

CONCLUSION OF MORNING
BUSINESS

The PRESIDING OFFICER. Morning business is closed.

ANDEAN TRADE PREFERENCE
EXPANSION ACT—Resumed

Mr. LOTT. What is the pending business?

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes.

Pending:

Daschle amendment No. 3386, in the nature of a substitute.

The PRESIDING OFFICER. The Republican leader

AMENDMENT NO. 3399

Mr. LOTT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 3399.

Mr. LOTT. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

CLOTURE MOTION

Mr. LOTT. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending Lott amendment:

Trent Lott, Don Nickles, Phil Gramm, Chuck Grassley, Rick Santorum, Mitch McConnell, Bill Frist, Craig Thomas, Judd Gregg, Frank H. Murkowski, Jon Kyl, Michael D. Crapo, James M. Inhofe, Thad Cochran, Chuck Hagel, Pat Roberts.

Mr. LOTT. Mr. President, the Daschle amendment—

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, our goal this afternoon is to get to a process or an agreement that allows the Senate to

deal with the very important issues pending before the Senate: trade promotion authority, the Andean Trade Preservation Act, the GSP, as well as the trade adjustment assistance. These are four very big issues, very important for our country and other countries—in the case of the Andean area—and for the workers of this country.

The way it has been put together, it is very difficult to work through all of these issues and get a result. Serious efforts are underway to see if we can achieve an agreement that produces a result.

We also have to deal with a process issue, how to make that happen. A few moments ago, I filed a first-degree amendment to the Andean Trade Preference Act and filed cloture. I think that is the way to proceed. I think we need a showing of who wants to get trade promotion authority and how we will move this to a conclusion. I want to do that and I know Senator DASCHLE wants to do that, too—find a way to get to conclusion and produce a result.

I was within my rights to seek that recognition and offer that amendment. I did so in good faith with the recognition that if I didn't, some further motion or procedure might have been offered by Senator DASCHLE or Senator REID.

Having said that, Senator REID and Senator NICKLES and others were in the Chamber. They had an agreement on how to proceed, and they felt this was not fair under the understanding that had been worked out. I always try to make sure we play above board and fair with everybody. Senator REID has always been fair with both sides, and he felt this was not the right way to proceed at this point.

After a lot of discussion, I will move to vitiate that action. But I do want to emphasize—and then I presume Senator DASCHLE may announce we would have a period of further discussion as we continue to work on this issue—I do think this is the correct way to proceed. We should not get off the trade legislation and go to any other issue. We are on the verge of beginning to make progress. If we let up, I think the momentum will stop.

I had to explain what happened and why I am doing this. I have heard stories from the past of how Senators have come to the aid of Senators on the other side of the aisle saying, no, this was not the fair way to do it, even if it might have appeared to be fair. We want to always try to do that with each other.

AMENDMENT NO. 3399 WITHDRAWN

Therefore, I ask to vitiate the cloture motion I filed and withdraw the amendment I filed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3399) was withdrawn.

The PRESIDING OFFICER. The majority leader.

MORNING BUSINESS

Mr. DASCHLE. Mr. President, I thank the distinguished Republican leader for his understanding and his willingness to act in good faith. I appreciate very much the explanation that he has made. I know it was not his intention and he was not aware of the circumstances that had been agreed to prior to the time he came to the floor. We certainly know how these things work and appreciate his willingness to rescind his actions.

There are a number of Senators who would want to be heard on issues that are important to them. As we continue to await further word about the progress of the discussions and negotiations underway, I see no reason we cannot continue to allow the Senate to proceed as if in morning business.

I ask unanimous consent the Senate proceed as in morning business under the arrangements previously authorized in the Senate for a period not to exceed 90 minutes.

Mr. MCCAIN. Reserving the right to object, I will not object.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. The majority leader understands the point I was trying to make. Next week at this time, the Andean Trade Preference Act expires and back tariffs will be levied on four impoverished countries, one which is experiencing a revolution. The majority leader does understand the reason for the cloture motion, but I understand there will be an objection if we wanted to move to ATPA, and that is why the Republican leader filed the cloture motion.

I hope the majority leader understands this is an issue that is pressing in time. We need to move forward with it. That may require a cloture motion either by the majority leader or the Republican leader.

I do not object.

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask for 2 minutes prior to Senator BYRD.

Mr. DASCHLE. I ask unanimous consent my consent request be amended in that fashion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, again I ask unanimous consent the Senate be in morning business for 90 minutes and accommodate Senator REID's request for 2 minutes prior to the time Senator BYRD is recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

ATPA

Mr. DASCHLE. Let me respond briefly to the Senator from Arizona. Nobody wants ATPA passed more than I do. I have attempted in many different ways over the last several weeks to

find the right formula to bring this about. I have talked about it, literally, for months. I will work with the Senator from Arizona and others. We are very aware of the May 16 deadline. I am very hopeful we can find a way with which to accommodate that deadline and make sure this job can be done.

We are sensitive to the tremendous economic repercussions that will result if we are not successful. The stakes get higher with each passing hour, which is why I have been frustrated in my effort to move the process along all week.

We spent a lot of time on the farm bill. We spent a lot of time waiting for some sort of negotiation when I think sometimes the best thing to do is just offer amendments. That is what we do in the Senate if there is a disagreement: At some point you offer an amendment, have a vote, and move on to the next amendment.

There are those in the Senate who want the package to be just so, prior to the time they even allow us to move forward on a package.

We will continue to work with those who have been in negotiation. I hope we can resolve this matter soon.

Mr. LOTT. Will the Senator yield?

Mr. DASCHLE. I yield.

Mr. LOTT. We did vitiate the cloture, withdraw the first-degree amendment, but I ask that we consider filing cloture on the underlying amendment, just ATPA.

My cloture and amendment had been both trade promotion and Andean trade. If we file cloture on just the Andean Trade Preservation Act, that would ripen Monday night or Tuesday if we got an agreement, and it would at least guarantee we would be able to get that issue resolved and hopefully sent to the President by Tuesday or Wednesday, thus dealing with this problem that Senator MCCAIN addresses. If we don't, we are going to have this deadline that we are facing.

I say this in a bipartisan, non-partisan spirit. It would be one way to make sure we get a vote on that. We could still get an agreement and vitiate if we had to and get the trade promotion authority and trade assistance also.

I might say that I understand we need to try to make progress. But we have only spent about 12 hours on this bill and really only one serious amendment has been offered.

I know you, Senator DASCHLE, would have liked to have had more amendments offered. Certainly we assume that will occur, perhaps even still. But we have not spent much time on the trade bill itself. I would address the question—urge you to consider, even today, within the next hour, filing cloture on the underlying ATPA. We could still get progress on these other bills without prejudicing this particular provision.

That is the kind of thing I think Senator MCCAIN would like to see us do. He is pressing me to file cloture on the underlying Andean Trade Preference Ex-

pansion Act. Would you consider that as we proceed this afternoon?

Mr. DASCHLE. Mr. President, we are trying to make the most of what few days we have before the Memorial Day recess. That is an option. We have entertained it in the past. We have talked about it in the past. That would mean, of course, that TAA and TPA would fall if cloture is invoked, and I am not sure we would be able to get to it again prior to the Memorial Day recess, given all the other things we have to do. But that is an option. So we will weigh that carefully and consider what other choices we have, subject to some report from our colleagues. We will continue to negotiate.

Mr. NICKLES. If my colleague will yield, I think Senator LOTT and Senator MCCAIN have a good idea. I urge you to seriously consider that. I hope it will not take cloture to pass any of the three bills. I likewise tell the majority leader, I think you will find Members on this side of the aisle—I think the majority leader has complicated his process by trying to put three bills together.

Historically, we have passed Andean trade, passed trade promotion or fast track, and we passed trade adjustment assistance—independently and overwhelmingly, usually with 70-some votes. I believe there are still 70-some votes. The Senate historically has pretty much favored free trade.

I think we would be happy to assist the majority leader to pass all three. We may have some differences, particularly on trade adjustment assistance. Maybe we will have to have a few amendments on each side. We will help you get a time agreement where we can pass all three bills by the Memorial Day recess. Maybe by separating the three bills we can accommodate the Andean countries that are in desperate shape. It would be a shame if we imposed tariffs on those poor countries, a tariff increase that they have not had for 10 years, if we do not get our work done on that bill by next week, by the 15th or 16th.

Likewise, it would be a real mistake if this Senate doesn't pass trade promotion and trade adjustment assistance, however this Senate defines it.

I tell the majority leader, I think if he breaks the three up, we could come up with time agreements and a limitation of amendments to finish all three bills.

Mr. DASCHLE. I thank the Senator from Oklahoma for his generous offer of assistance. I would love nothing more than to get time agreements.

I am told there is opposition to time agreements on both sides on each bill. As we know, given the time it takes to get through a motion to proceed if there is a filibuster, given the time it takes to get through a bill itself, procedurally, if there is a filibuster—each bill will take over a week if you did nothing more than move as expeditiously as you can given our Senate rules.

Instead of doing three sequential filibuster-cloture, filibuster-cloture, filibuster-cloture motions, we thought it might be better to do one and accommodate all the procedural impediments at once.

That may or may not prove to have been the right strategy. But, clearly, we know it will take a long time. If it is the case, we will have to take these bills up sequentially, as I am told is the case right now. Maybe time will prove Senators will reconsider and be willing to move into a time agreement, at least on ATPA.

We will try to vet that and perhaps we can move that. I think we ought to explore that possibility. But a sequential effort on each one of these will take us well into the middle of June, and I am not sure we have that kind of time.

I appreciate the Senator's interest in working with us.

Mr. NICKLES. If the Senator will yield a little further, I will be happy to shop it on our side. I do happen to think there are overwhelming majorities—probably on both sides of the aisle. We passed TPA out of the Finance Committee 18 to 3. Andean trade passed unanimously, I believe, in the Finance Committee. Trade adjustment assistance was considered and, frankly, the trade adjustment assistance that is in this bill never passed committee and some of us object to that. We are willing to have amendments to it. We are willing to find out where the votes are, if that is the way we have to go. Hopefully, some of the negotiations that are taking place today can help solve some of those problems. But we all know we need to move forward on all three pieces of legislation. I urge our colleagues, let's do it.

I do question the wisdom of putting all three together. Historically—I remember Senator BYRD and I having a big debate on line-item veto and I used to say we should have a bill veto. Is it fair to the President of the United States to submit all three bills, each different, and say take it all or leave it all? He loses his Executive power or ability to sign or veto individual pieces of legislation.

I hope we will consider trying to expedite this, come up with time agreements, pass all three bills, and let's see if we can get all three done by the Memorial Day break.

Mr. DASCHLE. If the distinguished Senator from Oklahoma will be prepared to work with us on his side, we will see what prospects there are for doing something like that on one or more of the bills in the Senate in the next day.

I am happy to yield to the Senator from North Dakota.

Mr. DORGAN. Mr. President, I think it sounds good to have some cooperation with respect to time. But there is frustration on all sides with respect to this legislation. The issue of trade promotion authority, for example, came to

the floor. Then we had to go off, I believe for 12 hours, debating the Agriculture conference report, which took the better part of 2 full days.

We have now, I believe, voted on only one amendment on trade promotion authority. That was the amendment I offered. And that was held over. We couldn't clear it after we had a tabling amendment. That was held over several days in order to clear that.

Senator DAYTON has an amendment. I have two additional amendments. I know other colleagues have amendments to trade promotion authority, but we have not been able to get at that, and my understanding was we had people on the floor on the other side saying they were not going to let us do anything until all of this gets negotiated to some successful conclusion.

I think the way to legislate, I say to the majority leader, would be to allow us to proceed with the amendments. If there are those on the floor who are blocking it, perhaps the Senator from Oklahoma and the Senator from Mississippi, if it is on your side, might help us remove that block and let us get to the amendments and have votes on the amendments.

Trade promotion authority is a reasonably controversial measure. People will have a fair number of amendments, but we have had one so far. It seems to me we ought to get at them and have votes on them.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. DASCHLE. I am happy to yield to the Senator.

Mr. LOTT. I will respond to that. I think that is what we should do. That is what I just did; I offered an amendment. But because of concern about the fact we were in morning business, I withdrew it.

I think that is the way to go. Hopefully, maybe we will come to an agreement this afternoon that will allow us to move forward on all three bills. If we do not, then what I urge we do is stay on the trade bill, have amendments, and go forward.

I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. DASCHLE. Senator BYRD informed me, while he intended to speak as in morning business today, he is going to postpone his speech on Mother's Day until tomorrow. So the floor is open, I notify all Senators.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. While the leaders are still on the floor, especially the Republican leader, I want everyone to know that what he did was entirely within his rights. What he did not know when he came on the floor is my counterpart, Senator NICKLES, and I had an agreement. The majority leader had asked I keep us in a quorum call. That is what I intended to do.

What Senator LOTT did was in keeping with the rules of the Senate. What

he did following, to vitiate his request, is not in the rules of the Senate. He did that because of the goodness of his heart, and I appreciate that very much. We have to work here, recognizing that no matter in what situation you may find yourself, it may not be one of total understanding at the time you do it. I appreciate very much Senator LOTT withdrawing the cloture motion. I also appreciate his withdrawing the amendment. He did not have to do that. No one could have forced him to do that. We could have gotten into a procedural situation where we would move to table his amendment and things of that nature, but that would not have gotten us to the goal we wanted.

I also express my appreciation to my friend from Oklahoma who expressed to the Republican leader what the arrangement was he and I had.

Of course, I appreciate very much the majority leader working his way through this. I think it will be better for us all that we approach it in this manner.

The PRESIDING OFFICER. The Senator from Pennsylvania.

JUDICIAL NOMINATIONS

Mr. SANTORUM. Mr. President, I thank Senator BYRD. He came over to me a few minutes ago. He was in line to take the next slot, and I appreciate his willingness to give me the opportunity to speak.

I am here on the anniversary of the President's first nominations to the circuit court to, once again, focus the Senate on what really is a great obstruction of justice that is occurring as a result of the actions within the Judiciary Committee.

We have seen the first 11 nominees the President put up for the circuit court—which is the appellate court in this country at the Federal level, and then you have the Supreme Court, obviously. We have 11 nominees the President put forward. Three were moved. But they were three holdovers from the prior administration. The first original, if you will, Bush nominees have not even had a hearing. If they were eight people who had very little to account for, if they were people who were not considered well qualified, if they were people who had clouds hanging over their nominations, that would be one thing. But not one of them has received anything but well qualified, and the vast majority were well qualified by Senator LEAHY's and the Judiciary Committee's standard, which is the American Bar Association, which is not necessarily friendly to Republican nominees for the court.

We have a situation where we have preeminent jurists and litigators who are being held in committee for a year without a hearing, and without explanation. That is sort of the remarkable thing throughout this entire discussion. There is no explanation as to why any one of these nominees is being held up.

We haven't had any discussion, to my knowledge, on the floor or in the press as to the specific reason any one of these nominees has been held back. There is no cloud that I am aware of. It is simply stopping the President's judicial nominees, and stopping qualified jurists from serving.

These are people who have been nominated, and when you are nominated for a position such as this—the Presiding Officer knows; he was Governor—in State office or Federal office, they have to begin to sort of unwind their affairs. They have to begin the process of setting themselves up, because who knows how quickly they could be considered and moved through the Senate?

In the case of Nebraska, I guess there is one house in which they go through in the process.

We have eight people of impeccable integrity who began that process a year ago. Where are they? They are hanging out there. Their lives are in limbo. That is not fair to them. It is not fair to the people who are not getting justice and not having their cases heard on appeal, or are having long delays in getting the resolution of their cases.

That is not fair either. That impacts the administration of justice, particularly on the civil side, which tends to suffer. We are getting criminal cases through because they are a high priority. But you have people whose lives are almost in limbo because they are not getting the quickest administration of justice that they deserve in our court system.

I want to talk about one particular nominee. He is from Pennsylvania. I will give you sort of the rundown of where we are in Pennsylvania.

We had 11 openings on the district court level in Pennsylvania. We have two circuit nominees who are Third Circuit nominees—who are sort of Pennsylvanian, assigned to Pennsylvania in this informal agreement we have across the country. One of the nominees for the circuit court—the only nominee so far, because the other circuit vacancy just occurred a few weeks ago—is Judge D. Brookes Smith. Judge Smith is the present judge of the Western District in Pennsylvania. He is a very distinguished jurist. He has been on the court for over 10 years and has served on the Common Pleas Court in Blair County and Altoona. But he is from Altoona. He is from just an impeccable law firm and practiced before he was judge. He has great reputation as a common pleas court judge in Pennsylvania, and now as a district court judge.

Again, he has a flawless reputation. He is a man of highest integrity. He is rated well qualified unanimously by the ABA. Thankfully, we had a hearing on Judge Smith. But that hearing was roughly 3 months ago. Judge Smith continues to be held in committee. Again, if you look at what I said before about your life being held in limbo,