

ORIGINAL

1 EXECUTIVE SESSION  
 2 WEDNESDAY, JUNE 16, 1982  
 3 U.S. Senate  
 4 Committee on Finance  
 5 Washington, D.C.

6 The committee met at 10:15 a.m. in room 2221, Dirksen  
 7 Senate Office Building, Hon. Robert Dole (chairman)  
 8 presiding.

9 Present: Senators Dole, Danforth, Packwood, Heinz,  
 10 Chafee, Symms, Grassley, Long, Bentsen, Moynihan, Baucus,  
 11 Boren, Bradley, and Mitchell. Also present: Messrs.  
 12 Hathaway, Kassinger, Gingrich, DeArment, Stern and Lang.

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1           The Chairman. Mr. Gingrich, as I understand as we  
2 recessed yesterday, there were a number of items that  
3 needed clarification. And we were hoping that the  
4 interested Senators and members of their staffs could work  
5 out those areas. I know Senator Bentsen had a question.  
6 Senator Heinz had a question.

7           Senator Bentsen. Mr. Chairman, I have withdrawn my  
8 objection or question on the point I had.

9           The Chairman. Are there other areas of agreement that  
10 have been worked out?

11          Mr. Gingrich. Mr. Chairman, I believe we have an  
12 agreement on all the remaining areas at this point on the  
13 amendment that was offered by Senator Heinz at the close of  
14 yesterday's session, or the discussion in which we engaged  
15 at the close of yesterday's session. I think we had  
16 worked out with the Administration on --

17          The Chairman. Is the Administration here? We are  
18 discussing the Heinz amendment and whether or not that has  
19 now been worked out satisfactorily for Senator Heinz and  
20 the Administration.

21          Senator Heinz. I think we have worked it out, Mr.  
22 Chairman.

23          Mr. Gingrich. The amendment would be on pages 2 and  
24 16 of the draft bill. And it would be with respect to the  
25 definition of "foreign direct investment." And on page 2,

1 line 32, we would add the words, a comma, and then the  
2 words "particularly investments" with implications for  
3 trade and products or services. There would be the  
4 addition of a comma and the two words "particularly  
5 investments." That amendment would also be made to page 16.

6 Senator Bentsen. I don't have a copy before me. Would  
7 you explain the net effect of that; what is accomplished  
8 by it?

9 Mr. Gingrich. We have now included in the reports  
10 which FTR must make and in the negotiating objectives on  
11 foreign direct investment. Let me rephrase it. USTR  
12 must now report on restrictions or distortions on foreign  
13 direct investments. The Treasury Department particularly  
14 wanted to add the words "with implication for trade and  
15 products or services" to the notion of foreign direct  
16 investment in order to make sure that we would not be  
17 talking about expropriation, for instance.

18 I think Senator Heinz felt that the phrase "with  
19 implication for trade and products or services" might be  
20 restrictive. And in order to get around that problem,  
21 the restrictiveness of the language "with implication for  
22 trade and products or services," we have added the words  
23 "particularly investments."

24 That will give emphasis to the fact that we are talking  
25 about trade and products or services but not restrict that

1 phrase.

2 The Chairman. Is that the Administration's under-  
3 standing of the amendment?

4 Mr. Hathaway. Senator Dole, we had some confusion  
5 about actually which words were going to be where when we  
6 reviewed this. We had slightly different versions.  
7 I think our intent is the same. And what we had thought  
8 the phrase was going to be "particularly that which has,"  
9 and Senator Heinz has instead of "that whibh," which  
10 modify foreign direct investment, the word "investment."

11 We were just discussing this. I don't think there is  
12 a difference in substance here if we are talking about the  
13 first phrase was "foreign direct investment," and what we  
14 want to do is give emphasis to what we had referred to  
15 generally as trade related investments, then we don't have  
16 a difference in substance. And if there is -- I suspect  
17 legislative counsel, after this Committee drafting, may well  
18 have a better way of saying it anyway. But I don't think we  
19 have a problem with the substance of it.

20 The Chairman. Senator Heinz.

21 Senator Heinz. I just have one and only one question  
22 for the record. Does this language preclude the bringing  
23 of a Section 301 case on the basis of foreign restrictions  
24 on portfolio investments?

25 Mr. Gingrich. It is my understanding that it does not.

1 Senator Heinz. Thank you.

2 The Chairman. Are there other areas that other members  
3 had problems with? Senator Matsunaga -- I know he had  
4 questions, but did he have an amendment?

5 Mr. Gingrich. Not that I am aware of, Mr. Chairman.

6 The Chairman. Are there others?

7 Mr. Gingrich. I believe that Senator Roth has an  
8 amendment.

9 Senator Danforth. Senator Roth has an amendment.

10 The Chairman. Are you going to offer that?

11 Senator Danforth. Yes, I will offer it for him.

12 The Chairman. Can you explain the amendment? And we  
13 then can have the Administration review it.

14 Mr. Gingrich. Yes, sir. Section 135 of the Trade Act  
15 of 1974 sets up a procedure for private advisory  
16 committees to advise the USTR during the trade negotiating  
17 process. Senator Roth's amendment would create a committee  
18 with respect -- there would be intergovernmental committees  
19 to advise during the trade negotiating process.

20 The Chairman. That's been checked with Senator Bentsen?  
21 Are you familiar with the Roth amendment?

22 Mr. Gingrich. It would simply add to the private  
23 sector negotiating process advisory committees made up of  
24 say state and local representatives to advise on areas  
25 where state and local governments have particular interests,

1 such as in the insurance sector and that sort of thing.

2 The Chairman. Is there any objection to that amendment?

3 Senator Chafee. Does the STR have to consult with  
4 those state advisory groups?

5 Mr. Gingrich. Yes. He would consult with them after  
6 they were established under the amendment offered by  
7 Senator Roth.

8 Senator Chafee. What do you think of that?

9 Mr. Hathaway. The Administration doesn't oppose that  
10 amendment. In fact, we already have a charter drafted to  
11 do that under existing authority. This would merely put it  
12 in the statute. And the Administration has no objection to  
13 that.

14 Senator Chafee. Mr. Chairman, I had one other  
15 question.

16 The Chairman. Without objection, the amendment will  
17 be adopted.

18 Senator Chafee. Yesterday I posed a question dealing  
19 with the definition of "discriminatory" on page 10, line  
20 24 through 28, and the question of where appropriate. Is  
21 that the GATT definition of "discriminatory?"

22 Mr. Gingrich. The definition of "discriminatory"  
23 includes the words "where appropriate," because there are  
24 certain circumstances such as with our own generalized  
25 system of preference programs where we don't give the most

1 favored national treatment. And that is intended to take  
2 into account those types of GATT legal situations where  
3 MFN or national treatment is not granted.

4 Senator Chafee. So this bill does adopt the GATT  
5 definition?

6 Mr. Gingrich. Yes. It is intended to conform with  
7 the GATT definition.

8 Senator Chafee. Thank you, Mr. Chairman.

9 The Chairman. Senator Heinz.

10 Senator Heinz. Mr. Chairman, in the substitute bill  
11 on page 19, it is necessary for me to insert the actual  
12 list of items to be covered by the schedule. That list has  
13 been sent to the desk and to all members. And I would  
14 ask consent to insert that schedule in the appropriate  
15 place in the bill.

16 The Chairman. Now this is with reference to tariff  
17 cutting?

18 Senator Heinz. That's correct. In the high tech  
19 section of the bill.

20 The Chairman. Claude, is there any problem with that?

21 Mr. Gingrich. No, sir.

22 The Chairman. Does the Administration have any comment?

23 Mr. Hathaway. The Administration is in favor of  
24 whatever tariff authority we can get.

25 The Chairman. I think, Mr. DeArment, that we need to

1 make certain we handle this properly. As I understand, the  
2 amendment will remain a part of the substitute. Is that  
3 correct?

4 Mr. DeArment. One suggestion, Mr. Chairman, was to have  
5 the tariff provision remain part of the bill with the  
6 Committee authorizing the chairman to drop it out of the  
7 bill on the floor if that should be necessary because it  
8 is a revenue measure which should originate in the House.

9 Another thing that the Committee could do, if the  
10 Committee desired, would be to authorize the Chairman after  
11 hearings to place the tariff measure, if it is dropped out  
12 on the floor, on an appropriate tax vehicle so there would  
13 be two opportunities for the whole substance of it.

14 Senator Heinz. Mr. Chairman, let me say I fully  
15 endorse Mr. DeArment's suggestion. I think it is necessary.  
16 And what he suggests is entirely appropriate. And I do  
17 support it and I have discussed this with him in advance.

18 The Chairman. If there is no objection, we will proceed  
19 in that way on that particular amendment.

20 Are there other amendments? Other questions?

21 Mr. Gingrich. Mr. Chairman, I believe we have cleared  
22 this with Senator Heinz's office. The tariff cutting  
23 authority as in the bill now is for an unlimited period of  
24 time. The staff would suggest in conformity with past  
25 practice that we make it for a five year period.

1           Senator Heinz. Yes. That's a good idea. It should  
2 have been done in the first place. It's a technical  
3 oversight. Thank you.

4           The Chairman. Senator Bradley, do you have any  
5 questions or amendments?

6           Senator Bradley. No, Mr. Chairman. I think at this  
7 stage the bill reflects certainly my interest and  
8 hopefully the interest of the rest of the Committee.

9           The Chairman. Are there other staff suggestions?

10          Mr. Gingrich. Yes. Is it our understanding that the  
11 staff will have the authority to make the technical  
12 corrections which we have talked about?

13          The Chairman. Is there any objection to the staff  
14 making technical corrections as long as they consult?

15          ~~Mr. DeArment. No response.~~

16          Mr. Gingrich. We will.

17          The Chairman. Are there any other matters with  
18 reference to this legislation?

19          Mr. DeArment. Mr. Chairman, on your authority, it  
20 would be to call up all or part of it as the Chairman?

21          The Chairman. Yes.

22          Mr. DeArment. Fine. Thank you.

23          The Chairman. Senator Danforth.

24          Senator Danforth. Yes, Mr. Chairman, let me just say  
25 this. I think this has been a somewhat laborious task over

1 the past number of months in trying to work out a bill  
2 which accomplishes perhaps not the wildest dreams of all  
3 of us, but is a major step forward. And a bill which the  
4 President could support. And that is what we have done.  
5 This is a bill which the President supports; which he would  
6 sign. And it is a bill which I think materially  
7 strengthens his hand in dealing with unfair barriers to  
8 American exports.

9 It provides, for the first time, for a systematic  
10 method of identifying and quantifying barriers to inter-  
11 national trade. It provides for the development of  
12 systematic strategies for dealing with those barriers. It  
13 brings investments under 301 power. It strengthens and  
14 clarifies the authority of the President under Section 301  
15 of the Trade Act of 1974. It provides for negotiating  
16 authority for services, investments and high technology.  
17 All of this is in a bill, which as I said, would be  
18 agreeable with the President.

19 I think it has been very much on everyone's mind  
20 that when we go to the floor there are going to be  
21 probably amendments offered which are protectionist in  
22 nature, such as, for example, a possible domestic content  
23 amendment. I think that while some might agree with that  
24 strategy of the domestic content amendment or other  
25 protectionist amendments, it is contrary to the thrust of

1 this bill. And the effect of it would be to kill the bill.  
2 And that is something that we should recognize as we move  
3 forward with it and hopefully to report it out.

4 I realize that there are those on the Committee who  
5 wish this bill would go further. But I hope that they will  
6 recognize that half a loaf or more than half a loaf, I  
7 would contend, is perhaps better than the whole thing. And  
8 that if we want to get anything into law that we are going  
9 to have to resist the temptations to let the bill get out  
10 of hand once it reaches the floor.

11 So with that, Mr. Chairman, I thank you for your help.  
12 And I thank the staff. And I move that the bill be  
13 reported out.

14 Senator Moynihan. Mr. Chairman, would it be appropriate  
15 to take a moment to thank Senator Danforth for what he has  
16 done? And particularly for his clear understanding that this  
17 is a measure designed to increase trade and to confirm the  
18 policies of the half century which we have found difficulty  
19 with when there was only administrative power. We now give  
20 legislative sanction and encouragement to others; asking  
21 no more than the enforcement of the principles that we have  
22 stood for and for which he stands for. And we are much in  
23 his debt.

24 Senator Baucus. Mr. Chairman?

25 The Chairman. Yes.

1           Senator Baucus. Mr. Chairman, I have a short state-  
2 ment that I would like to give at this time.

3           Mr. Chairman, with reluctance, I will vote against the  
4 bill before the Committee. I think we all owe the Senator  
5 from Missouri our respect and appreciation for being  
6 diligent. I think he has been very fair and very reasonable.  
7 Certainly he has been bending over backwards to accommodate  
8 various members of the Committee. And we all owe him a  
9 word of thanks.

10           I personally have no profound objections to the  
11 specific provisions of the bill before us, but I will vote  
12 "no" for two reasons. First, I think we might send the  
13 wrong message at the wrong time to Japan and to the American  
14 people. I recently spent some time in Japan. Since I  
15 returned, I have met with numerous Diet members. Most  
16 members of the Committee have probably met with a good  
17 number of Japanese officials. In fact, I have met with so  
18 many I think we would be able to establish a quorum.

19           But there is, to quote a line from a movie, a failure  
20 to communicate. This bill, I think, sends two different  
21 messages. To Americans the message is action on trade. We  
22 are acting. To the Japanese the message is pulling back from  
23 action. A lack of action. Some Japanese will cite this  
24 bill as evidence as trade pensions are not enough to justify  
25 strong Japanese market opening measures.

1           In the coming months, we will see agricultural  
2 negotiations in the GATT ministerial. The recent Japanese  
3 concessions are a long, long way from satisfying the  
4 American trade concerns. More concessions, serious in  
5 scope, detailed in presentation are needed. The Japanese  
6 protectionism, especially to agriculture, is simply  
7 outrageous.

8           The bill before this Committee is mild to say the  
9 least. I don't think the time is right for sending a  
10 message of mildness. I am not a protectionist by any means.  
11 I represent an exporting state. And I want open; not  
12 closed markets.

13           I just don't think that today -- June 16th -- we  
14 should report a bill that will strengthen the hands of  
15 those Japanese officials arguing for slow and shallow  
16 concessions. I fear that if we send that message, the  
17 final result could be more tension and ultimately more  
18 protectionism.

19           My second concern is that this bill deals with the  
20 symptoms rather than the disease. We live in a competitive  
21 world; a changing world. Our economy is becoming  
22 interdependent with economies of other nations. And new  
23 technologies are emerging. Older industries face decay.

24           How should the United States respond? When Ambassador  
25 Brock appeared before this Committee, I asked him how far

1 the Japanese have moved towards an open market. He said  
2 Japan had moved 15 percent of the distance. Let's ask  
3 the same question today of ourselves. Perhaps with tougher  
4 bargaining we might reduce 10 to 20 percent of our trade  
5 deficit with Japan. What about the rest? What about the  
6 long-term? Why don't we devote more resources here at  
7 home to research and development? Why does Japan produce  
8 a higher ratio of engineers than do we? Why are the  
9 number of United States' PhDs going down in chemistry,  
10 physics, and computer sciences? Why don't we move toward  
11 the computer literate population? Why are we abandoning  
12 our leadership role in space sciences, as the Office of  
13 Technology Assessment suggested just the other day? Why  
14 are American businesses more concerned with the short-term  
15 profit margin rather than long-term investments like our  
16 Japanese competitors? And why are we retreating on our  
17 commitment to education? Why are we short of skilled  
18 laborers? We neglect our roads and our ports and our  
19 infrastructure.

20 Moreover, we simply cannot afford a wartime defense  
21 buildup while we pass the NASA tax cut that disproportionately  
22 helped a small group of upper income Americans and fails to  
23 stimulate investments and savings as promised. The roots  
24 of our problems are here at home.

25 So again I express my appreciation to the Senator from

1 Missouri. I want him to understand my reason for opposing  
2 the bill today. And I look forward, as I am sure other  
3 members of the Committee do, to looking more vigorously at  
4 trade laws in considering these domestic policies that  
5 affect international competitiveness.

6 The Chairman. Thank you, Senator Baucus.

7 We will call the roll unless there are other questions.

8 Mr. DeArment. Mr. Packwood.

9 (No response) Aye.

10 Mr. DeArment. Mr. Roth.

11 Senator Danforth. Aye by proxy.

12 Mr. DeArment. Mr. Danforth.

13 Senator Danforth. Aye.

14 Mr. DeArment. Mr. Chafee.

15 Senator Chafee. Aye.

16 Mr. DeArment. Mr. Heinz.

17 Senator Heinz. Aye.

18 Mr. DeArment. Mr. Wallop.

19 Senator Danforth. Aye by proxy.

20 Mr. DeArment. Mr. Durenberger.

21 Senator Danforth. Aye by proxy.

22 Mr. DeArment. Mr. Armstrong.

23 Senator Danforth. Aye by proxy.

24 Mr. DeArment. Mr. Symms.

25 Senator Symms. Aye

1 Mr. DeArment. Mr. Grassley.

2 Senator Grassley. Aye.

3 Mr. DeArment. Mr. Long.

4 Senator Long. No.

5 Mr. DeArment. Mr. Byrd.

6 (No response) both. Aye by majority.

7 Mr. DeArment. Mr. Bentsen.

8 Senator Bentsen. Aye.

9 Mr. DeArment. Mr. Matsunaga.

10 (No response) both. Aye by majority.

11 Mr. DeArment. Mr. Moynihan.

12 Senator Moynihan. Aye.

13 Mr. DeArment. Mr. Baucus.

14 Senator Baucus. No.

15 Mr. DeArment. Mr. Boren.

16 Senator Boren. Aye. Aye by majority.

17 Mr. DeArment. Mr. Bradley.

18 Senator Bradley. Aye.

19 Mr. DeArment. Mr. Mitchell.

20 Senator Mitchell. Aye.

21 Mr. DeArment. Mr. Chairman.

22 The Chairman. Aye.

23 There are two other minor matters that we ought to take

24 up. It will take about a minute. It is customary to leave

25 the vote open for others to be recorded. The Ayes are 15

1 and the nays are 2.

2 Senator Heinz, I think you have the next item on the  
3 agenda.

4 Senator Heinz. There has been reported to the  
5 Committee my Senate concurrent resolution expressing the  
6 sense of Congress that the pending steel unfair trade  
7 practices cases be vigorously pursued and promptly concluded.  
8 At last count, we had roughly 32 or 33 co-sponsors of this,  
9 including a number of members of this as well as other  
10 committees.

11 As far as I know, the legislation has no substantive  
12 objections either from the Administration or from any  
13 known member of the Senate. But anybody who feels  
14 differently, this is the time for them to speak their  
15 piece. Senator Moynihan is a co-sponsor of this amendment.  
16 Before I yield to him for any remarks that he would like  
17 to make, I do want to say that I have heard personally  
18 from Deputy USTR Mr. McDonald. They have told me that  
19 they have no objection.

20 The reason for this is that it is a very helpful  
21 resolution at this time. With the preliminary determinations  
22 having been made on the countervailing duties suits, with  
23 subsidies ranging as high as a 40-1/2 percent having been  
24 found, this is no time for the Administration to kind of  
25 back off. This should encourage them to pursue the

1 countervailing duties.— and for that matter, the anti-  
2 dumping suits that the Commerce Department and the ITC  
3 have ruled favorably on -- to their full and complete and  
4 strongest possible conclusion.

5 I think every member of this Committee agrees that  
6 anybody who violates the antidumping or countervailing  
7 duty provisions of the 1979 Trade Act, obviously, should be  
8 held to account. And the purpose of this resolution, Mr.  
9 Chairman, is to make it clear that this country's policy  
10 against dumping, against subsidized competition is a policy  
11 that says "no" to such unfair trade practices.

12 Senator Long. Mr. Chairman, there's a problem with  
13 regard to one of those "whereas" clauses. Would you mind  
14 explaining that, Mr. Lang?

15 Mr. Lang. Senator Long, I think what might be of concern  
16 to you is that in the third "whereas" clause in the  
17 provision which begins the 1981-82 episode it uses the phrase  
18 "that the present episode of alleged dumping and  
19 subsidization" -- the reason for unemployment and other  
20 domestic effects. In the early paragraph, the analogous  
21 phrase is contributed to.

22 I think your concern was that using the phrase "the  
23 reason for" might suggest the Committee's interference  
24 with the independence of the item.

25 Senator Heinz. Mr. Chairman, I understand the concern.

1 I modify my resolution to substitute instead of the words  
2 "resulted in," in that third whereas to, "contributed to"  
3 in lieu thereof.

4 The Chairman. All right.

5 Mr. Lang. All right.

6 Senator Moynihan. Mr. Chairman, I don't mean to  
7 extend the discussion, but I don't get this many  
8 opportunities to commend the Administration.

9 (Laughter)

10 The Chairman. We don't want to lose a quorum.

11 Senator Heinz. Would the Senator yield to perhaps  
12 recover from the shock?

13 Senator Moynihan. The announcement on Friday by  
14 Secretary Baldrige was a welcome and significant event.  
15 There has not been any comparable finding in the history  
16 of the trade laws. And it's worth noting, as we pass this  
17 resolution, that we found steel being sold in this country  
18 at \$500.00 a ton with a \$350.00 subsidy. The subsidies were  
19 beyond anyone's comprehension. I mean we all thought there  
20 was 10 and 20 and such percent, but we found 40 percent in  
21 major products. And it is simply time we respond as a  
22 nation if we mean to maintain our self respect, much less  
23 our industry. And I thank Senator Heinz for taking the  
24 initiative in this resolution.

25 The Chairman. Is there objection to the resolution?

1 (No response)

2 The Chairman. If not, Senator Heinz. There is one  
3 other matter on the agenda.

4 Mr. DeArment. Yes, Mr. Chairman. And that's H.R. 1635.  
5 It's a matter that Senator Armstrong has an interest in.  
6 And it's described in attachment C.

7 Essentially what it is is a private relief bill for  
8 the Jefferson County Mental Health Center. Jefferson  
9 County Mental Health Center had been collecting from its  
10 employees social security taxes. They are a non-profit  
11 organization that can either opt in or out of social  
12 security taxes. The IRS bungled and told them they had to  
13 pay back some of the social security taxes collected from  
14 employees. They paid it back and then the IRS said, hey,  
15 we made a mistake.

16 The Chairman. It has passed the Committee before. Is  
17 that correct?

18 Mr. DeArment. That's right.

19 The Chairman. Has it been cleared on both sides?  
20 Mike, have you looked at it?

21 Mr. Stern. Yes. Actually this bill gives that health  
22 center less than the bill that passed the Finance Committee  
23 a few years ago and didn't go anywhere.

24 The Chairman. Is there any objection to reporting the  
25 bill?

1           Mr. DeArment. Well, Mr. Chairman, we may want to  
2 approve the bill since this is on an H.R. number, and not  
3 report it. But have the Committee approve it, and have the  
4 Chairman authorize to put it on an appropriate tax vehicle.

5           The Chairman. Is there any objection to that  
6 procedure?

7           (No response)

8           The Chairman. Now is there anything else to come  
9 before the Committee?

10          (No response)

11          The Chairman. If not, we will stand in recess.

12          (Whereupon, at 10:42 a.m., the meeting was adjourned.)  
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