



Committee On Finance

Max Baucus, Chairman

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STATEMENT OF SENATOR MAX BAUCUS Markup of Fast Track Legislation December 12, 2001

Let me start off by commending Senator Grassley on working with me to develop a joint bill on fast track. I could not have a better partner in managing the affairs of the Senate Finance Committee.

For several years now, Congress has been divided over the merits of extending fast track trade negotiating authority to the President. The issue of how to properly address labor and environmental issues has proven particularly controversial.

I believe that it is possible to reestablish a broad consensus on trade policy that can allow us to move forward while addressing new issues, and responding to the needs of displaced workers. I know that many colleagues on both sides agree.

The fast track bill recently passed by the House included a number of provisions that I favor. And I worked with Democrats in the House to refine those provisions. I want to commend, in particular, the hard work of Congressmen Dooley, Tanner, and Jefferson in crafting the House legislation.

It is unfortunate that the House bill became tangled in partisan politics because I think that debate distracted attention from the significant provisions in the bill on labor, environment, and other issues. Nonetheless, as I said last week, the bill that passed the House is a step forward, and with some improvements, does provide the basis for developing a consensus.

Over the last several weeks, I have worked with Senator Grassley to develop a bill that improved upon the House bill in important ways. I must admit, there were times over the last few months that I thought Senator Grassley and I would not be able to reach an understanding on fast track. Fortunately, after many weeks of trying, we were able to forge a compromise. I am certain neither of us sees this bill as perfect.

This is, however, a very good bill. It provides the authority needed to advance multilateral and bilateral trade negotiations. This authority will run until June of 2005 with a possible two-year extension.

As I will outline in a moment, I believe it also makes significant progress on the issues of labor rights, environmental protections, protection of trade laws, and meaningful congressional oversight. This is far more progressive than any fast track bill supported by this Committee in years past. Further, this bill is not just an academic exercise; it has an excellent chance of becoming law.

Before I continue my description of the fast track bill before us, I want to speak for a moment on Trade Adjustment Assistance. Last week, this Committee reported a major expansion of the Trade Adjustment Assistance program.

I want to make one point unmistakably clear today. An expansion of TAA is essential even without passage of new fast track authority. Beyond that, it is inconceivable to me that the Congress would pass fast track without passing – in the same legislation – a major expansion of TAA. If fast track is to be taken up on the Senate floor, I will use every legislative option at my disposal to ensure that TAA and fast track are joined. I suspect I will have broad support from my Republican and Democratic colleagues in that effort.

Let me turn to the bill before us today. This legislation takes important steps to address labor and environmental issues. Probably the most important measure in the bill in this regard is taken from the House bill. The standard set by the U.S.-Jordan FTA on labor and environment is essentially enshrined in negotiating objectives.

Advancing the core International Labor Organization standards and ensuring compatibility between trade policy and environmental objectives are a part of the overall objectives. There is also an overall objective aimed at convincing trading partners not to weaken their labor or environmental laws as an inducement to trade – one part of the U.S.-Jordan standard.

I might also note that under this legislation, these overall objectives are every bit as important as the principal negotiating objectives listed in the section listed in section 2(b). Reviews of both the environmental and labor rights practices of potential negotiating partners are also mandated by this legislation.

Principal negotiating objectives include ensuring enforcement of both existing labor and environmental laws and eliminating policies that run counter to the goal of sustainable development.

Importantly, the Chairman's mark includes an extensive provision to address the potential threat to environmental laws and other national and local regulations arising out of investor-to-state dispute settlement provisions, as under "Chapter 11" of NAFTA. All of the labor and environmental issues are explicitly given parity with other trade issues in dispute settlement

proceedings – so environment and labor issues are no longer relegated to a lesser status than other trade issues.

Further, unlike previous fast track bills, efforts to address environment and labor matters are no longer forced to face the additional test of being “directly related to trade;” in my view this was a very significant weakness of previous bills, because the linkage could be used to unduly constrain negotiations on these topics.

There is one issue I particularly want to highlight in connection with enforcement of these provisions. As was the case in the U.S.-Jordan FTA, this bill makes clear that government agencies have discretion in administering environmental and labor laws. The discretion acknowledged in this objective, however, is limited to administrative regulatory and enforcement decisions.

The bill also directs the President to address potential conflicts between the WTO and multilateral environmental agreements and pursue consultation and capacity-building efforts with our trading partners on trade and environmental issues.

On another topic of great importance, this legislation takes significant steps to prevent U.S. trade laws from being weakened in trade negotiations. Especially given the dubious results of the recent negotiations in the WTO, this topic is particularly important.

First, the bill focuses attention on addressing problems arising from recent – in my view errant – WTO decisions against U.S. trade laws. Dispute settlement panels have greatly overstepped their boundaries under the WTO – second-guessing administrative agencies and creating out of whole cloth obligations that undermine U.S. laws. The legislation lists these problems and directs the Secretary of Commerce to report to Congress on addressing these problems or lose fast track authority.

Second, the bill includes the specific direction to the President to preserve U.S. antidumping, countervailing duty, and safeguard laws. The President is also directed to address and remedy the underlying causes of dumping, such as overcapacity, which depress markets for many industrial products like steel.

Third, the President is required to report to the Senate Finance and House Ways and Means Chairmen and Ranking Members on any changes contemplated in U.S. trade laws before they are agreed to, and then address concerns raised by these Members.

Finally, I want to talk briefly about congressional oversight. I feel strongly that trade negotiations require a unique degree of congressional involvement. The Constitution explicitly gives Congress authority to regulate international trade. Trade negotiations are a shared responsibility of the Congress and the President. To recognize this, the bill creates a new consultation procedure to ensure access to information and congressional input.

Also, the bill allows Congress to withdraw fast track by a vote of both Houses of

Congress. I was initially concerned about this provision and preferred a veto that could be accomplished by either House. However, after consultations with several authorities on congressional rules and procedures, I am confident that either House could change its rules if it felt the need to do so.

The bill also includes a resolution calling for expanding congressional staffing to allow for meaningful oversight of trade negotiations. I plan to pursue this issue aggressively in the appropriations process to ensure that Congress can play a meaningful role in overseeing trade negotiations.

I want to wrap up my remarks by again thanking Senator Grassley. At a time when partisan rancor seems to be the rule, I am pleased that we have been able to find the exception.

I also want to reassure those interested in international trade that this is an ongoing concern for me. With passage of this bill, I plan to vigorously work to oversee trade negotiations, to ensure that environmental and labor issues are addressed, and to preserve the integrity of U.S. trade laws. I believe this fast track bill is more progressive and far superior to any previously produced. In connection with TAA, I plan to work to see it made law.