

RICHARD  
7/14/88

1 EXECUTIVE COMMITTEE MEETING  
2 THURSDAY, JULY 14, 1988  
3 U.S. Senate  
4 Committee on Finance  
5 Washington, D.C.

ORIGINAL

6 The meeting was convened, pursuant to notice, at 10:26  
7 a.m. in Room SD-215, Dirksen Senate Office Building, the  
8 Honorable Lloyd Bentsen (chairman) presiding.

9 Present: Senators Bentsen, Matsunaga, Moynihan,  
10 Baucus, Bradley, Mitchell, Rockefeller, Packwood, Roth,  
11 Danforth, Chafee, Heinz, and Wallop.

12 Also present: Ambassador Alan Holmer, Deputy United  
13 States Trade Representative; and Ms. Judy Bello, Deputy  
14 General Counsel, USTR.

15 Also present: Mr. Jeff Lang, Trade Chief Counsel;  
16 Mr. Josh Bolten, Trade Counsel, Minority; and Ms. Marcia  
17 Miller, Trade Professional Staff Member.

18 (The prepared statement of Senator Chafee appears in  
19 the appendix.)  
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1 The Chairman. The hearing will come to order.

2 This committee has been suggesting a Canadian Free  
3 Trade Agreement for 15 years, and they haven't been doing  
4 it just with rhetoric. We had it in the 1974 Trade Act,  
5 and again we had it in the 1979 Trade Act.

6 The first thing I did after the 1986 election was to  
7 get together members of this committee and fly to Ottawa  
8 and, as I remember, it certainly wasn't a junket because  
9 I believe it was in December. Anyway, I know it snowed  
10 almost the entire time that we were there; and for a fellow  
11 from south Texas, that was pretty cold.

12 But I do say that at that time, you had the talks  
13 pretty well stalled. There is a serious question as to  
14 whether we are going to have a free trade agreement. But  
15 we wanted the Canadian government leaders to know first  
16 hand what the political problems of that agreement were  
17 and what the political potentials of that agreement would  
18 be for these two great countries of ours--what a bilateral  
19 free trade agreement could mean for both Canada and the  
20 United States.

21 I really believe that trip got this agreement going.  
22 In fact, I believe that we would not be at this point of  
23 completing our recommendations if we hadn't had our meetings  
24 with Prime Minister Mulrooney in the very free and good  
25 discussion that we had.

1           So, it is no accident that this committee is completing  
2 its hearings on this bill and its markup in record time.  
3 We met our June 1 deadline, and I certainly appreciate the  
4 cooperation of the members of this committee.

5           Given that kind of a history, we were disappointed that  
6 our recommendations could not be completed at our last  
7 meeting on this subject. We met on June 10 with the members  
8 of the Ways and Means Committee to resolve differences  
9 between our version of the bill and their version of it.

10           We did not reach a conclusion because the Administration  
11 at that time asked us not to bring it to completion because  
12 they had some things they wanted to work out with members  
13 of the Ways and Means Committee.

14           But now, we have had a month to review the work of  
15 the Ways and Means Committee, and I am not aware of any  
16 objections to the provisions that we agreed to with the  
17 Ways and Means Committee.

18           Now, I understand that the Administration has some  
19 recommendations in respect to four of the questions raised,  
20 and I believe that those recommendations are acceptable to  
21 all members of this committee and to the members of the  
22 Ways and Means Committee.

23           I must say that, at the request of the Administration,  
24 we distributed earlier to each member of this committee the  
25 text of two of these changes. One of them is on the

1 implementing of the decisions of the binational panels on  
2 antidumping and countervailing duty cases; and the other  
3 was on the automobile sector.

4 I am also told that these were discussed after they  
5 were distributed at a staff meeting last week and that not  
6 one staff member representing any member of this committee  
7 found fault with them.

8 I am also told that Mr. Rostenkowski thinks that the  
9 provisions are acceptable and generally acceptable to the  
10 members of his committee.

11 I am also told that the Administration has agreed to  
12 drop the provision or the suggestion for a new program of  
13 assistance to the domestic uranium industry. That was the  
14 third issue.

15 However, on that one, we still have a minor problem. I  
16 am told that the Energy Committee is considering submitting  
17 to the Administration that uranium program. Now, a number  
18 of members of this committee had some reservations concerning  
19 that because it has a tax attached to it; and we had a  
20 jurisdictional question, and they would have wanted referral  
21 on that basis.

22 And I would note, too, how important that provision is  
23 to a number of members of this committee and that efforts  
24 will be made, at some other point I am sure, to bring about  
25 legislation concerning that, either attached to other

1 legislation or as a free-standing bill. And I assume that  
2 is yet to be decided.

3 If the Administration can assure us today that they will  
4 not include such a provision in the implementing bill, then  
5 I think we can proceed, knowing that at least on this  
6 agreement those provisions will not become law--perhaps at  
7 a later day.

8 Finally, the staff has been working to resolve some  
9 of the differences with the Canadian government on the  
10 provisions of the Baucus/Danforth amendment on studies of  
11 Canadian subsidies. I understand that the Administration  
12 has suggested language that is satisfactory to Senator Baucus  
13 and Senator Danforth.

14 Again, on that, I need the assurance of the members of  
15 this committee and the Administration. In this case, the  
16 assurance we need is that, if we agree to that in this  
17 committee, that is going to be in the implementing  
18 legislation.

19 I understand Mr. Rostenkowski has no opposition to that  
20 provision.

21 Now, hopefully we can accommodate all of these provisions  
22 that are offered by the Administration, and we can stay on  
23 course to complete this free trade agreement in this Congress  
24 because I truly believe that a free trade agreement between  
25 these two great countries remains a very worthwhile goal.

1 I defer to my distinguished friend, the ranking member.  
2 of the committee, Senator Packwood.

3 Senator Packwood. Mr. Chairman, I think what we may  
4 do today in terms of the Canadian-American Free Trade  
5 Agreement is perhaps more important than the general trade  
6 bill that has yet to pass the Congress.

7 I think it is going to pass; but I have always had the  
8 feeling that, if worse came to worse and it didn't pass,  
9 it would pass next year, whether that is a Bentsen-Dukakis  
10 Administration or a Bush-whomever is vice president--whomever  
11 the nomination is--Administration.

12 And it would not be far from what we have done; and we  
13 would have the fast track authority in it, and we would have  
14 the implementation of the Customs harmonization.

15 But I think if the Canadian agreement does not pass now,  
16 in Canada now, it is not going to pass next year. That is  
17 the risk, and it becomes infinitely more important now.

18 You got a letter out asking for a study, Mr. Chairman, on  
19 a free trade agreement with Japan. There is movement to  
20 consider one, from Senator Roth and others, with Taiwan and  
21 Korea. And I think those issues are going to come to a head  
22 very quickly, not so much in multilateral Uruguay Round  
23 negotiations, but perhaps bilateral with country by country,  
24 or two or three countries--but not 30 or 40 or 50.

25 And a great deal of whether or not we go forward with

1 those negotiations will depend upon whether this Canadian  
2 agreement comes into place. And the reason I regard it as  
3 so important is that Europe is trying to pull together their  
4 bloc by 1992. They may or may not succeed at it, but if  
5 they do, I can see a possibility of a Common Market  
6 protectionism.

7 It is not good for them, and it is not good for us; but  
8 you can sense it when you are in those countries. And that  
9 means you are going to have a European bloc and a North  
10 American bloc--and I hope one day Mexico is in it--and the  
11 Asian countries wondering which way to go.

12 And I hope it doesn't come to that; but if it does, then  
13 I hope it is Canada, U.S., Mexico, Taiwan, Japan, Korea,  
14 Singapore, Malaysia, Hongkong and eventually the People's  
15 Republic allied, rather than all of them allied against  
16 Canada and the United States.

17 If we do not make this agreement now, if we give the  
18 impression that no, it isn't quite right, and we don't think  
19 we will go for it, there is not going to be a next year on  
20 this.

21 That is one of the reasons I always viewed the Baucus-  
22 Danforth provision with mixed feelings. It seems to me the  
23 American manufacturers can have these investigations, whether  
24 or not we have this particular provision. I don't have any  
25 strong feelings one way or the other as far as the United

1 States part of this agreement is concerned. I think we will  
2 ratify it whether or not the Baucus-Danforth provisions are  
3 in or out, in or out modified, or in or out in some other  
4 way.

5 But I didn't want to jeopardize the passage of this  
6 agreement in Canada, or make it so divisive that even if  
7 it passes and the conservative government lost and the next  
8 government threw out the agreement.

9 So, I was willing to go either way on this. I hope we  
10 have reached an understanding that Canada can accept and  
11 that it will not jeopardize the passage of the agreement  
12 in Canada, which I regard now as the most important factor  
13 that we ought to be considering as we take this final step.

14 Senator Moynihan. Mr. Chairman?

15 The Chairman. Thank you very much. Senator Moynihan?

16 Senator Moynihan. Mr. Chairman, I would like to endorse  
17 entirely Senator Packwood's remarks. I would also like to  
18 comment favorably on his suggestion that we might see a  
19 Bentsen-Dukakis Administration.

20 (Laughter)

21 The Chairman. Are there other comments? Yes?

22 Senator Wallop. Mr. Chairman, I semi-welcome and  
23 semi-regret the remarks that you made about the uranium  
24 provisions. I would observe before we go very much farther  
25 that it is absolutely in the interest of both Canada and the

1 United States and the uranium industry that we get on with  
2 making it possible for us to be competitive in the world  
3 of enrichment.

4 We are losing ground. Australia is modernizing their  
5 enrichment procedures, and neither of us is going to have the  
6 market because of the efficiency that is being made in the  
7 world outside. Unless we do something, both Canada and the  
8 United States lose substantially.

9 We have a real competitive interest in achieving what  
10 is in the resolution of the problem as it was presented. I  
11 might observe that the utilities industry, the Administration,  
12 the uranium industry, and to my understanding Canada are in  
13 general agreement about the solution that we arrived at; and  
14 it is only a minor turf battle over the relatively small  
15 part of the bill which would be solved and take us entirely  
16 out of it that prevents us from going forward.

17 I appreciate your statement, that you would be willing  
18 to work hard. It is a problem that is in our balance of  
19 trade interest; it is in our national competitive interest.

20 I would ask, if I might and if you would indulge me  
21 just a second, if Ambassador Holmer would --

22 The Chairman. If I may take over the questions, there  
23 at this point? If I may.

24 Senator Wallop. Oh, yes. At any rate, I must say that  
25 I hope that you are able or your successor is able to move us

1 in that way this year because I think it is very important  
2 to the nation and not just to the industry.

3 The Chairman. Senator Wallop, I know it is of immediate  
4 concern to you, and I think it is of importance to the  
5 country; and it is an issue that has to be addressed. But  
6 I think it would very materially slow down this piece of  
7 legislation, and I think it is material to the legislation,  
8 if we added it.

9 And I would really like to expedite this agreement and  
10 get it done. Are there other comments to be made?

11 (No response)

12 The Chairman. Mr. Ambassador, would you comment on  
13 the provisions which I cited?

14 Ambassador Holmer. I will, Mr. Chairman, but first I  
15 would like, in all sincerity, to thank you and the members  
16 of the committee and the staff of the members for the hard  
17 work and for the patience and for the work product that has  
18 come out of this process.

19 Constitutionality and autos are two issues that I  
20 believe are put to bed and that are acceptable on all  
21 quarters.

22 With respect to uranium, my understanding of your  
23 question is: Will the Administration put the uranium proposal  
24 in the implementing bill? And the answer is "no." There is  
25 strong opposition on the House side. That provision will not

1 go in the implementing bill, although we certainly do want  
2 to work with Senator Wallop and other interested Senators  
3 and this committee and the industry to try to come up with  
4 a free-standing proposal that could address the concerns of  
5 that industry.

6 Finally, with respect to subsidies, particularly praise  
7 needs to go to Senator Baucus and Senator Danforth and  
8 Senator Packwood and their staffs. There is language that  
9 was agreed to yesterday that is acceptable to the  
10 Administration. And the answer to your question there, Mr.  
11 Chairman, is: Yes, if the committee agrees with that  
12 language, we will put it in the implementing legislation.

13 The Chairman. Are there further questions?

14 (No response)

15 The Chairman. I would like to ask Senator Baucus and  
16 Senator Danforth: Is the agreement satisfactory?

17 Senator Baucus. Mr. Chairman, yes, it is satisfactory.  
18 I think it is a very good reasoned response to a very touchy  
19 situation, that is the degree to which Canada does subsidize,  
20 on the one hand, and on the other hand, addressing it. The  
21 third part of that calculus is passing that agreement, which  
22 is acceptable both to this country and to the country of  
23 Canada.

24 We all know the problem: that Canada does subsidize  
25 much more than do we and also that this agreement in many ways

1 does not address those subsidies.

2 I commend the Administration, and particularly  
3 Ambassador Holmer, for working out what I think is a  
4 reasoned response and a good compromise to a very difficult  
5 problem.

6 The Chairman. Let me add my comments, too, Ambassador  
7 Holmer. You have done an extraordinarily good job, and we  
8 have been able to expedite this; and I think it is of great  
9 importance to these two countries of ours. We can set an  
10 example for the entire world on what can be accomplished  
11 with free trade, and I think this is a historic moment.

12 Who would like to make the motion?

13 Senator Danforth. Mr. Chairman?

14 The Chairman. Yes?

15 Senator Danforth. Could I comment on that point just  
16 for a moment?

17 The Chairman. Yes.

18 Senator Danforth. Mr. Chairman, as is typical with  
19 compromises, my reaction to this compromise is one of  
20 satisfaction but hardly elation. We are faced with two  
21 very different systems of subsidies.

22 The Canadian economy is much more heavily based on  
23 subsidies than the American economy; and with particular  
24 respect to the lead industry, it is going to be affected by  
25 this agreement. There is no doubt about it.

1           Our hope was to work out an arrangement whereby at  
2 least the specific problems with subsidies would be  
3 subjected to information gathering on an expedited basis;  
4 and I think that that is still the effect of this particular  
5 compromise, although the effort has been made by the  
6 Canadians to make sure that their country is not somehow  
7 singled out.

8           I think that the problem of disparity in the subsidy  
9 systems is going to continue to nag trade relations between  
10 the United States and Canada. I think that it is very  
11 important that the Administration pursue this issue very,  
12 very aggressively.

13           This really is not a free trade agreement. I have said  
14 this many times before; it is essentially a tariff  
15 elimination agreement. It leaves in place some real problems  
16 that we have with Canada, and my hope would be that this  
17 particular agreement--if it is approved by both countries--  
18 would be viewed as a starting point and not as an end.

19           The Chairman. Thank you very much, Senator Danforth.

20           Senator Baucus. Mr. Chairman?

21           The Chairman. Yes, Senator Baucus?

22           Senator Baucus. Before you wrap this up, I do have two  
23 questions I would like to pose.

24           The Chairman. All right.

25           Senator Baucus. One is to the Administration concerning

1 Canadian softwood fees. It is my understanding that the  
2 government of Canada--and particularly the Province of  
3 British Columbia--has not been fully assessing fees that  
4 are contemplated under the softwood agreement.

5 I know that this proposed agreement grandfathers in  
6 the agreement that this country reached with Canada  
7 concerning softwood, but the failure of British Columbia to  
8 properly assess those fees again raises the question of  
9 Canadian subsidies. And it points out the problems that  
10 they pose for this country.

11 Second, it raises the problem of provincial adherence,  
12 a difficult problem indeed that we are trying to address here.

13 I am wondering if the Administration could give us some  
14 report on what the status of all that is? And I would  
15 urge the Administration to aggressively pursue that problem  
16 so that Canada does live up to the terms that it agreed to.

17 Ambassador Holmer. Yes, I would be happy to, Senator  
18 Baucus, very briefly; and Senator Packwood raised this  
19 strenuously with me this morning as well.

20 We have consulted with the Canadians now on an urgent  
21 basis to address this development which, frankly, we regard  
22 as being unacceptable. The lumber agreement is important to  
23 the long-term health of our lumber industry, and we intend  
24 to ensure that its provisions are fully adhered to by the  
25 Canadians.

1 I think it is premature to reach any conclusions as to  
2 how the discussions we are having with the Canadians will  
3 turn out, but we do regard this as being a very serious  
4 issue and will pursue it aggressively.

5 Senator Packwood. Could I ask just one further thing  
6 so we are clear on the understanding on this?

7 Ambassador Holmer. Sure.

8 Senator Packwood. And I did beat on Ambassador Holmer  
9 on this subject. If Canada violates the agreement--and the  
10 Canadian Free Trade Agreement does grandfather the lumber  
11 agreement--we are perfectly free to put back into effect the  
12 countervailing duties, as I understand it. And that means  
13 that if British Columbia lowers their stumpage prices, i.e.  
14 subsidizes it, and we put back the countervailing duties,  
15 we will collect the money rather than Canada.

16 But we would not be violating the agreement if we put  
17 back into effect the countervailing duties.

18 Ambassador Holmer. Yes. We could either take action  
19 under Section 301, which could happen very quickly; or we  
20 could have a new industry filed countervailing duty case  
21 that would proceed through the normal process.

22 Senator Baucus. Mr. Chairman?

23 The Chairman. Yes?

24 Senator Baucus. One other question, if I might, very  
25 briefly. That concerns the potential use of Section 301 under

1 the Statement of Administrative Action.

2 The statement and the amendments that we are discussing  
3 here generally contemplate that the CVC law would be used  
4 in the event that an American industry believes, in  
5 conjunction with the Administration, that Canada is  
6 subsidizing contrary to American CVC law.

7 The provision also states, however, that in certain  
8 circumstances Section 301 may be deemed to be more  
9 appropriate. That is, in those cases particularly covering the  
10 nonferrous smelter industry, where ordinary CVD law does not  
11 cover either subsidized ore in Canada or sanctionary loans  
12 that the government of Canada gives to the smelter.

13 I would like to ask the Administration if it is the  
14 Administration's understanding that, although CVD is normally  
15 contemplated, in some cases--particularly the one I just  
16 outlined--that Section 301 may be deemed to be more  
17 appropriate?

18 Ambassador Holmer. Yes. I need to look at the specific  
19 facts of the situation that you have just described; but  
20 certainly, Senator Baucus, there is nothing that, if the  
21 criteria of Section 301 are otherwise met--and as you know,  
22 Section 301 is a broad statute--there is nothing in the  
23 proposed implementing bill or in the Statement of  
24 Administrative Action that would preclude action under  
25 Section 301.

1 Senator Baucus. All right. Thank you.

2 Senator Wallop. Mr. Chairman?

3 The Chairman. Yes?

4 Senator Wallop. Just one very quick question, and I  
5 have to tip my hat to Ambassador Holmer's negotiating skills.  
6 He has negotiated not only with the Canadians but with the  
7 Congress.

8 Ambassador Holmer. If I could, Senator Wallop, these  
9 aren't my negotiating skills. They are the negotiating  
10 skills of Ms. Bello and Peter Murphy and Chip Rowe and a  
11 lot of other people on the Executive Branch team.

12 Senator Wallop. I understand that, and I am asking that  
13 they be retained and still used a little bit because some  
14 of what you can do in the uranium world is administrative  
15 and lawful; and I would hope that you would work with the  
16 Canadians in as many ways as you can because I realize the  
17 complications of getting a full, free-standing bill through,  
18 just given the general reaction of Congress about things  
19 nuclear of any dimension.

20 So, I just would ask if you and the Administration would  
21 do as much administratively as you can to provide the relief  
22 and progress for the enrichment industry.

23 Ambassador Holmer. I have already exhausted my  
24 knowledge with respect to uranium, but we will pursue that  
25 very sympathetically, Senator Wallop.

1 Senator Wallop. Thank you.

2 Senator Moynihan. Mr. Chairman?

3 The Chairman. Let me say again that we have lived up  
4 to our commitment in this committee, and we have expedited  
5 the action. I think it is a major step forward and an  
6 historic moment. I call on Senator Moynihan.

7 Senator Moynihan. Mr. Chairman, I have the great honor  
8 to move that the committee adopt the recommendations on  
9 the U.S.-Canada Free Trade Agreement.

10 Senator Baucus. I second it.

11 The Chairman. And there is a second. All in favor of  
12 the motion as stated make it known by saying "Aye."

13 (Chorus of ayes)

14 The Chairman. Opposed?

15 (No response)

16 The Chairman. Carried unanimously. Thank you.

17 Senator Baucus. Mr. Chairman, I don't know how often  
18 in the future Ambassador Holmer or Ms. Bello will appear  
19 before this committee; that is a bit problematic, given  
20 where we are this time of year.

21 (Laughter)

22 Senator Baucus. But I would like to say that, from  
23 my personal experience, they have both done an absolutely  
24 outstanding job. It is just terrific, and I am hard pressed  
25 to think of any two people I have worked with in almost any

1 matter where I have found them to be as forthright and  
2 cooperative.

3 The Chairman. That is a very bipartisan viewpoint. We  
4 all think that. We all want to commend you for the fine  
5 job you have done.

6 (Applause)

7 Senator Matsunaga. Mr. Chairman, if I may just say  
8 one thing? This, I believe, is another feather in your cap,  
9 Mr. Chairman; and I congratulate you for it. Of course, I  
10 congratulate Ambassador Holmer, Ms. Bello, and others.

11 But I think the fact that you have chaired this  
12 committee and got the bipartisan support for this, I think,  
13 is really the big thing.

14 It is a big feather in your cap as you go out, and I  
15 salute you for it. And of course, as you go out, I salute  
16 you especially, going to bigger things, that is.

17 (Laughter)

18 Senator Danforth. Mr. Chairman, if you would stick  
19 around, there are a lot more feathers where that one came  
20 from.

21 (Laughter)

22 The Chairman. Thank you, gentlemen, very much. Now,  
23 Senator Roth, you had a request or a suggestion on Section  
24 332 of the free trade agreement.

25 Senator Roth. Yes, thank you very much, Mr. Chairman.

1           Senator Roth. Mr. Chairman, at our last meeting, at  
2 the request of the Majority Leader, we agreed that a study  
3 should be made by the ITC of the pros and cons of a possible  
4 free trade area agreement with Japan. I personally thought  
5 that was an excellent move.

6           At the same time because of the importance of specific  
7 data, I suggested that that request ought to be broadened  
8 to include Taiwan, South Korea, as well as possibly a  
9 broader Pacific Basin area. And you suggested at that time  
10 that I proceed with that request, which I did, and I have  
11 submitted a letter for your approval as well as that of  
12 the committee.

13           I think the timing is very important because there is  
14 no question but that the Pacific Basin is critical to our  
15 future trade relations. There is no area moving faster  
16 or with more potential.

17           So, I would encourage that we proceed with the same  
18 kind of study that is being made with Japan and with  
19 respect to these other areas.

20           I might say, Mr. Chairman, that I also think it is  
21 important from the standpoint that there are a lot of  
22 changes going on in the European Community. They are  
23 attempting to have some agreements in place by 1992.

24           I think it is important that we have the intelligence  
25 and the information and the data to know what is in the

1 best interests of this country.

2 I would hope that we can make it clear to our trading  
3 partners that what we seek is the opening up of trade; that  
4 is the purpose behind it. As we move ahead in the years  
5 ahead, I think that this kind of information will be  
6 extremely helpful.

7 The Chairman. Senator Roth, I understand your concern,  
8 and there is no question but that the Pacific Basin is  
9 going to be an increasing source of trade for us. And the  
10 free trade agreement study with Japan was initiated at the  
11 request of the Majority Leader, who had discussed it with  
12 the Prime Minister of Japan as he visited with him.

13 I won't object to what you are requesting in this  
14 instance, but the ITC does tell me that it costs \$341,000  
15 to make such a study; and for the future I would express  
16 my concern that we go slow on asking for additional studies  
17 until we get some indication from the Administration that  
18 they would be following through and wanting such if their  
19 striving goes in that direction.

20 And I would also say, Senator, that I would like the  
21 latitude that if we run into some problems with the ITC  
22 insofar as scope complications, to do some modifications in  
23 consultation with you.

24 I would just express that concern regarding the cost  
25 of such studies, and I will not object to this study.

1 Senator Baucus. Mr. Chairman?

2 The Chairman. Yes?

3 Senator Baucus. Mr. Chairman, I think the suggestion  
4 from the Senator from Delaware is an excellent idea, and I  
5 understand the cost problems. I think it is wise to agree  
6 to this, contingent upon your working this out with the ITC.

7 And the point that Senator Packwood made, I think, is  
8 a very good one. That is, the prospects of the success of  
9 the Uruguay Round are becoming somewhat more dim, I think.  
10 That is, the European Community is beginning to volcanize  
11 under the 1992 unification. I don't think they are very  
12 enthusiastic about proceeding aggressively in the Uruguay  
13 Round.

14 I don't know that Asian countries are or that Brazil  
15 and India are very anxious to proceed aggressively in the  
16 Uruguay Round. And with the hopeful passage of the Canadian  
17 Free Trade Agreement and with the potential volcanization  
18 --even Asia--I note that Japan seems to be wanting to take  
19 the lead in representing Asian countries.

20 So, I think it is imperative that we work with Japan to  
21 try and forge an agreement--I don't call it a free trade  
22 agreement--I think it would be something more fundamental  
23 like an economic accord, but also with Taiwan and other Asian  
24 countries to help prevent this volcanization of the world.

25 I think it is very good to pursue this approach with

1 Taiwan.

2 The Chairman. Thank you, Senator.

3 Senator Roth. Mr. Chairman?

4 The Chairman. Yes?

5 Senator Roth. It is my understanding that the ITC  
6 and the USTR are supportive of this proposition. We may  
7 want to ask them directly.

8 The Chairman. Senator, I am prepared to accept it.  
9 I wouldn't push it any more.

10 (Laughter)

11 The Chairman. Would you make your motion?

12 Senator Roth. I so move that we proceed with the study  
13 of these areas, Mr. Chairman.

14 The Chairman. Any further comments?

15 (No response)

16 The Chairman. All in favor of the motion as stated make  
17 it known by saying "Aye."

18 (Chorus of ayes)

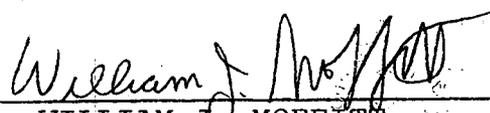
19 Ambassador Holmer. Thank you, Mr. Chairman.

20 The Chairman. We stand adjourned.

21 (Whereupon, at 10:48 a.m., the meeting was adjourned.)  
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C E R T I F I C A T E

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2 This is to certify that the foregoing proceedings of  
3 an Executive Session of the Committee on Finance, held on  
4 July 14, 1988, were held as appears herein and that this  
5 is the original transcript thereof.  
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WILLIAM J. MOFFITT  
Official Court Reporter

15 My Commission expires April 14, 1989.  
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STATEMENT BY  
SENATOR JOHN H. CHAFEE  
IN  
THE SENATE FINANCE COMMITTEE  
NON-MARKUP ON THE IMPLEMENTATION OF  
THE U.S. - CANADA FREE-TRADE AGREEMENT  
JULY 14, 1988

MR. CHAIRMAN, THANK YOU FOR THIS OPPORTUNITY TO FINALIZE OUR RECOMMENDATIONS FOR THE IMPLEMENTING LEGISLATION FOR A HISTORIC FREE-TRADE AGREEMENT BETWEEN THE TWO COUNTRIES THAT ENJOY THE LARGEST TRADING RELATIONSHIP IN THE WORLD.

WHAT A MAGNIFICENT SIGNAL IT WILL SEND TO THE WORLD WHEN THIS AGREEMENT IS RATIFIED, AS I AM CONFIDENT IT WILL BE. THE AGREEMENT RUNS IN TOTAL CONTRAST TO THE PROTECTIONIST FEVER PREVALENT THROUGHOUT THE WORLD. HOWEVER, THE FOUNDATION OF ANY FREE TRADE AGREEMENT MUST BE FAIR TRADE AND I BELIEVE THAT WE HAVE ESTABLISHED FAIR TRADE IN THIS AGREEMENT THROUGH THE PROPOSED IMPLEMENTING LEGISLATION.

THIS AGREEMENT SEEKS TO REMOVE TRADE BARRIERS ACROSS A BROAD RANGE OF GOODS AND SERVICES, AND IF RATIFIED, WOULD INCREASE THE FLOW OF GOODS BETWEEN THE U.S. AND A COUNTRY THAT IS THE CENTERPIECE OF OUR FOREIGN TRADE.

MY HOME STATE OF RHODE ISLAND IS A SUBSTANTIAL TRADING PARTNER WITH CANADA, WITH \$593 MILLION IN BILATERAL TRADE IN 1986. IN 1986, RHODE ISLAND RECEIVED IMPORTS TOTALING \$465 MILLION FROM CANADA, OR 78 PERCENT OF OUR TOTAL BILATERAL TRADE. RHODE ISLAND EXPORTED \$128 MILLION IN PRODUCTS TO CANADA, THUS WE EXPERIENCED A TRADE DEFICIT OF \$377 MILLION IN 1986.

MOST OF THIS DEFICIT WAS FROM SHIPMENTS OF FABRICATED MATERIALS, PARTICULARLY PRECIOUS METALS, FROM CANADA TO RHODE ISLAND. PRECIOUS METALS ACCOUNTED FOR APPROXIMATELY 65 PERCENT (\$302 MILLION) OF RHODE ISLAND'S TOTAL IMPORTS FROM CANADA. THESE IMPORTS ARE EXTREMELY IMPORTANT TO THE JEWELRY AND SILVERWARE INDUSTRY IN RHODE ISLAND AND THEREFORE ARE USED FOR MANUFACTURING AND NOT DIRECT CONSUMPTION.

THIS AGREEMENT WILL PROVIDE A DOUBLE BENEFIT TO MANY RHODE ISLAND BUSINESSES WHO IMPORT RAW MATERIALS AND EXPORT FINISHED PRODUCTS. THE RAW MATERIALS WILL BE LESS EXPENSIVE AS U.S. TARIFFS ARE ELIMINATED AND THE FINISHED PRODUCTS WILL BE MORE COMPETITIVE AS CANADIAN TARIFFS, SUCH AS THEIR 13.8% TARIFF ON JEWELRY, ARE REMOVED OVER FIVE YEARS.

I BELIEVE THIS FREE-TRADE AGREEMENT WILL BE VERY IMPORTANT TO RHODE ISLAND, NEW ENGLAND AND ALL OF THE UNITED STATES IN THE COMING MONTHS AND YEARS. THIS AGREEMENT WILL PROVIDE MANY BENEFITS TO RHODE ISLAND AS WELL AS ALL OF THE NEW ENGLAND STATES. THESE BENEFITS INCLUDE OPENING MARKETS FOR OUR MANUFACTURERS, HIGH TECH COMPANIES, AND SERVICE INDUSTRIES.

IN ADDITION, THE FREE TRADE AGREEMENT MERITS SPECIAL ATTENTION IN RHODE ISLAND AND ALL OF NEW ENGLAND FOR PROVIDING SECURE, TARIFF-FREE ENERGY SUPPLIES. THERE ARE CURRENTLY NO BARRIERS TO ENERGY EXPORTS IN CANADA, AND THE FTA WILL PREVENT FUTURE PROBLEMS. I UNDERSTAND THAT THE NEW ENGLAND POWER POOL HAS PLANS TO PROVIDE A SIGNIFICANT AND GROWING PROPORTION OF THE REGION'S ENERGY NEEDS WITH HYDROELECTRIC POWER AND NATURAL GAS FROM CANADA. IN LIGHT OF THE CONTINUING TENSION IN THE PERSIAN GULF AND THE POLITICS OF ACID RAIN, THAT THREATEN TO UNDERMINE THE DOMINANT SOURCES OF ENERGY FOR NEW ENGLAND, OUR FUTURE RELIANCE ON CANADIAN ENERGY SOURCES IS OF INCREASING IMPORTANCE.

MR. CHAIRMAN, I BELIEVE IT IS VITALLY IMPORTANT THAT WE PROCEED WITH THE IMPLEMENTATION OF THIS AGREEMENT. IT IS APPARENT THAT THE CANADIANS WILL BE UNABLE TO ACT ON IMPLEMENTATION UNTIL WE HAVE COMPLETED FINAL IMPLEMENTATION IN THE CONGRESS. ~~THEREFORE~~ ~~now~~ ~~that~~ ~~we~~ ~~have~~ ~~approved~~ ~~these~~ ~~final~~ ~~compromises,~~ ~~BEFORE~~ WE SHOULD TRANSMIT OUR CONGRESSIONAL RECOMMENDATIONS FOR THE IMPLEMENTING LEGISLATION THIS AFTERNOON. ~~IF WE ARE ABLE TO APPROVE THE FINAL PACKAGE THIS MORNING.~~

THANK YOU, MR. CHAIRMAN, ~~FOR ALLOWING ME TO EXPRESS MY VIEWS ON THIS IMPORTANT AGREEMENT.~~

**UNITED STATES SENATE  
COMMITTEE ON FINANCE**

**EXECUTIVE SESSION**

**Thursday, July 14, 1988 -- 10:00 A.M.  
Room SD-215, Dirksen Senate Office Building**

**A G E N D A**

1. Complete recommendations to the Administration for the implementation of the U.S.-Canada free trade area agreement (FTA)
2. Consider the suggestion of Senator Roth that the Finance Committee request a section 332 investigation by the ITC for a free trade area agreement with Taiwan and a free trade area agreement with Korea

(See the attachment.)

July 14, 1988

**RESOLUTION OF DIFFERENCES BETWEEN**  
**THE HOUSE WAYS AND MEANS COMMITTEE AND**  
**THE SENATE FINANCE COMMITTEE FOR LEGISLATION**  
**IMPLEMENTING THE U.S.-CANADA FREE TRADE AGREEMENT**

The following list shows how differences between the House Ways and Means and Senate Finance Committees' recommendations on implementing legislation for the U.S.-Canada free trade agreement were resolved.

(Boldface type indicates changes since last meeting.)

**CHAPTER 1: OBJECTIVES AND SCOPE**

**1. Article 101: Establishment of the Free Trade Area**

**Approval of agreement -- changes in final text**

**House:** No provision (changes from January text are directly implemented in bill's provisions on Chapters 3 and 4); agreement submitted with bill is the final legal text.

**Senate:** The President may accept a final legal text different than that originally submitted to Congress if the changes are only technical in nature or for the purpose of implementing the Harmonized System.

**Proposed  
House/Senate  
Agreement:** Accept House provision.

**2. Article 102: Objectives**

**House:** Purposes of the Act are:

- (1) To approve and implement the agreement;
- (2) To strengthen and develop U.S.-Canada economic relations for mutual benefit; and,
- (3) To establish a free trade area through the reduction and elimination of trade barriers.

Senate: Purposes of the Act are the same as those of the agreement:

- (1) To eliminate barriers to trade in goods and services;
- (2) To facilitate conditions of fair competition;
- (3) To liberalize investment;
- (4) To establish effective procedures for dispute settlement; and,
- (5) To lay the foundation for further cooperation to expand and enhance agreement benefits.

Proposed  
House/Senate  
Agreement:

Accept House provision and Senate provision on purpose #5.

**Article 103: Extent of Obligations**

**3. Relationship to Federal law**

House: Provides that, in the event of a conflict between U.S. law and the agreement, U.S. law shall prevail.

Senate: Same provision.

Proposed  
House/Senate  
Agreement:

Accept provision. Statement of Administrative Action to state that the Administration has made every effort to identify in the Statement of Administrative Action all necessary regulatory changes to conform with U.S. obligations. If, after entry into force of the agreement, it becomes necessary to amend regulations or issue new regulations to implement the agreement, the Administration or appropriate agencies shall consult with the appropriate Congressional Committees prior to implementation of such regulations.

**4. Relationship to State law**

House: Provides that the agreement shall prevail over state and local law, including state law regulating or taxing insurance.

Senate: Same provision, except no reference to local law or insurance. Also requires the President to consult immediately upon enactment with State governments on the implementation of the agreement through the intergovernmental policy advisory committees.

Proposed  
House/Senate  
Agreement:

Accept House provision and Senate requirement for consultation with State governments.

5. Remedies provided

House: Provides that a private party may sue a state or local government for actions inconsistent with the agreement or can invoke such inconsistencies as a defense in court actions involving state or local laws. (No such private right of action is provided against the Federal government.)

Senate: Specifically states that no private right of action is provided by the agreement or the implementing bill. Only the United States is authorized to sue the States to overturn State law or practice inconsistent with the agreement.

Proposed  
House/Senate  
Agreement:

Accept Senate provision. Clarify that in any proceeding involving a private person and a Federal agency, a court may not find an action of a Federal agency to be invalid on the ground that such action is inconsistent with the agreement. Statement of Administrative Action to state that, in challenging State law and practice, the Attorney General shall consider USTR's advice as to whether Canada has objected to the law or practice and Canadian provinces are in conformity with the agreement.

6. Delay in regulations for provisions implemented after entry into force of agreement

House: Provides for initial regulations to be issued one year after the agreement enters into force or one year after the effective date of any implementing action that takes effect after entry into force.

Senate: Similar provision, but does not provide for regulations for provisions that take effect after entry into force.

Proposed  
House/Senate  
Agreement:

Accept House provision with proviso that regulations be issued within one year "to the maximum extent feasible."

**CHAPTER 3: RULES OF ORIGIN**

7. **Article 301: General Rules**

House: No Statement of Administrative Action provisions regarding application of FTA rules of origin to ethyl alcohol imports and the Cuban sanctions program. Broad statement on anti-circumvention and anti-transshipment rules, including meat and section 22 examples.

Senate: Requires discussion in the Statement of Administrative Action that the FTA rules of origin prevent ethyl alcohol processed in a third country from becoming eligible for FTA treatment regardless of any further distilling, and that the FTA will not affect the Cuban sanctions program. Specifies that the anti-circumvention and anti-transshipment rules ensure only meat originating in Canada will be eligible for exemption from the Meat Import Act.

Proposed  
House/Senate  
Agreement:

Accept language approved by both House and Senate. Add statutory provision changing rules of origin on ethanol consistent with the Statement of Administrative Action.

**8. Annex 301.2: Interpretation and Rules**

House: Authorizes the Secretary of Commerce to issue regulations to govern the export to Canada of apparel products subject to the tariff rate quota provision of Annex 301.2

Senate: No provision.

Proposed  
House/Senate  
Agreement: Accept House provision.

**CHAPTER 4: BORDER MEASURES**

**9. Article 401: Tariff Elimination**

House: Authorizes President to proclaim modifications to bilateral tariff levels initially proclaimed, subject to the general consultation/layover provisions (see item 36).

Senate: Authorizes President to proclaim modifications to bilateral tariff levels initially proclaimed, after first consulting with Congressional Committees and seeking advice from private sector advisers and the ITC.

Proposed  
House/Senate  
Agreement: See item 36 for discussion of compromise which was reached on consultation/layover provisions.

**10. Article 406: Customs Administration**

House: Amends section 321(a) of the Tariff Act of 1930 to waive the collection of duties and taxes on entries of merchandise from Canada that total \$10 or less.

Amends the Tariff Schedules of the United States to exempt returning U.S. residents from Canada from the required absence for at least 48 hours in order to receive the duty-free tourist allowance.

Senate: No provisions.

Proposed  
House/Senate  
Agreement: Delete House provision.

**11. Article 407: Import and Export Restrictions**

House: Provides that nothing in the Act precludes discussion or negotiation between the United States and Canada in order to conclude voluntary restraint agreements or mutually agreed quotas on U.S. imports of steel products from Canada (further discussion to be provided in Statement of Administrative Action).

Steel melted and poured.--Statement of Administrative Action to discuss lack of conflict between the provisions of section 1322 of H.R. 3 and the Agreement. Since Article 407 merely reaffirms the Parties' existing rights under GATT Article XI, the legal issue of consistency of section 1322 with the GATT remains the same regardless of the Agreement.

Senate: No provision.

Proposed  
House/Senate  
Agreement: Accept House provision and Statement of Administrative Action language.

**CHAPTER 7: AGRICULTURE**

**12. Article 701: Agriculture Subsidies**

House: Requires the Administration to enter into immediate consultations with Canada to bring about the end of Crow's Nest subsidies for grain destined for eastern ports and subsequent export to the United States.

Senate: No provision.

Proposed  
House/Senate  
Agreement: Accept House provision.

**13. Article 702: Special Provisions for Fresh Fruits and Vegetables**

**House:** Requires the Customs Service and the Bureau of the Census to assist the Secretary of Agriculture in carrying out the provision by providing timely information and data on imports. Statement of Administrative Action to spell out the details. The President must take into account the "national economic interest" in determining whether to impose a duty.

**Senate:** Requires Agriculture, in cooperation with Customs only, to keep daily statistics. Requires Agriculture to administer the provisions without application by the affected agricultural industry, and to administer to the eight-digit level of classification under the HS. The President must take into account the "national interest" in determining whether to impose a duty.

**Proposed  
House/Senate  
Agreement:** Merge House and Senate provisions.

**14. Article 706: Market Access for Poultry and Eggs**

**House:** Statement of Administrative Action to make clear that Article 706 is a useful liberalization of Canadian import quotas, but the Administration intends to seek elimination of remaining agricultural barriers as a high priority.

**Senate:** No provision.

**Proposed  
House/Senate  
Agreement:** Accept language approved by House.

**CHAPTER 10: TRADE IN AUTOMOTIVE GOODS**

**15. Article 1005: Relationship to Other Chapters**

**House:** Authorizes the President to negotiate with Canada to seek to conclude an agreement by January 1, 1990 to increase from 50 percent to not more than 60 percent the domestic content requirement for determining the rule of origin on auto products. Authorizes the President to proclaim the agreed increase.

**Senate:** Similarly authorizes negotiations, but without deadline goal of 1/1/90, and authorization is to seek an "increase" in the 50 percent rule (not limited to 60 percent). Authorizes the President to proclaim the increase at any time up to January 1, 1999.

**Proposed  
House/Senate  
Agreement:**

Merge House and Senate provisions (accept House goals of 60 percent by January 1, 1990; Senate "increase" language; and Senate proclamation authority through January 1, 1999).

**Include statutory provision for USTR to determine and report whether Canadian production-based duty remission programs on automotive products are inconsistent with the GATT or the agreement and to monitor consistency with the agreement. Statement of Administrative Action:**

- (1) Clarify that Auto Pact status cannot be granted to any Canadian manufacturer not listed in the agreement, including a joint venture with a listed company;
- (2) Outline U.S. Customs Service plans to enforce the auto rules on origin (audits and inspection); and,
- (3) Disallow royalty payments to related companies as a direct cost of processing.

**CHAPTER 11: EMERGENCY ACTION**

**16. Article 1101: Bilateral Action**

**House:** Requires the ITC to determine whether the standards set forth in the agreement for bilateral action are met in any investigation under section 201 of the Trade Act of 1974.

**Senate:** Sets forth separate procedure allowing industry petition for bilateral action, ITC investigation, and authorizing action by the President with respect to imports from Canada.

**Proposed House/Senate Agreement:** Accept Senate provision.

**Article 1102: Global Action**

**17. Action in response to surge**

**House:** The President may apply import relief to Canada if he subsequently determines a surge of imports from Canada undermines the effectiveness of import duty.

**Senate:** Similar provision, but also authorizes President to include imports from Canada in any import relief provided if such imports threaten to undermine the effectiveness of such relief.

Authorizes domestic industry to petition ITC to investigate whether imports from Canada are undermining, or threaten to undermine, the effectiveness of any import relief.

**Proposed House/Senate Agreement:** Accept Senate provision with an amendment deleting "threat" provision.

**18. Coordination of bilateral and global actions**

House: No comparable provision.

Senate: Petitioner may, at his choice, proceed on the bilateral and global tracks separately or jointly.

Proposed  
House/Senate  
Agreement: Accept Senate provision.

**CHAPTER 12: EXCEPTIONS FOR TRADE IN GOODS**

**19. Article 1201: GATT Exceptions**

House: No provision.

Senate: Prohibits importation of any whole lobster (or parts of such a lobster) that is smaller than the minimum size under the American Lobster Fishery Management Plan; bearing eggs; or with evidence of forcible removal of eggs.

Proposed  
House/Senate  
Agreement: No agreement reached.

**20. Article 1205: GATT Rights**

House: No provision.

Senate: Requires the President, within 30 days of the application by Canada of export controls on unprocessed fish, or the application of landing requirements for fish caught in Canadian water, to take appropriate action to enforce U.S. rights under the GATT as retained in Article 1203.

Proposed  
House/Senate  
Agreement: Accept Senate provision.

**CHAPTER 14: SERVICES**

**21. Article 1405: Future Implementation**

House: No provision.

Senate: Authorizes further negotiations on services trade with Canada, requires a report to Congressional Committees on progress two years after implementation, and establishes negotiating objectives.

Proposed  
House/Senate  
Agreement:

Accept Senate provision, but merge all negotiating authority provisions into a single section and incorporate reporting requirement into House two-year report (See item 40.)

**CHAPTER 16: INVESTMENT**

**22. Article 1610: International Agreements**

House: No provision.

Senate: Authorizes bilateral negotiations to liberalize investment rules, requires a report to Congressional Committees on progress two years after implementation, and establishes negotiating objectives.

Proposed  
House/Senate  
Agreement:

Accept Senate provision, but merge all negotiating authority provisions into a single section and incorporate reporting requirement into House two-year report (See item 40.)

**CHAPTER 18: INSTITUTIONAL PROVISIONS**

**23. Article 1801: Application**

**House:** No provision.

**Senate:** Amends section 181 of the Trade Act of 1974 to provide that, with respect to the acts, policies, and practices of Canada identified in the National Trade Estimates, the report would include information on any action under section 301 (including dispute resolution); action under section 307 of the 1984 Act; and negotiations or consultations.

**Proposed  
House/Senate  
Agreement:** Accept Senate provision.

**CHAPTER 19: BINATIONAL PANEL DISPUTE  
SETTLEMENT IN ANTIDUMPING  
AND COUNTERVAILING DUTY CASES**

**24. Article 1901, Annex 1901.2: Establishment of  
Binational Panels**

**House:** Panelists to be selected without regard to political affiliation and must provide financial disclosure statements. Statement of Administrative Action to state the intention to give high priority to selection of retired judges as panelists. Provides that USTR will select panelists based on interagency committee recommendations and the advice of appropriate committees.

**Senate:** Require Senate confirmation of individuals to be appointed by the United States to serve as panelists in disputes under this Chapter.

**Proposed  
House/Senate  
Agreement:**

Accept House provision with the following modifications:

By January 1 of each year, USTR shall submit to the Ways and Means and Finance Committees the list of proposed U.S. panelists that will serve from April 1 of such year to March 31 of the following year. If additional panelists are necessary, USTR may submit another list under the same procedures by July 1, effective on October 1. USTR shall consult with such Committees, taking into account any recommendations made by either Committee with respect to the proposed panelists.

Further, there will be annual authorization of appropriations for all expenses of operating binational panels and extraordinary challenge committees. The funds shall be authorized to be spent by USTR, but they will not be part of USTR's regular budget.

**25. Article 1902: Retention of Domestic Antidumping and Countervailing Duty Laws**

**House:** Provides that amendments to U.S. antidumping and countervailing duty laws will apply to Canada only to the extent specified in the amendment.

**Senate:** Same provision, except specifies that it only applies to amendments enacted after entry into force of the agreement.

**Proposed  
House/Senate  
Agreement:**

Accept Senate provision.

**26. Article 1903: Review of Statutory Amendments**

**House:** Statement of Administrative Action to clarify the U.S. understanding that a panel will not be requested to consider an amendment to AD or CVD laws until such amendment has been enacted into law.

**Senate:** No provision.

Proposed  
House/Senate  
Agreement: Accept House provision.

**Article 1904: Review of Final AD/CVD Determinations**

**27. Implementation of panel decisions**

**House:** Provides that the President may advise the Commerce Department, the ITC, and the Customs Service, as appropriate, of U.S. international obligations under Article 1904 of the agreement with respect to a final decision of a binational panel or an extraordinary challenge committee. Statement of Administrative Action to state that panel decisions are binding as a matter of international law.

**Senate:** Provides that decisions of binational panels shall be implemented directly by the Commerce Department or the ITC.

In the event of a successful constitutional challenge of this provision, a provision authorizing the President to direct the Commerce Department, the ITC, and the Customs Service, as appropriate, to take necessary and appropriate action to implement U.S. international obligations under Article 1904 of the agreement with respect to a final decision of a binational panel or an extraordinary challenge committee.

Proposed  
House/Senate  
Agreement: Provide that decisions of binational panels shall be implemented directly by the Commerce Department or the ITC. In the event a constitutional challenge succeeds, a fallback gives the President discretion whether to accept a remand decision on behalf of the United States, but preserves the inability of the President to modify the decision and, upon his acceptance, requires the Commerce Department or the ITC to take action not inconsistent with the decision.

**28. Liquidation of entries**

**House:** Requires continued suspension of liquidation of entries subject to binational panel review, if requested by an interested party who is participating in the panel review.

**Senate:** Same provision, except allows Commerce to suspend liquidation of such entries in whole or in part.

**Proposed  
House/Senate  
Agreement:**

Accept House provision with additional language clarifying that liquidation shall be suspended only with respect to those entries being challenged.

**29. Article 1906: Duration**

**House:** No comparable provision.

**Senate:** Provides that, if no agreement is reached by the Working Group on a substitute system of rules for AD and CVD cases and the President does not exercise U.S. rights to terminate the agreement, the President will report to the Congress his decision that continued adherence is in the national economic interest.

**Proposed  
House/Senate  
Agreement:**

Accept Senate provision.

**Article 1907: Working Group**

**30. Negotiating objectives**

**House:** No comparable provision.

**Senate:** Establishes U.S. negotiating objectives for the Working Group. Special emphasis on Canadian subsidies that adversely affect directly competing U.S. industries. Requires consultation with Congress and the private sector and annual reports to Finance and Ways and Means on the progress toward agreement.

Allows fast track consideration of bill implementing any agreement from Working Group only if President determines that it provides more discipline over subsidies and no less discipline over unfair pricing practices than under the Subsidies and AD Codes, and will not undermine or detract from the Uruguay Round negotiations.

Statement of Administrative Action to provide that Administration will make every effort to assure that the Working Group prepares a report within two years on Federal and State/provincial assistance to electric utilities in the United States and Canada.

Proposed  
House/Senate  
Agreement:

Accept Senate provision and Statement of Administrative Action language.

31. Interim procedures on subsidized products

House:

If USTR determines, upon industry petition, that there is a reasonable likelihood that an industry faces import competition that is subsidized by the Canadian Government and will experience a deterioration of its competitive position before a substitute system of rules is agreed upon under Article 1907, then, upon request by such industry, USTR shall take either or both of the following actions: (1) Make available to the industry information obtained under section 305 of the Trade Act of 1974 or (2) recommend that a section 332 study be initiated.

Requires USTR to decide, based upon available information, whether any action is appropriate under title III of the Trade Act of 1974 or the countervailing duty law.

Senate:

Similar provision, but requires USTR to take actions (1) and (2) as requested by industry, rather than at USTR's discretion. With respect to appropriate action based upon information available, specifically cites provisions in current law allowing government initiation of title III or countervailing duty cases.

**Proposed  
House/Senate  
Agreement:**

Merge the provisions and add clarification that the provision does not affect present standing requirements under the trade laws.

Expands provision to include imports from other countries designated by the President, following consultations with Congress, as benefitting from reductions in tariffs or other trade barriers under future trade agreements. Clarifies that imports from Canada are covered by the provision as a result of implementation of the U.S.-Canada agreement. Statement of Administrative Action to state that use of the provision should be terminated if new subsidy disciplines are developed.

**32. Article 1909: Establishment of Secretariat**

**House:** Authorizes the appropriation of a specific dollar amount to the Department of Commerce, subject to the operations of the Secretariat, binational panels and extraordinary challenge committees.

**Senate:** Authorizes the appropriation of such sums as necessary for the establishment and operations of the Secretariat, binational panels and extraordinary challenge committees.

**Proposed  
House/Senate  
Agreement:**

Authorizes annual appropriations to the department or agency in which the Secretariat is established of the lesser of such sums as may be necessary or \$5 million.

**CHAPTER 20: OTHER PROVISIONS**

**33. Article 2003: National Security**

House: No provision.

Senate: Statement of Administrative Action to discuss intent to monitor imports from Canada of zinc alloy for the purpose of determining whether such imports are having an impact on the defense-industrial base of the United States as a result of the elimination of tariffs on such goods, and to pursue U.S. rights under the Agreement if needed.

Proposed  
House/Senate  
Agreement: Accept language approved by Senate.

**34. Article 2004: Intellectual Property**

House: No provision.

Senate: Authorizes bilateral negotiations on intellectual property rule liberalization, requires report to Congressional Committees two years after implementation, and establishes negotiating objectives.

Proposed  
House/Senate  
Agreement: Accept Senate provision, but merge all negotiating authority provisions into a single section and incorporate reporting requirement into House two-year report (see item 40).

**35. Article 2005: Cultural Industries**

House: Statement of Administrative Action to state the President shall endeavor, if he takes remedial action, to fashion a response that discourages creation of similar barriers in third countries.

Senate: No provision.

Proposed  
House/Senate  
Agreement: Accept language approved by House.

CHAPTER 21: FINAL PROVISIONS

Article 2104: Amendments

36. Consultation/layover requirement

House: Any provisions of the Act that implement future changes in the agreement or action by Presidential proclamation shall be subject to consultation and layover. This means that the President must first seek advice regarding the proposed action from appropriate private sector advisory committees and from the ITC; and 60 calendar days must expire after a report to Congressional Committees on the proposed action and reasons therefor.

Senate: No similar general rule. However, the same rule is applied to authority to modify rules of origin in Annex 301.2 by proclamation, and a similar rule applies to modification of a duty under Article 401 (required to consult with Congressional Committees, private sector advisers, and ITC; but no layover applies).

Proposed  
House/Senate  
Agreement:

Merge the provisions. Accept House formulation but require consultation with the Ways and Means and Finance Committees during the 60-day period after advice received. Effective on date of enactment.

37. Authorization of negotiations on potato exports

House: No provision.

Senate: Authorizes the President for a five-year period to negotiate reciprocal quantitative limits on the export and import of all potatoes between the United States and Canada.

Proposed  
House/Senate  
Agreement:

Accept Senate provision.

**38. Article 2105: Entry into Force**

**House:** Authorizes the President to exchange notes providing for entry into force of the agreement at such time (but not prior to January 1, 1989) as he determines Canada has taken satisfactory steps to implement the obligations of the agreement.

**Senate:** Similar provision, but requires President to determine that Canada has taken necessary measures to comply with the obligations of the agreement, including compliance by provincial and local governments. Statement of Administrative Action to specify that the purpose of this provision is to ensure that the FTA will not enter into force unless the President is satisfied that Canada has complied with its obligations under the agreement.

**Proposed  
House/Senate  
Agreement:**

No agreement reached on above differences. However, it was agreed to provide that, within 60 days after date of enactment (but not later than December 15, 1988), USTR shall submit a report to Congress identifying, to the maximum extent practicable, major current Canadian practices that, in the opinion of the USTR, are not in conformity with the agreement and require a change in law, regulation, policy or practice in order to conform.

**Article 2106: Duration and Termination**

**39. Termination**

**House:** Agreement shall remain in force unless terminated in accordance with Article 2106 of the Agreement.

**Senate:** No provision (Section 125 of the 1974 Act will apply to termination).

**Proposed  
House/Senate  
Agreement:**

Accept Senate position (no provision on termination).

40. Two-year reporting requirement

House: Requires the President to report to Congress every two years on the operation of the Agreement and its status, including any expansions.

Senate: No general reporting requirement, but similar requirement to report on progress in negotiations on services trade, investment, and intellectual property after the first two years.

Proposed  
House/Senate  
Agreement: Accept House provision, incorporating Senate reporting requirements on negotiations.

July 7, 1988

The Honorable Anne Brunsdale  
Acting Chairman  
United States International  
Trade Commission  
701 E Street, N.W.  
Washington, D.C. 20436

Dear Madam Chairman:

I recently made a request to you on behalf of Senator Byrd and the members of the Finance Committee for a Commission investigation of the proposal for a free trade area between the United States and Japan. Many members of the Finance Committee have indicated an interest in broadening this investigation by examining the feasibility and desirability of using the free trade area approach to opening trade with other countries in the Pacific Basin as well.

As a result of this interest, the Commission is requested, pursuant to section 332(g) of the Tariff Act of 1930 to institute investigations for the purpose of providing the Committee with a summary of the views of recognized authorities on U.S. trade relations with Asia on the pros and cons of entering into negotiations for a U.S.-Taiwan Free Trade Agreement, a U.S.-Korean Free Trade Agreement or a broader free trade arrangement for the Pacific region in general, to which interested market economy members could join.

Such free trade agreements could include, in addition to the eventual complete elimination of all tariffs and other restrictive regulations of commerce on substantially all trade between the United States and those countries, the removal of barriers to investment and trade in services and the guarantee of adequate protection of intellectual property rights. If the experts believe that there are peculiarities to the trade relationship between the U.S. that would make a free trade relationship more attractive or feasible between one or more of these countries than others or that would make a broader arrangement with the Pacific more appropriate, the report should include this information. Furthermore, where the experts identify problem areas that would render the

The Honorable Anne Brunsdale  
July 7, 1988  
Page 2

completion of an FTA less than ideally effective, your report should clearly identify those problem areas and present their suggestions for alternative policy approaches for the United States.

It is expected that the Commission's report on these investigations will reflect the views of knowledgeable government officials, who have worked in the area of U.S.-Asian relations, including those in the Office of the United States Trade Representative, scholars, private business officials, and others that could contribute to our assessment of such free trade area.

The Commission's report on these investigations should be submitted as soon as possible, but not later than six months after initiation of the investigation.

Sincerely,

Lloyd Bentsen  
U. S. Senate

TO BE INCLUDED IN  
THE RECORD

7/14  
U.S. Canada  
Exec. Session

STATEMENT OF SENATOR MAX BAUCUS  
STATEMENT ON FINAL CONSIDERATION OF CFTA

July 13, 1988

Mr. Chairman, as we prepare to conclude our consideration of the FTA implementing language, there is one issue that has recently come to my attention that I want to raise.

The province of British Columbia is now in open violation of the softwood lumber agreement.

Through a combination of uncollected taxes and underpriced stumpage, the province of British Columbia now appears to have violated the softwood lumber agreement to the tune of \$250-270 million dollars.

As those of you that followed the softwood lumber issue over the past few years know, it is one of the largest CVD cases ever settled.

A \$250 million breach of the agreement seriously undermines the effectiveness of the entire suspension agreement with Canada.

If this issue is not resolved quickly I must urge the U.S. Government in the strongest terms to consider reimposing a duty on Canadian softwood imports and terminating the softwood lumber agreement.

Beyond its direct implications for the U.S. softwood lumber agreement, this dispute raises three issues in connection with the FTA.

First, it once again demonstrates that Canada is willing to subsidize its domestic industries at almost any cost.

Second, it raises an issue that many of us on the Committee have been concerned about--the inability of the Canadian federal government to ensure provincial compliance with the trade agreements that it enters into.

And third, one is forced to question the wisdom of entering into a major trade agreement with Canada if it cannot comply with a much more limited agreement.

I hope that both governments work to resolve this dispute absolutely as quickly as possible.