by the industry during the appli-
2 cable growing season.

3 “(F) In the case of a perishable agricul-
4 tural product, the Commission may limit its
5 consideration to imported articles that are en-
6 tered, or withdrawn from warehouse for con-
7 sumption, during the same growing season as
8 the like or directly competitive product.”.

9 (c) **RELIEF LIMITED TO CERTAIN IMPORTED PROD-**
10 **UCTS.**—Section 202(d)(4) of the Trade Act of 1974 (19
11 U.S.C. 2252(d)(4)) is amended by adding at the end the
12 following new subparagraph:

13 “(E) The Commission may, in the case of
14 a perishable agricultural product, limit provi-
15 sional relief to imported articles that are en-
16 tered, or withdrawn from warehouse for con-
17 sumption, during the same growing season as
18 the like or directly competitive product.”.

19 (d) **CONFORMING AMENDMENT.**—Section 202(d)(5)
20 of the Trade Act of 1974 (19 U.S.C. 2252(d)(5)) is
21 amended in the matter preceding subparagraph (A), by
22 striking “subsection” and inserting “section”.

23 (e) **EFFECTIVE DATE.**—The amendments made by
24 this Act apply with respect to investigations initiated pur-
25 suant to section 202(b) of the Trade Act of 1974 (19

‡

1 U.S.C. 2252(b)) and requests for provisional relief initi-
2 ated pursuant to section 202(d) of such Act (19 U.S.C.
3 2252(d)) after the date of the enactment of this Act.

○

Graham Amendment #1

The text of S.1463 (as passed by unanimous consent in the Senate on January 26, 1996) to permit the International Trade Commission, in safeguard cases involving perishable agricultural products, to consider seasonality of production as a factor in defining "domestic industry" and "like or directly competitive articles."

Revenue Offset: None required.

MEMORANDUM

Tuesday, 30 January 1996

To: Teresa Houser
Ways and Means Trade Subcommittee
US House of Representatives

From: Stephanie Weiner
Congressional Budget Office

Subject: H.R. 2795

The Congressional Budget Office has reviewed H.R. 2795, a bill to amend the Trade Act of 1974 and the Tariff Act of 1930. CBO estimates that the bill would most likely have no budgetary impact. However, because enacting H.R. 2795 could affect governmental receipts, pay-as-you-go procedures would apply to the bill. H.R. 2795 contains no intergovernmental mandates as defined in P.L. 104-4 and would have no direct budget impact on state, local, or tribal governments.

Under current law, a domestic industry may file a petition with the International Trade Commission (ITC) to claim serious injury due to import competition. ITC investigates such a claim to make a determination as to the extent of the injury. Should the investigation result in an affirmative determination of injury, ITC makes a recommendation as to an appropriate remedial measure such as a tariff increase or a quantitative restriction on the imported product. The President may adopt, modify, or reject ITC's recommendation at his discretion.

H.R. 2795 would authorize ITC to take a particular growing season into account in domestic injury investigations which involve perishable agricultural products. For example, should domestic tomato producers file a petition with the ITC claiming serious injury from the importation of Mexican tomatoes, the resulting investigation would take into account the seasonal nature of tomato production. Given the complexity of the procedure for securing and obtaining import relief, it is difficult to determine the overall effect of incorporating the growing season into an ITC investigation. Should ITC make an affirmative determination of injury, the recommended remedy could be a tariff increase, which could raise customs duties collections or a quantitative restriction, which could potentially decrease revenues. ITC could also make a negative determination of injury, resulting in no change to current import practices or customs duties collections. Based on information from ITC, CBO has no basis for predicting ITC actions under H.R. 2795 that would result in a change in governmental receipts.

Chuck Grassley

Amendment to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Romania.

I. Termination of Application of Title IV of the Trade Act of 1974 to Romania.

(a) Presidential Determinations and Extension of Nondiscriminatory Treatment -- Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2341 et seq.), the President may --

(1) determine that such title should no longer apply to Romania; and

(2) after making a determination under paragraph (1), proclaim the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of that country.

(b) Termination of Application of Title IV -- On and after the effective date of the extension under subsection (a)(2) of nondiscriminatory treatment of the products of Romania, title IV of the Trade Act of 1974 shall cease to apply to that country.

Bressler

104TH CONGRESS
2D SESSION

H. R. 2895

To amend the Harmonized Tariff Schedule of the United States with respect to fireworks.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 1996

Mr. SHAW introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Harmonized Tariff Schedule of the United States with respect to ~~fireworks~~.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. DUTY ON DISPLAY FIREWORKS.**

4 Chapter 36 of the Harmonized Tariff Schedule of the
5 United States is amended by striking heading 3604 and
6 inserting the following new heading:

3604	Fireworks, signaling flares, rain rockets, fog signals and other pyrotechnic articles:				
3604.10	Fireworks			Free (A*, CA, E, IL, J, MX)	12.5%
3604.10.10	Class 1.3G (Class B)	kg.	2.4%		
3604.10.20	Class 1.4G (Class C)	kg.	5.3%		
3604.90.00	Other	kg.	7.3%	Free (A*, CA, E, IL, J, MX)	40%

1 **SEC. 2. EFFECTIVE DATE; RETROACTIVE TREATMENT.**

2 (a) **IN GENERAL.**—The amendment made by section
3 1 applies with respect to goods entered, or withdrawn from
4 warehouse for consumption, on or after the 15th day after
5 the date of the enactment of this Act.

6 (b) **RETROACTIVE TREATMENT.**—Notwithstanding
7 section 514 of the Tariff Act of 1930 (19 U.S.C. 1514)
8 or any other provision of law, upon a request filed with
9 the Customs Service before the 90th day after the date
10 of the enactment of this Act, any entry, or withdrawal
11 from warehouse for consumption—

12 (1) which was made on or after January 1,
13 1995, and before the 15th day after the date of the
14 enactment of this Act, and

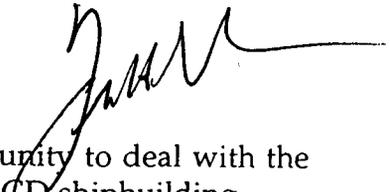
15 (2) with respect to which there would have been
16 a lesser duty if the amendment made by section 1
17 applied to such entry or withdrawal,
18 shall be liquidated or reliquidated as though such amend-
19 ment applied to such entry or withdrawal.

○

Statement by
SENATOR FRANK MURKOWSKI

Ask Chairman to
insert in record.

Senate Committee on Finance
May 8, 1996



Mr. Chairman, I want to thank you for giving us an opportunity to deal with the matters on our agenda today, and to speak briefly about the OECD shipbuilding agreement, which I hope we will move forward in today's action.

It is clear to any observer that the global shipbuilding industry is not one where free and fair trade has been the rule. The major shipbuilding nations, pushed by their own industries and in some cases deeply involved in those companies' finances, have often tried to attract customers any way they can and especially by providing both open and hidden subsidies to sweeten the pot for potential clients.

It is equally clear to any observer that the United States shipbuilding industry has suffered greatly as a result. We have never authorized subsidies that even begin to approach the level offered by some other countries. Nor do I believe we should do so. Free trade is the best trade, and such subsidies are 180-degrees off from free trade.

The OECD shipbuilding agreement represents an outstanding change in direction for shipbuilding nations. For the first time, it makes real progress toward ending the vicious cycle of subsidies -- a war that no one wins, because the winner is the one who has impoverished himself the most.

The focus of the agreement was as simple as a schoolyard truce between two children -- "I'll stop if you stop." In other words, "no more subsidies, period."

For the first time since we became a nation in the eighteenth century, U.S. shipyards will be able to compete on a level playing field with their foreign competition, and I for one look forward to the revitalization of our shipyards.

It would be naive to pretend the agreement has no opponents; it does. A number of large shipyards that have become accustomed to lucrative contracts doing defense work see this as a problem, because they won't be able to switch from one kind of government check to another. But realistically speaking, these companies are off base -- we cannot compete in the subsidy war, and we should not be trying. It is far better to eliminate subsidies among all the major competitors than to go broke trying to outdo one another, and elimination is what this will do.

I listened carefully in our hearing on this matter, and what I heard was this: the majority of United States shipyards want this legislation and this agreement, because they are convinced that they can compete -- and win -- in a fair contest against their foreign competitors. That's the spirit we need to encourage, and we can do it today.