

1 OPEN EXECUTIVE SESSION TO REVIEW AND MAKE RECOMMENDATIONS
2 ON PROPOSED LEGISLATION IMPLEMENTING THE U.S.-KOREA FREE
3 TRADE AGREEMENT, THE U.S.-PANAMA TRADE PROMOTION
4 AGREEMENT, THE U.S.-COLOMBIA TRADE PROMOTION AGREEMENT,
5 AND ASSOCIATED PROPOSED STATEMENTS OF ADMINISTRATIVE
6 ACTION

7 THURSDAY, JULY 7, 2011

8 U.S. Senate,

9 Committee on Finance,

10 Washington, DC.

11 The hearing was convened, pursuant to notice, at
12 9:07 a.m., in Room 215, Dirksen Senate Office Building,
13 Hon. Max Baucus (chairman of the committee) presiding.

14 Present: Senators Rockefeller, Conrad, Bingaman,
15 Kerry, Wyden, Schumer, Stabenow, Cantwell, Nelson,
16 Menendez, Carper, Cardin, Hatch, Grassley, Snowe, Crapo,
17 Roberts, Enzi, Cornyn, Coburn, and Thune.

18 Also present: Demetrios Marantis, Deputy United
19 States Trade Representative, Executive Office of the
20 President; Seth D. Harris, Deputy Secretary of Labor;
21 Gerri Fiala, Deputy Assistant Secretary, Department of
22 Labor; Sandra Polaski, Deputy Undersecretary for
23 International Affairs, Department of Labor; Tom Barthold,
24 Chief of Staff, Joint Committee on Taxation; Josh
25 LeVasseur, Deputy Chief Clerk; and Danielle Edwards,
26 Deputy Clerk. Democratic Staff: Ayesha Khanna,
27 International Trade Counsel; Hun Quach, International

1 Trade Analyst; Mike Smart, International Trade Counsel;
2 and Chelsea Thomas, Professional Staff. Republican
3 Staff: Paul DeLaney, International Trade Counsel; and
4 David Johanson, International Trade Counsel.

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1 OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM
2 MONTANA, CHAIRMAN, COMMITTEE ON FINANCE

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4 The Chairman. The hearing will come to order. The
5 Committee meets today to consider draft bills to
6 implement free trade agreements with South Korea, Panama,
7 and Colombia.

8 President Truman once said, "In periods where there
9 is no leadership, society stands still. Progress occurs
10 when the courageous, skillful leaders seize the
11 opportunity to change things for the better."

12 We cannot afford to stand still or delay progress on
13 our trade agenda. Our competitors are gaining ground.
14 U.S. exporters are losing business and opportunities for
15 growth.

16 While we stand still, the European Union's trade
17 agreement with Korea entered into force last Friday, and
18 Canada's agreement with Colombia will take effect next
19 month. Unless we act, these agreements will send the
20 jobs we need to our competitors.

21 In these challenging times, the American people need
22 leadership. It is time to work together to move the
23 trade agenda forward. This means renewing trade
24 adjustment assistance and approving the long awaited free
25 trade agreements with South Korea, Colombia, and Panama.

1 This agenda is an opportunity to change our economy
2 for the better and we must seize it. The free trade
3 agreements will improve American competitiveness and
4 create jobs. It will open foreign markets, increase U.S.
5 exports that grow our economy. It is time to act.
6 American farmers, ranchers, workers, and businesses have
7 been waiting far too long.

8 Today, the waiting ends. Today, we deliver on our
9 promise to U.S. workers and exporters. Today, we deliver
10 on our promise to three important trading partners.
11 Korea is a strategic ally bordered by a dangerous and
12 repressive regime. It is also one of the largest
13 economies in the world.

14 The FTA will lower Korean trade barriers on U.S.
15 products, increasing our exports by one-third and cutting
16 our bilateral trade deficit in half.

17 Colombia is the world's comeback story of the
18 decade. Ten years ago, it was nearly a failed state
19 racked by violence and crime. Today, it is a strong and
20 vibrant nation with a growing economy.

21 Panama is the crossroads of global commerce. It is
22 a fast-growing economy that already accounts for our
23 second largest trade surplus in the Western hemisphere.

24 Approval of our free trade agreements with these
25 important partners has been delayed by several concerns.

1 During the past year, we have worked with the
2 Administration to address all of them.

3 With Korea, we reached an agreement that will allow
4 U.S. automakers to compete fairly and create a market.
5 The Administration made a commitment, at my request, to
6 promote U.S. beef sales in Korea and to consult with
7 Korea on increased market access for American beef.

8 Colombia agreed to implement a labor action plan.
9 This groundbreaking plan commits Colombia to strengthen
10 labor rights, protect workers, and prosecute those who
11 commit violence.

12 And with Panama, we signed a tax transparency
13 agreement, which Panama has already approved and
14 implemented, along with important labor reforms.

15 With these concerns now resolved, it is time for
16 leadership. It is time to seize the opportunity to
17 change things for the better. We cannot afford to stand
18 still.

19 Trade agreements like the ones we are considering
20 today are good for our economy, promote growth, and
21 create jobs, but they also increase competition from
22 imports which can affect the labor market here at home.

23 That is why, after nearly 50 years, we provided
24 workers with trade adjustment assistance, otherwise known
25 as TAA. TAA gives job training, income support and

1 health coverage tax credits to workers affected by
2 foreign trade.

3 As President Kennedy said when the program was
4 created, TAA affords, quote, "time for American
5 initiative, American adaptability and American resiliency
6 to assert themselves," end quote.

7 Over the years, we have reformed TAA to keep pace
8 with changes in the economy. In 2009, we extended TAA to
9 service industry workers and workers displaced by
10 production shifts to non-FTA countries, like China and
11 India.

12 We also increased training funds in the health
13 coverage tax credit. But these reforms expired in
14 February.

15 We made clear that TAA must be extended in tandem
16 with the FTAs. American workers must have the assurance
17 that a TAA program that meets their needs in today's
18 economy will be available when Congress votes on these
19 FTAs.

20 That is why I worked with Chairman Camp and the
21 White House to reach a strong, bipartisan agreement to
22 extend the TAA. Our agreement restores the 2009 TAA
23 reforms through 2013, while making necessary cuts to
24 reduce the cost of the program in these tough budget
25 times.

1 The provisions of this agreement are included in the
2 Korea FTA bill. The provisions are clearly necessary or
3 appropriate to implement the Korea FTA as required by
4 fast-track rules dating back to 1974.

5 Indeed, there is precedent directly on point. The
6 law implementing NAFTA also included provisions expanding
7 TAA, and the Korea FTA is the largest trade agreement
8 since that 1993 law.

9 I know there are differences of opinion on the
10 process for extending TAA. I have included it in the
11 Korea FTA bill for this markup. That does not foreclose
12 discussion of other options for extending TAA. I remain
13 open to those options; as long as they provide certainty
14 that the bipartisan TAA deal will be enacted in tandem
15 with the FTAs.

16 So let us not stand still. Let us demonstrate
17 leadership and courage. And remember President Truman's
18 wisdom, seize the opportunity to change things for the
19 better. For the sake of American jobs, farmers, ranchers
20 and businesses, let us approve these free trade
21 agreements.

22 [The prepared statement of Chairman Baucus appears
23 in the appendix.]

24 The Chairman. Senator Hatch?

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1 OPENING STATEMENT OF HON. ORRIN HATCH, A U.S. SENATOR
2 FROM UTAH
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4 Senator Hatch. Well, thank you, Mr. Chairman.

5 Today, we are meeting to discuss implementing
6 legislation for our pending trade agreements with
7 Colombia, Panama, and South Korea.

8 Despite what you may have read in the papers, I am
9 really glad to be here. Approval of these free trade
10 agreements --

11 The Chairman. Well, we are glad you are here, too,
12 Senator.

13 Senator Hatch. I am not so sure about that.

14 [Laughter.]

15 The Chairman. You do not know how very happy we
16 are you are here.

17 Senator Hatch. I am glad to hear that. I might
18 just say this. Approval of these three free trade
19 agreements, in my opinion, is critical to helping our
20 economy recover, expand, and generate the jobs we so
21 badly need.

22 I really have appreciated working with Chairman
23 Baucus and his staff throughout this process. Though we
24 do not always agree and this is sometimes a sticky
25 process, I certainly consider him a friend.

1 I understand that managing this Committee is not an
2 easy job, and completing these trade agreements is a case
3 study in difficulty of getting even popular proposals
4 across the finish line.

5 Today's mock markup is an important step in a long
6 process, one which I hope will lead to a quick
7 presidential submission of the agreements and their
8 approval on the Senate floor.

9 It has been a long time since the Finance Committee
10 has considered trade legislation of this importance. So
11 I think it is useful to remind ourselves about the
12 significance of these mock marks. Although not binding
13 and not required by TPA, the Trade Promotion Authority,
14 the mock markup lies at the heart of the consultative
15 process.

16 It is the first and only opportunity for members to
17 debate and offer amendments. If the Administration and
18 congressional drafters have done their job well,
19 consulted effectively and developed a consensus draft,
20 the mock mark can be relatively quick and
21 noncontroversial. If not, we end up with a broken
22 process.

23 In my opinion, the process broke down last week.
24 Rather than consult with the minority about the process,
25 the Administration chose a different path, laying down a

1 partisan draft that contained a controversial domestic
2 spending program that is only marginally related, at
3 best, to the underlying implementing bill.

4 Now, this was done with virtually no notice and no
5 consultation, providing only 48 hours to review this
6 highly controversial program, and after the trade
7 representative told us that he would definitely bring
8 these trade agreements up before August. And there was
9 no mention of TAA at that time.

10 The Administration certainly took its sweet time to
11 ponder and deliberate over the fate of these FTAs,
12 holding them back for years, before finally taking the
13 steps to move them forward.

14 In contrast, they expect the Senate Finance
15 Committee to be content with only hours to scrutinize
16 this domestic spending program. To me, this is a clear
17 double standard. It also shows one of the inherent flaws
18 in the Administration's economic policy--slow to advance
19 real job-creating programs, but quick to spend more
20 taxpayer money.

21 We can do better. Today I will offer an amendment
22 to strike the extraneous TAA provisions from the South
23 Korea bill. To be clear, I support the South Korea
24 implementing bill, and want it to pass. I strongly
25 support it, but I cannot condone this abuse of trade

1 promotion authority or turn a blind eye to dubious
2 domestic spending programs.

3 If my amendment fails, I will vote against the South
4 Korea agreement, and I suspect many of my colleagues will
5 do the same. This outcome should not come as a surprise,
6 as every member of the Finance Committee joined with me
7 in putting the President on notice that placing the TAA
8 spending program in the South Korea bill was not an
9 acceptable outcome.

10 TPA was not meant to establish a system where you
11 could just load up this trade agreement with anything you
12 want to load it up with.

13 I cannot understand why these clear signals are
14 being ignored. Putting TAA in the South Korea bill risks
15 support for that agreement and puts its trade promotion
16 authority protections at risk.

17 There is some good news today. After years of
18 delay, the Senate Finance Committee will finally get an
19 opportunity to consider our pending trade agreements with
20 Colombia and Panama. For this, we owe the Chairman of
21 this Committee and his staff our appreciation. Their
22 steadfast support for our good friends and allies has
23 helped us to get where we are today, and I am pleased
24 that he will be joining me in supporting these important
25 agreements.

1 Mr. Chairman, I want to thank you for this
2 opportunity today. I hope we will be able to find a
3 reasonable bipartisan path forward for the South Korea
4 agreement just as we have on our pending free trade
5 agreements with Colombia and Panama.

6 I want to thank you for your courtesy.

7 [The prepared statement of Senator Hatch appears in
8 the appendix.]

9 The Chairman. Thank you, Senator, very much. I
10 deeply appreciate that.

11 Are there any Senators that wish to make opening
12 statements? I presume we will follow the regular order
13 and recognize Senators who wish to speak as they arrived.

14 Under our early-bird rule, that would be Senator Conrad.

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1 OPENING STATEMENT OF HON. KENT CONRAD, A U.S. SENATOR
2 FROM NORTH DAKOTA
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4 Senator Conrad. Thank you, Mr. Chairman. I want
5 to commend you for showing real leadership on these trade
6 agreements. You have worked steadily and patiently and
7 effectively to bring them to us and you should be
8 applauded for it, because these represent a significant
9 step forward for the country and certainly for my State.
10 So I thank you for it.

11 Each of these agreements will open new markets, help
12 create jobs, and help level the playing field for U.S.
13 exporters. With our economic recovery moving more slowly
14 than I think all of us would hope, these trade agreements
15 should receive strong bipartisan support.

16 They are good for American businesses and American
17 workers. They will help create jobs in America, and they
18 will lower prices for American consumers.

19 In addition, the package before us contains a
20 bipartisan agreement on trade adjustment assistance,
21 which is particularly important in the context of the
22 Korean agreement and the job dislocation that will occur
23 in the context of overall job creation under that FTA.

24 While the overall agreement will create jobs, there
25 are parts of varying industries that will be hurt and

1 they deserve to be buffered from the harm caused to them
2 by our enacting something that is good for the United
3 States as a whole.

4 I, again, applaud the Chairman for reaching out to
5 his Republican counterpart on the Ways and Means
6 Committee to negotiate this bipartisan agreement. That
7 is the way we ought to do business in this town.

8 Mr. Chairman, I hope our friends on the other side
9 of the aisle will take a deep breath here and remember
10 their past history of support for trade adjustment
11 assistance and for the Korean FTA.

12 I would also like to congratulate the Chairman for
13 his insistence on and his success in improving access for
14 beef exports to Korea. It is very important to my State.
15 I know it is important to his, as well.

16 The fact is the Koreans have not kept their
17 commitment to us. They have not lived up to the beef
18 protocol they agreed to. We need to make certain our
19 cattlemen and ranchers do not suffer as a result.

20 So I am very pleased the Administration has
21 committed additional resources to promote our rapidly
22 growing exports of safe American beef to Korea and to
23 continuing to work with Koreans to remove remaining
24 barriers to our exports.

25 Overall, the Korea FTA is a big win for the United

1 States and certainly a big win for producers in my State,
2 and it is a plus for the American economy. I intend to
3 strongly support it.

4 The Colombian agreement is particularly important to
5 wheat and barley producers and other agricultural
6 producers in my state. It will ensure they have a level
7 playing field with Canada, Argentina, and the European
8 Union, who would otherwise have an unfair advantage in
9 the Colombian market.

10 A good commercial agreement has been improved by the
11 labor action plan announced by the Santos government. We
12 all recognize the huge progress Colombia has made on
13 strengthening labor rights and protecting labor leaders
14 from violence in the past decade, but there is still
15 important work to be done and the labor action plan will
16 help guarantee future progress. I will strongly support
17 this agreement, as well.

18 These trade agreements have languished for years.
19 This Administration has improved them and brought them to
20 the finish line. I very much hope our colleagues on both
21 sides of the aisle will support them and, again,
22 recognizes the good work of our Chairman in bringing
23 these agreements to us.

24 I thank the chair.

25 The Chairman. Thank you, Senator, very much.

1 I neglected to say I would like to encourage
2 Senators to limit their statements to about 4 minutes.
3 We have a lot of business today and some Senators have
4 very tight schedules. Let us do the best we can.

5 I also want to go back and forth, Republican side
6 and Democratic side, as we speak.

7 So next will be Senator Crapo.

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1 OPENING STATEMENT OF HON. MIKE CRAPO, A U.S. SENATOR FROM
2 IDAHO

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4 Senator Crapo. Thank you very much, Mr. Chairman.

5 It has been almost 4 years since we have approved and
6 acted upon a free trade agreement. Since the Senate last
7 approved the Free Trade Act, we have had a presidential
8 election, two congressional elections, two Olympics were
9 held, the solar system lost a planet, and about a quarter
10 of this Committee's members have changed.

11 It is time we act, and I think there is agreement --
12 if we can agree on anything, there is bipartisan
13 agreement that we need to engage on these trade
14 agreements and act.

15 It is time that the United States has stood in place
16 on the trade front the way the rest of the world has been
17 busy at working and signing and developing new agreements
18 and expanding markets and creating new trade alliances.

19 Frankly, I think it is a shame that these agreements
20 have been blocked while we have diverted our attention to
21 other items, while we have engaged in months of
22 additional negotiations with Korea when the pact itself
23 could not be amended; when we have sought concession
24 after concession from the Colombians on improving their
25 labor laws and now even special programs that benefit

1 special interests, and so forth.

2 But, finally, we are at the next to the last step.
3 And still, we see problems arising as the effort is made
4 to attach the trade adjustment assistance provisions to
5 these trade agreements. I believe the TAA provisions
6 probably could pass in both the House and the Senate on
7 their own, but the effort to utilize these trade
8 agreements as a vehicle to drive them through is an
9 effort that I think may cause, yet once again, a
10 stumbling block and put us back into the position of
11 where we will be looking to see where the next planet in
12 the solar system goes while we wait.

13 The Korean agreement alone is estimated to boost
14 American exports by \$10 billion. Nearly 95 percent of
15 the bilateral trade in consumer and industrial products
16 would become duty-free within 3 years and most remaining
17 tariffs would be eliminated within 10.

18 As has already been indicated, this is a huge issue
19 for the United States.

20 The Colombia pact, while a smaller agreement in
21 potential trade volume, is equally important to many
22 States. Colombia's geostrategic interest to the United
23 States does not need repeating. In addition, more than 0
24 percent of Idaho wheat depends on export markets, and
25 Colombia is the U.S. wheat industry's largest South

1 American market, with a market share of nearly 70
2 percent.

3 But during the long lapse in Congressional action,
4 Colombia has worked on other bilateral trade agreements,
5 particularly with Canada and Europe. Unless Congress
6 approves the FTA, farmers, manufacturers and service
7 providers in other countries will secure preferential
8 access to the Colombian market and undercut U.S.
9 competitors.

10 Largely as a result of Colombia's earlier trade
11 accord with Mercosur, U.S. farmers have already seen
12 their share of Colombia's agriculture market fall to
13 about a quarter today from three-quarters just a few
14 years ago.

15 Panama is also one of the fastest-growing economies
16 in Latin America, expanding 6.2 percent in 2010. And
17 currently, the U.S. industrial goods face an average 7
18 percent tariff in Panama, with some tariffs as high as 81
19 percent. U.S. agriculture goods face an average 15
20 percent tariff, while some goods face tariffs as high as
21 260 percent. And the list goes on.

22 We need to engage in these three trade agreements
23 and move forward aggressively on other trade agreements
24 to get America much more aggressively back in the game.

25 But still, we see these agreements jeopardized and

1 somehow it appears that we are once again going to get
2 stuck in a political battle over approving trade
3 agreements that everyone agrees we need to approve. I
4 hope we do not do that.

5 Mr. Chairman, consideration of trade agreements by
6 the Finance Committee has a long and distinguished
7 history of bipartisan cooperation in behalf of the
8 American people, and it is time that we all continue that
9 tradition and reach a bipartisan solution without trying
10 to attach divisive measures that could once again throw a
11 roadblock in the face of our progress.

12 Thank you, Mr. Chairman.

13 The Chairman. Thank you, Senator.

14 Senator Kerry, you are next.

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

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4 Senator Kerry. Well, Mr. Chairman, as you know, I
5 am one of those who hopes we can get to the votes fairly
6 quickly here. And I do not see why we cannot, because I
7 think everybody knows what they are going to do, and,
8 hopefully, we will.

9 So I will just say, very quickly, obviously,
10 everybody is in agreement that these trade agreements are
11 going to -- I think almost everybody -- are going to open
12 up markets, help America competitively, do what we need
13 to do in order to compete with China, India and other
14 countries that are raging ahead of us in terms of
15 bilateral agreements. So we all agree with that.

16 Senator Hatch just said, quote, "I can't understand
17 why these clear signals are being ignored" with respect
18 to some of the opposition on the TAA. But for a lot of
19 us, we cannot understand why the bipartisanship that has
20 been part of TAA all through the past cannot be honored.

21 I heard Senator Hatch just call it a spending
22 program. I mean, this is sort of part of what is going
23 on here right now in terms of the posturing, frankly.
24 We have historically had a consensus built up on trade
25 that has brought a bipartisanship together based on the

1 notion that when we make a decision regarding tariffs and
2 markets, businesses make decisions. Call centers moved
3 to India. A whole bunch of people lost their jobs.
4 Manufacturing plants moved to China, moved to Mexico. A
5 whole bunch of people lost their jobs.

6 There is one simple question here, whether we are
7 going to face the reality of the marketplace today. If
8 you are 55 years old, 45 years old, 50, it is hard to
9 find a job. We are not creating them fast enough.

10 The idea that we are just going to do this and
11 ignore the way in which we have created the fabric of
12 consensus around trade for the last 20 years that I have
13 been here is astonishing to me.

14 So I hope that we are going to recognize that those
15 workers are not making this decision. We are. We are
16 making a policy here and as a result of that policy, we
17 know some people are going to be thrown out of work. And
18 I think it is important for us to, therefore, recognize
19 that we ought to do something, minuscule compared to the
20 overall budget, minuscule compared to the budget and
21 compared to our deficit, to help those workers transition
22 into some kind of new job.

23 That is what is at stake here, and I hope we are
24 going to honor Ronald Reagan's, George Bush's, George
25 Herbert Walker Bush's bipartisanship that existed on this

1 topic.

2 And if, indeed, Senator Crapo, it can pass on its
3 own, then why make this big issue about passing it as
4 part of this? Pass it.

5 Thank you, Mr. Chairman.

6 The Chairman. Thank you, Senator.

7 Next, Senator Roberts?

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1 OPENING STATEMENT OF HON. PAT ROBERTS, A U.S. SENATOR
2 FROM KANSAS

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4 Senator Roberts. I would tell the Senator from
5 Massachusetts I am not posturing. I have been a trade
6 advocate ever since I have had the privilege of public
7 service in Kansas. We have to export one-third of our
8 production, not only our cowboys, but in livestock.

9 And by the way, I want to congratulate the Chairman.
10 Nobody moved or worked any harder to get that agreement
11 done than the Chairman. We would not have an agreement
12 here with South Korea without the Chairman. If we would
13 have parachuted the Chairman into those talks a year ago
14 or 2 years ago, whenever it was, I think perhaps we would
15 have been more successful.

16 So I am not posturing, but I do have some things to
17 say.

18 It is with some disappointment that we are here
19 today to participate in this mock-up. What, in the past,
20 has been a bipartisan effort, as extolled by many of my
21 friends across the aisle, that is not the case today.

22 Despite the strong views of the minority members,
23 the Committee moved to include the unrelated legislation
24 and the former trade adjustment assessments in the U.S.-
25 Korea FTA implementing bill, and that would also

1 eventually include Panama and Colombia, which has become
2 an embarrassment, it has been so long.

3 TAA has nothing to do with the implementing bill.
4 It is either necessary or appropriate as required by the
5 rules of trade promotion authority, but it has been, I
6 would say, loaded up, and I would identify with the
7 comments of my colleague from Idaho in that regard.

8 This move to attach an expansion of Federal spending
9 to a bill with fast-track protection is particularly
10 telling. As a proponent of trade assistance, I think we
11 have to have the confidence that TAA can stand up to the
12 scrutiny and debate within the Committee. And the way it
13 is now, I am not sure that is the case.

14 I have the forms here in which you fill out your
15 application, and it occurs to me that there are 156 weeks
16 of guaranteed benefits. I do not know if that is good,
17 proper, correct, or if we need to take a look at that or
18 not. I think we do need to take a look at it.

19 In this economic environment, we have a duty, as
20 elected public officials, to scrutinize legislation that
21 adds costs to the taxpayer and a closer look at the
22 proposed offsets for this. It is a little bit like
23 robbing Peter to pay Paul. Last Congress, the majority
24 took over \$500 billion, \$0.5 trillion, from Medicare to
25 pay for the new entitlement in the Affordable Care Act,

1 what some people call PPACA. Others call it Obamacare.

2 Now, they propose to take an additional \$400 million
3 in Medicare funds to pay for another entitlement program,
4 i.e., TAA, and that is not the road to take. After
5 accusing Republicans for months of totally changing the
6 way Medicare works, I just have to ask when will we stop
7 paying for new programs and priorities on the backs of
8 our seniors.

9 This was supposed to come out of imaging. Well, it
10 is not coming out of imaging. It is a bad image. It is
11 a penalty. It is a penalty that will be extended beyond
12 2015 to providers if they do not go along with Obamacare
13 health information technology, regulations and mandates.

14 Many of our small critical access hospitals simply
15 do not have this equipment, and I wonder about the regs
16 that will be coming down on that.

17 When will we stop proposing drastic and very
18 draconian cuts to this program, especially when these
19 dollars are not even used to produce the taxpayer burden
20 or Medicare, but instead are funneled back into new
21 entitlements?

22 Now, beyond the increased spending required to pay
23 for TAA and the \$400 million rate on Medicare, which is
24 apparently become sort of a piggybank that we use around
25 here from time to time, the substance of TAA warrants a

1 full review.

2 Is it appropriate to provide more generous benefits
3 to folks who lose their jobs, their employees shut down
4 and moved outside the United States, than folks who lost
5 their jobs because the factory moved to another State?
6 Are the expanded TAA programs passed in the 2009 stimulus
7 bill helping the beneficiaries retrain and find jobs?
8 There is evidence that that is not occurring.

9 Are there better ways to structure the TAA program,
10 really to be of real help, to target the assistance and
11 to reduce the taxpayer burden?

12 These are all important questions to answer, which
13 will not happen, because TAA is beyond the reach of
14 congressional review. It is a done deal. That is, it is
15 now a package.

16 This attempt to jam TAA thwarts the standard process
17 in the Committee, the Senate process, and denies us,
18 i.e., Senators, our ability to fully represent the views
19 of our constituents.

20 I do not support this process and I strongly urge
21 the Chairman to move forward on the U.S.-Korea
22 implementing bill without the TAA, but with a promise
23 that we can reform this assistance and, in the doing of
24 this, we can strengthen and preserve this assistance as
25 it is intended.

1 I thank the Chairman.

2 The Chairman. Thank you, Senator.

3 I just might point out that in the mark here, the
4 period of time for which benefits may be given is not 156
5 weeks, actually, because of concerns that many Senators
6 have about budget provisions. To reduce assessment
7 spending, that has been cut it down to 130 weeks. It
8 might not be a big point, but it is a compromise with
9 Chairman Camp, and it is a significant compromise, agreed
10 to by Chairman Camp to address concerns about excessive
11 spending.

12 Next, Senator Wyden?

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1 OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM
2 OREGON

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4 Senator Wyden. Thank you, Mr. Chairman. And let
5 me commend you, as well, Mr. Chairman. You and I talked
6 early on when I was selected as chair of the Trade
7 Subcommittee and talked about working in a bipartisan
8 way, and I would like just to make three quick comments
9 in that kind of regard, because my hope is, by the end of
10 this session, we can pick upon the tradition of the
11 Finance Committee of being bipartisan in trade.

12 First of all, there is significant demand for our
13 goods and services around the world, and the reason we
14 ought to support these agreements is this gives us a
15 chance to feed that demand and feed it through American
16 exports.

17 That means good jobs, family wage jobs. The export
18 jobs often pay more than do the non-export jobs.
19 Clearly, this is a chance to accelerate our economic
20 recovery through exports and we can do it without raising
21 the deficit. That is point one.

22 Point two deals with this trade adjustment issue.
23 Mr. Chairman and colleagues, recognizing early on, as
24 chair of the subcommittee, that this trade adjustment
25 issue would certainly be a source of debate, I wanted to

1 get some specific facts to go into this discussion.

2 Let me just share the most important one as we start
3 this debate.

4 I asked the staff of the independent International
5 Trade Commission for some data with respect to job gains
6 and workers who would be displaced under the agreement.
7 What the results showed -- and Ambassador Marantis is
8 here from the office of the USTR. We all know him from
9 the Committee, has done excellent work -- is that we
10 would gain hundreds of thousands of jobs in our country
11 as a result of this agreement.

12 But there is also no question that several thousand
13 workers would be displaced under this agreement. So it
14 seems to me what we have an opportunity to do on a
15 bipartisan basis is stick up for those workers and come
16 up with a bipartisan approach on trade adjustment so that
17 this program can be almost a trampoline to give an
18 opportunity to those workers who will be displaced,
19 according to the staff of the International Trade
20 Commission, an opportunity to get ahead.

21 We know, as Senator Kerry noted, a lot of them are
22 older workers. These are folks that, without that kind
23 of assistance, would not have another chance to make a
24 good wage like they had before they were displaced.

25 Point number three. Mr. Chairman, you have been

1 very helpful and I think we have worked out an agreement
2 on this.

3 There is an extensive bipartisan effort to deal with
4 trade enforcement and what amounts to trade cheating.
5 What we have seen, in particular, is Chinese trade sheets
6 after being found guilty of dumping their goods in
7 America, now launder these goods by illegally shipping
8 them through Korea and other countries.

9 So Senator Snowe, Senator Portman, Senator Blunt on
10 the Republican sided, myself, Senator Schumer, Senator
11 Cardin, Senator Brown, we have come up with a bipartisan
12 approach that actually would allow us to enforce our
13 trade laws and raise revenue. I think we have got an
14 agreement on how to go forward. I will offer that down
15 the road.

16 But I very much want to see particularly building
17 around those three areas, how we can get trade policy
18 back in the tradition of the Senate Finance Committee and
19 being bipartisan.

20 I thank you for the time.

21 The Chairman. Thank you, Senator, very much.

22 Now, I would like to turn to Senator Grassley.

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1 OPENING STATEMENT OF HON. CHUCK GRASSLEY, A U.S. SENATOR
2 FROM IOWA
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4 Senator Grassley. Thank you, Mr. Chairman.

5 I know you believe in free and fair trade, and so I
6 am not surprised that these agreements are here before us
7 and I have known you have spoke positively about them
8 other times. Particularly, in another hearing, you spoke
9 positively about why Colombia should be brought up.

10 On the other hand, I thought we would be here
11 sometime in the year 2007, after then Speaker Pelosi made
12 an agreement with the Bush Administration to move
13 Colombia and other agreements at that particular time.

14 Unrelated to anything you had to do with it, they
15 decided in the House of Representatives then that they
16 were not going to move it. So we have been at this for
17 the last 4 years, in a sense, waiting for this to happen.

18 So here we are and we ought to be very thankful for
19 that, because we all know how important these agreements
20 are. We can all cite statistics and data that tell us
21 how much they mean to our economy. We do not need to go
22 into those numbers, because we have all given speeches on
23 the benefits of these agreements over the last 4 years.

24 But these deals have been kicked around and delayed
25 over partisan fights and, frankly, the American people

1 simply cannot afford that.

2 The Obama Administration has gotten the message
3 about the importance of trade and increasing trade to be
4 a part of our growing economy. That is why they are
5 willing to move these deals forward now.

6 But now, as we are on the brink of a real action,
7 the President has moved the goalpost once again. Not
8 only are we told that these deals will not be sent to
9 Congress without a deal on trade adjustment assistance,
10 but we have the unprecedented move of putting TAA into
11 the implementing bill.

12 So let me be clear here. There are parts of TAA
13 that I support and, as Ranking Member of this Committee,
14 I helped draft some of those reforms that Congress passed
15 in the year 2009. But political gamesmanship with these
16 deals by the Administration has to stop. TAA is a
17 spending bill that should be debated and passed on its
18 merits.

19 It is a violation of the process to put this in the
20 implementing bill, but I know that the Chairman has
21 spoken of some flexibility that might be in that, and I
22 want to and I think that he knows that I have already
23 said I would like to help with that process of separating
24 and having an open and fair debate with the prospects of
25 passing trade adjustment assistance separate from being

1 part of one of the trade deals, and I hope we can move
2 forward with that flexibility.

3 So in telling the Chairman that, I would also like
4 to urge the Administration to reconsider the current
5 approach. Instead, we should come to terms on an
6 agreement for sequencing four separate bills, including
7 the three separate implementing bills and the fourth bill
8 that would address TAA. I would suggest including trade
9 promotion authority, and, also, the general system of
10 preferences.

11 I was just contacted by an Iowa cattleman who took a
12 trip to Korea just a few -- well, less than 3 weeks ago.
13 He had a tremendous trip, promoting U.S. beef. But one
14 of his takeaways was that all of Asia is watching how the
15 United States handles these trade deals and, I think,
16 wants to know does the United States still want to be in
17 a leadership role on international trade.

18 They want to know if we are people of action or just
19 words. They want to know if we will follow through with
20 these agreements or let them languish.

21 This cattleman came away with that message very loud
22 and clear. Either we get this done or our trading
23 partners will be looking at other places for trading
24 terms that they desire. We do not want that to happen
25 for farmers or businesses or workers.

1 I appreciate the Chairman scheduling this session
2 today and scheduling it so that we have adequate amount
3 of time to address these important issues and at a time
4 when more members of the Committee are able to be
5 present.

6 Thank you, Mr. Chairman.

7 The Chairman. Thank you, Senator.

8 Next on the list, back and forth, Senator Nelson.

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1 OPENING STATEMENT OF HON. BILL NELSON, A U.S. SENATOR
2 FROM FLORIDA

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4 Senator Nelson. Senator Crapo, we are not going to
5 lose another planet in the solar system. We are going to
6 go to one of those planets in the solar system.

7 [Laughter.]

8 Senator Nelson. We are going to go to Mars. But I
9 sure hope we pass these trade agreements instead of
10 waiting around until we go to Mars.

11 Mr. Chairman, I support these agreements. I just
12 want to say something positive about it. Obviously,
13 Florida has now become the gateway to Latin America for
14 so much of our trade, and the trade -- the economic
15 activity that would occur in our State, indeed, in the
16 Nation, as a result of Colombia and Panama, these trade
17 agreements are significantly salutary.

18 It is interesting that this Korean agreement would
19 equal the amount of economic activity to the United
20 States of all the past nine trade agreements. So it
21 looks like that we are sure going in the right direction.

22 My one little concern is that in the TAA, we take
23 care of farmers, which we should, but we ought to be
24 taking care of the fishermen and the shrimpers just like
25 we take care of the farmers because of agricultural

1 commodities. And that involves folks that are in Texas
2 all the way to Florida on the Gulf coast, it involves
3 Washington State, and it involves the State of Maine.

4 Thank you, Mr. Chairman.

5 The Chairman. Thank you, Senator.

6 Next will be Senator Coburn.

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1 OPENING STATEMENT OF HON. TOM COBURN, A U.S. SENATOR FROM
2 OKLAHOMA

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4 Senator Coburn. Thank you, Mr. Chairman. And
5 thank you for your hard work on these. I am generally
6 supportive of all three trade agreements.

7 I am extremely worried that we put North Korea at
8 risk by TAA's inclusion, and I think that is unnecessary
9 to address the needs of those who would be unemployed
10 through the trade agreements.

11 And with that, I will limit my comments.

12 The Chairman. Thank you.

13 Senator Stabenow?

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1 OPENING STATEMENT OF HON. DEBBIE STABENOW, A U.S. SENATOR
2 FROM MICHIGAN
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4 Senator Stabenow. Thank you very much, Mr.
5 Chairman. I appreciate your leadership. And let me just
6 start by saying that I think it is critically important
7 in a global economy that we export our products, but not
8 our jobs, and that is really the basic philosophy for me
9 in moving forward.

10 And I want to first applaud the Administration for
11 making a number of improvements related to manufacturing
12 in the South Korean agreement, to allow us to be able to
13 open up our products, produce them here and be able to
14 send them to South Korea.

15 Let me speak, though, specifically today about trade
16 adjustment assistance, because I think it is very
17 unfortunate that we are in a situation where something
18 that has always been bipartisan is now something that
19 seems to be caught in a partisan divide, because TAA
20 really is a key safeguard for families, workers whose
21 jobs are outsourced, and it has been part of the deal
22 that the United States has made as we work in a global
23 economy and find that whether it is a small business, a
24 farmer, a worker, that there are people that get caught
25 in the middle of this.

1 And we have traditionally said to level the playing
2 field and give workesr the resources to go back to
3 school, build their skills, get an opportunity to compete
4 in a global economy, that we would provide support for
5 them to do that.

6 Just last week, workers at Ryder Integrated
7 Logistics in Highland Park, Michigan were denied TAA
8 benefits because they are service workers. The workers
9 lost their jobs when fewer goods were stored in the
10 warehouses they worked in as a result of what is
11 happening globally.

12 Last month, workers at Marelco Power Systems, which
13 produces magnetic power products in Howell, Michigan,
14 were denied TAA benefits because they lost their jobs to
15 a country without a trade agreement with the United
16 States.

17 Now, prior to February, when TAA benefits were
18 blocked, on a partisan basis, workers at both of these
19 firms would have received help. If we renew TAA as
20 proposed here today, which I strongly support, these
21 workers' petitions will be reconsidered and they will be
22 able to get the help they need.

23 I am particularly concerned about older workers in
24 this economy, people who, through no fault of their own,
25 find themselves caught in losing their job related to

1 trade, needing to know that there is a path forward for
2 them to be able to care for their families and to be able
3 to move on.

4 Now, it is really true that Michigan is, in fact,
5 the State that has more people involved with TAA
6 benefits. Over 50,000 Michigan families have benefitted
7 from the reforms that we passed in 2009. We have more
8 people utilizing TAA than any other State; in fact, more
9 people enrolled in the program than 30 States combined,
10 Mr. Chairman.

11 So, obviously, this is incredibly important to me.
12 It is a key part. I will put the balance of my statement
13 into the record, Mr. Chairman, if I might. But let me
14 just say that for me and for the people in my State, this
15 is part of the deal and it is incredibly important to me
16 that TAA be passed as a part of this.

17 I want to thank you, Mr. Chairman, for your
18 commitment to do that on behalf of people in my State who
19 are counting on us to give them a path forward, to be
20 able to have a job and be able to care for their families
21 in a very difficult economy.

22 Thank you.

23 [The prepared statement of Senator Stabenow appears
24 in the appendix.]

25 The Chairman. Thank you, Senator, very much. I

1 appreciate that very much.

2 Senator Enzi?

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1 OPENING STATEMENT OF HON. MIKE ENZI, A U.S. SENATOR FROM
2 WYOMING
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4 Senator Enzi. Thank you, Mr. Chairman. And I am
5 glad we are having a markup even if it is a mock markup.
6 I have noticed that TAA is one of the main topics that we
7 have been talking about, and I cannot help but think
8 about Henry Clay when he was trying to work a grand
9 compromise for our country. And he worked on it so hard
10 and unsuccessfully that it put him in the hospital.

11 Some friends of his took it up, broke it into parts,
12 and passed every single part. But there were only four
13 people in the entire United States Senate that voted for
14 all of the parts.

15 We ought to be doing that on more of our legislation
16 instead of trying to do it comprehensively. I have been
17 working to improve job training programs for some time,
18 both as Chairman and then as ranking member of the Health
19 Committee, and I understand what it takes to help workers
20 develop new skills and to find new employment after being
21 displaced.

22 Some of my colleagues on the other side of the aisle
23 have tried to make the case that the trade adjustment
24 assistance program seems to be the only program out there
25 that can help displaced workers.

1 One of the problems we have got in this country is
2 the cost of duplication, and that being the only problem
3 could not be further from the truth.

4 In addition to the standard unemployment assistance
5 we provide workers, there are one-stop-shops authorized
6 by the Workforce Investment Act that provide a long list
7 of services to workers, including referrals to standard
8 TAA programs in place today and authorized through the
9 end of the year. And that program could have a lot more
10 flexibility if we could pass the bill that we have been
11 working on for about 5 years.

12 Over the course of several congresses, I have worked
13 tirelessly to pass that Workforce Investment
14 reauthorization. TAA is just one piece of the puzzle and
15 when you compare the existing workforce programs, like
16 WIA at the TAA, it is clear where our focus should be.
17 WIA has more flexibility, where funds can be administered
18 by States.

19 For example, those receiving TAA benefits can be
20 limited if they are working even part-time to develop new
21 job skills. WIA has no such limitations and allows
22 workers to earn money and continue their education. WIA
23 centers also impact more workers and offer more services
24 than TAA can perform now or in the future.

25 Finally, we have actual data on the successes of

1 WIA, whereas we have little on the scope or how the new
2 provisions of TAA have benefitted workers since it was
3 drastically expanded in the stimulus bill.

4 Expanding programs with little baseline data and
5 creating redundant service programs is not where we
6 should be spending our precious time or our resources.

7 With that said, I have filed a number of amendments
8 to the TAA provisions in the Korea agreement. I do not
9 believe it belongs in the implementing legislation and
10 should be evaluated separately.

11 I have also filed a number of health care-related
12 amendments because of how TAA is being offset, which I am
13 also concerned about.

14 And I yield back the rest of my time.

15 The Chairman. Thank you, Senator, very much.

16 Senator Cantwell?

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1 OPENING STATEMENT OF HON. MARIA CANTWELL, A U.S. SENATOR
2 FROM WASHINGTON
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4 Senator Cantwell. Thank you, Mr. Chairman. And
5 thank you for getting us to this point and your
6 leadership on these agreements. Washington State is a
7 very trade-dependent State, and this agreement for us
8 means a lot for Washington agriculture.

9 South Korea has 45 percent tariffs on apples and
10 pears and a 25 percent tariff on cherries, as well as
11 tariffs on wine and potatoes. But despite this, we have
12 \$11 million worth of cherries going to Korea in 2010.

13 So having these tariffs reduced could mean a huge
14 increase in Washington agricultural products, maybe as
15 much as a 45 percent increase in wine sales alone.

16 Beef production is our State's fifth largest
17 commodity and the market for beef in Korea has the
18 potential to be \$1 billion.

19 In Colombia, a similar situation, where there are
20 tariffs on apples, pears and cherries of 15 percent.
21 This free trade agreement would reduce those to zero
22 immediately. Combined, the potential for Washington
23 pears and apple sales to Colombia is over \$9 million.

24 Washington exports to Panama, the same situation,
25 tariffs on products like cherries, pears, apples, as much

1 as 5 percent. All would be reduced to zero.

2 So for me, these trade agreements are about opening
3 up markets to products that we are already seeing high
4 tariffs on and getting our products accepted into other
5 markets, something I think we need to continue to do in a
6 much more aggressive fashion with bilateral and
7 multilateral agreements.

8 As my colleague who just spoke, Senator Enzi, said,
9 I know he has frustrations with TAA. I think my
10 colleague, Senator Stabenow, articulated why TAA is so
11 important. I think Washington State has probably been
12 one of the larger recipients of TAA funds in the past.
13 That is we have had the dislocation that went along with
14 TAA. We have had the upside and we have had the
15 dislocation, and TAA has made that work for us.

16 I would say that I think, Mr. Chairman, I have filed
17 Cantwell Amendment No. 18. I do not know that we will
18 get to that discussion. But I agree with Senator Enzi
19 that we have to think about how we can more liberalize
20 our process for training today.

21 We have a skills gap in America. There are probably
22 10,000 job openings right now in Seattle between Boeing
23 and Microsoft, 10,000. Throw in Amazon, it is probably
24 several thousand more. We need to figure out how we can
25 more quickly, in this economy, get training dollars,

1 encourage employers to hire people and do the training,
2 not as a replacement for WIA, not as a replacement, but
3 as a way to supplement right now some of the needs to re-
4 skill the American workforce so that we can more quickly
5 get them re-employed.

6 So I thank you for the tremendous amount of work
7 that has gone on to get these trade agreements where they
8 are today and your thoughtful process. I am glad we are
9 at this point and I am glad that TAA is a cornerstone to
10 the agreements.

11 Thank you.

12 The Chairman. Thank you, Senator.

13 Next, Senator Cornyn?

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1 OPENING STATEMENT OF HON. JOHN CORNYN, A U.S. SENATOR
2 FROM TEXAS

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4 Senator Cornyn. Thank you, Mr. Chairman.

5 Mr. Chairman, I am glad we are here today talking
6 about these important free trade pacts, and it is
7 unfortunate it has taken us this long to get here.

8 I am worried, like many of my colleagues, that the
9 goalposts continue to move on conditions demanded for
10 passage of these agreements, the most recent one, of
11 course, the dramatic expansion of trade adjustment
12 assistance linked to the Korea agreement.

13 And by the calculation my staff has provided me, it
14 would mean that someone who claims to be displaced as a
15 result of these trade agreements could qualify, in
16 addition to unemployment coverage, for up to 2.5 years of
17 benefits. That seems to me to be an extraordinarily long
18 time for somebody to be able to claim that they cannot
19 find work because of a trade agreement. So I think that
20 needs a lot of work.

21 The other area that I am concerned about is the
22 President's proposal to pay for this, in part, by
23 Medicare. We have seen that not only in the President's
24 health care plan that passed in the last year and a half,
25 that \$0.5 trillion was taken from Medicare in order to

1 fund that, and now the President proposes, again, to take
2 more funding from Medicare, which the Medicare trustees
3 said will run out of money in 2024 already.

4 This at the same time when some of our friends
5 across the aisle have said that the House proposal
6 threatens to end Medicare, as we know it. Well,
7 Medicare, as we know it, is going broke and,
8 unfortunately, robbing from Peter to pay Paul by using
9 Medicare to fund trade adjustment assistance is going to
10 make Medicare's insolvency even that much more a concern.

11 I do think it is important we try to move these
12 agreements through, because, obviously, we are at a
13 disadvantage in global trade. My State happens to be the
14 top exporting State in the Nation. We are grateful for
15 that. We have recognized that these trade agreements
16 create jobs at home when you could sell goods or produce
17 to overseas, and last year we sold \$207 billion in
18 merchandise to foreign buyers.

19 Texas is the top exporter to Colombia, \$4.4 billion,
20 and the top exporter to Panama, \$1.8 billion, and the
21 second large exporter to Korea, \$6.4 billion.

22 So I do think that it is important for us to move
23 these free trade agreements. I do agree with those like
24 Senator Enzi and Senator Coburn and others who pointed
25 out the unnecessary duplication in some of our job

1 training programs, and I think that, unfortunately,
2 tagging the TAA provision onto the Korean trade agreement
3 makes it less likely that it will actually pass and adds
4 to the unnecessary duplication, in addition to my
5 concerns about funding the TAA from Medicare, which is
6 already on a path to insolvency.

7 Thank you, Mr. Chairman.

8 The Chairman. Thank you, Senator.

9 Next, Senator Cardin?

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1 OPENING STATEMENT OF HON. BENJAMIN CARDIN, A U.S. SENATOR
2 FROM MARYLAND

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4 Senator Cardin. Thank you, Mr. Chairman. I very
5 much appreciate your leadership on this.

6 Let me make, first, a comment about trade adjustment
7 assistance. We should not be here today, because it
8 should have been extended in February. But it was
9 blocked by the Republicans, our efforts to get it done
10 earlier this year.

11 Trade adjustment assistance has never been a
12 partisan issue and we know that our colleagues here are
13 very sincere, and I mean that. I know that you would
14 assist us in getting this considered.

15 But the facts are that any one Senator could block
16 it, and we understand that. We also have the House,
17 which we are not sure exactly how they are going to
18 respond when it is a separate bill.

19 So I think it is right to consider trade adjustment
20 assistance with the trade agreements. There are
21 positives to trade, no question about it. We will create
22 jobs. But there are people who get dislocated by trade,
23 and that is why we have had an agreement for a long
24 period of time for trade adjustment assistance.

25 And I would hope my colleagues would work with us

1 and continue to move forward on the trade agenda.

2 Now, Mr. Chairman, let me say that since I have been
3 in Congress, which has been 24 years, I was a Ranking
4 Member of the Trade Subcommittee in the House, I think I
5 have supported almost every trade agreement, because it
6 is important for job creation. I understand that. I
7 understand that in Maryland. I understand it around the
8 Nation.

9 Maryland has the Port of Baltimore, which is
10 critically important to our economy. But I am going to
11 oppose the Colombia agreement and I want my colleagues to
12 know why.

13 I think that trade offers us an opportunity to
14 advance international human rights. The United States
15 has played a leadership role in the international
16 community in advancing human rights. I think about the
17 days with the Soviet Union, and I am sure Jackson-Vanik
18 was a very controversial issue when it was first
19 mentioned here, but it was responsible for freeing a lot
20 of people from the Soviet Union.

21 And the United States entered international
22 leadership with the apartheid governments of South
23 Africa. When many are saying engagement is all we needed
24 to do to bring down apartheid, in fact, the trade
25 embargoes were critically important to changing that

1 government.

2 So that brings me to Colombia, and I think Colombia
3 is not the right country at this time to offer a free
4 trade agreement to. Just 10 years ago, it was close to
5 being a failed state.

6 But let me quote from our State Department's 2010
7 Human Rights Report, when it says, and I quote, "that
8 activities in Colombia, unlawful and extrajudicial
9 killings, insubordinate military collaboration, new
10 illegal arm groups, forced disappearance, torture, and
11 mistreatment of detainees, arbitrary detentions,
12 impunity, and an inefficient judiciary subject to
13 intimidation, illegal surveillance of civilian groups,
14 political opponent and group agencies, occasional
15 harassment and intimidation of journalists, harassment of
16 human rights groups and activists, including unfounded
17 prosecutions, violence against women, including rape,
18 societal discrimination against women, indigenous
19 persons, and Afro-Colombians, illegal child labor," and
20 the list goes on and on and on. That is the 2010 report.

21 Now, I know that the Santos administration is making
22 progress. They are making progress, and I am pleased
23 about the progress they are making. And I know we have
24 an action plan that is part of these negotiations, but it
25 is not in the agreement and its implementation is not

1 required from the point of view of what we are being
2 asked to act on.

3 Based upon all those considerations, I cannot
4 support the Colombia agreement, and I wanted my
5 colleagues to know why.

6 The Chairman. Thank you, Senator.

7 I note that there is a vote, but I think only two
8 more Senators are here to speak. My thought is we would
9 get those two statements, then we would recess for the
10 vote, and then come back and do our work.

11 Next in line is Senator Thune.

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1 OPENING STATEMENT OF HON. JOHN THUNE, A U.S. SENATOR FROM
2 SOUTH DAKOTA

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4 Senator Thune. Thank you, Mr. Chairman.

5 These three trade agreements are no-brainers and
6 they are long overdue. We have wasted 4 years getting
7 here, 4 years of lost opportunities for American
8 exporters.

9 In the last 2 years alone, we have seen wheat
10 exports to Colombia collapse, literally collapse, and
11 once the agreement between Canada and Colombia goes into
12 effect on August 15, I think that market is going to
13 evaporate entirely for American exporters.

14 And the estimate today already is that it is costing
15 U.S. wheat producers \$100 million a year in sales to
16 Colombia every year that we wait to get this enacted.

17 A similar story in South Korea. The U.S. used to be
18 South Korea's largest trading partner. But since 2004,
19 we have fallen to fourth place behind China, Japan, and
20 the European Union. Our share of Korea's market for
21 goods has dropped from 21 percent to just 9 percent.

22 As I said, these are no-brainers. I would hope that
23 we can move quickly to get these approved. I am
24 concerned, as has been expressed by my colleagues, that
25 attaching TAA to this complicates that process and we

1 should not do anything that complicates this any further.
2 We need to expedite the passage of these trade agreements
3 and get American exporters back in the game.

4 So I hope that we can do that and that we can get
5 clean votes on these three trade agreements and do what
6 we should have done many years ago.

7 Thank you, Mr. Chairman.

8 The Chairman. Thank you, Senator, very much.

9 Senator Carper?

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1 OPENING STATEMENT OF HON. THOMAS CARPER, A U.S. SENATOR
2 FROM DELAWARE
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4 Senator Carper. Thanks, Mr. Chairman.

5 As we gather here today, colleagues, one of the
6 questions on the minds of the American people as they
7 watch what is happening in our Nation's capital and even
8 in this markup is can we govern -- can we govern.

9 Can we return to really what has been the tradition
10 of this Committee, and that is to work across the aisle
11 to find common sense approaches and to reconcile our
12 differences and to move forward, and we need to do that
13 here.

14 We really need to set an example, I think, for our
15 colleagues both in the Senate and in the House and give
16 some assurance to the people of this country that, yes,
17 indeed, we can still govern. We can do what is right for
18 our country.

19 Just going off these three trade agreements, I
20 believe they were negotiated in an earlier
21 administration, the administration of George W. Bush.
22 They have been modified somewhat in this Administration,
23 I think improved.

24 I shared with my colleagues yesterday a conversation
25 I had with a fellow who -- actually, his family is from

1 Delaware. He is a trade economist. His name is Clyde
2 Prestowitz.

3 He was talking a year or two ago with his
4 counterpart in from South Korea, who was complaining
5 about how tough this trade agreement, this proposed trade
6 agreement was going to be on South Korea. And my friend,
7 Clyde Prestowitz, said, "Well, look, don't you know, in
8 the end, you guys will find a way to wiggle out of this?"

9 And the guy hesitated, the guy from South Korea
10 hesitated for a little bit and he said, "Yeah, you're
11 right. You're right."

12 And for those of us who think we do not need TAA,
13 whether it is with respect to South Korea or any other
14 trade agreement, I think there is actually a pretty good
15 argument that we do.

16 Now, my friend Tom Coburn over there points out that
17 we have, what, 47 different programs, Federal programs
18 that are designed to help equip American workers with the
19 skills that they need to find jobs and be able to compete
20 in the 21st century.

21 I just pledge to you, we work on a lot of stuff
22 together to try to find ways to get better results for
23 less money, let us go to work on that one. Let us go to
24 work on that one.

25 Having said that, I would like for us to have a

1 chance to move forward here. I know the Chairman and the
2 Ranking Member have been working behind the scenes to try
3 to find a way to meet the Republican concerns about maybe
4 having the up or down vote on TAA, separating it from the
5 South Korea agreement.

6 At the end of the day, it is important to us and I
7 think it is important to some of our Republican friends,
8 we actually pass TAA. And if we can do that in a way
9 that gives you a free shot at that one and separate votes
10 on the other three free trade agreements, I think that is
11 the way this place ought to work and my hope is it --

12 Senator Coburn. Would the Senator yield?

13 Senator Carper. Yes. I will be happy to yield.

14 Senator Coburn. Just for the record, there are 47
15 different programs, nine different agencies, of which we
16 spend \$18 billion a year in job training in this country.
17 So this is somewhat duplicative. So it is another one.
18 So that does not include the 47, and now it is 48.

19 Senator Carper. And I appreciate that. But if, by
20 making -- agreeing to -- ultimately, agreeing to a
21 negotiation between the Chairman and Chairman Camp over
22 in the Senate on a TAA extension for, what is it, 130
23 weeks, that is actually paid for, fully offset, that is
24 not a bad deal compared to some of the things we have
25 voted for around here.

1 Let me just close with this. I remember sitting
2 next to Bill Clinton, just like I am sitting next to Ben
3 Cardin here, about 12 years ago. He was President, I was
4 Chairman of the National Governors Association.

5 We were talking about NAFTA. He was telling us why
6 NAFTA was going to be such a good deal for this country,
7 and somewhere on the way to the forum, it did not turn
8 out to be quite the deal that we had hoped for.

9 And I was asking Ron Kirk, our trade ambassador,
10 what went wrong with NAFTA and how do we make sure that
11 we do not make the same mistake with respect to these
12 three trade agreements, and he said some of the side
13 agreements in NAFTA for environmental issues, labor
14 issues, they were side agreements, they were not embedded
15 within the agreements.

16 And he said, "One of the things we've learned from
17 NAFTA is to put that stuff in the actual agreements," and
18 we have done that. My hope is by doing so that we will
19 address a lot of the -- actually, have learned a lesson
20 from NAFTA.

21 The last thing I want to say. One of the things
22 that Bill Clinton said to me that day that is stuck into
23 my mind forever, he said, "You know, the reason why free
24 trade agreements are good is we let other countries sell
25 their stuff to us without impediment, without tariff

1 barriers, non-tariff barriers. But a lot of those
2 countries, when we try to sell our stuff to them, they
3 put up these barriers. There are tariff barriers and the
4 rare non-tariff barriers."

5 He said, "After we do a free trade agreement, the
6 idea is they can still sell their stuff to us without
7 impediment, but finally we can start selling to their
8 countries without impediment, too." He said it is a no-
9 brainer.

10 And I think it was not exactly a no-brainer, but I
11 think we are getting smarter in this stuff and I think
12 given the lessons we have learned, they have been
13 incorporated here. And some of the changes that are
14 going on in Colombia, the protections for life and
15 liberty there, they are improvements. But can they do
16 better? Sure, they can do better. They need to do
17 better.

18 The question is do we encourage them to do better on
19 that front by passing this trade agreement or not, and I
20 think there is an honest argument there. But I think at
21 the end of the day, we do more for people's lives and
22 their safety than otherwise would be the case.

23 Thanks, Mr. Chairman.

24 The Chairman. Thank you, Senator.

25 Senator Hatch?

1 Senator Hatch. If I could just take about 30
2 seconds. I think the problem here is not that we should
3 stop these treaties. The fact of the matter is that
4 adding trade adjustment assistance under TPA sets a bad
5 precedent.

6 Now, true, they did it on the NAFTA agreement, but
7 that was about the only one that I can think of. The
8 fact of the matter is that you may very well win on TAA
9 in both houses, but it ought to be decided separately on
10 its own merits, without shoving it in here and then
11 saying that we are not cooperating because we do not
12 think that is the right thing to do.

13 I just wanted to make that one point. And I
14 appreciate all my colleagues and I appreciate your
15 feelings on this, but it ought to be done separately on
16 its own merits.

17 The Chairman. Thank you, Senator.

18 We have to vote. The Committee will stand in recess
19 for 15 minutes, 10:25.

20 [Whereupon, at 10:11 a.m., the meeting was recessed
21 and convened back on the record at 10:39 a.m.]

22
23
24
25

AFTER RECESS

[10:39 a.m.]

The Chairman. The Committee will come to order.

The next order of business is the South Korean mark. There is a modification before the Committee in connection with the mark, and the mark is so modified.

The next order of business is to walk through the mark, the South Korean mark, as modified.

Ms. Khanna, would you briefly describe the main features of the mark? And I think there is some interest in the Committee here to move fairly quickly, so I urge you to respect those concerns.

Ms. Khanna. Yes. Thank you, Chairman Baucus.

The Committee is considering two documents relating to the United States-Korea free trade agreement today. The first document is a statement of administrative action, which provides the Administration's views on the proper interpretation of the agreement; and, the second document is the implementing bill, which makes the changes to U.S. law that are necessary or appropriate to implement the agreement.

The implementing bill is divided into six titles, which I will briefly summarize. Title I provides for congressional approval of the agreement and the accompanying statement of administrative action.

1 Title II authorizes the President to modify tariffs
2 in accordance with the agreement, including on South
3 Korean auto imports, and establishes rules of origin that
4 define which goods are eligible for preferential
5 treatment under the agreement.

6 Title III creates safeguard mechanisms to remedy any
7 import surges that may result from tariff modifications
8 and includes a separate safeguard mechanism to address
9 auto import surges.

10 Title IV gives eligible South Korean goods and
11 services access to U.S. Government procurement bidding
12 procedures.

13 Title V extends provisions of the Trade and
14 Globalization Adjustment Assistance Act of 2009 and
15 modifies that Act to reduce costs.

16 And, finally, Title VI provides offsets for the
17 bill's projected revenue losses.

18 Mr. Chairman, your modification to the Korea
19 implementing bill contains several changes to the
20 offsets.

21 First, the modification amends the Korea
22 implementing bill to raise the merchandise processing fee
23 ad valorem rate from .329 percent to .343 percent.

24 Second, the modification extends the merchandise
25 processing fee until December 17, 2020.

1 Third, the modification provides that in 2020,
2 penalties assessed on Medicare providers who fail to
3 become meaningful users of health care information
4 technology will be diverted from the Medicare improvement
5 fund.

6 Mr. Chairman, that concludes my summary of the
7 implementing bill, as modified.

8 The Chairman. Thank you, Ms. Khanna.

9 I want to call on Republican staff, if you want to
10 add any additional information.

11 Mr. DeLaney. Thank you, Mr. Chairman.

12 The Chairman. Mr. DeLaney, proceed.

13 Mr. DeLaney. We have nothing to add to the summary
14 given by our colleague. Thank you.

15 The Chairman. Do Senators have any questions about
16 the modified mark? This is the Korean modified mark.

17 [No response.]

18 The Chairman. I see no Senators seeking to ask
19 questions.

20 It is now in order for Senators to offer amendments
21 -- I apologize. I did not see you, Senator.

22 Senator Rockefeller?

23 Senator Rockefeller. Mr. Chairman, I apologize for
24 being late. I ask permission to put my statement in the
25 record.

1 [The prepared statement of Senator Rockefeller
2 appears in the appendix.]

3 Senator Rockefeller. And, also, a letter from the
4 UAW in support of the South Korean trade agreement.

5 [The letter appears in the appendix.]

6 Senator Rockefeller. I have a question for Mr.
7 Barthold. We have discussed this and I am not going to
8 bring this to a vote, but I want to know a little bit
9 about it.

10 The Recovery Act made several improvements to the
11 health coverage tax credit and it went from 65 to 80
12 percent, which was a good thing. Even with that, 36
13 percent of the people said that they could not afford to
14 buy health insurance.

15 Now, that is about 30,000 potential people. So
16 question one, would you agree that affordability is an
17 important determinant of whether individuals participate
18 in this program, keeping in mind that the vast majority,
19 73 percent, of HTC recipients are retired or unemployed?

20 Mr. Barthold. Thank you, Senator.

21 We always think that price is an important
22 determinant and the relative credit rate is an important
23 determinant in our estimate of the receipts effect. So
24 the brief answer is, yes, we think that the change in
25 credit rate is important to participation.

1 Senator Rockefeller. And then, obviously, the
2 follow-on, would you agree that the Recovery Act improved
3 affordability, to a certain extent?

4 Mr. Barthold. The credit rate was higher.

5 Senator Rockefeller. Yes.

6 Mr. Barthold. So it made the net cost to the
7 individual lower. Yes, sir.

8 Senator Rockefeller. And would you also agree that
9 a subsidy level of 72.5 percent, as contemplated by this
10 free trade agreement, which I am going to vote for, will
11 mean that some workers who received help under the
12 Recovery Act will not under this?

13 Mr. Barthold. Our estimates reflect different
14 participation under the 72.5 percent rate compared to an
15 80 percent rate or compared to a 65 percent rate. Yes,
16 sir.

17 Senator Rockefeller. I thank you.

18 The Chairman. Thank you, Senator.

19 As noted, my modification removed an offset from the
20 Korea bill that would have reduced Medicare reimbursement
21 for medical imaging services, done largely at the urging
22 of the Senator from Massachusetts. And I know that
23 imaging is very important, in fact, it is critical to
24 that State. It is to probably most States, especially
25 Massachusetts, and the Senator would like to say a few

1 words about that issue.

2 Senator Kerry. Mr. Chairman, what I really want to
3 do is thank you for listening to our concerns and
4 striking the provision in the mark that would have cut
5 the Medicare payments for medical imaging services by
6 \$400 million.

7 The reasons this is of enormous concern are several.
8 First of all, the innovators who make the cutting-edge
9 machines and put them out to the world class physicians
10 who rely on them find many of them are based in
11 Massachusetts; not alone in Massachusetts, there are
12 other places.

13 But if you lower the Medicare reimbursements for
14 medical imaging, then that leads doctors to hold onto
15 their old equipment longer, which means fewer patients
16 get access to the newer technologies that are better at
17 finding early stage diseases. And so we wind up with
18 less diagnosis, less quality of care.

19 In addition, the imaging cuts also result in job
20 losses, because manufacturers of this equipment have no
21 choice but to respond to the increased demand or lack of
22 it by laying off workers, shutting down factors and
23 research facilities across the country.

24 So thousands of jobs are tied to that, and I think
25 the fact is that the imaging sector participated

1 enormously in the entire Affordable Health Care Act and
2 has made significant contributions already in terms of
3 reductions and cuts.

4 So I greatly appreciate your working with me with
5 respect to this and understanding how important it is.

6 Senator Rockefeller. Mr. Chairman, can I ask a
7 question?

8 The Chairman. Senator Rockefeller?

9 Senator Rockefeller. Of Senator Kerry. Senator
10 Kerry, I am not going to oppose this because you have
11 worked it out. But one of the absolutely blatant, potent
12 facts about higher costs of health care is the vast
13 overuse of medical imaging devices. So I do not
14 understand.

15 Senator Kerry. Well, I will acknowledge that there
16 can be an overuse, but that is not cured by dealing with
17 the reimbursement. That is cured by dealing with the
18 decisions that doctors make and, also, some larger reform
19 issues.

20 I would have liked to have seen us -- I say this as
21 a Democrat -- have dealt with some form of tort reform
22 effort, because defensive practice drives a lot of people
23 to go out and do imaging when it is not necessary.

24 So that is deeper into the health care system. It
25 is not in the reimbursement process that is driving that.

1 So, again, there are things we could do to reform that,
2 but cutting the reimbursements is not one of them.

3 Senator Rockefeller. Thank you.

4 The Chairman. Thank you, Senators.

5 It is now in order for Senators to offer amendments.

6 And I would like to go back and forth with amendments,
7 and start first on the Republican side and see if there
8 are any members on the Republican side who might have
9 amendments to the South Korean free trade agreement.

10 Senator Hatch. Mr. Chairman, we do have a lot --

11 The Chairman. And if you could give the number of
12 your amendments.

13 Senator Hatch. I will. We do have a number of
14 amendments. So I would call up Committee Amendment No.
15 28.

16 The Chairman. No. 28.

17 Senator Hatch. It would be Hatch Amendment No. 7,
18 for those who have that.

19 The Chairman. Hatch-7.

20 Senator Hatch. Yes. But it is 28 on the Committee
21 amendment.

22 The Chairman. Hatch-7.

23 Senator Hatch. Yes. It would be Committee-28,
24 though.

25 The Chairman. Is that on GAO report?

1 Senator Hatch. Yes. Can I go ahead?

2 The Chairman. Go ahead.

3 Senator Hatch. All right. Mr. Chairman, this does
4 involve the GAO report on congressional and private
5 sector consultations.

6 Now, I offer Committee Amendment No. 28, which
7 requires GAO to submit a report to the Committee on the
8 nature and effectiveness of the Obama Administration's
9 trade consultation process since January 2009 for
10 Congress and private sector trade advisory committees and
11 other stakeholders, as they relate to these three trade
12 agreements, the WTO DOHA round of trade negotiations and
13 the negotiation of the Trans-Pacific Partnership
14 agreement.

15 As you are aware, the bipartisan Trade Promotion Act
16 of 2002 requires that the Administration consult with
17 Congress and other stakeholders before, during and after
18 trade negotiations.

19 Earlier this year, Ambassador Kirk referred to,
20 quote, "extensive consultation with the business
21 community, labor, and Congress," unquote, regarding the
22 Korea FTA. In fact, in the President's 2011 trade
23 agenda, they write, quote, "As the new agreement with
24 Korea was announced, a claim for the Administration's
25 transparent and inclusive process of consultations with a

1 broad range of stakeholders was widespread," unquote. A
2 "claim," in quotes, really?

3 Many of the private sector stakeholders that I talk
4 to certainly do not sound like they are offering a claim
5 to me. In fact, many of the companies and individuals
6 with some of the broadest experience in trade
7 negotiations and knowledge of the industries at stake had
8 been formally removed from the process.

9 In the case of the South Korea implementing bill, I
10 am really stunned by this description concerning the fact
11 that about one-third of the proposed implementing bill
12 for the Korea FTA contains offsets and a TAA program that
13 were not discussed with me, my staff or any Republican on
14 the Committee.

15 Now, if this qualifies as, quote, "extensive
16 consultation," unquote, I would hate to see what this
17 Administration considers to be hiding the ball. And this
18 from the Administration who claims to be, quote,
19 "committed to the unprecedented level of openness,"
20 unquote.

21 Well, at least part of that description fits. The
22 consultations on the implementing legislation for these
23 FTAs may not have been open, but it was certainly
24 unprecedented and I hope never to be repeated.

25 Given this, I think it is entirely appropriate to

1 ask GAO to examine whether the Administration met its
2 mandatory consultation obligations and how effective its
3 outreach has been in developing policy both with regard
4 to these FTAs and other ongoing negotiations, such as the
5 TPP and the WTO DOHA round.

6 Finally, this Administration has made significant
7 changes to the industry trade advisory committee process.
8 This report will also help to inform Congress as to the
9 effectiveness of these changes and aid us in ensuring
10 that appropriate procedures are in place for ongoing and
11 future negotiations.

12 So I will try to be brief on these amendments, but I
13 hope that is brief enough.

14 The Chairman. Is there any debate?

15 Senator Rockefeller?

16 Senator Rockefeller. Mr. Chairman, this is an
17 amazing amendment. I have never quite heard of asking
18 the GAO to come forth with a report on whether or not the
19 President has been adequate in his reaching out to the
20 Congress. I think that is, in any administration, under
21 any circumstances, a very strange idea.

22 In any event, we certainly do not need a GAO report
23 to do that. Members have their own views on that. And I
24 oppose the amendment.

25 The Chairman. Any other debate?

1 This has a certain appeal, this amendment, but,
2 unfortunately, I am going to have to oppose it for a
3 couple of reasons; basically, because Chairman Camp and I
4 have worked out an agreement which we hope will pass both
5 bodies and if there is a change -- and once there are
6 changes on this side, it is going to open up the House
7 bill for additional changes, and that is going to
8 jeopardize this agreement.

9 Senators can always ask for GAO reports. I do not
10 think, however, that should be a part of this
11 legislation; that is, we do not need special legislation
12 to ask for a GAO report. Senators can always ask for GAO
13 reports. I think that is the better way for this issue
14 to be handled.

15 But I think it would be unwise to go down the road
16 to start passing amendments to this legislation. There
17 may be some in the nature of not really getting to the
18 heart of agreements, but in my opinion, because any
19 Senator can ask for a GAO report anyway and because this
20 is legislation to request a GAO report and it would
21 change and open up the House to its own changes, that it
22 would be wider if this amendment is not passed.

23 Senator Hatch. Mr. Chairman, if I could just add
24 one thing. The GAO report -- this is for my good friend
25 from West Virginia, Senator Rockefeller.

1 The Chairman. I am sorry.

2 Senator Hatch. Just for my good friend from West
3 Virginia. The GAO report was done in 2007. This would
4 just bring it up-to-date. And it was done during the
5 Bush Administration. So there is a precedent, but I
6 understand you are going to oppose it, and I would be
7 happy to vote on it.

8 The Chairman. If there is no further discussion,
9 the vote will be on the amendment.

10 All those in favor of the amendment, say aye.

11 [A Chorus of Ayes.]

12 The Chairman. Those opposed, no?

13 [A chorus of Nays.]

14 The Chairman. The noes appear to have it. The
15 noes have it. The amendment is not agreed to.

16 I will now turn to the Democratic side.

17 Senator Wyden?

18 Senator Wyden. Mr. Chairman, this is Wyden
19 Amendment No. 7, I guess, also, my first amendment.

20 The Chairman. I am sorry. Senator, again, which
21 one is it?

22 Senator Wyden. It is No. 7, Mr. Chairman.

23 The Chairman. Thank you.

24 Senator Wyden. On the enforcement.

25 The Chairman. Wyden-7?

1 Senator Wyden. Yes. It is Wyden-1, Amendment 7.

2 The Chairman. All right.

3 Senator Wyden?

4 Senator Wyden. Thank you, Mr. Chairman.

5 Mr. Chairman, this is a bipartisan amendment. It is
6 backed by Democrats and Republicans on and off the
7 Committee, and it is urgently needed because the trade
8 cheats are on a rampage and see our trade enforcement
9 efforts as toothless, and here is exactly what is going
10 on.

11 The foreign trade cheats, especially from China, are
12 found guilty of dumping their goods in our country.
13 Instead of stopping the dumping, the Chinese goods are
14 shipped into Korea, for example, where the goods get
15 repacked into boxes that say "Made in Korea."

16 This is essentially merchandise laundering. And
17 once the U.S.-Korea free trade agreement goes into force,
18 my concern is Korea will become a super-magnet for
19 merchandise laundering.

20 Why, for example, would any Chinese trade cheat
21 launder their merchandise through, say, Malaysia, when
22 going through Korea would bless their merchandise with
23 duty-free status?

24 So for some time, this bipartisan group -- and I see
25 Senator Snowe here and she and I have worked on this for

1 several years now, Senator Schumer has been supportive,
2 Senator Cardin and others have been involved in an effort
3 to force the customs office to get back into the
4 enforcement business and to make sure that we actually
5 bring these enforcement actions in a timely way.

6 What this amendment does specifically is set in
7 place concrete timetables for both launching and
8 completing these investigations. It is an amendment
9 backed by business. It is an amendment backed by labor,
10 the Association of American Manufacturing Workers and
11 Business, for example, both support the amendment.

12 And my view is, especially in light of the talks
13 that I heard from members on both sides of the aisle, for
14 those of us who see expanding trade as absolutely
15 essential to growing the American economy, we also need
16 to understand we have got to enforce the laws on the
17 books.

18 This gives us an opportunity to do it. Even Alan
19 Bersin, who heads the Customs Service, says that this
20 process is completely broken.

21 So I am very hopeful. Your staff, Mr. Chairman, has
22 been very supportive and very constructive on this, and I
23 would be happy to yield to Senator Snowe for any
24 commentns she would like to make, Senator Schumer,
25 Senator Cardin or others.

1 But labor, business, it generates revenue a time
2 when, obviously, we need revenue, one of the few
3 proposals that does, and I think we are going to have
4 Senators speak, and I think we have worked out an
5 agreement, Mr. Chairman.

6 The Chairman. Senator Snowe?

7 Senator Snowe. Thank you, Mr. Chairman.

8 I want to compliment Senator Wyden for crafting this
9 legislation and, in particular, this amendment to the
10 South Korean free trade agreement.

11 It is critically important. I have heard from
12 numerous industries, not only in my State, but across the
13 country, how countries are -- and, specifically, as the
14 Senator mentioned, China -- invading through trans-
15 shipments to other countries to avoid the duties that are
16 levied on their imports, misrepresentation of the
17 merchandise, underreporting the value of the merchandise.

18 So there are approximately 300 anti-dumping and
19 countervailing duty orders in place on various products
20 from steel nails and natural bristle paint brushes to
21 certain types of coated paper.

22 Notably, roughly one-third of these orders in the
23 United States are against Chinese merchandise, and, not
24 surprisingly, China is also one of the countries most
25 often linked with anti-dumping and countervailing duty

1 evasion.

2 Workers in my State, and I know it is true, as well,
3 nationally, depend upon trade remedy laws and strong
4 enforcement of trade remedy laws as a vital lifeline. We
5 have an obligation every time we are considering a free
6 trade agreement to ensure that our government is standing
7 four-square with the workers in this country and the
8 industries to remain competitive.

9 And that has not happened, frankly, and it is one of
10 the weaknesses that continue to persist. And so Senator
11 Wyden has identified a major loophole; it is to make sure
12 that the Customs and Border Protection is not only
13 identifying those who are attempting to evade, but to
14 make sure to levy those tariffs and to make sure they are
15 collected in a timely fashion, and, also, to make sure
16 the Department of Commerce initiates timely action, which
17 is also a major problem and an impediment to strong
18 enforcement of our trade remedy laws.

19 I know, for example, in the paper, "Industry in the
20 State of Maine," they initiated a case against China
21 recently and, in fact, the International Trade Commission
22 ruled unanimously in favor of the industry that, in fact,
23 China had been engaged in market-distorting effects.

24 So as a result, the Commission's decision, the
25 Department of Commerce, in this instance, finally, has

1 issued anti-dumping and countervailing duty orders that
2 rate equal to the net subsidy and dumping margins to
3 offset these unfair trade practices.

4 Now, it is also going to be up to U.S. Customs and
5 Border Protection to make sure that they are collecting
6 these duties in a timely fashion. And it is also
7 important to know who is evading those duties.

8 And so I think that the Senator's amendment goes a
9 long ways at addressing many of the gaping holes in our
10 system. It is meant to level the playing field for our
11 workers and our manufacturers, and make sure they are on
12 a level and competitive playing field.

13 Mr. Chairman, I do think that there are so many
14 issues that this Committee has to address with market-
15 distorting trade practices by our trading partners, and
16 so this is one step in the right direction and,
17 hopefully, there will be many more in the weeks to come.

18 The Chairman. Thank you, Senator.

19 Senator Schumer?

20 Senator Schumer. Thank you, Mr. Chairman. I will
21 be brief.

22 I want to thank Senator Wyden for his leadership on
23 this issue. He is the leading voice on trade issues in
24 our Senate. Thank Senator Snowe, as well.

25 There are so many industries that are affected by

1 this and, as we know, China, when it comes to trade
2 issues, just does not play by the rules up and down the
3 line, and I think we are all derelict in not doing enough
4 here.

5 We lose millions of American jobs and literally
6 trillions of American dollars over a longer period of
7 time because of this.

8 One little example where this amendment affects is
9 an industry you would not think would be subject to this,
10 which is honey. The U.S. honey industry is actually
11 under siege from imports of Chinese-origin honey trans-
12 shipped through third countries to evade payments of U.S.
13 anti-dumping duties.

14 The Chinese honey is often inferior. It is laced
15 with antibiotics and other things. We have labeled this
16 "honey laundering." It is the intentional mislabeling of
17 the country of origin, costs the U.S. millions of
18 dollars, threatens the health of the U.S. honey industry,
19 and the whole honey industry across the country is really
20 upset about this.

21 In my State, it is not just the duties we do not get
22 and it is not even just the honey producers. It is all
23 the crops that need honey. Soybeans and grapes and
24 cucumbers and so many others in my State are really
25 endangered by the fact that inferior honey on which the

1 duty is not paid is mislabeled as coming from a country
2 that has far higher standards, but it is Chinese.

3 And the Chinese do not do this -- this just is not
4 one out of five or one out of ten -- they do this by
5 design.

6 So I would urge the Administration to consider
7 putting the Wyden-Snowe amendment in their proposal. I
8 do not think it has objection and it is the kind of thing
9 that makes these kinds of free trade acts a lot easier to
10 pass, because Americans are generally for free trade if
11 they know it is a two-way street.

12 But too many Americans these days think it is an
13 advantage to the other countries, particularly China, and
14 not an advantage to us because they do not play by the
15 rules.

16 Thank you, Mr. Chairman.

17 Senator Cardin. Mr. Chairman?

18 The Chairman. Thank you, Senator.

19 Senator Cardin?

20 Senator Cardin. Just briefly. We have some good
21 anti-dumping and countervailing duty laws. The problem
22 is it is difficult to get them enforced.

23 Other countries do everything they can to avoid our
24 anti-dumping and countervailing duty laws. So I think we
25 need to use every opportunity we can to strengthen the

1 enforcement of the laws we already have on the books that
2 deal with illegal practices of other countries.

3 China has been our number one target as it relates
4 to the use of trans-shipments, and I want to thank
5 Senator Wyden, Senator Snowe and Senator Schumer for
6 their leadership on this.

7 I think we have an opportunity to strengthen the
8 enforcement of laws that are currently on the books. And
9 I understand the concern about amending this, but I would
10 hope there would be a way that we could get the
11 provisions of the Wyden amendment incorporated in the
12 trade agreements.

13 I agree with Senator Schumer, I do not believe this
14 is controversial. We owe it to American industries to
15 enforce our laws.

16 The Chairman. Thank you, Senator.

17 Senator Snowe. Mr. Chairman?

18 The Chairman. Yes, Senator Snowe?

19 Senator Snowe. Yes. I just want to add an
20 additional point to the issue that Senator Schumer raised
21 with respect to the honey industry.

22 The point is it is spreading to a number of
23 industries with the anti-dumping and countervailing duty
24 evasion schemes and it poses a real threat to other
25 sectors of our economy during a very difficult time for

1 many of our companies during this downturn.

2 So the point is here if we do not begin to capture
3 this problem now and to address it in an aggressive way
4 and remedy it and to make sure that our agencies are
5 going to uphold the existing laws and to identify those
6 who are involved in these schemes, it does pose a real
7 threat to our economy, because it is going to spread to
8 other sectors, as it already has begun to do so.

9 The Chairman. Thank you, Senator.

10 There is no question our country has to do a much
11 better job enforcing our trade laws, anti-dumping and CVD
12 laws. It is a bit of an embarrassment, in my judgment,
13 that we have not enforced our laws better than we already
14 have.

15 I believe, further, that our failure to do so is
16 very much at our peril and we must act much more
17 vigorously as a country.

18 I thank Senator Wyden and Senator Snowe and other
19 Senators for this legislation. It is needed. The
20 question is when do we get it passed.

21 I pledge to you, Senator, that I will find a way to
22 get this legislation passed this year. Perhaps we can
23 rework it and put it in the customs authorization bill
24 and if that does not work, we will find some other
25 vehicle.

1 We cannot amend this bill with your bill right now,
2 but I very much applaud your efforts. It is critically
3 necessary.

4 Senator Hatch. Mr. Chairman, I will help you to do
5 that.

6 The Chairman. Thank you, Senator, very much.

7 Senator Wyden?

8 Senator Wyden. Mr. Chairman, if I can just
9 respond. And I thank Senator Hatch, as well.

10 With your assurance that we will get it done this
11 year, that is something that I accept. I will withdraw
12 it at this point.

13 And, colleagues, here is the bottom line. This
14 problem is growing. It is growing because technology is
15 boosting it. It is growing because China is playing a
16 bigger role in our economy.

17 The most recent numbers indicate we are collecting
18 about 20 percent of what is owed. So at a time when our
19 companies are getting shellacked in these tough markets
20 through unfair practices and we are owed this money at a
21 time when the government clearly has to secure the
22 maximum amount of revenue, that is the reason business
23 and labor have come together.

24 And with your assurance, Mr. Chairman, that we will
25 get this done this year, I will withdraw it at this time.

1 The Chairman. Thank you, Senator. You have my
2 assurance, and you heard Senator Hatch, too. We are
3 going to find a way.

4 Senator Schumer. I thank you both.

5 The Chairman. Thank you very much.

6 Are there other Senators who wish to offer
7 amendments?

8 Senator Roberts?

9 Senator Roberts. Thank you, Mr. Chairman. The
10 good news is I have eight, and the better news is I am
11 only going to offer four, and they have no CBO impact.

12 The amendment is No. 63, and it would simply
13 sequence the pending trade agreements with the TAA. It
14 does exactly what it describes. It requires the
15 President to certify that the trade agreements with
16 Colombia, Panama and Korea enter into force before the
17 TAA provision is included in the implementing language
18 may go into effect.

19 I know that there will be some on the other side, my
20 good friends and colleagues, who will claim that the TAA
21 is absolutely necessary and appropriate to go into
22 effect, but it is not clear that the pending trade
23 agreement will, in fact, create job loss.

24 In fact, the U.S.-Korea FTA is expected to increase
25 exports by more than \$10 billion, adding 70,000 jobs.

1 I just do not think it is fair that the TAA would go
2 into effect immediately upon the President's signature
3 while Kansas farmers and exporters or, for that matter,
4 from any State have to wait on the President to certify
5 that Colombia, Panama and Korea have met the obligations
6 of the trade agreements.

7 Basically, the amendment simply keeps TAA and the
8 pending FTAs at the same pace. They are at the same pace
9 now. They should be then, as well.

10 The Chairman. Is there discussion?

11 Senator Bingaman?

12 Senator Bingaman. Mr. Chairman, the way I am
13 thinking about trade adjustment assistance, it is we are
14 trying to put in place again some of the benefits under
15 the trade adjustment assistance program for anyone who
16 loses a job as a result of international trade, not just
17 those that lose jobs as a result of these particular free
18 trade agreements.

19 So I think I would oppose the amendment. Clearly, I
20 think we should have in place these trade adjustment
21 assistance provisions and trying to link it to the
22 effective date or the implementation date of the trade
23 agreements, I think, would not make good sense.

24 Senator Hatch. Mr. Chairman?

25 The Chairman. Senator Hatch?

1 Senator Hatch. Mr. Chairman, as I have made clear,
2 I oppose any inclusion of TAA in the FTA implementing
3 bill or trade agreement implementing bill.

4 But if the Chairman insists upon keeping TAA in his
5 markup recommendation, I fully endorse my colleague's
6 amendment to postpone the expanded benefits included in
7 the implementing bill until after all three FTAs have
8 entered into force.

9 Now, since the Administration has demonstrated that
10 it favors a bloated domestic spending program over
11 passage and implementation of the three FTAs, I think
12 that Senator Roberts' amendment will inject the necessary
13 motivation into the Administration to enter all three
14 FTAs into force as soon as possible and will prevent
15 dithering and delay.

16 Now, Senator Roberts correctly said simply jamming
17 TAA into the implementing language of the U.S.-Korea FTA
18 is, quote, "necessary and appropriate," unquote, despite
19 the fact that the ITC believes the agreement will
20 increase exports by more than \$10 billion, adding 70,000
21 jobs.

22 Now, I also agree that it is unfair if TAA is
23 expanded immediately upon the President's signature while
24 Kansas farmers and exporters have to wait on the
25 President to certify that Colombia, Panama and Korea have

1 met the obligations of the respective trade agreements,
2 and I feel the same about my farmers, as well.

3 It has been over 4 years since these agreements were
4 concluded. Yet, U.S. exporters have been denied access
5 to these markets all that time. TAA, on the other hand,
6 has not only continued, it has been expanded.

7 So I think enough is enough. So I support my friend
8 and colleague's amendment.

9 The Chairman. Senator Roberts?

10 Senator Roberts. I would just like to say to my
11 distinguished friend from New Mexico that what he pointed
12 out is exactly why we should not have TAA in this bill.
13 He has pointed out that it is not -- that the assistance
14 is not really relative to the three trade agreements. It
15 is to try to give assistance to people who need it
16 because of trade, period, or globalization, as I
17 understood it before.

18 Basically, we are back to 2002. We are simply
19 trying to put a stimulus, \$1.6 billion, back into the
20 assistance based on the fact that we are moving a trade
21 bill, and he has indicated that they are not connected.

22 So why are we doing this in the first place? All I
23 am saying is if you are going to do it, make it fair and
24 simply keep pace with the TAA and the FTAs at the same
25 time.

1 I do not have any farmer or rancher coming into my
2 office wanting trade assistance, per se. I think they
3 are for it, very understandably, but they have been
4 wanting the FTA and it has been, what, 4 or 5, 6 years.
5 The same folks who want the assistance are the same folks
6 that were holding this up.

7 So I just think that we ought to keep pace here.

8 The Chairman. All right. I think it is not wise
9 to adopt this amendment, for a couple of reasons.

10 One, the reason mentioned by the Senator from New
11 Mexico, TAA is applied to anyone displaced by trade, not
12 just person displaced by trade because of these trade
13 agreements.

14 Second, the 2009 provisions expired. The 2002 are
15 in place, but 2009 has expired. Chairman Camp and I have
16 worked out a compromise on what the provisions should be
17 midway virtually between 2002 and 2009.

18 It is a good compromise and we agreed to it. It is
19 bipartisan, obviously. And I go back to my first point,
20 too, namely, that TAA is for displaced workers. It is
21 not just for workers displaced on account of these
22 agreements.

23 I urge the amendment be not agreed to.

24 All those in favor of the amendment, say aye.

25 Senator Hatch. Can we have a roll call vote on

1 that?

2 The Chairman. A roll call vote is requested. The
3 Clerk will call the roll.

4 The Clerk. Mr. Rockefeller?

5 Senator Rockefeller. No.

6 The Clerk. Mr. Conrad?

7 The Chairman. No by proxy.

8 The Clerk. Mr. Bingaman?

9 Senator Bingaman. No.

10 The Clerk. Mr. Kerry?

11 The Chairman. No by proxy.

12 The Clerk. Mr. Wyden?

13 Senator Wyden. No.

14 The Clerk. Mr. Schumer?

15 The Chairman. No by proxy.

16 The Clerk. Ms. Stabenow?

17 Senator Stabenow. No.

18 The Clerk. Ms. Cantwell?

19 The Chairman. No by proxy.

20 The Clerk. Mr. Nelson?

21 The Chairman. No by proxy.

22 The Clerk. Mr. Menendez?

23 Senator Menendez. No.

24 The Clerk. Mr. Carper?

25 Senator Carper. No.

1 The Clerk. Mr. Cardin?
2 Senator Cardin. No.
3 The Clerk. Mr. Hatch?
4 Senator Hatch. Aye.
5 The Clerk. Mr. Grassley?
6 Senator Hatch. Aye by proxy.
7 The Clerk. Ms. Snowe?
8 Senator Snowe. No.
9 The Clerk. Mr. Kyl?
10 Senator Hatch. Aye by proxy.
11 The Clerk. Mr. Crapo?
12 Senator Crapo. Aye.
13 The Clerk. Mr. Roberts?
14 Senator Roberts. Aye.
15 The Clerk. Mr. Enzi?
16 Senator Enzi. Aye.
17 The Clerk. Mr. Cornyn?
18 Senator Hatch. Aye by proxy.
19 The Clerk. Mr. Coburn?
20 Senator Hatch. Aye by proxy.
21 The Clerk. Mr. Thune?
22 Senator Thune. Aye.
23 The Clerk. Mr. Burr?
24 Senator Hatch. Aye by proxy.
25 The Clerk. Mr. Chairman?

1 The Chairman. No.

2 The Clerk will tally the vote, please.

3 The Clerk. Mr. Chairman, the final tally is 10
4 ayes, 14 nays.

5 The Chairman. Ten ayes, 14 nays. It appears that
6 the amendment is not agreed to, and the amendment fails.

7 Senator Roberts. Mr. Chairman?

8 The Chairman. Senator Roberts, I would like to go
9 back and forth, if possible, on amendments.

10 Senator Roberts. All right. I am sorry. I
11 thought we could take care of this pretty quick. This is
12 like 2:00 in the morning on the health care bill, and I
13 had 11 amendments and you simply defeated them all real
14 quick.

15 The Chairman. Let me just ask if any Democrats
16 would like to offer any amendments?

17 Senator Rockefeller?

18 Senator Rockefeller. Thank you, Mr. Chairman. It
19 will come as no surprise this is a follow-on amendment to
20 my questions of Mr. Barthold.

21 And I am not going to insist on a vote on this, but
22 I want to say a couple of things. First of all, the
23 Chairman has been very good in that he has raised the
24 health coverage tax credit -- tried to raise it to 80
25 percent, could not, and has settled at 72.5 percent.

1 So I want to make very clear that I am aware of his
2 efforts on this.

3 I simply want to say that I think that this is
4 incredibly important for people who are eligible for
5 this. There is a big difference in the use between 80
6 and 72 and 65. They all involve human beings, and, where
7 I come from, you darned well better care about that.

8 The 65 percent credit, the individual still has to
9 pay over \$2,000 out of pocket. That does not work in
10 West Virginia. When it was 80 percent after the Recovery
11 Act, still, 33 percent, as I indicated in my questions,
12 could not afford it.

13 So we have settled on 72 percent, and I would sure
14 rather have 72 percent than 65 percent. I would rather
15 have 80 percent than 72 percent. But I understand that
16 the Chairman has worked hard on this and I do want to
17 make that clear.

18 So I will not push my amendment for a vote. I do
19 want to, however, make that point that this is not just
20 about some ideological factor. This is about -- and
21 Senator Stabenow and I are together on this amendment.
22 This is about human beings. One other difference, I
23 guess, is that some care more about that than others.

24 I am not going to push my amendment for a vote, but
25 I do want to make the point, and I thank the Chairman.

1 The Chairman. Thank you, Senator, very much. I
2 deeply appreciate the point you made.

3 Senator Roberts, do you wish to offer an amendment?

4 Senator Roberts. Yes, sir. It is No. 64. It
5 requires that the Department of Agriculture and --

6 Senator Stabenow. Mr. Chairman? I am sorry to
7 interrupt my friend, but I did want to speak on this
8 amendment.

9 The Chairman. I am sorry.

10 Senator Stabenow. I thought if I might ask my
11 colleague and partner on the Agriculture Committee just
12 to withhold for a second, I did want to --

13 The Chairman. Senator Stabenow?

14 Senator Stabenow. Thank you very much, Mr.
15 Chairman.

16 I did want to just register as a cosponsor of this
17 amendment, that the 80 percent health care tax credit has
18 really been a lifeline for people who have lost their
19 jobs and health benefits as a result of trade-related
20 business, disruptions and jobs going overseas.

21 And there is a big difference between 65 and 70 and
22 80 percent when you do not have a job and are trying to
23 make sure you can keep your health care benefits.

24 It is also very critical in my State and a number of
25 other States to thousands of retirees who lost their

1 health care and their retirement security when the PBGC
2 took over their hard-earned pensions, and I am
3 specifically thinking of Delphi retirees who have been
4 hit very, very hard, and this credit has been incredibly
5 important to them.

6 So I would like very much to see it at 80 percent.
7 I understand, Mr. Chairman, that you had to compromise in
8 order to get this into the bill. I congratulate you on
9 the fact that this enhanced credit is retroactive in the
10 underlying bill.

11 I think it is important to ensure that that is the
12 case going forward. And I will continue to advocate for
13 those who are in need of this tax credit, to make it the
14 strongest opportunity to help them get health care that
15 we can.

16 Thank you.

17 The Chairman. Senator Hatch, do you have an
18 amendment?

19 Senator Hatch. I thought you were going to Senator
20 Roberts.

21 The Chairman. No, I think -- well, it is between
22 the two of you.

23 Senator Hatch. If you want to go ahead -- I will
24 go ahead, if you do not mind. All right.

25 Well, I would call up Committee Amendment No. 30.

1 It would be Hatch Amendment No. 9, Committee Amendment
2 No. 30, for those who want to look it up. And this
3 regards the development of public outreach plans on the
4 effects of the international trade on U.S. workers.

5 Now, this amendment requires the Department of
6 Labor, on conjunction with the Department of Commerce and
7 the USTR, to develop and submit a plan to the Financed
8 Committee to improve outreach and education to TAA
9 eligible workers and the public on the benefits of
10 international trade to the U.S. economy and U.S.
11 competitiveness.

12 Unfortunately, polls show that the American people
13 are skeptical about the impact of international trade.
14 Many of them view it negatively. Given the information
15 out there in the popular media, it is easy to understand
16 why.

17 Every time a plant closes or a company moves part of
18 its production overseas, there is an article in the local
19 paper talking about how trade is hurting the community.
20 Rarely do you see newspaper articles extolling the
21 benefits of trade or talking about how international
22 trade has resulted in an increased employment in a
23 particular factory or community.

24 So my amendment would help to bring out this side of
25 the story so that the American people can have a better

1 understanding of the full effect of international trade
2 on our economic prosperity both today and in the future.

3 Now, we also hear time and time again how trade
4 adjustment assistance helps support the case for trade by
5 helping those who may be dislocated by global
6 competition. It is hard to understand how people say
7 that TAA helps build support for trade. In fact, I think
8 just the opposite is true.

9 Unions and other anti-trade zealots gleefully use
10 TAA data to make the case that trade causes outsourcing
11 and job loss. After all, the number of trade dislocated
12 workers is certified by the government.

13 As the program is expanded to include more and more
14 people and entities, including community colleges, firms,
15 farmers and fishermen, the myth that trade is bad for the
16 American worker really finds ready fodder. Instead of
17 helping build the case for trade, TAA certifications are
18 used to show that trade is bad.

19 In the end, TAA is really just a government subsidy
20 for anti-trade propaganda. If you do not believe me,
21 just take a look at this report by Working America and
22 the AFL-CIO, called "Outsourced."

23 Time and again, TAA certifications are cited
24 throughout the report to make the case that trade harms
25 workers and economy. And it is not just AFL-CIO. Take a

1 look at the newspaper article from the *Portland Tribune*,
2 entitled "Are Workers Trading Down?" And that is an
3 interesting article, at best here.

4 Now, the article cites example after example of TAA-
5 certified workers as evidence of the negative effects of
6 trade. And if that point is not clear enough, it
7 provides a handy chart at the back, entitled "Where Jobs
8 Were Lost," citing specific TAA certifications for
9 companies like General Electric, Panasonic and Intel,
10 stating that, quote, "Here are Portland area employers
11 that are laying off workers. The U.S. Department of
12 Labor has certified that the layoffs were due to free
13 trade agreements," unquote.

14 So I ask everybody, if TAA certifications are
15 building support for trade and communities throughout the
16 country, who needs enemies? Clearly, if we are going to
17 continue providing special benefits for a particular
18 class of workers, something has to be done to stop
19 subsidizing anti-trade propaganda, which this certainly
20 is, no question about it.

21 My amendment would be a good first step, requiring
22 DOL, Department of Labor, to develop a plan to better
23 educate the American worker and TAA-certified employees
24 about the overall effect of international trade on the
25 U.S. economy.

1 So I urge all my colleagues to support this
2 amendment. I think it is a step in the right direction
3 and it would certainly help to justify what we are trying
4 to do with these trade agreements.

5 The Chairman. Any discussion?

6 Senator Bingaman?

7 Senator Bingaman. Mr. Chairman, I certainly do not
8 want to subsidize anti-trade propaganda. I do not know
9 that we want to subsidize pro-trade propaganda either,
10 though.

11 Senator Hatch. That is what we are doing.

12 Senator Bingaman. Well, that seems to be what the
13 amendment does is to subsidize pro-trade propaganda. It
14 calls on the Labor Department to put together a plan for
15 educating the public on the benefits of international
16 trade.

17 There are many benefits. I support these three
18 trade agreements, and I have supported every trade
19 agreement that has come before this Congress since I have
20 been in the Senate.

21 But there are also negative effects from trade and I
22 would not want to support just a plan or direct that a
23 plan be developed to talk just about the benefits.

24 Senator Hatch. Well, if I could answer. I think
25 my amendment just is talking about the impact of trade,

1 period. Now, it --

2 Senator Bingaman. That is not what the description
3 says.

4 Senator Hatch. Well, I would be happy to work on
5 the language with you, if you have a better way of
6 expressing it. I would be happy to work with you on it.

7 Senator Bingaman. It says to improve public
8 outreach and education to eligible workers and the public
9 on the benefits of international trade.

10 And, certainly, as I say, I believe there are
11 substantial benefits and I plan to vote for these trade
12 agreements because of that, but I just do not think it --
13 I have an amendment that I hope to have considered where
14 we would call upon the International Trade Commission to
15 give us a report 10 years after each trade agreement is
16 entered into or takes effect as to what the actual effect
17 of the trade agreement has been on the U.S. economy. I
18 think that is very useful factual information which
19 members of Congress ought to have and which the public
20 could benefit from.

21 But it would be a neutral requirement on them to
22 give us a report on what the effect has been on the
23 economy.

24 Senator Hatch. Well, let me just add this, Mr.
25 Chairman.

1 What do we do about this kind of crappy propaganda
2 that literally is not accurate? And, frankly, I am
3 willing to work with people on the amendment, but we need
4 to be able to talk about factual reality, how important
5 trade is, and get some of these sources to be a little
6 more perspicacious about what they are talking about.

7 Senator Kerry. Who put the outsource thing out?
8 Where is that coming from?

9 Senator Hatch. That was the AFL-CIO, if I
10 understand it.

11 Senator Kerry. Well, it is not our job to be --

12 Senator Hatch. It is not our job to let them get
13 away with stuff like this either.

14 The Chairman. Wait a minute. That is it, let --

15 Senator Hatch. Like us, we have an obligation, it
16 seems to me, to get the facts out here, and everybody
17 here admits that these trade agreements are absolutely
18 important, that they really create jobs, they are
19 wonderful for our country, and yet we have stuff like
20 that and people think they are not wonderful because they
21 get this propaganda.

22 The Chairman. First of all, let me say that much
23 of the outreach effort is already being conducted by the
24 Administration. In fact, the Administration is working
25 to promote outreach under their 2011 national export

1 strategy.

2 The Administration outlines the national outreach
3 campaign strategy. They are doing this. Now, you may
4 not like the way they are doing it. So we can work with
5 the Administration to perhaps do it in a better way.

6 If some organization has its own view about trade,
7 certainly, that organization can say what it wants to
8 say. But I think this amendment is duplicative, it is
9 really unnecessary. The outreach is already being
10 performed and I think it would be unwise to adopt this
11 amendment. So I would urge us not to.

12 All those in favor of the amendment, say aye.

13 Senator Hatch. Let us have a roll call vote on it.
14 Let us have a roll call vote.

15 The Chairman. I am sorry?

16 Senator Hatch. Roll call vote.

17 The Chairman. You want a roll call vote on this.
18 A roll call vote has been requested. The Clerk will call
19 the roll.

20 The Clerk. Mr. Rockefeller?

21 Senator Rockefeller. No.

22 The Clerk. Mr. Conrad?

23 The Chairman. No by proxy.

24 The Clerk. Mr. Bingaman?

25 Senator Bingaman. No.

1 The Clerk. Mr. Kerry?
2 Senator Kerry. No.
3 The Clerk. Mr. Wyden?
4 Senator Wyden. No.
5 The Clerk. Mr. Schumer?
6 The Chairman. No by proxy.
7 The Clerk. Ms. Stabenow?
8 Senator Stabenow. No.
9 The Clerk. Ms. Cantwell?
10 Senator Cantwell. No.
11 The Clerk. Mr. Nelson?
12 Senator Nelson. No.
13 The Clerk. Mr. Menendez?
14 Senator Menendez. No.
15 The Clerk. Mr. Carper?
16 Senator Carper. No.
17 The Clerk. Mr. Cardin?
18 The Chairman. No by proxy.
19 The Clerk. Mr. Hatch?
20 Senator Hatch. Aye.
21 The Clerk. Mr. Grassley?
22 Senator Hatch. Aye by proxy.
23 The Clerk. Ms. Snowe?
24 Senator Snowe. Aye.
25 The Clerk. Mr. Kyl?

1 Senator Hatch. Aye by proxy.
2 The Clerk. Mr. Crapo?
3 Senator Crapo. Aye.
4 The Clerk. Mr. Roberts?
5 Senator Roberts. Aye.
6 The Clerk. Mr. Enzi?
7 Senator Enzi. Aye.
8 The Clerk. Mr. Cornyn?
9 Senator Hatch. Aye by proxy.
10 The Clerk. Mr. Coburn?
11 Senator Hatch. Aye by proxy.
12 The Clerk. Mr. Thune?
13 Senator Thune. Aye.
14 The Clerk. Mr. Burr?
15 Senator Hatch. Aye by proxy.
16 The Clerk. Mr. Chairman?
17 The Chairman. No.
18 The Clerk will report the vote.
19 The Clerk. Mr. Chairman, the final tally is 11
20 ayes, 13 nays.
21 The Chairman. The amendment does not have
22 sufficient votes. It fails
23 Are there further amendments?
24 Senator Stabenow?
25 Senator Stabenow. Yes. Mr. Chairman, I would call

1 up Stabenow Amendment No. 7. This relates to something
2 that is very important in the State of Michigan, and I
3 raise it in looking at the overall agreements, because we
4 do address the customs fees between Canada and Mexico and
5 so on as part of paying for the agreement, which caused
6 me to want to address something that is very important to
7 us in Michigan that relates to the fact that we are
8 receiving in Michigan about 90 percent of the foreign
9 waste that enters the U.S. in terms of trash trucks.

10 Former Homeland Security Secretary Ridge actually
11 visited and others have visited since then looking at the
12 security risk, because we are not adequately inspecting
13 what are very dense trucks that do not have the ability
14 to have the normal x-ray equipment see inside the trucks.
15 It takes additional staff to be able to inspect them.

16 I have an amendment that would add an inspection fee
17 so we could adequately address these shipments. I want
18 to also indicate that Senator Levin and I worked with the
19 government of Canada to actually reduce the number of
20 trucks coming in through volunteer agreements with local
21 municipalities, Toronto and the Ontario government.

22 We thank them for that. We have reduced the number
23 of shipments coming in by 40 percent as a result of a
24 voluntary agreement. They have increased landfills and
25 increased our recycling and certainly have the capacity

1 to keep all their trash in their country. But at the
2 moment, it is still coming in.

3 So for us, this is a really important issue and the
4 ability to adequately -- we would like very much to stop
5 all the trucks, Mr. Chairman, but until we can do that,
6 making sure that they are adequately inspected and that
7 it is safe coming across our bridges is very, very
8 important, I believe, for homeland security.

9 The Chairman. Thank you, Senator. I know how
10 important it is. A few years ago, we were working on
11 legislation here in the Congress on interstate transport
12 waste and, obviously, the "not in my backyard" syndrome
13 was very popular.

14 I remember the Canadian issue, that those States on
15 the Canadian border were very concerned about trash being
16 imported into their States. And, frankly, I have
17 forgotten how we finally resolved it, but I know then it
18 was a huge issue. And listening to you, I can tell it is
19 a big issue now today, as well. So we will figure out a
20 way to solve.

21 Senator Stabenow. Thank you, Mr. Chairman. I will
22 not ask for a vote.

23 The Chairman. I very sensitive to it. I know the
24 issue and we are trying to help out.

25 Senator Stabenow. I understand. I will not ask

1 for a vote, but I appreciate the Chairman's willingness
2 to work with me to get this resolved.

3 The Chairman. Thank you.

4 Further amendments?

5 Senator Roberts?

6 Senator Roberts. Thank you, Mr. Chairman. This is
7 Amendment No. 64. It simply requires the Department of
8 Agriculture and the USTR to meet with China and Japan
9 within the next 120 days to discuss unresolved beef trade
10 market access issues.

11 Our beef producers, as the Chairman knows, and
12 exporters have long suffered from unfair non-scientific
13 barriers that our foreign trade partners impose on our
14 exports of beef.

15 Despite the fact that the World Organization for
16 Animal Health, that is called OIE, that is the acronym,
17 has determined that U.S. beef is safe, countries like
18 China and Japan refuse to allow U.S. beef exports based
19 on sound science.

20 With regard to China, there has been no progress in
21 resuming U.S. beef trade post-2003 due to the numerous
22 hurdles posed by their government. In Japan, the export
23 situation is a little bit better, but not much. Japan
24 limits the U.S. beef exports from animals 20 months and
25 under despite the fact that the OIE has determined that

1 all products from any age qualifies for safe export from
2 the United States.

3 My amendment merely requires the USTR and the USDA
4 reengage their counterparts in both countries to reach
5 out for a resolution.

6 The Chairman. Is there discussion?
7 Senator Stabenow?

8 Senator Stabenow. Mr. Chairman, I would just
9 support my colleague's amendment. I could not agree more
10 that this needs to be addressed and I hope that we would
11 accept the amendment.

12 The Chairman. Any other discussion?

13 Senator Roberts has raised a very good point. It is
14 very unfair that China effectively does not allow beef to
15 be imported into their country. Japan, too, has
16 significant restrictions.

17 We had a very difficult time with Korea, getting
18 Korea to just open up a little bit, despite a pledge by
19 Korea several years earlier to open to all ages, all cuts
20 of beef.

21 It is a huge issue and, obviously, we have to find a
22 way to address this effectively. It was my hope that
23 with the inclusion of the beef provision in the South
24 Korean agreement, that that would not only nudge South
25 Korea, but, also, China and other countries. That would

1 be a little more leverage.

2 We may have to address this a step at a time, but we
3 still have to address it very significantly

4 I will not take too much of the Committee's time
5 here, but a good number of years ago, Korea was imposing
6 many non-tariff trade barriers to prevent the importation
7 of beef into Korea.

8 For example, they would keep their ships of American
9 beef out at sea for maybe a week or 2 before they could
10 dock, which meant the beef was rotten, or the cans on the
11 shelf were kept many, many months so that they were no
12 longer edible. Those were the non-tariff barriers that
13 Korea implemented at the time.

14 And many of us were quite upset with this. So I
15 organized many Senators to send a letter to -- I think it
16 was President Li -- I have forgotten his name -- at the
17 time, who the president was at the time, saying, "We know
18 you are coming to the United States to address a joint
19 session of Congress. I am sure you do not want to be
20 embarrassed when lots of Senators stand up on the Senate
21 floor explaining how unfair you are, your country, in
22 allowing American beef in.

23 And guess what? Within 2 or 3 weeks, they backed
24 off. Within 2 or 3 weeks, they started allowing beef in.

25 Those non-tariff barriers were relaxed very

1 significantly. Now, many have been re-imposed.

2 It is really interesting and the real question is,
3 how can we be effective here. It is not just beef, but
4 it is all trade matters. No country, altruistically, out
5 of the goodness of its heart, is going to lower a trade
6 barrier. They just do not. They need leverage.

7 Talk does not do it. They need leverage. And one
8 minor problem I have with this amendment is it says we
9 have to meet and discuss, basically. My bitter
10 experience is that discussing does not do it and we, as
11 Americans, have to work harder to find the leverage that
12 is necessary to encourage other countries to do what we
13 know they should do.

14 That is why we have trade laws, for example. But is
15 a difficult issue, that is, these countries not taking
16 American beef and not taking American products on a fair
17 basis.

18 I would like to ask Ambassador Marantis if you could
19 just tell us -- give us an update on the degree to which
20 the USTR is meeting with China and Japan over the next
21 120 days to discuss beef.

22 What is your plan?

23 Ambassador Marantis. Thank you, Mr. Chairman. And
24 we share the frustrations of many of you about the slow
25 pace of market access for our beef and beef products in

1 key Asian markets, like China, Japan, as well as Taiwan.

2 This is a huge priority for us. This is something
3 that we are working on on a daily basis. It has been
4 frustrating. The progress has been slow, but we can
5 commit to you that we will continue actively to step up
6 our efforts to work in cooperation with USDA to get
7 China, Japan, Taiwan and our Asian partners to accept
8 U.S. beef.

9 The Chairman. I might say, too, knowing USTR the
10 way I do, I know that will be very tough. I might say
11 Ambassador Marantis is especially tough. He was formerly
12 my trade counsel and he is very effective and very good
13 at what he does.

14 Frankly, based upon the word of Ambassador Marantis
15 and USTR to undertake this effort, I do not see why this
16 amendment is really necessary.

17 Senator Roberts. Mr. Chairman, if I might. Mr.
18 Chairman?

19 The Chairman. The Senator might withdraw the
20 amendment, because it is not going to advance the ball.

21 Senator Roberts. Could I ask the gentleman? When
22 is the last time that you met with China and Japan?

23 Ambassador Marantis. Senator, we raised --

24 Senator Roberts. More particularly, China.

25 Ambassador Marantis. We raise this issue with our

1 Chinese and Japanese counterparts at every opportunity,
2 whenever we meet them.

3 We had a team in China last week to conduct the
4 midyear review of the JCCT, and this is an issue that is
5 very much on the agenda.

6 Senator Roberts. But my point is that with these
7 three trade pacts, more especially with South Korea, that
8 it could be used as an important catalyst, segue, if you
9 will, to having -- to at least say let us discuss this.

10 All I am asking for is a meeting, Mr. Chairman. I
11 mean, I do not know why there is any opposition to a
12 meeting. We have meetings here to have meetings.

13 The Chairman. This amendment has a flavor of more
14 meetings. You might want to get results, frankly.

15 Senator Roberts. Well, I do not know what leverage
16 you are talking about, sir, but maybe you and I could sit
17 down and then when they had the meeting, we would offer
18 that leverage to them. I do not know. But it just seems
19 to me that if we let -- I mean, this is a god opportunity
20 to bring this up and say, within 120 days, let us give it
21 a shot.

22 The Chairman. Well, there is no practical effect
23 of the amendment if nothing happens in 120 days.

24 I appreciate the concern. We all have the same
25 concern. I urge us not to adopt the amendment.

1 All those in favor of the amendment --

2 Senator Hatch. Do you want a roll call vote?

3 Senator Roberts. Yes, sir. I just think
4 expressing congressional support certainly is a good
5 start and they could go with that, and then more
6 especially with the trade pacts.

7 So I would like a recorded vote.

8 The Chairman. Senator Nelson is recognized.

9 Senator Nelson. Mr. Chairman, this amendment
10 requires the USDA and the USTR meet with China and Japan
11 within the next 120 days to discuss unresolved beef trade
12 market access issues, which hurts.

13 The Senator from Michigan, this practice hurts. A
14 lot of people do not know that Florida is one of the
15 largest beef States.

16 So I want to ask the Ambassador. Do you commit to
17 doing this within the next 120 days?

18 Ambassador Marantis. Senator, we will meet with
19 our Japanese and Chinese counterparts within the next 120
20 days to discuss these issues.

21 Senator Nelson. All right. That is good enough.

22 The Chairman. Senator Stabenow?

23 Senator Stabenow. Mr. Chairman, that was the same
24 question I was going to ask, because I -- certainly, Mr.
25 Chairman, you have been a champion on this issue and,

1 certainly, I understand it, I think, better than all of
2 us, although we certainly, those of us on the Agriculture
3 Committee, share the same concern that you have about
4 what is happening here.

5 I just want to make sure that we have an ironclad
6 commitment that this is going to happen and that you are
7 going to continue to focus on this.

8 I appreciate if the Chairman does not want to add
9 this in terms of this particular markup, but I know we
10 all share a great sense of urgency about this and I think
11 it is very important and we will monitor this and ask for
12 specific follow-up from you as to what happened -- if you
13 are meeting, what happened, and where we go from here,
14 because this is incredibly important to many of us.

15 Senator Roberts. Mr. Chairman, if I might.
16 Everybody has talked very favorably about this amendment
17 taking place and the USTR has indicated that they are
18 going to go over. Then we should all simply vote yes.

19 The problem is there has been no progress even since
20 2003. That is 8 years. So at least we have a provision
21 in here that you have congressional backing and
22 congressional intent certainly is important. I do not
23 quite get it in regards to this requirement.

24 If they are going to fulfill it, this gives
25 congressional intent to back it up, other than making

1 speeches. And I understand making speeches is important,
2 but this says here is a deadline, please go meet with
3 your Chinese counterparts and let us get this thing
4 hammered out.

5 This gives a little more enforcement or power or
6 whatever you want or congressional intent to indicate
7 that.

8 In any case, I want a record vote.

9 The Chairman. A recorded vote has been requested.
10 The Clerk will call the roll for a tally vote.

11 The Clerk. Mr. Rockefeller?

12 Senator Rockefeller. No.

13 The Clerk. Mr. Conrad?

14 The Chairman. No by proxy.

15 The Clerk. Mr. Bingaman?

16 Senator Bingaman. No.

17 The Clerk. Mr. Kerry?

18 Senator Kerry. No.

19 The Clerk. Mr. Wyden?

20 Senator Wyden. No.

21 The Clerk. Mr. Schumer?

22 The Chairman. No by proxy.

23 The Clerk. Ms. Stabenow?

24 Senator Stabenow. Pass.

25 The Clerk. Ms. Cantwell?

1 Senator Cantwell. No.
2 The Clerk. Mr. Nelson?
3 Senator Nelson. No.
4 The Clerk. Mr. Menendez?
5 The Chairman. No by proxy.
6 The Clerk. Mr. Carper?
7 Senator Carper. No.
8 The Clerk. Mr. Cardin?
9 The Chairman. No by proxy.
10 The Clerk. Mr. Hatch?
11 Senator Hatch. Aye.
12 The Clerk. Mr. Grassley?
13 Senator Hatch. Aye by proxy.
14 The Clerk. Ms. Snowe?
15 Senator Snowe. Aye.
16 The Clerk. Mr. Kyl?
17 Senator Hatch. Aye by proxy.
18 The Clerk. Mr. Crapo?
19 Senator Crapo. Aye.
20 The Clerk. Mr. Roberts?
21 Senator Roberts. Aye.
22 The Clerk. Mr. Enzi?
23 Senator Enzi. Aye.
24 The Clerk. Mr. Cornyn?
25 Senator Hatch. Aye by proxy.

1 The Clerk. Mr. Coburn?

2 Senator Hatch. Aye by proxy.

3 The Clerk. Mr. Thune?

4 Senator Thune. Aye.

5 The Clerk. Mr. Burr?

6 Senator Hatch. Aye by proxy.

7 The Clerk. Mr. Chairman?

8 The Chairman. No.

9 The Clerk will report the vote.

10 The Clerk. Mr. Chairman, the finally tally is 11
11 ayes, 12 nays, and 1 pass.

12 The Chairman. There is an insufficient number of
13 votes for the amendment. The amendment is not agreed to.

14 Do other Senators wish to -- Senator Nelson?

15 Senator Nelson. Mr. Chairman, I have filed an
16 Amendment No. 20. I am not going to offer it, and I want
17 to engage in a colloquy with you and Ambassador Marantis.

18 As I said in some opening comments, I am concerned
19 about fishermen and shrimpers having the ability to get
20 trade adjustment assistance because of technicalities in
21 the law, and the TAA for farmers program is intended to
22 help farmers and fishermen address the increased import
23 competition by providing technical assistance and grants
24 to help them improve their competitiveness.

25 This is what TAA is all about. Well, the shrimpers

1 and the fishermen in not only my State, but all over the
2 Gulf and all over the Atlantic, and I am sure the
3 Pacific, as well, have faced significant hurdles in
4 obtaining the benefits under this program.

5 And it is important that several eligibility rules
6 are clarified to ensure that the program works as
7 intended, and these are likely not to increase any cost
8 for the program--this is just clarification--so that
9 fishermen and shrimpers are eligible as intended.

10 The Department of Agriculture does not maintain
11 regional or county level information on fish prices. But
12 the Department of Commerce does.

13 So Ambassador Marantis, if the USDA does not
14 maintain this price information, what in the world are
15 the farmers, the shrimpers, the fishermen, what are they
16 going to do to demonstrate their eligibility under TAA
17 that traditionally has been for the farmers?

18 Ambassador Marantis. Thanks, Senator Nelson. And I
19 fundamentally agree with you that we need to treat our
20 farmers and fishermen the same by providing them equal
21 access to the TAA program.

22 Individual farmers and fishermen have three options
23 right now to demonstrate eligibility. As you mentioned,
24 the first one is to use data maintained by USDA to
25 demonstrate a price decline.

1 There are two other options to farmers and
2 fishermen. The second one is to allow them to show that
3 their production declined compared to the previous year.

4 And the third option allows farmers and fishermen to
5 show that the price for their product decline compared to
6 the average price in the previous 3 years.

7 In other words, farmers and fishermen do not need to
8 depend on USDA data, but can provide their own quantity
9 or price information to qualify for TAA benefits.

10 But I agree with you that this produces an
11 administrative burden on small farmers and fishermen, and
12 I will commit to you, Senator Nelson, that the
13 Administration will continue to work with those fishermen
14 in your State to produce the data needed to demonstrate
15 their eligibility for the TAA for farmers program.

16 Senator Nelson. Not just my State, but the entire
17 country.

18 Ambassador Marantis. Yes.

19 Senator Nelson. Mr. Chairman, what do you think?
20 The Department of Commerce has the data. What do you
21 think?

22 The Chairman. It seems to me, Senator, that based
23 on what Ambassador Marantis said, and it makes sense,
24 that wherever the data is, we ought to get the right data
25 so that the fishermen and shrimpers can get the benefits

1 that they are due, whether it is Commerce, USDA or
2 whatnot.

3 I mean, there are three tests there, but I just
4 think that with extra effort by ambassador Marantis and
5 the Administration to find the right data, so that
6 shrimpers can get the right data, that should suffice.

7 I am in colloquy now with the Senator from Florida.

8 Senator Nelson. Does the Senator from Wyoming want
9 to ask me a question?

10 Senator Enzi. Yes.

11 Senator Nelson. Well, may I finish here, and then
12 I would yield to the Senator?

13 Senator Enzi. Certainly.

14 Senator Nelson. Mr. Chairman, it seems to me like
15 it is a no-brainer. If existing law has this data for
16 fishermen and shrimpers in the Department of Commerce,
17 but existing law does not, in the USDA, but the existing
18 law says you use the USDA data or the individual shrimper
19 or fisherman's data, it seems to me that we ought to just
20 change the law so that that data that the U.S. Government
21 has can be used by those shrimpers and fishermen.

22 What do you think about that?

23 The Chairman. Let me ask Ambassador Marantis. To
24 what degree will fishermen efficiently, expediently get
25 the right data so they can get the benefits?

1 I understand the conflict between USDA and Commerce,
2 but it comes down to getting the right data.

3 Ambassador Marantis. It does pose an
4 administrative burden on small farmers and fishermen. We
5 agree with that, and that is why we will work with you to
6 redouble our efforts to help small farmers and fishermen
7 access the data and produce the data that they need so
8 that they are able to demonstrate eligibility for the
9 program.

10 The Chairman. But still it is a good elusion. If
11 USDA has historical provided the data -- well, Commerce
12 has the data. So how are you going to get two agencies
13 together? Sometimes that takes a long time.

14 Ambassador Marantis. It would be good for farmers
15 and fishermen to have access to U.S. Department of
16 Commerce data, as well, because I think it would help
17 them demonstrate eligibility. And this is something, I
18 think, that we should collectively work on going forward
19 as we contemplate future enhancements to the TAA for
20 farmers program.

21 Senator Nelson. Then I would like to ask, Mr.
22 Chairman, does that mean that the gentleman -- the
23 ambassador, the former ambassador -- that you would --
24 no. I guess in your present position, that is right.
25 You and the heads of USTR are called ambassador.

1 Well, Mr. Ambassador, does that mean that you all
2 would support that technical minor change in the statute
3 which USDA would be able to receive the Department of
4 Commerce information that is already within the bosom of
5 the United States Government to help out these poor
6 little shrimpers and fishermen?

7 Ambassador Marantis. Sir, we would support the
8 substance of what you said. I think there are other
9 contexts that we would be able to address this rather
10 than right here now. But we do support the substance of
11 that.

12 The Chairman. I would say to my friend from
13 Florida, too, I will do all I can to help make sure that
14 the shrimpers get the right information and get justice
15 here.

16 There is a glitch, there is no doubt about it, and
17 the trouble is this would be a statutory change and once
18 you start changing the statute, then we are opening up a
19 huge can of worms here.

20 What you really care about is getting the results.
21 And I will work with you, with Ambassador Marantis and
22 others to make sure we get the right results so that the
23 shrimpers get their --

24 Senator Nelson. I want to thank you for that.
25 Now, there is a second issue faced by these folks and

1 that is the definition of "farming income."

2 And under this program, farmers and fishermen cannot
3 have more than \$750,000 in adjusted gross farm income.
4 It is my understanding that USDA considers fishing income
5 as farm income.

6 Mr. Ambassador, is that correct? Would the \$750,000
7 cap apply the same for fishing income?

8 Ambassador Marantis. Yes, Senator Nelson, that is
9 correct. The Administration interprets fishing income as
10 farm income and, therefore, the adjusted gross fishing
11 income is capped at \$750,000.

12 Senator Nelson. Mr. Chairman, this is, of course,
13 a minor matter, but it is pretty big. You know what
14 happened to the fishing industry after the Gulf Oil
15 spill, and I have seen these people just barely able to
16 eke out a living, and not necessarily just on the Gulf
17 Coast, on the Atlantic Coast, as well. And with the cost
18 of fuel and everything, we definitely need to make sure
19 that these people have a break to get assistance under
20 TAA, and that is the whole point.

21 And I appreciate the assurance that you, Mr.
22 Chairman, have given me, and you, Mr. Ambassador.

23 The Chairman. I will repeat my assurance, because
24 you are right, we will find a solution.

25 We are going back and forth here.

1 Senator Enzi. Mr. Chairman, this is not for an
2 amendment. This is in regard to what he is raising.

3 The Chairman. Go ahead. Fine.

4 Senator Enzi. So are we now saying that trade
5 assistance should include Gulf Oil spills because that is
6 a trade issue?

7 The Chairman. No, no. No, no, no, no. No, no,
8 no, no.

9 Senator Enzi. I am a little confused on that.

10 The Chairman. No, no.

11 Senator Enzi. And I was also very surprised when
12 I took at look at this farm provision to find out that it
13 is very limited assistance, because it only goes to
14 farmers who have asparagus, catfish, shrimp, lobster, or
15 blueberries. That is a pretty small part of our farming
16 industry, and I was kind of curious as to why that is
17 what is covered in here and how they would ever show a
18 problem.

19 The Chairman. Does anybody on the staff want to
20 answer that?

21 Well, let me take a crack at it, because, look,
22 shrimp is not just because it is in the Gulf. It is
23 shrimp that is displaced by trade. Other countries sell
24 shrimp or they -- I do not know what they all do. But
25 anyway, it displaces shrimpers' business in that State.

1 And those other products that you mentioned are in
2 the same categories. It is different from wheat, it is
3 different from other farmers, where it is very difficult
4 to show any displacement.

5 Shrimpers and blueberries, and I have forgotten
6 which country blueberries come from, but it is much more
7 identifiable to show -- it can more easily be shown that
8 the workers in those industries are displaced by trade.

9 Senator Enzi. Do we not just have to do like we
10 did with the catfish and force them to rename theirs?

11 The Chairman. Senator Stabenow?

12 Senator Stabenow. Well, Mr. Chairman, I just
13 wanted to emphasize what you had said. There are
14 specific areas, asparagus being one by Peru where we have
15 seen our farmers really decimated and there are very
16 specific trade links to the categories that are included.

17 The Chairman. Senator Hatch?

18 Senator Hatch. Well, Mr. Chairman, I do oppose
19 this amendment, and I will tell you why. I understand
20 that my friend and colleague from Florida is trying to
21 achieve equity between fishermen and --

22 Senator Nelson. I have not offered the amendment.

23 Senator Hatch. You have not offered it yet.

24 Senator Nelson. No, sir.

25 Senator Hatch. Are you going to offer it?

1 Senator Nelson. No, sir. I said that at the
2 outset.

3 Senator Hatch. I missed that.

4 Senator Nelson. I wanted some assurance and I have
5 the assurance.

6 Senator Hatch. Well, let me just make my point
7 then and let it go at that. I do appreciate your
8 feelings and what you are trying to at least get
9 assurance on.

10 One of my biggest concerns with the TAA program, in
11 general, is that it is not equitable. By its very
12 nature, some people get better benefits than others.
13 This is the problem as Ronald Reagan saw it, and let me
14 just give you his quote. "The purpose of TAA is to help
15 these workers find jobs in growing sectors of our
16 economy. There is nothing wrong with that. But because
17 these benefits are paid out on top of normal unemployment
18 benefits, we wind up paying greater benefits to those who
19 lose their jobs because of foreign competition than we do
20 to their friends and neighbors who were laid off due to
21 domestic competition. Anyone must agree that this is
22 unfair," unquote.

23 So his point was the program is, by its nature,
24 fundamentally unfair. And I find it interesting that the
25 TAA is where the Obama Administration chose to draw its

1 line in the sand, fighting for special benefits for the
2 few at the expense of the many.

3 Now, nothing contrasts the governing philosophies,
4 it seems to me, between the Reagan Administration and the
5 Obama Administration better than their attitudes about
6 TAA.

7 Now, I do appreciate your interest in promoting
8 equity and fairness, but I think that we would all be
9 better off if we simply eliminated the program and found
10 a better way of doing it.

11 The Chairman. All right. There is no amendment in
12 order. I think our next amendment is on the other side.

13 Senator Kerry. Mr. Chairman, I just wanted to ask
14 a question. It is my understanding, and we have sort of
15 gone through this process for a while, that if an
16 amendment were to pass, that this would have to be
17 resubmitted.

18 The Chairman. No. If it is going to pass, we can
19 act on the amendment.

20 Senator Kerry. I beg your pardon?

21 The Chairman. If the amendment were to pass, it
22 will have passed.

23 Senator Kerry. And what would be the state of play
24 with respect to the agreement?

25 The Chairman. Then they would be contained in the

1 agreement.

2 Senator Hatch. Well, the Administration can do
3 whatever it wants to do.

4 The Chairman. And, again, this is --

5 Senator Kerry. I understand. I understand. Is
6 there any reason, Mr. Chairman, why we could not, as we
7 have in the past on many occasions in this Committee and
8 in other committees, pass this out or have the vote on it
9 subject to amendment?

10 I realize it is important for a lot of Senators to
11 raise these amendments and to have this discussion, but
12 could we not perhaps do that and facilitate the process,
13 which we often do?

14 The Chairman. Let me ask other Senators their
15 views on that subject.

16 Senator Hatch. Well, let me just make one other
17 point here, and that is that it is not in the agreement.

18 It is not in the free trade agreement. It is in the
19 implementing legislation. So that just needs to be
20 clarified.

21 The Chairman. But the question is Senator Kerry's
22 suggestion.

23 Senator Kerry. Right. I am not aware of any
24 amendment that, according to the early prognosis, is
25 going to pass. So we can have a lot of chatter about it,

1 if we want, but I am not aware of it.

2 It seems to me that it would be both courteous and
3 expeditious if we were to do what we have often done, as
4 I said, in this Committee and in other committees, which
5 is pass this out subject to amendment, it might
6 accelerate the process.

7 The Chairman. Senator Hatch?

8 Senator Hatch. For the Senator's benefit, I will
9 do some checking on our side and see how many amendments
10 we have and see what can be done here. But I think it is
11 important to have amendments and have votes on them, to
12 the extent that either side cares to do so.

13 I think both sides --

14 Senator Kerry. It would not preclude you from
15 having amendments.

16 Senator Hatch. I know, and that is what I am
17 saying. Well, I will do my best to see what can be done.

18 The Chairman. Unless I am persuaded to the
19 contrary, we will proceed according to the usual course
20 of business; namely, we vote amendments, they are either
21 in the agreements or not in the agreements, and take them
22 in time.

23 Senator Thune?

24 Senator Thune. Mr. Chairman, thank you. And I
25 cannot believe the Senator from Massachusetts does not

1 think that he might be persuaded by the eloquence of our
2 arguments and actually vote for one of these.

3 The one thing that comes out of this discussion is
4 how important trade is to our economy. I am very
5 sympathetic to the arguments made by Senator Wyden from
6 Oregon about enforcement of trade laws. As was noted, we
7 have a lot of honey producers, American honey production
8 that is dramatically impacted by the cheating that goes
9 on by the Chinese in trans-shipping honey through other
10 countries.

11 And Senator Roberts' point about expanding beef
12 imports to South Korea is a very relevant one, something
13 that I have a great interest in, as do, I think, most
14 States that have a significant amount of beef production.

15 And that is why I think it is so important that we
16 put in place trade promotion authority. And what this
17 amendment would do is simply extend trade promotion
18 authority through the end of 2015 so that this President
19 and whoever is president after the next president has a
20 strong hand in our government as our government
21 negotiates future trade agreements.

22 I think everybody here knows the most recent TPA
23 expired on July 1 in 2007, which was near the end of the
24 last administration. This Administration has had 2.5
25 years now to propose an extension, but has not done so.

1 And this amendment, as I said, would extend TPA for trade
2 agreements entered into through December 31 of 2015.

3 Now, the Administration's stated goal of doubling
4 U.S. exports within 5 years depends upon finalizing the
5 Trans-Pacific Partnership and other new market opening
6 trade agreements. It is highly unlikely that foreign
7 governments are going to agree to any meaningful trade
8 agreements with the United States unless the President
9 has trade promotion authority.

10 If TPA is not included in this trade package, it is
11 unclear if there is going to be an opportunity to extend
12 TPA before the 2012 elections.

13 The 2002 trade promotion authority that this
14 amendment would extend has been incredibly successful in
15 providing new market access for American producers.
16 Under the 2002 TPA agreements between the U.S. and Chile,
17 Singapore, Australia, Morocco, Dominican Republic,
18 Central American nations, Bahrain, Oman, and Peru were
19 enacted, and the three agreements that are under
20 consideration today, which are Korea, Colombia and
21 Panama, were signed.

22 Including an extension of TPA in this trade package
23 is every bit as necessary and appropriate as including
24 trade adjustment assistance, a program without any direct
25 linkage to the Korea, Panama or Colombia agreements.

1 TPA and TAA have historically moved together, such
2 as was the case in the trade bills in 1979, 1984, 1988,
3 and 2002. An aggressive U.S. trade agenda is important
4 to U.S. exports and U.S. jobs and while the U.S. runs a
5 considerable trade deficit, America runs a trade surplus
6 with the 17 nations with which we have free trade
7 agreements.

8 According to the U.S. Chamber of Commerce, 2010
9 marked the third straight year that the U.S. enjoyed a
10 surplus in manufactured goods in excess of \$20 billion
11 with our FTA partners.

12 So what I would say, Mr. Chairman, and to my
13 colleagues on the Committee, is that if we are serious
14 about advancing a trade agenda, if we are serious about
15 doubling exports in 5 years, we have got to give the
16 Administration the authority to negotiate these trade
17 agreements.

18 Absent that, we are going to be locked out of so
19 many opportunities around the world, and the numbers are
20 very clear. They do not lie. Where we have free trade
21 agreements in place, we run surpluses. American
22 businesses and agricultural producers can compete and can
23 win that war if they have a level playing field and a
24 fair opportunity to get into the game.

25 So I think this is a perfectly relevant amendment,

1 an opportunity for us to get trade promotion authority
2 extended. This amendment would do that through 2015, and
3 I would urge my colleagues to support the amendment.

4 The Chairman. Thank you, Senator. I think it is a
5 very appropriate subject and trade promotion authority is
6 very appropriate at the appropriate time. Now is not the
7 time.

8 Let me ask Ambassador Marantis if the Administration
9 is seeking trade promotion authority in this bill.

10 Ambassador Marantis. Senator, as you said, TPA is
11 very important and at some point, the Administration is
12 going to want to work very closely with this Committee to
13 grant the Administration trade promotion authority.

14 Every president has had it in the past, but as you
15 just stated, Mr. Chairman, now is not the time.

16 The Chairman. I might also add it takes time, too,
17 to negotiate the provisions for trade promotion
18 authority. It is not just an amendment we just pass. We
19 have to negotiate out environmental protections, labor
20 standards, intellectual property provisions.

21 There is a long list and duration and so forth, and
22 that would take a long, long time, especially in the
23 current context. It would also be an addition which
24 would open up this legislation and force the House -- not
25 force the House, but encourage the House to pass any

1 manner of amendments.

2 So I, frankly, think that now is not the time and
3 place, and I urge that -- frankly, if you want to,
4 Senator, you can withdraw the amendment.

5 Senator Thune. I am sure you would give me that
6 option, Mr. Chairman.

7 The Chairman. Or we can voiced it or whatever you
8 want to do.

9 Senator Thune. Look, I mean, I think that if we
10 were having clean votes on these three trade agreements,
11 it would be one thing. But the trade adjustment
12 assistance which is being incorporate into this
13 discussion and, of course, into the Korea free trade
14 agreement, I think, historically has moved with TPA.

15 It strikes me, at least, that if we are going to
16 have the debate about trade adjustment authority, that
17 moving TPA makes a lot of sense.

18 If there was some hope that we would get to this in
19 the not too distant figure, it might make sense. But
20 like I said, I see the clock ticking, and, particularly,
21 the Trans-Pacific Partnership is so important to our
22 ability to grow the economy and create jobs and open
23 export opportunities for American business, and we are
24 not going to get that done unless we have TPA in place.
25 And I do not see a window to get this done if we do not

1 do it now, between now and the 2012 elections, and then
2 you are just putting this thing back even further and
3 further.

4 We have been without for 4 years and, as I pointed
5 out, when we do that, we lose out on significant market
6 opportunities.

7 So I would like to see us act on this and I would
8 hope that you would, too.

9 The Chairman. Senator Hatch?

10 Senator Hatch. Mr. Chairman, I agree with the
11 distinguished Senator. It seems to me the Ambassador is
12 guaranteeing that they are going to bring TPA up sometime
13 in the future. I do not know why it should not be
14 brought up right now.

15 Tariff-negotiating authority has been the norm
16 rather than the exception for much for much of this past
17 century.

18 Congress first authorized reciprocal negotiating
19 authority in 1934 to help pull the U.S. economy out of
20 the depression. That authority was renewed 11 times
21 between 1934 and 1962.

22 In 1974, Congress first authorized the President to
23 negotiate tariff and non-tariff barriers and bring them
24 back for congressional consideration on an expedited
25 basis without amendment.

1 Every President since 1974 has sought this authority
2 from Congress, every one.

3 President Ford argued that the legislation, quote,
4 "enables the United States to play a leading role in
5 multilateral negotiations," unquote.

6 President Carter said that the legislation, quote,
7 "solidifies America's position in the international
8 community," unquote.

9 Ronald Reagan extolled the virtues of TPA, noting
10 that when properly used, it, quote, "manifestly serves
11 our national economic interests," unquote.

12 President H.W. Bush noted that the extension of TPA
13 was, quote, "in the vital national interest," unquote, of
14 the United States and, quote, "absolutely fundamental to
15 our major foreign policy objectives."

16 President Clinton argued strenuously for TPA, making
17 the case that, quote, "The legislation will give us the
18 authority to increase access to foreign markets. If we
19 don't seize those opportunities, our competitors surely
20 will" and, quote, "America last strategy is
21 unacceptable," unquote.

22 Now, President George W. Bush successfully made the
23 case that the TPA was critical to opening up markets
24 around the world and more often than not, Congress
25 granted the President the authority sought. President

1 Bush used the authority to negotiate 11 trade agreements
2 with 17 different countries.

3 Now, some criticized President Bush's approach and
4 choice of negotiating partners, but let me make one thing
5 clear. If it was not for President Bush's leadership in
6 seeking TPA and negotiating agreements with Colombia,
7 Panama and South Korea, we would not be here today.

8 In fact, President Obama, while touting the
9 importance of exports, has been virtually silent on the
10 need for TPA. This is the first time I have heard
11 anybody from the Administration say, "Well, we're going
12 to do this. Why not now? Why wait until we get totally
13 into this election process?"

14 And I think the Obama position stands in stark
15 contrast to virtually every modern day president before
16 him. Instead of leading on TPA, this President has
17 consistently ducked the issue, avoided the debate, and
18 let America continue to fall further behind, which is
19 exactly what is happening.

20 The America last strategy is unacceptable. Now,
21 this amendment would help our trade negotiators
22 reestablish our economic leadership in the world and
23 seize foreign markets before they are lost for good.

24 With unemployment at outrageously high levels, over
25 9 percent, we should be doing everything in our power to

1 create jobs and expanding U.S. access to 95 percent of
2 consumers who live outside our borders, that is one
3 obvious way to do it.

4 So I sure offer my support for this amendment. I
5 wish my colleagues on the other side would see the value
6 of it, and it would be good for the President to know how
7 we feel about this by passing this amendment.

8 The Chairman. I do not think any minds are going
9 to be changed by this debate.

10 Senator Hatch. Well, fine.

11 The Chairman. Senator Kerry?

12 Senator Hatch. That does not mean we should not
13 make it --

14 The Chairman. You sought recognition.

15 Senator Hatch. I am not quite through yet.

16 The Chairman. Sorry.

17 Senator Hatch. I would just ask Ambassador
18 Marantis. Let me ask you this.

19 Do you think that the USTR should have trade
20 promotion authority? Would it not make your job easier
21 while negotiating Trans-Pacific Partnership? I would
22 like an answer to that.

23 Ambassador Marantis. Senator, not necessarily. We
24 have been engaged in negotiations for the Trans-Pacific
25 Partnership now for over a year and we have had very

1 successful negotiations thus far.

2 There has been a lot of momentum with our TPP
3 trading partners. We are up in your offices very often
4 consulting on our negotiating position, and it has been
5 working very smoothly so far, and we are confident that
6 we will continue to make progress, particularly in the
7 run-up to when President Obama hosts the APEC leaders in
8 Honolulu later in November.

9 Senator Hatch. Well, does President Obama want
10 trade promotion authority? That is what I would like to
11 know, because he surely has been silent on it.

12 Ambassador Marantis. At some point, Senator, we
13 will want to work with Congress on a grant of fast-track
14 trade promotion authority, but we do not need to do it
15 right now and we do not believe that this context that we
16 are in today is the appropriate venue to have this
17 discussion.

18 Senator Hatch. It is the only context you have.
19 You mean you are just going to sit back and do nothing on
20 this?

21 Ambassador Marantis. Senator, we have a very
22 active job-creating trade agenda. TPP is one part of it.
23 Our enforcement initiatives are other parts of it. We
24 have been working very closely with this Committee and
25 this Committee's staff as we move our trade agenda,

1 including TPP, forward.

2 Senator Hatch. But you admit that TPA is very
3 helpful in getting things done for the Administration,
4 and yet you are willing to put this off. This is the one
5 chance you have to get TPA authority and you are the only
6 Administration I know of that has not vociferously argued
7 for it.

8 Ambassador Marantis. Senator, we do not need it at
9 this very minute.

10 Senator Hatch. Give me a break.

11 Ambassador Marantis. What we need to do now are
12 the FTAs, TAA, GSP, and ATPA. That is what is in front
13 of us right now and that is what we need to get done as
14 quickly as possible.

15 The Chairman. Senator Kerry?

16 Senator Kerry. Well, I agree with you, Mr.
17 Chairman, this is not the time. The Administration has
18 not asked for it and it is authority for the President.
19 But beyond that, I have supported this for every
20 President in the past. I am likely to do so in the
21 future.

22 But there is more to it, as the Chairman has said.
23 There is a whole lot of consideration about how we make
24 it stronger, how we make it more effective, how it is
25 more inclusive of Congress, all of which is important to

1 us and I think we ought to do the proper deliberation.

2 And the notion that we do not have time to do it
3 somewhere in the future -- I would work bipartisanly with
4 my colleagues, absolutely, to have a strong promotion
5 authority. But we ought to do it the right way and not
6 just throw it in here.

7 The Chairman. Senator Wyden?

8 Senator Wyden. Very quickly, Mr. Chairman.

9 I want to say to Senator Thune, and he has been my
10 partner on the Trade Subcommittee, that I want to work
11 very closely with him on it.

12 And here is the point. The last time this was dealt
13 with was 2002. The economy has changed very dramatically
14 and as we have looked at it in our subcommittee, there
15 are a couple of areas with enormous potential for more
16 family wage jobs; in particular, environmental goods and
17 digital goods, with the Internet really being the
18 shipping lane of the 21st century.

19 I think the Chairman's point is a valid one. We
20 need the time to really think through how to make sure
21 these clear instructions for 2011 are updated from
22 essentially what they were in 2002.

23 I just want the Senator from South Dakota to know I
24 am very interested in working with him closely on it.

25 Thank you, Mr. Chairman.

1 The Chairman. All right. All those in favor of
2 the amendment --

3 Senator Thune. Mr. Chairman, could I get a vote on
4 that? If I was confident that we were actually going to
5 get on this at some point soon, it would be one thing.
6 But I think otherwise, we are missing an opportunity
7 here, because it is not very often we get a chance like
8 this to get a debate going about TPA, and everybody
9 acknowledges how important it is.

10 Senator Roberts. Mr. Chairman?

11 The Chairman. Senator Roberts?

12 Senator Roberts. As the overweight person said as
13 he crawled through the barbed-wire fence, one more point
14 and I will be through.

15 I would like to ask the Ambassador. You say not
16 now. When, 2012, 2013? It is my opinion that most of
17 the negotiations, while they are very tough with other
18 countries, but you also have a lot of problems with the
19 Congress and a lot of people who do not support trade,
20 for obvious reasons, and that is what we have had for 2,
21 3, 4, 5, 6 years.

22 With Colombia, it is an embarrassment, a national
23 security embarrassment. This just goes on and on and on
24 and on, and TPA is now the time to do it.

25 This is like big hat, no cattle, more especially

1 with 100 days. I am tempted to say within a 120 days,
2 could you do it, have a meeting, but I am not going to do
3 that.

4 But what would you say to the distinguished Senator
5 from Utah in regards to when you would see TPA? When
6 would it be appropriate, because I do not think you are
7 going to get a trade pact, other than these three, which
8 I hope we can do, without that authority?

9 And it would be kicking the can down the road to
10 2013, and goodness knows what that would bring.

11 Ambassador Marantis. Senator, on trade promotion
12 authority and on TPP, in particular, one of the things we
13 have been doing is we have been up here a lot trying to
14 work on it in a bipartisan way.

15 Senator Roberts. I know you have.

16 Ambassador Marantis. And that will help us at the
17 point in time when it is time to seek trade promotion
18 authority, because we are already working together to
19 identify what our trade negotiating objectives for this
20 major agreement will be.

21 It takes a long time. In 2002, it took about a year
22 and a half.

23 Senator Roberts. So you are negotiating with the
24 Congress first to get TPA.

25 Ambassador Marantis. We are working together to

1 develop what mutually are trade negotiating objectives
2 and at the point in time where it is appropriate to do
3 TPA, hopefully, it will make, collectively, our work
4 easier in determining what those objectives are.

5 The Chairman. All right. I think we have had a
6 pretty good discussion here.

7 Senator Hatch. Could I just ask for just --

8 The Chairman. Well, we should vote, because we --

9 Senator Hatch. I want to tell you about what the
10 distinguished Senator from Massachusetts has asked.

11 The Chairman. Go ahead.

12 Senator Hatch. From what I can see, we have maybe
13 4 or 6 more amendments on this side that should go
14 relatively quickly. I have checked our side trying to
15 accommodate all our colleagues. I know a lot of you
16 would like to get out of here.

17 Does anybody know anymore than this? Are those
18 included? We have included you in that number. Between
19 4 and 6, I believe, and I will try and keep it in that.
20 If we cannot, we will let you know.

21 The Chairman. The Clerk will call the roll.

22 The Clerk. Mr. Rockefeller?

23 Senator Rockefeller. No.

24 The Clerk. Mr. Conrad?

25 The Chairman. No by proxy.

1 The Clerk. Mr. Bingaman?
2 Senator Bingaman. No.
3 The Clerk. Mr. Kerry?
4 Senator Kerry. No.
5 The Clerk. Mr. Wyden?
6 Senator Wyden. No.
7 The Clerk. Mr. Schumer?
8 The Chairman. No by proxy.
9 The Clerk. Ms. Stabenow?
10 Senator Stabenow. No.
11 The Clerk. Ms. Cantwell?
12 Senator Cantwell. Aye.
13 The Clerk. Mr. Nelson?
14 Senator Nelson. No.
15 The Clerk. Mr. Menendez?
16 Senator Menendez. No.
17 The Clerk. Mr. Carper?
18 The Chairman. No by proxy.
19 The Clerk. Mr. Cardin?
20 Senator Cardin. No.
21 The Clerk. Mr. Hatch?
22 Senator Hatch. Aye.
23 The Clerk. Mr. Grassley?
24 Senator Grassley. Aye.
25 The Clerk. Ms. Snowe?

1 Senator Snowe. No.
2 The Clerk. Mr. Kyl?
3 Senator Hatch. Aye by proxy.
4 The Clerk. Mr. Crapo?
5 Senator Crapo. Aye.
6 The Clerk. Mr. Roberts?
7 Senator Roberts. Aye.
8 The Clerk. Mr. Enzi?
9 Senator Enzi. Aye.
10 The Clerk. Mr. Cornyn?
11 Senator Cornyn. Aye.
12 The Clerk. Mr. Coburn?
13 Senator Coburn. Aye.
14 The Clerk. Mr. Thune?
15 Senator Thune. Aye.
16 The Clerk. Mr. Burr?
17 Senator Hatch. Aye by proxy.
18 The Clerk. Mr. Chairman?
19 The Chairman. No.
20 The Clerk will tally the vote.
21 The Clerk. Mr. Chairman, the final tally is 11
22 ayes, 13 nays.
23 The Chairman. The noes have it. The amendment is
24 not agreed to.
25 Senator Hatch. Mr. Chairman, could I ask how many

1 amendments you have on your side?

2 The Chairman. It is my understanding that there
3 are two on this side.

4 Senator Hatch. Two on that side. So somewhere
5 between --

6 The Chairman. It is around two.

7 Senator Hatch. Somewhere between eight and ten, I
8 guess.

9 The Chairman. Two, apparently. All right.
10 Who wishes to offer an amendment? Maybe zero.

11 Senator Bingaman?

12 Senator Bingaman. Mr. Chairman, I have a couple of
13 amendments I wanted to raise and get your view on. The
14 amendments are Committee No. 5 and Committee No. 6. They
15 are Bingaman No. 3 and Bingaman No. 4.

16 Committee Amendment No. 5 essentially tries to give
17 more resources to the U.S. Trade Representative. I think
18 this is one area -- I know that there is a great drumbeat
19 in Washington these days that we have got to cut spending
20 and cut the size of government.

21 I think this is one area where we are being
22 pennywise and pound foolish by trying to operate the
23 trade representative's office without adequate resources,
24 and that has been my view for a very long time.

25 It still is my view today. It seems that every time

1 we -- our economy continues to get more and more heavily
2 dependent upon trade and, at the same time, we do not do
3 near what we should to help the trade representative
4 effectively implement the trade agreements that we agree
5 to around here.

6 I think, as I understand it, the trade
7 representative has around 223 people in the agency today.

8 Their job is to prosecute and defend the U.S. in trade
9 dispute cases. There are a great many WTO disputes.
10 There are enormous numbers of these that we are involved
11 in both as respondent and as complainant, and, also, as a
12 third party, because they affect our interests.

13 So my amendment is very straightforward. It would
14 just provide \$15 million, \$5 million a year for the next
15 3 years, from the merchandise processing fees and customs
16 user fees so that the trade representative could hire
17 additional people to actually enforce the agreements that
18 we are talking about here.

19 So that is the first amendment. I would be
20 interested in your views on that, and then I would like a
21 chance to briefly talk about one other amendment.

22 The Chairman. Well, I am sympathetic to your
23 concerns, Senator. Regrettably, it is not in this
24 Committee's jurisdiction; therefore, it is not germane.
25 It is appropriations, as I understand it, \$15 million.

1 We are not the Appropriations Committee.

2 I would have to rule the amendment, if you were to
3 press it, not germane.

4 Senator Bingaman. Well, I had been informed that
5 you would take that position. Let me just point out, we
6 have adopted very similar provisions appropriating money
7 in previous trade agreements and I do not know where we
8 got the authority to do that, but it is in the books and
9 I can point those out to you or your staff.

10 But based on your statement, I will not push that
11 amendment to a vote.

12 Let me speak briefly about item No. 6, Committee No.
13 6, which I also think is a meritorious proposal. And the
14 issue here is we pass these trade agreements and then,
15 frankly, we do not ever come back and figure out what has
16 been the effect on our economy of these trade agreements
17 after they have been fully implemented, and this would be
18 a provision that would essentially direct that the
19 International Trade Commission do a report at the end of
20 a 10-year period after these trade agreements go into
21 effect with regard to each trade agreement and tell us
22 what has been the effect of that trade agreement on our
23 economy.

24 Has it created jobs? Has it been a net loser of
25 jobs for our economy? I think one of the big

1 difficulties in the way we proceed here in the Congress
2 is that we sort of deal with whatever is right on the
3 plate in front of us and then we largely forget about it,
4 and then we have political arguments later on about
5 whether that was a good thing to do or a bad thing to do,
6 without many facts.

7 And this would give us a factual basis 10 years
8 after each trade agreement goes into effect. It would
9 give us a factual basis for actually determining whether
10 or not we have done the right thing with these trade
11 agreements.

12 So I would be interested in your thoughts on that
13 amendment, as well. That is Bingaman Amendment No. 4.

14 The Chairman. Well, I think you are correct. Too
15 often, this place has very short-term memory and short
16 attention spans. We pass measures and we tend not to pay
17 much attention to their actual effects down the road.
18 Meantime, we pass something else.

19 That is, regrettably, the nature, somewhat the
20 nature of this organization and I think it is appropriate
21 and proper to, at the appropriate time, figure out
22 whether what we pass has worked or not worked and the
23 degree to which it has worked or not worked.

24 I very much appreciate the Senator's good efforts.
25 I mean, he is one of the best Senators on this Committee.

1 I will not say others are not as good as you, but you
2 are one of the best, Senator. You are very thoughtful.
3 You think about things. You are very objective. You do
4 not demagogue. You think very deeply in a way that all
5 public servants should, and I deeply appreciate it very,
6 very much.

7 I can always, as the Chairman of the Committee, ask
8 the International Trade Commission for such a study and
9 my thought is it may be better, working with you,
10 Senator, that we do that, that we ask the ITC to come up
11 with such a study.

12 I would rather not, in legislation, require it. I
13 am, frankly, trying to keep amendments off, because I
14 want to work with Chairman Camp and set the precedent
15 that we are not going to muddy the waters with amendments
16 and set the precedent for adopting an amendment here that
17 would allow the House to do the same.

18 So it would be my hope, Senator, that this is not an
19 amendment that you would push, but, rather, I say to the
20 Senator that I will work with you requesting ITC to
21 conduct such a study.

22 Senator Bingaman. Well, Mr. Chairman, let me thank
23 you for your comments. I do think that this implementing
24 language that we are working on here today is going to
25 the Administration by way of advice on what they should

1 include in these free trade agreements when they send
2 them to Congress, as I understand.

3 The Chairman. That is correct.

4 Senator Bingaman. And I would hope that we would
5 send a message to the Administration that we believe they
6 should include a provision that says 10 years after the
7 effective date of each trade agreement, a report will be
8 prepared by the International Trade Commission advising
9 the Administration and the Congress on the economic
10 effects, economy-wide effects of the trade agreement,
11 what they have been.

12 I think that would be a good signal to give the
13 International Trade Commission at the time that we pass
14 trade agreements, because that way they would know they
15 are going to have to make an accounting, and I think it
16 might stimulate more attention to enforcement of the
17 provisions of the trade agreement, as well.

18 So I will defer to you and not offer the amendment,
19 but I do hope that the Administration will seriously
20 consider including that in each of the three trade
21 agreements when they send them to the Congress.

22 The Chairman. I appreciate that, Senator, and,
23 frankly, I think it is appropriate for us to urge the
24 Administration in other ways to include such a provision
25 when they submit legislation to the Congress.

1 Senator Roberts. Mr. Chairman? Would the Senator
2 yield very, very briefly?

3 Senator Bingaman. Certainly.

4 Senator Roberts. What about 5 years? In 10 years,
5 when you say to inform us, I do not know who the "us" is
6 going to be.

7 Senator Bingaman. Well, I am not sure who us is
8 going to be in 5 years. But I am glad to have it changed
9 to 5 years. I do think that most of the economists -- I
10 hypertension the provisions of these trade agreements, in
11 fact, do not become fully operate for 7 or 8 years down
12 the road.

13 That is why I put 10 years in, but perhaps a 5-year
14 period makes more sense or maybe a report at the end of
15 each 5 years.

16 Senator Roberts. Well, I know you and I will be
17 here to oversee this, but that is --

18 Senator Bingaman. I do not plan to be, Mr.
19 Chairman.

20 Senator Roberts. Well, there you are. But you can
21 read the report.

22 Senator Bingaman. I will be looking very
23 assiduously at what the report says.

24 The Chairman. Senator Stabenow?

25 Senator Stabenow. Thank you, Mr. Chairman.

1 First, just to concur with your comments about the
2 Senator who just spoke and his contribution to the
3 Senate.

4 The Chairman. Senator Roberts?

5 Senator Stabenow. Yes. Senator Roberts,
6 absolutely, as well as Senator Bingaman.

7 Mr. Chairman, I realize the concern about not adding
8 amendments and have respect for what you are trying to
9 accomplish here.

10 I have amendments that deal with issues around trade
11 enforcement, as well, that I will not offer today. But I
12 do want to support what Senator Bingaman has said.

13 From my standpoint, in a State where, from an
14 agriculture standpoint, there is great benefit to trade,
15 certainly nationally. The only trade surplus we have is
16 in agriculture, very important to create those markets.

17 On the other hand, on the manufacturing front, a lot
18 of problems and challenges around particularly whether or
19 not we are exporting products versus jobs, whether or not
20 the plant is picked up and sent overseas, for a variety
21 of reasons.

22 We are in a spot where trade enforcement matters,
23 and I think the ambivalence that many people feel or the
24 objection to moving forward on trade agreements that
25 certainly many people in my State feel is because of the

1 fact that they do not feel confident we have been as
2 aggressive as we need to be around enforcement, standing
3 up for our businesses, standing up for our workers,
4 standing up for our farmers.

5 I want to commend this Administration for doing a
6 number of very important things in that regard, but there
7 is still more to be done. And whether it is small
8 businesses having to deal with differential on currency
9 manipulation with China and the price differential that
10 comes with that, with our suppliers, whether it is
11 patents being stolen, whether it is countervailing duties
12 and dumping, et cetera, as well as making sure these
13 trade agreements are fair, fair for our workers, fair for
14 our communities, fair for our people.

15 To me, it is a package and so we are debating it
16 today as if trade agreements are part of a package about
17 what happens with workers or businesses who are displaced
18 in TAA.

19 It is all part of putting together something that
20 works for the United States, for our people, for our
21 workers, for our farmers, for our businesses, in a global
22 economy. And I wish that we would look at it in the
23 totality of what it takes in a global economy to make
24 sure that we are, in fact, keeping the jobs here and
25 exporting our products, which I believe, I hope is, I am

1 sure, as the goal of everyone.

2 And I think Senator Bingaman, in speaking to what we
3 need to do around enforcement, is coming to a very
4 important piece here that we have to keep focused on if
5 people in our country are going to feel that we are on
6 their side in this global economy.

7 The Chairman. Any further discussion?

8 Senator Hatch?

9 Senator Hatch. Well, thank you, Mr. Chairman.

10 Mr. Chairman, I offer Committee Amendment No. 26 to
11 extend trade promotion authority through December 31,
12 2013. Now, this would coincide with the date to which
13 the Administration proposes extending TAA.

14 Now, to be clear, I think that we should strike any
15 reference to TAA from the implementing legislation. It
16 has nothing to do with the free trade agreements. It is,
17 quite frankly, an unnecessary costly program that we can
18 ill afford, especially given the damage to the Nation's
19 fiscal health that this Administration profligate
20 spending has already caused.

21 But we hear proponents argue again and again and
22 again that TAA always accompanies FTAs. Now, I do not
23 know why people do not check the facts. That is simply
24 not true.

25 In fact, since 1962, TAA has been linked only once

1 to a pending free trade agreement. That agreement was
2 the NAFTA agreement and that transitional TAA was
3 explicitly NAFTA-specific and linked to trade with Canada
4 and Mexico.

5 Yet, for some reason, this single example of a
6 geographically and time-limited extension of TAA has
7 become the basis for arguing that TAA always is linked to
8 passing trade agreements.

9 The facts show otherwise. TAA has been reauthorized
10 or reformed over a dozen times since 1962 when it was
11 created, and four of those times when TAA was
12 substantially reformed, it was tied directly to a grant
13 of trade negotiating authority to the President,
14 including the 1962 Trade Expansion Act, the Trade Act of
15 1974, the Omnibus Trade and Competitiveness Act of 1988,
16 and the Trade Act of 2002.

17 Almost a dozen times, it was considered separately
18 from both trade agreements and TPA. NAFTA was the
19 exception, not the rule.

20 If TAA should accompany any trade legislation, it
21 should be linked to TPA, not the South Korea agreement,
22 and that is why I am offering this amendment. It extends
23 TPA for the same period of time as TAA in accordance with
24 past practice.

25 Mr. Chairman, I am happy to withdraw the amendment,

1 but I wanted to make those points.

2 The Chairman. Thank you, Senator.

3 Senator Rockefeller? Which I believe is the last
4 amendment on this side.

5 Senator Rockefeller. Mr. Chairman, I am not going
6 to ask for a vote on this, but it is complex in its
7 importance. So I need to discuss it and hope the GAO and
8 the White House and everybody at the table is listening
9 closely.

10 This would be a simple amendment for GAO to compare
11 the health coverage tax credit to coverage from the State
12 exchanges and other sources under the health care bill
13 which was passed.

14 It is interesting. The underlying bill would extend
15 the health coverage tax credit through January 1, 2014,
16 the beginning date of the health insurance exchanges. So
17 therein lies a conundrum.

18 The amendment would require the GAO to study
19 comparing the benefits of HCTC with the exchanges. Right
20 now, we do not specifically know the coverage people --
21 what the coverage people have now under the health
22 coverage tax credit will compare to the coverage under
23 the exchanges or under options otherwise, should they
24 appear.

25 Millions of people are involved in knowing what the

1 answer to this is. It is because the exchange coverage
2 is means tested. State exchanges are going to be means
3 tested, while the health coverage tax credit is not means
4 tested, because it was created for a special reason,
5 which is to help workers who have lost their jobs because
6 of trade, they have lost their jobs.

7 I am concerned about making sure that people who
8 have lost their jobs because of trade maintain good
9 coverage. For example, right now, about half of health
10 coverage tax credit recipients choose to use their tax
11 credits for group COBRA coverage. Only 13 percent opt
12 for individual coverage.

13 So will the number of people still choose COBRA
14 after health reform instead of choosing exchanges? All
15 of this, of course, based upon the fact that the bill
16 will pass.

17 I think our bottom line should be protecting
18 coverage and this difference between the enactment of
19 State exchanges -- that has been enacted, but the working
20 through of that, and they are starting already, as you
21 know, to build their programs, and this particular item
22 is a very important one and I would wish that the
23 Administration and those at the table and all of us would
24 consider that.

25 Having said that, I withdraw the amendment.

1 The Chairman. Thank you, Senator.

2 Further amendments?

3 Senator Cornyn?

4 Senator Cornyn. Thank you, Mr. Chairman. I would
5 like to call up my amendment No. 76.

6 The Chairman. Cornyn-76.

7 Senator Cornyn. Thank you. And very simply, Mr.
8 Chairman, in May, as we all know, the Medicare trustees
9 warned us that Medicare will be bankrupt or at least
10 insolvent in 2024, which is 5 years earlier than they
11 predicted last year.

12 They noted that Medicare's unfunded liabilities,
13 that is, the gap between future benefit costs and future
14 tax premiums, expects to collect are more than \$24
15 trillion and growing.

16 The funding mechanism, in part, for the trade
17 adjustment authority is a \$525 million transfer from
18 Medicare to pay for, at least in part, the trade
19 adjustment authority.

20 Yet, in Federal law that we have enacted in part of
21 the prescription drug bill, the President is required,
22 under certain circumstances, to submit a proposal that
23 would address the funding crisis in Medicare. This is
24 sometimes called the Medicare trigger.

25 In 2008, President Bush submitted, in response to a

1 2007 Medicare warning, he submitted Medicare legislation
2 to Congress. President Obama has not submitted any
3 proposed legislation to deal with the funding crisis in
4 Medicare at all, even though the law, which is Section
5 802 of Public Law 108-173, requires the President to
6 submit legislation.

7 It is not advisory. It does not say "may submit" or
8 "could submit" or "only if you want to submit." It says
9 "shall," which is mandatory language, the President shall
10 submit legislation.

11 Well, the President has not done so and it strikes
12 me as, frankly, irresponsible, absent a solution to the
13 funding crisis in Medicare identified by the Medicare
14 trustees and the law that we passed and that was signed
15 into law that requires the President to come forward with
16 a solution to this funding crisis.

17 It strikes me as bad policy, if not irresponsible,
18 to take \$560 million more out of Medicare to fund TAA.
19 So my amendment would prohibit the trade adjustment
20 assistance provision in the Korea trade agreement from
21 going into effect until the President does comply with
22 that requirement of law.

23 The Chairman. Senator, I appreciate what you are
24 trying to do with this amendment. It does not deal with
25 any subject matter in any direct way, and, if pressed, I

1 would have to rule the amendment not germane.

2 If you do not want to press it, of course, that
3 makes that point moot. If you press the amendment, I
4 would have to rule it not germane.

5 Senator Cornyn. Mr. Chairman, I understand what
6 you are telling me. But to deal with the offset of
7 Medicare, \$560 million to pay for TAA, my amendment,
8 which would require the President to come forward with
9 his funding solution before the GAA provisions go into
10 effect, that is not germane?

11 The Chairman. That is not germane.

12 Senator Cornyn. Well, you have to do what you have
13 to do, Mr. Chairman. So I do want to proceed with the
14 amendment. I think it is an important amendment.

15 The Chairman. The Senator has his right to press
16 the amendment, obviously, but I am constrained to rule it
17 not germane under the Committee rules. It will take a
18 two-thirds vote from the Committee to appeal the ruling
19 of the Chair.

20 Does the Senator wish to press his vote?

21 Senator Cornyn. I would do so, Mr. Chairman,
22 appeal the ruling of the Chair and ask for a record vote.

23 The Chairman. And I do rule the amendment not
24 germane.

25 The Clerk will call the roll.

1 The Clerk. Mr. Rockefeller?
2 Senator Rockefeller. No.
3 The Clerk. Mr. Bingaman?
4 Senator Bingaman. Mr. Chairman, the no vote, it is
5 a vote to sustain the ruling of the Chair?
6 The Chairman. Yes, because he is appealing the
7 ruling of the Chair.
8 Senator Bingaman. All right. No.
9 The Clerk. Mr. Wyden?
10 Senator Wyden. No.
11 The Clerk. Ms. Stabenow?
12 Senator Stabenow. No.
13 The Clerk. Mr. Nelson?
14 Senator Nelson. No.
15 The Clerk. Mr. Menendez?
16 Senator Menendez. No.
17 The Clerk. Mr. Cardin?
18 Senator Cardin. No.
19 The Clerk. Mr. Hatch?
20 Senator Hatch. Aye.
21 The Clerk. Ms. Snowe?
22 Ms. Snowe. Aye.
23 The Clerk. Mr. Roberts?
24 Senator Roberts. Aye.
25 The Clerk. Mr. Enzi?

1 Senator Enzi. Aye.

2 The Clerk. Mr. Cornyn?

3 Senator Cornyn. Aye.

4 The Clerk. Mr. Chairman?

5 The Chairman. No.

6 The Clerk. Ms. Cantwell?

7 Senator Cantwell. No.

8 The Chairman. The Clerk will tally the vote.

9 The Clerk. Mr. Chairman, the final tally is 5
10 ayes, 9 nays.

11 The Chairman. Two-thirds not having voted to
12 overturn the ruling of the Chair, the appeal is not
13 agreed to and the amendment is not germane.

14 Further amendments?

15 Senator Hatch. Mr. Chairman?

16 The Chairman. Senator Hatch?

17 Senator Hatch. Mr. Chairman, I would like to call
18 up Committee Amendment No. 38 to strike TAA from the
19 implementing bill.

20 I am disappointed it has come to this. For months I
21 have been pleading for a fair and open debate on TAA and
22 even though I do not support TAA, I have been willing to
23 hold a markup and debate the issue on the floor.

24 I was very frustrated to learn that a Department of
25 Labor analysis of whether this program actually works has

1 been delayed 4 years. Now, according to their
2 spokesperson, the report will not be issued until the end
3 of this year.

4 Now, is that not convenient? It is beyond me how we
5 can expand a program that we do not even know if it works
6 without the analysis to prove its effectiveness.

7 Worse than that, this new program has been jammed
8 into an FTA to avoid full debate and scrutiny by the
9 Senate. We have seen this movie before. Once again, we
10 are being asked to vote on a piece of legislation, just
11 as with health care, and only after we vote on it will
12 the wisdom of the program be revealed.

13 Now, these free trade agreements have been pending
14 for 5 years. Instead of working together in a bipartisan
15 way to get them across the finish line, the
16 Administration has chosen a different path, including
17 this highly controversial and unrelated domestic spending
18 program in the Korea bill seriously jeopardizes the bill.

19 It is contrary to clear intent of trade promotion
20 authority. The statute makes clear what can be in an
21 implementing bill. First, it must include a statement of
22 proof, approving the trade agreement and approving any
23 accompanying statement of administrative action to
24 implement the agreement.

25 And, second, if changes are required to existing law

1 or if new statutory authority is required, then the bill
2 must include such provisions that are necessary or
3 appropriate to implement the agreement. And even though
4 the term, quote, "necessary or appropriate," unquote, is
5 not defined in the statute, it is a clear limitation that
6 there are some things that should and some things that
7 should not be included in an FTA implementing bill.

8 The Finance Committee expressed its view pretty
9 clearly as to what constitutes necessary or appropriate
10 when we passed the Trade Act of 2002, which created the
11 trade promotion authority procedures.

12 The Committee's report on the Trade Act of 2002
13 states that, quote, "The Committee believes that for
14 constitutional reasons, it is important to make trade
15 promotion authority as tailored as possible so as to not
16 unnecessarily intrude on normal legislative procedure.
17 Trade authority procedures are exceptions to the ordinary
18 rules of procedure," unquote.

19 Quote, "The Committee believes that these procedures
20 should apply only to meet the special requirements of the
21 trade agreements," unquote.

22 Quote, "Trade authority procedures should apply only
23 to those provisions in an implementing bill that are
24 strictly necessary or appropriate to implement the
25 underlying agreement. To apply the procedures more

1 broadly would encroach on Congress' constitutional
2 authority to legislate. The Committee takes a strict
3 interpretation of this requirement," unquote.

4 Now, the Ways and Means Committee contained or
5 included similar language in its report on TPA. I would
6 also request that excerpts from both reports be placed in
7 the record at this point.

8 The Chairman. Without objection.

9 [The information referred to appears in the
10 appendix.]

11 Senator Hatch. To date, this guidance has never
12 been broadly abused by this Committee. In fact, I cannot
13 recall an instance under the Trade Act of 2002 where a
14 provision has been sprung on the minority with only 48
15 hours for review.

16 But here we are today reviewing a bill including
17 whole changes to tax, pension, health care, and worker
18 retraining programs, which are neither necessary nor
19 appropriate to implement the underlying Korea agreement.

20 Now, what has happened here is a fundamental abuse
21 of process and an abrogation of the Senate's
22 constitutional right to debate and consider legislation.

23 It was done with virtually no prior consultation.
24 Members of this Committee did not even see the language
25 until 3:00 last Tuesday afternoon. Less than 48 hours

1 later, we were asked to vote on the Korea FTA and an
2 entirely unrelated entitlement spending program that now
3 accounts for 56 pages of a 142-page bill.

4 Now, this is clearly an attempt, in our opinion, to
5 hide this program from public scrutiny and Senate debate.

6 Worst of all, including it in this bill. Very well
7 cause the agreement to fail, as it will lose significant
8 Republican support, all of whom would have, I think,m
9 voted for it.

10 AS a strong supporter of the Korea bill, I would
11 urge my colleagues to support this amendment remover
12 these extraneous provisions from the bill and allow us to
13 have an open and fair debate on the merits of trade
14 adjustment assistance and on the merits of our trade
15 agreement with South Korea.

16 And I would like a roll call vote.

17 The Chairman. Any further discussion?

18 I might say that everyone on this Committee and I
19 think most members of the Senate would probably pass
20 trade -- when all is said and done, pass trade adjustment
21 assistance, as well trade promotion authority. And I
22 think everyone realizes -- excuse me -- the trade
23 agreements, not trade promotion, but the FTAs.

24 I think everyone agrees that this is essentially a
25 package. That is, if the free trade agreements are

1 enacted and become law this year, the trade adjustment
2 assistance must also pass and become law this year.

3 Congressman Camp and I negotiated a bipartisan trade
4 adjustment assistance agreement. We hope that is the
5 framework for the trade adjustment assistance that the
6 President sends up when he submits the Korean agreement."
7 That is a bipartisan agreement.

8 In addition, I do believe that there is support of
9 majority members of the Senate to vote for the free trade
10 agreements.

11 We have to find a way to get this done, and I,
12 frankly, believe that we are at a point in our Nation's
13 history, to some -- I do not want to overstate the point
14 -- that somebody may ask, "Well, can we get our act
15 together? Where are we as a country. Can we move? Can
16 we do things? And we have to show that we can. WE have
17 to show that we can pass free trade agreements.

18 It is so important for our country's economy. And
19 we also have to pass the trade adjustment system
20 provision. It is so important for displaced workers,
21 and, clearly, this legislation, the GAA, is necessary or
22 appropriate. That language has been included as standard
23 in every fast-track since 1974.

24 And it is off this provision that the TAA is also an
25 extension of current law, at least a modified extension

1 of current law.

2 And I believe that this is the best way at this time
3 to assure, as best as possible, we are going to get the
4 free trade agreements passed, as well as trade adjustment
5 assistance passed.

6 So I would urge my colleagues not to support this
7 amendment. Now, I am not going to totally close the
8 door. I am open to ideas after we pass this legislation
9 here in this Committee, which include both TAA and FTA,
10 to how we might - -if there is another way to approach
11 this subject, which, unfortunately, has divided this
12 committee.

13 But having said discontinuation that, I am not going
14 to be open to other alternatives which will, in my
15 judgment, result in failure to get TAA passed just for
16 the sake of getting the free trade agreements passed.

17 So I think at this point, this is a mock markup.
18 This Committee is acting, the Ways and Means Committee is
19 acting. This will not go to the Senate Floor, nor will
20 the House Ways and Means mock markup legislation go to
21 the House floor.

22 But there is opportunity between now, after this
23 passes today and when the President sends up his final
24 bill, to perhaps find another way to assure the passage
25 of both TAA and the FTA. But at this point, I think it

1 is best that we include the TAA in the South Korean free
2 trade agreement.

3 Senator Hatch. Roll call.

4 Senator Snowe. Mr. Chairman?

5 The Chairman. Senator Hatch requests a roll call.

6 Senator Snowe?

7 Senator Snowe. Yes. Just a quick comment. I hope
8 we are not going to use this as the standard in the
9 future about enjoining trade adjustment assistance with
10 free trade agreements.

11 I, on the other hand, have a serious concern about
12 the South Korean free trade agreement, and now it is
13 combined with the trade adjustment assistance, which, as
14 you well know, I have been a strong proponent. And we
15 have had the better part of this year absent any really
16 significant legislative initiatives on the floor of the
17 Senate.

18 So, clearly, we could have had an opportunity to
19 debate and to amend this program. And I think that every
20 member of the Senate is entitled to that opportunity and
21 to foreclose it, I think, is unfortunate and does a
22 disservice both on the legitimate issues we may have on
23 the free trade agreement and for those who have issues on
24 the trade adjustment assistance or want to further modify
25 or amplify on the provisions. I would like to have had

1 that opportunity myself.

2 So I think it is unfortunate that we are in this
3 position with a Hobson's choice in making this
4 determination. And when I look at the Senate schedule
5 this year, 46 percent of the time, we have been in non-
6 legislative business, quorum calls and morning business.

7 So when we knew that these provisions were expiring
8 in February we should have taken the opportunity to
9 figure out a way that this could be brought to the floor
10 so that everybody has a chance to speak to this question.

11 This program is becoming ever more important and
12 profound to workers across this country. I think as we
13 see the ever-widening trade deficit and gap, most
14 certainly with China and even with South Korea, they only
15 grow exponentially.

16 According to a recent report, when we have a trade
17 deficit with a country, it generally continues to become
18 a greater trade deficit with a country.

19 So I think all of these issues we should have the
20 opportunity to address on the floor of the Senate, and,
21 unfortunately, was re denied that ability to do so and I
22 regret that. So I am going to have to vote against the
23 agreement and, regrettably, on the trade adjustment
24 assistance, a swell, because they have combined.

25 Maybe there is a way in the meantime that we can

1 figure out a way to sever them so that we can have
2 independent votes and decisions on each of these issues
3 on their merits.

4 The Chairman. I hear you, Senator. Again, I
5 think, in my judgment, this is the best way to proceed at
6 this time. There may be other openings, ideas, pathways
7 between now and when the President sends the agreement.

8 The Clerk will call the roll.

9 The Clerk. Mr. Rockefeller?

10 Senator Rockefeller. No.

11 The Clerk. Mr. Conrad?

12 The Chairman. No by proxy.

13 The Clerk. Mr. Bingaman?

14 Senator Bingaman. No.

15 The Clerk. Mr. Kerry?

16 Senator Kerry. No.

17 The Clerk. Mr. Wyden?

18 Senator Wyden. No.

19 The Clerk. Mr. Schumer?

20 The Chairman. No by proxy.

21 The Clerk. Ms. Stabenow?

22 Senator Stabenow. No.

23 The Clerk. Ms. Cantwell?

24 Senator Cantwell. No.

25 The Clerk. Mr. Nelson?

1 Senator Nelson. No.
2 The Clerk. Mr. Menendez?
3 Senator Menendez. No.
4 The Clerk. Mr. Carper?
5 The Chairman. No by proxy.
6 The Clerk. Mr. Cardin?
7 Senator Cardin. No.
8 The Clerk. Mr. Hatch?
9 Senator Hatch. Aye.
10 The Clerk. Mr. Grassley?
11 Senator Hatch. Aye by proxy.
12 The Clerk. Ms. Snowe?
13 Senator Snowe. Aye.
14 The Clerk. Mr. Kyl?
15 Senator Hatch. Aye by proxy
16 The Clerk. Mr. Crapo?
17 Senator Hatch. Aye by proxy.
18 The Clerk. Mr. Roberts?
19 Senator Roberts. Aye.
20 The Clerk. Mr. Enzi?
21 Senator Enzi. Aye.
22 The Clerk. Mr. Cornyn?
23 Senator Hatch. Aye by proxy.
24 The Clerk. Mr. Coburn?
25 Senator Hatch. Aye by proxy.

1 The Clerk. Mr. Thune?

2 Senator Hatch. Aye by proxy.

3 The Clerk. Mr. Burr?

4 Senator Hatch. Aye by proxy.

5 The Clerk. Mr. Chairman?

6 The Chairman. No.

7 The Clerk will tally the vote.

8 The Clerk. Mr. Chairman, the final tally is 11
9 ayes, 13 nays.

10 The Chairman. Not enough votes to pass the
11 amendment. It fails. The amendment is not agreed to.

12 Are there further amendments?

13 Mr. Enzi, I believe you have an amendment.

14 Senator Enzi. Mr. Chairman, I would call up
15 Amendment No. 74, which is Enzi No. 4. Of course, I
16 listened to Senator Kerry earlier and understood that
17 nothing is going to pass, and I would have gone into a
18 little bit more on TAA with some amendments so that I
19 could understand better what is being done there and with
20 the hope that possibly there could be some changes there.

21 I will not be doing that. I do not know why we have
22 the lengthy on it that we do, and if it is attached to
23 Korea, why it does not only affect Korea.

24 But I am going to skip to another part that I have a
25 lot more hope that there will be a change because the

1 Medicare chief actuary, Richard Foster, said that the
2 provision in the new health care law expands Medicaid
3 eligibility to early retirees, and that it just does not
4 make sense.

5 So I have an amendment that would correct that as
6 part of the PAYFOR. So it would strike the Medicare
7 PAYFOR that is presently in there and replace it with a
8 proposal to amend the Internal Revenue Code to include
9 non-taxable Social Security and railroad retiree benefits
10 in the calculation of the modified adjusted gross income.

11 That would result in Social Security benefits and
12 railroad retirement being counted as income for purposes
13 of determining eligibility for Medicaid and health
14 insurance subsidies under the new health care law, and it
15 would conform the eligibility standard of these programs
16 with how most existing low income assistance programs
17 treat retirement benefits.

18 So it conforms the language and I think will solve
19 the problem that was raised where some retirees can earn
20 \$64,000 a year, including their income from retirement,
21 and be eligible for Medicaid. And we are trying to
22 preserve both Medicaid and Medicare and I think this
23 amendment goes toward doing both of those things.

24 So changing this definition of income will prevent
25 several million early retirees from becoming Medicaid

1 eligible under the new health care law and, additionally,
2 the change would eliminate the disparity in insurance
3 subsidies between early retirees and working individuals
4 of the same age with the same overall income level,
5 including Social Security benefits.

6 So it would assure that Medicaid resources would be
7 available to those who needed it the most and it is about
8 ensuring fairness. As the health care law is now
9 written, those who take early retirement would get a
10 significant break on their health insurance premiums, and
11 this amendment changes that criteria so that it is fair.

12 Now, I would mention that I submitted this for a CBO
13 score more than a week ago and I have not received any
14 score back from them. And I am confident that my
15 amendment will reduce Federal spending.

16 In addition to preventing three million early
17 retirees from qualifying for Medicaid, it will also lower
18 the insurance subsidies under the new health care law.

19 And all my amendment, as I said, will do is count
20 non-taxable retirement benefits as income when
21 determining eligibility for Medicaid and insurance
22 subsidies. And that is how these benefits are already
23 counted for other low income assistance programs like
24 supplemental security insurance and the low income
25 subsidies for the Medicare drug benefit.

1 So CBO's inability to provide a timely score should
2 not prevent us from adopting this amendment. To the
3 extent my amendment provides more savings than are needed
4 to eliminate the offset, these moneys could go to reduce
5 the Federal deficit and I believe this amendment would
6 provide more than enough savings to offset the PAYFOR in
7 the bill.

8 To the extent that the potential savings might be
9 insufficient, I would revise the amendment so that it
10 would propose using the existing PAYFOR on a pro rata
11 basis. So it would still solve the problem and still pay
12 for the program.

13 The Chairman. This is a somewhat complicated
14 amendment and --

15 Senator Enzi. It is the kind accountants really
16 like.

17 [Laughter.]

18 The Chairman. As you would explain it, instead I
19 was thinking there was a reason why you were proposing
20 this amendment, because you know this subject so well. We
21 do not know yet, though, how it scores, whether it raises
22 or loses revenue. We are not able yet to get a score
23 from CBO.

24 Based on that inability to know, I would urge you
25 maybe to work with us and see if we can make -- there is

1 a problem, as I understand it, when couples attempting to
2 get benefits under the Affordable Care Act -- I guess
3 maybe it is under Medicaid, I am not sure which --
4 couples are at \$64,000 or \$65,000 in income, some income
5 is not -- Social Security income was not included.

6 Senator Enzi. Right.

7 The Chairman. And it is something that is going to
8 have to be addressed at the appropriate time, but I think
9 that is right. But since we do not know a score at this
10 point, I do not think it is advisable to pursue the
11 amendment at this point. And it was also brought up late
12 and I would have to think through it more clearly to
13 understand its ramifications.

14 Senator Hatch?

15 Senator Hatch. Mr. Chairman, Senator Enzi has made
16 every effort to get a score. He reached out 2 weeks ago.
17 So what he is asking us to do is vote on the policy.

18 This amendment ensures that Medicaid resources are
19 available to those who need them the most. Medicare's
20 chief actuary, Richard Foster, has said that the
21 provision in the new health care law that expands
22 Medicaid eligibility to early retirees, quote, "just
23 doesn't make sense," unquote.

24 This amendment is about ensuring fairness. As the
25 health care law is now written, those who take early

1 retirement will get a significant break on health
2 insurance premiums.

3 Now, this amendment simply brings this eligibility
4 criterion in line with other Federal low income
5 assistance programs and it certainly does not create a
6 new standard.

7 So just because CBO could not do its job on time is
8 no reason that Senator Enzi should not have a vote on
9 this amendment, because it is a germane amendment.

10 The Chairman. Senator, I am not sure it is
11 germane. It is borderline germane, in the first place.

12 Senator Hatch. I think it is germane.

13 The Chairman. Second, as I read the description of
14 the amendment, repeal the Medicare imaging PAYFOR and
15 replace it with a proposal to count Social Security
16 income in modified adjusted gross income.

17 Well, that means we would have to know a score. We
18 have to know whether the replacement replaces.

19 Senator Enzi. I mentioned that I would be willing
20 to modify it so that if it did not cover it all, then on
21 a pro rata basis, we would use the PAYFOR that you had.
22 But this has the potential for saving Medicaid and
23 Medicare and it has already been pointed out as a problem
24 and since it is already a piece of the PAYFOR in the
25 bill, I think that it would be germane and we ought to

1 address it at this point.

2 It is a mock markup. If the Administration finds
3 that it is different or that they want a modification,
4 they will modify it. But it is a point that we ought to
5 raise at this point and take care of at this point.

6 The Chairman. I am going to say, Senator, this
7 really is more in the nature of a health care act
8 modification than it is FTA or TAA amendment, and,
9 therefore, it seems to be, although it is a close call,
10 not germane.

11 Senator Enzi. I do not see how you can consider it
12 to be non-germane. You used the PAYFOR. I am just
13 modifying your PAYFOR.

14 The Chairman. No. You are replacing it with a
15 proposal to count Social Security income in modified
16 adjusted gross income.

17 Senator Hatch. And, Mr. Chairman, this is --

18 Senator Enzi. Well, it makes sense, but I guess we
19 do not want to make sense on this bill.

20 Senator Hatch. This is a health care offset in the
21 mark. So this health care amendment is germane.

22 The Chairman. Well, to me, it is more in the
23 nature of a health care bill than it is a replacement of
24 an offset. It is replacing it with an offset in the
25 health care bill.

1 So I am going to have to rule it not germane. I do
2 so.

3 Senator Enzi. We should not be so set on not
4 approving Republican amendments.

5 The Chairman. Well, I would like to approve
6 Republican amendments. We are not approving Democratic
7 amendments, either. It is because of the nature of this
8 process we took to move forward. It is a mock markup,
9 but we wanted to have a good form with the Ways and Means
10 mock markup, as well. And there will be, hopefully,
11 times to address some very legitimate issues that have
12 arisen.

13 Senator Enzi. I would ask to overrule the Chair.

14 The Chairman. The request has been made. The
15 Clerk will call the roll.

16 The Clerk. Mr. Rockefeller?

17 Senator Rockefeller. No.

18 The Clerk. Mr. Bingaman?

19 Senator Bingaman. Aye.

20 The Clerk. Mr. Kerry?

21 Senator Kerry. No.

22 The Clerk. Mr. Wyden?

23 Senator Wyden. No.

24 The Clerk. Ms. Stabenow?

25 Senator Stabenow. No.

1 The Clerk. Ms. Cantwell?
2 Senator Cantwell. No.
3 The Clerk. Mr. Nelson?
4 Senator Nelson. No.
5 The Clerk. Mr. Menendez?
6 Senator Menendez. No.
7 The Clerk. Mr. Carper?
8 Senator Carper. No.
9 The Clerk. Mr. Cardin?
10 Senator Cardin. No.
11 The Clerk. Mr. Hatch?
12 Senator Hatch. Aye.
13 The Clerk. Ms. Snowe?
14 Senator Snowe. Aye.
15 The Clerk. Mr. Roberts?
16 Senator Roberts. Aye.
17 The Clerk. Mr. Enzi?
18 Senator Enzi. Aye.
19 The Clerk. Mr. Chairman?
20 The Chairman. No.
21 The Clerk will tally the vote.
22 The Clerk. Mr. Chairman, the final tally is 5
23 ayes, 10 nays.
24 The Chairman. Not having voted to overturn the
25 ruling of the Chair, the appeal was not agreed to and the

1 amendment is not germane and it falls.

2 Are there further amendments?

3 Senator Roberts?

4 Senator Roberts. Mr. Chairman, I will try to make
5 this quick. It is the same argument made by Senator Enzi
6 in regards to opening up Medicare as an offset, over 500
7 million bucks.

8 And this is another borderline call and I think,
9 without question, the Chair will probably end up on one
10 side of the border and me on the other.

11 But at nay rate, circumventing the comment period
12 for stakeholders and implementing regulations without
13 their valuable input, I think we only set thing supto
14 fail. We have seen a lot of that, whether it is
15 everybody upset about the outpouring of regulations, the
16 President even issuing an executive order January 18 and
17 saying some of these regulations are just dumb.

18 What really bothers people are the interim final
19 rule processes, where, in dealing with the Patient
20 Protection and Affordable Care Act, PPACA, and the Health
21 Care and Education Reconciliation Act of 2010, what this
22 amendment would do, it would say to the Secretary, in
23 implementing those, you may not use an interim rule final
24 process for any regulatory authority granted by these
25 bills.

1 Instead, all regulations must be done through a
2 notice of proposed rulemaking, with a minimum of 60 days
3 for comment to begin on date of publication of the rule
4 for the Federal Register, followed by a consideration of
5 all comments received and issuance of a final rule, where
6 Congress otherwise permitted sub-regulatory
7 implementation.

8 These provisions are not impacted by this changes.
9 I think it is simple enough. I think everybody here
10 understands what happens when you get an interim rule,
11 interim final rule, especially with health care,
12 especially with the health care act.

13 We have had an explosion of regulations and an
14 explosion of reaction around the countryside, not only on
15 this, but this is probably the worst example all across
16 the board.

17 So I would hope that the Chair would rule this
18 germane, and I would hope that we could have an
19 opportunity to at least grant the stakeholders on health
20 care 60 days to have their say.

21 Goodness knows, we might even change the regulation
22 a bit so they would not have to grant all these waivers
23 and get into all this controversy.

24 The Chairman. Senator, I appreciate your concern.
25 This is not a borderline issue. This is a way out in

1 the field, right or left field issue. This is so clear-
2 cut, it is --

3 Senator Roberts. Well, at least make it to right
4 field.

5 The Chairman. That is right. It is not at all
6 relevant.

7 [Laughter.]

8 The Chairman. You can choose whatever field you
9 want, but it is not borderline. I am going to have to
10 rule it not germane.

11 Senator Roberts. And I would ask a vote on
12 overruling the Chair.

13 The Chairman. It has been requested. The Clerk
14 will call the roll.

15 The Clerk. Mr. Rockefeller?

16 Senator Rockefeller. No.

17 The Clerk. Mr. Bingaman?

18 Senator Bingaman. No.

19 The Clerk. Mr. Kerry?

20 Senator Kerry. No.

21 The Clerk. Mr. Wyden?

22 Senator Wyden. No.

23 The Clerk. Mr. Schumer?

24 Senator Schumer. No.

25 The Clerk. Ms. Stabenow?

1 Senator Stabenow. No.
2 The Clerk. Ms. Cantwell?
3 Senator Cantwell. No.
4 The Clerk. Mr. Nelson?
5 Senator Nelson. No.
6 The Clerk. Mr. Menendez?
7 Senator Menendez. No.
8 The Clerk. Mr. Carper?
9 Senator Carper. No.
10 The Clerk. Mr. Cardin?
11 Senator Cardin. No.
12 The Clerk. Mr. Hatch?
13 Senator Hatch. Aye.
14 The Clerk. Ms. Snowe?
15 Senator Snowe. Aye.
16 The Clerk. Mr. Roberts?
17 Senator Roberts. Aye.
18 The Clerk. Mr. Enzi?
19 Senator Enzi. Aye.
20 The Clerk. Mr. Chairman?
21 The Chairman. No.
22 The Clerk will tally the vote.
23 The Clerk. Mr. Chairman, the final tally is 4
24 ayes, 12 nays.
25 The Chairman. Two-thirds not having voted to

1 overturn the ruling of the Chair, the appeal is not
2 agreed to. The amendment is not germane and the
3 amendment falls.

4 If there are no further amendments, I would
5 entertain a motion that the Committee report the
6 Chairman's mark on the South Korean agreement, as
7 amended.

8 [Moved and seconded.]

9 The Chairman. Does any Senator require a recorded
10 vote?

11 Senator Hatch. Yes. I would like a recorded vote.

12 The Chairman. A recorded vote has been requested.

13 The Clerk will call the roll.

14 The Clerk. Mr. Rockefeller?

15 Senator Rockefeller. Aye.

16 The Clerk. Mr. Conrad?

17 Senator Conrad. Aye.

18 The Clerk. Mr. Bingaman?

19 Senator Bingaman. Aye.

20 The Clerk. Mr. Kerry?

21 Senator Kerry. Aye.

22 The Clerk. Mr. Wyden?

23 Senator Wyden. Aye.

24 The Clerk. Mr. Schumer?

25 Senator Schumer. Aye.

1 The Clerk. Ms. Stabenow?
2 Senator Stabenow. Aye.
3 The Clerk. Ms. Cantwell?
4 Senator Cantwell. Aye.
5 The Clerk. Mr. Nelson?
6 Senator Nelson. Aye.
7 The Clerk. Mr. Menendez?
8 Senator Menendez. Aye.
9 The Clerk. Mr. Carper?
10 Senator Carper. Aye.
11 The Clerk. Mr. Cardin?
12 Senator Cardin. Aye.
13 The Clerk. Mr. Hatch?
14 Senator Hatch. No.
15 The Clerk. Mr. Grassley?
16 Senator Grassley. No.
17 The Clerk. Ms. Snowe?
18 Senator Snowe. No.
19 The Clerk. Mr. Kyl?
20 Senator Hatch. No by proxy
21 The Clerk. Mr. Crapo?
22 Senator Hatch. No by proxy.
23 The Clerk. Mr. Roberts?
24 Senator Roberts. No.
25 The Clerk. Mr. Enzi?

1 Senator Enzi. No.

2 The Clerk. Mr. Cornyn?

3 Senator Hatch. No by proxy.

4 The Clerk. Mr. Coburn?

5 Senator Hatch. No by proxy.

6 The Clerk. Mr. Thune?

7 Senator Hatch. No by proxy.

8 The Clerk. Mr. Burr?

9 Senator Hatch. No by proxy.

10 The Clerk. Mr. Chairman?

11 The Chairman. Aye.

12 The Clerk will report the tallies.

13 The Clerk. Mr. Chairman, the tally of members

14 present is 13 ayes, 5 nays. The final tally, including

15 proxies, is 13 ayes, 11 nays.

16 The Chairman. The ayes have it. The bill is

17 ordered reported.

18 I think the next could go quickly. The next one is

19 Panama. Mr. Clerk, Senator Conrad votes?

20 Senator Conrad. Aye.

21 The Clerk. Mr. Conrad, aye.

22 Senator Conrad. Thank you.

23 The Chairman. The next order of business is the

24 Panama mark. There is a modification before the

25 Committee in connection with the mark.

1 The mark is so modified.

2 The next order of business is to walk through the
3 mark, as modified.

4 Mr. Smart, would you briefly describe the main
5 features of the mark? And I encourage you to be quite
6 brief.

7 I am not sure what amendments, if any, are going to
8 be offered. That is one. We know one.

9 Senator Hatch. Mr. Chairman, I just move that we
10 vote on it.

11 The Chairman. Sorry?

12 Senator Hatch. I just moved that we vote on the
13 Panama.

14 The Chairman. Well, no, because I think there are
15 amendments, Senator.

16 Senator Hatch. Not on Panama.

17 The Chairman. On Panama. Well, there may be. I
18 see Senator Cardin waving his hand down there, which
19 indicates to me he has an amendment.

20 Senator Hatch. All right.

21 The Chairman. Does anybody want to walk through
22 the mark?

23 [No response.]

24 The Chairman. I see no interest in walking through
25 the mark.

1 The mark has just been walked through.

2 Amendments are now in order.

3 Senator Cardin?

4 Senator Cardin. Thank you, Mr. Chairman. I had
5 two amendments. One I am not going to offer, which deals
6 with the Wool Trust Fund, which I understand that you
7 ruled that it was not germane, and I appreciate the
8 Chairman's help in regard to that issue.

9 So with that, I will not offer that amendment.

10 The Chairman. Thank you.

11 Senator Cardin. I do wish to offer the Amendment
12 No. 90, which is co-authored by Senators Stabenow and
13 Menendez, which would include the labor action plan in
14 the Colombia implementing bill.

15 The Chairman. Senator, do you not wish to offer
16 that to the Colombia?

17 Senator Cardin. I thought we were on Colombia.

18 The Chairman. We are on Panama.

19 Senator Cardin. I apologize. You are right.
20 There are no amendments on Panama.

21 The Chairman. If there are no amendments, the
22 Chair will entertain a motion to report the bill.

23 [Moved and seconded.]

24 The Chairman. A roll call has been requested. All
25 those in favor, signify by voting aye. Excuse me. The

1 clerk will call the roll.

2 The Clerk. Mr. Rockefeller?

3 The Chairman. Aye by proxy.

4 The Clerk. Mr. Conrad?

5 Senator Conrad. Aye.

6 The Clerk. Mr. Bingaman?

7 Senator Bingaman. Aye.

8 The Clerk. Mr. Kerry?

9 The Chairman. Aye by proxy.

10 The Clerk. Mr. Wyden?

11 Senator Wyden. Aye.

12 The Clerk. Mr. Schumer?

13 Senator Schumer. Aye.

14 The Clerk. Ms. Stabenow?

15 Senator Stabenow. No.

16 The Clerk. Ms. Cantwell?

17 Senator Cantwell. Aye.

18 The Clerk. Mr. Nelson?

19 Senator Nelson. Aye.

20 The Clerk. Mr. Menendez?

21 Senator Menendez. Aye.

22 The Clerk. Mr. Carper?

23 Senator Carper. Aye.

24 The Clerk. Mr. Cardin?

25 Senator Cardin. Aye.

1 The Clerk. Mr. Hatch?
2 Senator Hatch. Aye.
3 The Clerk. Mr. Grassley?
4 Senator Grassley. Aye.
5 The Clerk. Ms. Snowe?
6 Senator Snowe. Aye.
7 The Clerk. Mr. Kyl?
8 Senator Hatch. Aye by proxy.
9 The Clerk. Mr. Crapo?
10 Senator Hatch. Aye by proxy.
11 The Clerk. Mr. Roberts?
12 Senator Roberts. Aye.
13 The Clerk. Mr. Enzi?
14 Senator Enzi. Aye.
15 The Clerk. Mr. Cornyn?
16 Senator Hatch. Aye by proxy.
17 The Clerk. Mr. Coburn?
18 Senator Hatch. Aye by proxy.
19 The Clerk. Mr. Thune?
20 Senator Hatch. Aye by proxy.
21 The Clerk. Mr. Burr?
22 Senator Hatch. Aye by proxy.
23 The Clerk. Mr. Chairman?
24 The Chairman. Aye.
25 I might correct the earlier vote. Senator

1 Rockefeller wishes to vote no by proxy.

2 The Clerk. Senator Rockefeller, no by proxy.

3 Senator Grassley. Mr. Chairman?

4 The Chairman. Senator Grassley?

5 Senator Grassley. On the previous one, on three, I
6 would like to change my vote from no by proxy to no in
7 person, by unanimous consent.

8 The Chairman. Yes. Right. It is agreed to.

9 Senator Schumer. Mr. Chairman, I would like to
10 make a brief statement. I thought I would, because I
11 thought Senator Snowe was offering an amendment and she
12 is not. So I would just like to make a brief statement.

13 The Chairman. Can we record the vote first,
14 please?

15 Senator Schumer. Yes. I am sorry.

16 The Chairman. The Clerk will report the tallies.

17 The Clerk. Mr. Chairman, the tally of members
18 present is 15 ayes, 1 nay. The final tally, including
19 proxies, is 22 ayes and 2 nays.

20 The Chairman. The ayes have it, and the bill is
21 reported.

22 Now, we are on Colombia.

23 Senator Schumer. Mr. Chairman?

24 The Chairman. Before we move to Colombia, I think
25 the Senator from New York wishes to make a statement.

1 Senator Schumer. Yes. I will make a brief
2 statement. I know people want to get moving here. I was
3 going to do this when Senator Snowe offered her amendment
4 about currency manipulation, an issue, as you know, of
5 great concern, of course, to the Senator from Maine, to
6 myself, and many others on this Committee.

7 And, again, let me reiterate free trade. Trade is,
8 of course, a two-way street, but so is free trade. And I
9 think the feeling of many Americans and many of us on
10 this Committee is when other countries want the
11 advantages of free trade, they take it. When they do not
12 want the advantages of free trade -- when they have
13 liabilities from free trade that might give our country
14 advantages, they take it away.

15 And to me, at least, no issue -- no issue is more
16 important in terms of trade than China's continued
17 manipulation of currency. We are talking about thousands
18 of jobs on these three trade agreements. We are talking
19 about hundreds of thousands and millions of jobs in terms
20 of China's currency manipulation.

21 We are also talking about hundreds of millions of
22 dollars on these trade agreements, if you combine them.
23 WS are talking about hundreds of billions of dollars over
24 the years when China manipulates its currency and gives
25 our workers an unfair advantage in both exporting and in

1 fighting imported goods or competing with imported goods,
2 and it has gone on too long.

3 Administrations, both Bush and Obama, have put their
4 head in the sand on this issue. They have basically,
5 for, I think, diplomatic and other reasons, refused to
6 brand China a currency manipulator, even though it is as
7 plain as the nose on your face that they are.

8 My workers throughout New York State, whether they
9 be service workers in New York City or manufacturing
10 workers in Upstate New York, are dramatically hurt by
11 this.

12 Manufacturers tell me they can easily compete with
13 China, but not with a 35 percent advantage.

14 The point being China currency will never be allowed
15 by the Administration on this bill. So, obviously, it
16 would be foolish to offer it, even though I think it
17 would probably pass this Committee. We have broad
18 bipartisan in support of the legislation that myself,
19 Senator Snowe, Senator Stabenow, Senator Burr, others on
20 this Committee have cosponsored.

21 But I do believe it should be considered
22 concurrently with trade legislation, this trade
23 legislation. I have made that clear to the Chairman of
24 the Committee. I have made that clear to the leader,
25 Senator Reid, and I do believe that we will be conceding

1 our China currency bill in the next several months.

2 And I would tell my colleagues that there will be
3 two sides to trade here, not just trade agreements which
4 are important with countries that play by the rules, as
5 these countries may, but, also, some things that require
6 countries that do not play by the rules, China at the
7 very top of the list, to finally tow the mark.

8 And I am not going to rest until we get this bill on
9 the floor and vote for it or against it and move it
10 forward, because, again, the issue of currency dwarfs
11 these three trade agreements combined, and I think we
12 have an obligation to our American workers and our
13 American prosperity to address it.

14 So I thank you, Mr. Chairman, and sorry to delay the
15 Committee a brief bit.

16 The Chairman. Thank you. That is a very important
17 issue, clearly.

18 Senator Snowe. Mr. Chairman?

19 The Chairman. Senator Snowe?

20 Senator Snowe. Thank you. And I appreciate the
21 comments made by Senator Schumer with respect to his
22 legislation, which I wholeheartedly endorse. And the
23 amendments that I was prepared to offer, but I understand
24 that they were not going to go very far in this Committee
25 at this point, but we really do have to evaluate the

1 whole issue of currency manipulation, because we even --
2 you are going to see it in the South Korean trade
3 agreement, frankly.

4 In fact, the Treasury department issued a report and
5 said view it as a warning that South Korea has intervened
6 with the objective of smoothing won volatility and
7 estimated that the Korean won could be undervalued
8 relative to its equilibrium level by an estimated 5 to 20
9 percent.

10 So my amendment would have required that our
11 government would have to certify, prior to entering into
12 a trade agreement with any specific country, that they
13 have not been manipulating or changing the valuation of
14 their currency in the 10 previous years.

15 You might ask why the 10 previous s years. Because
16 the Treasury Department does issue reports on a biannual
17 basis. It is required under the Trade Act. And
18 basically, these standards that is in that act is adopted
19 in my legislation.

20 But it is truly something that we have to address,
21 because it is becoming a greater challenge, particularly
22 with China, and the magnitude of our deficit, but over
23 time, with other countries, systematically. And,
24 frankly, what they see that China is getting away with is
25 going to encourage and incentivize other countries to do

1 the same thing and to penetrate those markets in a way
2 because of their currency valuation.

3 And if they manipulate the rate of exchange, we all
4 understand that it is certainly going to make our
5 industries and our workesr less competitive and put at
6 risk.

7 So I hope that we can have an opportunity to address
8 the array of issues concerning this.

9 Senator Schumer. Would the gentlelady yield?

10 Senator Snowe. Yes.

11 Senator Schumer. Leader Reid has argued that we
12 will bring this bill to the floor sometime this year, the
13 currency manipulation bill of China, which we could then
14 maybe amend and add other countries, as well.

15 Senator Snowe. Thank you.

16 The Chairman. I think we will dispense with walking
17 through the Colombia agreement.

18 We have a modification. There is a modification
19 before the Committee in connection with the mark. The
20 mark is so modified.

21 The next order of business, since we are not going
22 to walk through, a virtual walkthrough, I am not going to
23 ask for a walk-through unless a Senator requests it.

24 [No response.]

25 I see no Senator requesting the walk-through. I

1 will move to amendments.

2 The mark, as modified, is now open for amendments.

3 Senator Cardin?

4 Senator Cardin. As I was saying, Mr. Chairman, now
5 that we are on the Colombia Free trade agreement. I
6 would like to offer Amendment No. 90, which is offered
7 with Senators Stabenow and Menendez, which would include
8 the labor action plan in Colombia in the implementing
9 bill.

10 And let me say I think where we are, as we know. We
11 know there is the labor action plan that has been entered
12 into. We know that it requires certain changes in
13 Colombia. We know the Santos administration is moving
14 forward with that.

15 The President has also indicated that he expects
16 that progress will be made before the plan is actually
17 implemented, the free trade agreement is actually
18 implemented.

19 We also had the International Labor Organization
20 standards that are in the body of the bill, and I
21 appreciate the fact that that has been incorporated into
22 the base bill. The problem is that in the implementing
23 legislation, there is no reference that the President has
24 to certify to us that Colombia has complied with the
25 labor action plan before the free trade agreement is, in

1 fact, implemented.

2 This amendment would correct, I think, that
3 oversight, and I say this in all sincerity, Mr. Chairman.
4 I think this helps the President of the United States.
5 As we start looking at the implementation of the bill,
6 once Congress has acted, the pressure is off. I think we
7 all understand that.

8 We understand that once Congress has acted, that the
9 free trade agreement is going to take effect. And, yes,
10 we expect that there will be further progress made, but
11 there is really no way to enforce that. I think we have
12 to be realistic about it.

13 Including this provision within the base agreement,
14 it means the President has to certify, it means that the
15 people in Colombia need to take very seriously the labor
16 action plans.

17 It also empowers the advocacy community that has
18 been working on the ground to make sure that the reforms,
19 in fact, take place.

20 So for all those reasons, this amendment, I think,
21 is critically important. I might tell you that the
22 ranking Democratic member on the Ways and Means
23 Committee, Congressman Levin, is going to move a similar
24 amendment. I do not know where they are in the process
25 in the House.

1 I mention that because I think there are people
2 genuinely concerned on this agreement as to whether the
3 labor action plan will be implemented unless it is
4 mentioned in the underlying agreement.

5 So I really do think this helps the President. I
6 think it advances the likelihood of the legislation, and
7 I would urge my colleagues to support it.

8 The Chairman. Is there any discussion?

9 Senator Enzi. Mr. Chairman?

10 The Chairman. Senator Enzi?

11 Senator Enzi. I have some serious concerns with
12 this. In fact, I have some serious concerns with the
13 labor action plan, and I have an amendment that I will
14 offer after this one.

15 I have no doubt as to its fate, but we are requiring
16 of them more than we require in the United States. I
17 just finished reading a book called *The Imperial Cruise*.

18 It is when Teddy Roosevelt sent his secretary of state
19 and his daughter to Japan, China and the Philippines to
20 force -- force -- some treaties. And it says that or
21 implies that that is what caused Japan to take us on in
22 World War II, putting unusual requirements on them that
23 we did not put on ourselves. And that is what we do with
24 this labor action plan.

25 We have requirements in there that we do not require

1 in America. I do not know why we think we should --
2 well, they, obviously, want to have some kind of a treaty
3 with us or at least did until they got the one with
4 Canada, which means we are not the only supplier of goods
5 anymore.

6 So when we start putting things on that have a
7 disagreement in their country that goes beyond what
8 require in our country, I think we are making a huge
9 mistake.

10 The Chairman. Any further discussion?

11 Senator Stabenow?

12 Senator Stabenow. Thank you, Mr. Chairman. I join
13 with Senator Cardin in this amendment, because I think it
14 is an opportunity for us to do what many of us have been
15 talking about in terms of solidifying a step in our labor
16 agreements to make sure that people who want to have the
17 right to exercise their ability to improve their working
18 conditions can do that without threat of violence or
19 other kinds of threats.

20 And I understand from colleagues that there have
21 been improvements. We know of the improvements. We know
22 what the Santos administration has been working towards.
23 There is disagreement now on an action plan, which is a
24 major step forward. But without this amendment, there is
25 no way to ensure that Colombia will actually carry it

1 out.

2 In fact, in the hearing, when I asked about that,
3 what happens if all of the good work and the words
4 written down on paper are not actually completed, how do
5 we enforce it, and there was silence. There is no way to
6 enforce it.

7 And so we are very close and I think this amendment
8 would guarantee that we would be taking a very important
9 policy step to solidify what we say we believe in
10 America.

11 Last year, there were more than 50 labor leaders
12 assassinated in Colombia. We hear from colleagues that,
13 in fact, that is down. Bu the truth is that there have
14 been 17 so far this year and no prosecutions.

15 And so the question is whether or not we are going
16 to say unequivocally that we will support this kind of
17 agreement if, in fact, the labor action plan is
18 fulfilled, not just put into language that we hope would
19 happen, but actually enforced.

20 And without this amendment, it is not enforceable,
21 and I have very deep concerns about this trade agreement
22 without this language.

23 Senator Hatch. Can I just have word or two, Mr.
24 Chairman?

25 The Chairman. Senator Hatch?

1 Senator Hatch. I have to say Colombia is one of
2 our greatest friends in this hemisphere. This has been
3 held up over and over and over and over again. I
4 certainly agree with Senator Enzi, we should not impose
5 on them laws that we do not impose on ourselves.

6 And it seems to me we have dragged this out,
7 humiliated that country like it should not have been
8 humiliated, not all of us.

9 But I have got to say there comes a time when you
10 have got to say -- you have got to look and see what
11 these heroic presidents have done, President Uribe,
12 President Santos. I have chatted with both of them, and,
13 I have to say, they have risked their lives to be able to
14 bring labor peace and to stop the FARC from doing what
15 they have been doing.

16 They have resurrected that country. It is a country
17 that we can all be proud of right now. Have they been
18 able to stop these criminals completely? No, just like
19 we cannot in our country.

20 But there comes a time when you really need to show
21 solidarity and support for one of our greatest allies in
22 this world, let alone in this hemisphere, that has been
23 led by really courageous leaders who have risked their
24 lives to do the things that they have done that should be
25 applauded instead of criticized.

1 I just wanted to say that much, Mr. Chairman, and we
2 are prepared to vote.

3 The Chairman. Further discussion?
4 Senator Menendez?

5 Senator Menendez. Mr. Chairman, I share Senator
6 Hatch's view about Colombia's progress, and many of us
7 have stood with Colombia when there were many others who
8 would not, including putting our votes where it was
9 necessary to give them the wherewithal to regain the
10 sovereignty of their country.

11 But that does not mean that killing labor leaders
12 with impunity in scores is, in fact, something that we
13 should hide our commitment to.

14 I share Senator Cardin's view. I think that passage
15 of this amendment is crucial to the Senate's endorsements
16 of Colombia's free trade agreement.

17 The Colombia labor issue is the leading concern with
18 respect to passage of the agreement and, therefore, I
19 think it is necessary and appropriate to demand that the
20 Administration simply hold Colombia to its obligations
21 before the treaty enters into force, just as the
22 President is compelled to do with respect to other
23 provisions of the agreement before the treaty can enter
24 into force.

25 So it makes zero sense that the President has to

1 certify that Colombia has taken measures necessary to
2 comply with all of the provisions of the agreement before
3 entering into force, but not with respect to its labor
4 commitments, which is the primary concern so many of us
5 have with this bill.

6 We are not imposing additional requirements or
7 making new asks. We are simply asking that the
8 Administration be certain that Colombia has taken all
9 measures agreed to by the date of determination in the
10 plan or by January 2012, whichever is later.

11 And then for those who say there is not anybody that
12 has greater respect for President Uribe, President
13 Santos. I have told President Uribe that personally. I
14 look forward to telling that to President Santos. But
15 this amendment would help to ensure that Colombia's labor
16 leaders are not forgotten once the agreement is
17 implemented, because even after the action plan was
18 announced, violence against union activists and worker
19 repression has continued unabated.

20 In fact, killings of trade unionists in Colombia
21 this year has accelerated to a rate of approximately one
22 union person being killed every 7 days during May and
23 June -- one every 7 days during May and June.

24 Just to give you an example, on June 20, Alejandro
25 Jose Penata Lopez, a teacher and a member of the

1 Asociacion de Maestros de Cordoba, the Teachers
2 Association of Cordoba, affiliated to the CUT, was
3 murdered. He disappeared after leaving school and his
4 body was found with signs of torture. He had been hanged
5 with barbed wire.

6 On June 9, Marguerite de la Salas-Bach, a judge on
7 the sixth circuit labor court and a member of the Asonal
8 Judicial Union was killed in Barranquilla after leaving
9 the courthouse. She is survived by her husband and
10 daughter.

11 On June 8, Jorge Eliecer De los Rios, a teacher and
12 environmental campaigner and a member of the SER Union,
13 was killed in Pereira. He was shot several times from a
14 motorbike while on his school's campus.

15 A leading member of the Meedrua nongovernmental
16 organization, he has led a campaign to expose the damage
17 reaped by open air mines belonging to multinationals.

18 And on May 29, Carlos Julio Gomez, a teacher, a
19 profession we revere in this country, a member of the
20 SUTEV Union, was shot and killed in Cali.

21 So I look at these, Mr. Chairman, and I sway to
22 myself, without the inclusion of an amendment of this
23 nature or the other one that I will offer if this one
24 does not pass at least for notification, I regrettably,
25 will not be able to support the Colombia free trade

1 agreement.

2 I recognize that Colombia has made a real commitment
3 to addressing labor violence through the labor action
4 plan, but we need actually to know that beyond this
5 initial commitment where all these killings have still
6 taken place with impunity and without prosecution, that,
7 in fact, there is a commitment by the United States.

8 Senator Hatch. Mr. Chairman?

9 The Chairman. Senator Hatch?

10 Senator Hatch. Look, there have been deaths where
11 people have been killed with impunity and it has not been
12 the administration of these two men who have been
13 bringing this way down from where it was and continue to
14 work hard to bring it down -- bring this type of violence
15 down.

16 It has been caused by leftwing group down there that
17 just hate democracy and hate everything these presidents
18 are doing. We ought to be supporting the presidents and,
19 in the process, it seems to me, we would be able to
20 overcome some of these things rather than making their
21 jobs harder, and, at the same time, helping our own
22 country to benefit from these trade agreements.

23 Well, I understand my dear friend's feelings and I
24 feel the same way with regard to any kind of murders
25 anywhere. But my gosh, let us give credit where credit

1 is due.

2 These two presidents risked their lives to bring
3 this labor violence down and it has come down
4 dramatically, and they are still going to keep bringing
5 it down and hopefully someday they will completely clean
6 out these vicious people who have been causing these
7 things.

8 But it is not caused by the people of Colombia or,
9 should I say, regular citizens in Colombia and certainly
10 not by these two presidents who have done everything they
11 possibly can to bring this kind of violence down, and it
12 has come down considerably.

13 Is it still there? It is probably true in every
14 country in this hemisphere, there is some of that, maybe
15 not the same type of murders, but murders that can be
16 easily condemned, and we certainly have some of that in
17 our own country.

18 Senator Cardin. Mr. Chairman?

19 The Chairman. Senator Cardin?

20 Senator Cardin. That is exactly why I want this
21 amendment to pass, Senator Hatch. The labor action plan
22 institutionalizes in Colombia protections for the people
23 of Colombia.

24 It is difficult to change things and this action
25 plan helps Colombia make the political changes they need.

1 But I think without it referenced in the agreement, it
2 is too easy to overlook the implementation, and that is
3 why we have pressed this amendment.

4 The Chairman. Let me ask Ambassador Marantis a
5 question. Before I do, let me just -- whatever it is
6 worth. Many of us have spoken with President Uribe, we
7 have spoken with President Santos. Many of us have
8 visited Colombia. Many of us read a lot of books about
9 Colombia. I am thinking of one, *The News of a*
10 *Kidnapping*, by Gabrielle Marquez, and that book just
11 gives you such a sense of what the violence as like a
12 good number of years ago.

13 When I visited Colombia, in Bogota, and walking the
14 streets of Bogota and, also, at Cali, I was stunned.
15 This is not the country that Marquez wrote about. And
16 the country has changed so dramatically for the better.

17 It is not exaggeration to say not too many years
18 ago, Colombia was on the brink of being a failed state.
19 That is not an exaggeration.

20 They have come back so far to such a great degree,
21 and, as such, a close ally of the United States and so
22 respect the United States that I think it would be a
23 tragedy, number one, if we were not to pass this FTA,
24 but, number two, if we are going to snub them now at this
25 point given all that they have done.

1 No, it is not perfect, but I can tell you, the
2 conditions in Colombia are infinitely better than they
3 were several years ago. And when this agreements passed,
4 they will be even stronger. They will be in a better
5 position to go along the route they have taken to
6 prosecute murderers, to prosecute folks.

7 They still have a long ways to go. I talked to
8 Fiscalia, Fiscalia is the attorney general there, very,
9 very competent, very impressive lady, and all the things
10 that they are doing to address the problems that they
11 have. And even having said that, the violence rate, the
12 murder rate of labor unions, frankly, on a per capita
13 basis, is lower in Colombia than it is in many, many
14 other countries.

15 Now, any death is too much, no doubt, any murder is
16 reprehensible. It is tragedy. But I believe very
17 strongly, having spent a good bit of time working on this
18 issue, thinking about it, trying to do what is right,
19 that the best thing to do is for the United States to
20 honor its commitment.

21 Also, just think of all the geopolitical
22 considerations. Colombia has been waiting for the United
23 States to negotiate and to ratify this agreement,
24 waiting, waiting, waiting, and if we snub Colombia now,
25 they are going to wonder what is the word of the United

1 States, is the United States as good as its word.

2 Now, the next question is the labor action plan.

3 There have been very intensive negotiations with Colombia
4 to get the very best possible labor provisions, a lot of
5 negotiations going on in that regard, and one of them is
6 the labor action plan.

7 The President has said publicly that he will not
8 certify this agreement. He said publicly he will not
9 allow the FTA to enter into force unless Colombia has
10 fulfilled all of its labor action plan obligations. That
11 is a public statement by the President of the United
12 States of America, and that is good enough for me.

13 The President made that commitment. That is good
14 enough for me. And I am quite confident that he will
15 live up to that public commitment and, for that reason
16 and for other reasons, one is it tends to upset lots of
17 different negotiations going on here, including
18 negotiations with the House, that I think it is only
19 appropriate and the best course of action would be not to
20 adopt this amendment.

21 Senator Hatch. Mr. Chairman, I am going to put my
22 statement I want to make in the record at this point,
23 because I know that we are running out of time and I
24 would like to see us vote on this treaty, free trade
25 agreement.

1 [The statement appears in the appendix.]

2 The Chairman. Does the Senator wish to press his
3 amendment?

4 All those in favor, say aye.

5 [A Chorus of Ayes.]

6 The Chairman. Those opposed, no?

7 [A Chorus of Nays.]

8 The Chairman. In the opinion of the Chair, the
9 noes have it and the amendment is not agreed to.

10 Senator Menendez?

11 Senator Menendez. Mr. Chairman, since we are on
12 this topic and we have discussed it, I would like to ask
13 for my Amendment No. 2 to be called up.

14 The Chairman. Menendez No. 2.

15 Senator Menendez. Mr. Chairman, if I may speak to
16 the amendment.

17 The Chairman. Yes, go ahead.

18 Senator Menendez. And I will not belabor it long,
19 because I have made my major points in Senator Cardin's.

20 This is simply the equivalent of Ronald Reagan's
21 "trust, but verify." But it is a step below Senator
22 Cardin's amendment, because all we are asking in this
23 amendment is a reporting requirement on the
24 implementation and enforcement, which is different than
25 the other one where we had that it could not go into

1 force unless the President certified to the Congress that
2 the labor action plan and all that was necessary to
3 pursue. It had been pursued and enacted.

4 So it seems to me it is necessary because it is
5 important for Congress to know that the labor action plan
6 is and will be implemented and enforced as promised by
7 the government of Colombia. And the amendment would help
8 ensure that Colombia's labor leaders are not forgotten
9 once the agreement is implemented and, in essence, would
10 just simply give us a report by the Administration that,
11 in fact, hopefully, the progress that I have listened to
12 here -- even though one trade unionist gets killed every
13 7 days, somehow I find that hard to consider progress --
14 but nonetheless, at least the progress that we all hope
15 for as a result of the agreement would be notified and
16 reported to the Congress.

17 I do not think that is too much to ask.

18 The Chairman. Any discussion?

19 [No response.]

20 The Chairman. I might say to the Senator that the
21 labor action plan already contains extensive reporting
22 requirements. It would allow the public, obviously,
23 including the Congress, to gauge progress on
24 implementation.

25 The action plan requires the Colombian government to

1 provide quarterly reports on its enforcement efforts with
2 respect to cooperatives and protection of labor unions,
3 and there is no end date for this requirement, quarterly,
4 ad infinitum.

5 The Administration is committed to making,
6 obviously, those reports public. In addition, there is
7 extensive monitoring of labor conditions by a wide range
8 of NGOs, labor unions, human rights groups, information
9 widely disseminated. I think this is not necessary, this
10 amendment.

11 Senator Menendez. Mr. Chairman, just simply a note
12 for the record. This is exactly similar reporting
13 requirements that exist in CAFTA and NAFTA implementing
14 legislation. If it was good enough for CAFTA and NAFTA,
15 it should be good enough for Colombia.

16 The Chairman. I have to oppose the amendment.

17 All those in favor of the amendment, say aye.

18 [A Chorus of Ayes.]

19 The Chairman. Those opposed, no?

20 [A Chorus of Nays.]

21 The Chairman. In the opinion of the Chair, the
22 noes have it and the amendment is not agreed to.

23 Senator Enzi. Mr. Chairman?

24 The Chairman. Senator Enzi?

25 Senator Enzi. I have an amendment that we can

1 probably deal with quickly, and that is Amendment No. 94,
2 and that is the one that would prohibit the agreement
3 from requiring anything that goes beyond what U.S. labor
4 law has.

5 I have already discussed it a little bit. I will
6 not discuss it further, and I would accept a voice vote.

7 The Chairman. All those in favor of the amendment,
8 say aye.

9 [A Chorus of Ayes.]

10 The Chairman. Those opposed, no?

11 [A Chorus of Nays.]

12 The Chairman. In the opinion of the Chair, the
13 noes have it and the amendment is not agreed to.

14 Are there any further amendments?

15 Senator Menendez. Mr. Chairman, I would like to
16 call Amendment 1, where I want to briefly state the
17 position of myself. I believe that some of my colleagues
18 here are supportive of this effort, as well, and
19 hopefully will get the Chair to give me some sense of how
20 we might act in the future.

21 This deals with an effort to correct a tariff
22 inversion with reference to tariffs for imported dress
23 shirts that were removed while maintaining a high tariff,
24 as high as 13.5 percent, on shirt fabrics imported to
25 make shirts here in the United States.

1 So what we did is we told other countries, "Oh,
2 yeah, we will let you have a total elimination of the
3 tariff and you can send your finalized shirts into the
4 United States, with the very same product that U.S.
5 manufacturers have to import to make those shirts, but
6 you will not pay a tariff, but the shirt manufacturer in
7 the United States, in places like New Jersey, Tennessee
8 and other States, ultimately have to pay a higher tariff
9 just to get the material to create the shirt so that they
10 can compete with all of the foreign entities abroad.

11 So the Congress ultimately passed something called
12 the Cotton Trust Fund. It did so to eliminate this
13 inversion and the consequences of costing American jobs
14 by not permitting an equal playing field at the end of
15 the day.

16 I have visited many of these factories where Americans
17 are making high quality shirts here in the United States
18 from the very same materials that are being imported from
19 other countries in the world, sent to the United States.

20 We went from 600,000 shirts in 1999 that had been
21 imported to 2.4 million shirts that have been imported by
22 2006. We should just simply give U.S. manufacturers of
23 those shirts, and what we did in the Cotton Trust Fund
24 that expired, the same opportunity to compete with
25 anybody in the world, and that is what this would do.

1 And I would like to get a sense from the Chairman,
2 if he would work with us to try to ensure that we can
3 move not only to a markup, but hopefully to some vehicle
4 to try to find passage on this on the floor.

5 Senator Hatch. Mr. Chairman?

6 The Chairman. First, I want to respond to my good
7 friend from New Jersey. He has that assurance.

8 Yes, we will work with you to address this issue.
9 This is a new issue to me, frankly. Of course, I will
10 certainly, in good faith, work with the --

11 Senator Menendez. Mr. Chairman, I would note that
12 you included it in your extenders bill. It did not move
13 forward. So I would certainly hope --

14 The Chairman. That is a good start.

15 Senator Menendez. -- that that, in fact, seeing
16 that you had the propensity to do it on your mark, I hope
17 that we would have that plus at the end of the day.

18 The Chairman. That certainly helps.

19 Senator Hatch. Mr. Chairman?

20 The Chairman. Senator Hatch?

21 Senator Hatch. Mr. Chairman, I agree with the
22 Senator. I want to work with him on this and see what we
23 can do with not only cotton, but wool and move ahead on
24 this, if we can.

25 There are some people that question then efficiency

1 of this, but I think that he is right.

2 Senator Menendez. I appreciate Senator Hatch.

3 The Chairman. Senator Cardin? And Senator Schumer
4 and I had drafted Amendment 91. It falls within the same
5 category where you have an inverted tariff, where,
6 literally, American manufacturers are at a disadvantage
7 because the imported product makes it -- they cannot
8 compete with the imported final product.

9 So this was also included in your extender bill last
10 year, and I just want to encourage you to continue your
11 interest to get his extended. I think it is help save
12 jobs and create jobs here in America.

13 The Chairman. Senator Schumer?

14 Senator Schumer. Just briefly to add my remarks to
15 Senator Cardin's. We can still create fine clothing here
16 in America. Hickey-Freeman in Rochester New York,
17 employees 500 people making very nice suits. They even
18 make me a look at little better than I would normally.

19 Senator Hatch. I would not go that far, I will be
20 honest with you.

21 [Laughter.]

22 Senator Cardin. They do their best with what they
23 have to work with.

24 Senator Hatch. Now, that is a better statement.

25 Senator Cardin. But in any case, wool inversion

1 make sit really through for them, tariff inversion makes
2 it really tough for them. So I hope we can find a way --
3 I know I have talked to you about this -- we could find a
4 way to move this along with Senator Menendez's and
5 Senator Hatch's same problem with a similar fiber cotton.

6 Thank you.

7 The Chairman. We will do so.

8 Are there further amendments?

9 Senator Hatch. No.

10 The Chairman. If there are no further amendments,
11 I would entertain a motion that the committee report the
12 Colombia bill, as amended.

13 Senator Hatch. It has been moved by the Senator
14 from Utah.

15 Does any Senator desire a recorded vote?

16 Senator Hatch. Yes. Let us have a recorded vote.

17 The Chairman. A recorded vote has been requested.

18 The Clerk will call the roll.

19 The Clerk. Mr. Rockefeller?

20 The Chairman. No by proxy.

21 The Clerk. Mr. Conrad?

22 Senator Conrad. Aye.

23 The Clerk. Mr. Bingaman?

24 Senator Bingaman. Aye.

25 The Clerk. Mr. Kerry?

1 The Chairman. Aye by proxy.
2 The Clerk. Mr. Wyden?
3 Senator Wyden. Aye.
4 The Clerk. Mr. Schumer?
5 Senator Schumer. No.
6 The Clerk. Ms. Stabenow?
7 Senator Stabenow. No.
8 The Clerk. Ms. Cantwell?
9 Senator Cantwell. Aye.
10 The Clerk. Mr. Nelson?
11 Senator Nelson. Aye.
12 The Clerk. Mr. Menendez?
13 Senator Menendez. No.
14 The Clerk. Mr. Carper?
15 Senator Carper. Aye.
16 The Clerk. Mr. Cardin?
17 Senator Cardin. No.
18 The Clerk. Mr. Hatch?
19 Senator Hatch. Aye.
20 The Clerk. Mr. Grassley?
21 Senator Hatch. Aye by proxy.
22 The Clerk. Ms. Snowe?
23 Senator Hatch. No by proxy.
24 The Clerk. Mr. Kyl?
25 Senator Hatch. Aye by proxy

1 The Clerk. Mr. Crapo?
2 Senator Crapo. Aye.
3 The Clerk. Mr. Roberts?
4 Senator Roberts. Aye.
5 The Clerk. Mr. Enzi?
6 Senator Enzi. Aye.
7 The Clerk. Mr. Cornyn?
8 Senator Hatch. Aye by proxy.
9 The Clerk. Mr. Coburn?
10 Senator Hatch. Aye by proxy.
11 The Clerk. Mr. Thune?
12 Senator Thune. Aye.
13 The Clerk. Mr. Burr?
14 Senator Hatch. Aye by proxy.
15 The Clerk. Mr. Chairman?
16 The Chairman. Aye. The Clerk will record the
17 tallies.
18 The Clerk. Mr. Chairman, the final tally is 12
19 ayes, 4 nays of the members present. The final tally is
20 18 ayes, 6 nays.
21 The Chairman. The ayes have it and the bill is
22 ordered reported.
23 I ask consent the staff have authority to make
24 changes for technical, conforming and budgetary reasons
25 to all measures that the committee has considered today.

1 Without objection, so ordered.

2 Once again, I thank all Senators for their
3 cooperation. And the Committee is adjourned.

4 [Whereupon, at 1:54 p.m., the hearing was
5 adjourned.]

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