

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

TRADE ACT OF 2002—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the conference report accompanying H.R. 3009, which the clerk will report.

The bill clerk read as follows:

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

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 10:30 a.m. shall be equally divided between the Senator from Montana, Mr. BAUCUS, or the Senator from Iowa, Mr. GRASSLEY, and the Senator from North Dakota, Mr. DORGAN, or his designee.

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I rise today to urge my colleagues to vote yes on the motion to invoke cloture on the trade bill. Three months ago, the Senate passed its version of the Trade Act of 2002. It was a strong bill, it was a progressive bill, and it passed overwhelmingly with strong bipartisan support.

We now have completed our conference with Representatives of the House. I am pleased to present the Senate with a conference report that retains and builds upon key elements of the Senate bill.

Let me begin by discussing the reestablishment of the President's fast-track trade negotiating authority. This authority will make it easier for the President to negotiate strong trade agreements, but we do not give the President a blank check. Far from it. The bill makes Congress a full partner in trade by laying out negotiating objectives on a number of topics and creating a structure for consultations—I might add, much stronger than previous fast-track bills.

Most of the debate on fast track has focused on three trouble spots in trade negotiations: Labor rights and environmental standards; so-called chapter 11 provisions; and U.S. trade laws.

Let me turn to them. First, labor and environmental standards. Most importantly, this bill adopts the standards set forth in the United States-Jordan Free Trade Agreement; that is, as a floor. No standards in future trade agreements can go below the floor set in the United States-Jordan Free Trade Agreement, which is a pretty high floor, but certainly agreements can be higher.

In that agreement, in the United States-Jordan Free Trade Agreement, both parties agreed to strive for labor standards articulated by the ILO and for similar improvement in environ-

mental protection. Both countries also agreed to faithfully enforce their environmental and labor laws and not to waive them to gain a trade advantage.

The conference bill's fast-track provisions fully adopt the Jordan provisions, and the bill makes it clear that Jordan is the model for every free-trade agreement we negotiate; that is, the bottom floor is Jordan. Again, agreements can go higher. That is a big step forward.

In addition, the conference report obtains negotiating objectives seeking to eliminate the worst forms of child labor. Senator HARKIN has been a tireless advocate on this issue, and I am proud the conference report includes this important objective.

Another contentious issue pertains to investor-state dispute settlement, also known as chapter 11, in reference to provisions on this topic in NAFTA, the North American Free Trade Agreement.

The conference report attempts to balance the legitimate needs of U.S. investors with the legitimate needs of Federal, State, and local regulators, and the concerns of environmental and public interest groups.

The bill directs trade negotiators to seek provisions that keep Chapter XI-type standards in line with the standards articulated by U.S. courts on similar matters.

It urges the creation of a mechanism to rapidly dispose of frivolous complaints and to deter their filing in the first place.

And it urges the creation of an appellate body to correct legal errors and ensure consistent interpretation of key provisions by Chapter XI arbitration panels. That is a level playing field.

So neither country has an advantage, and neither investors on the one hand, nor municipalities nor environmental groups on the other hand, have an advantage. It is a totally level playing field.

I am pleased that, on the whole, we were able to retain the Senate objectives on investment.

The second difficult issue within fast track is how we ensure fair trade.

To battle unfair trade practices, the United States and most other developed countries maintain antidumping and countervailing duty laws. Another critical U.S. trade law—Section 201—aims to give industries that are seriously injured by import surges some time to adapt.

Rather than being protectionist these laws are the remedy to protectionism. And importantly, these laws are completely consistent with U.S. obligations under the WTO.

On a political level, these laws also serve as a guarantee to U.S. industries and U.S. workers.

Without those critical reassurances, I suspect that the already sagging public support for free trade would evaporate, and new trade agreements would simply become impossible.

Now, the Senate overwhelmingly supported an amendment by Senators

DAYTON and CRAIG. That amendment provided a process for raising a point of order against a bill that changes trade remedy laws.

The House bill did not include this provision—although I expect the House might support such a provision if put to a vote.

That said, in the conference process we needed to come up with an alternative if we were going to move forward. I believe the provisions that have come out of that process are very strong—and give Congress an important role before an agreement is finalized. Let me explain.

First, this legislation raises concerns regarding recent dispute settlement panels under the WTO that have ruled against U.S. trade laws and limited their operation in unreasonable ways. These decisions clearly go beyond the obligations agreed to in the WTO and undermine the credibility of the world trading system. We must correct these erroneous decisions.

That is why our concern regarding WTO dispute settlement is identified at the very outset of the bill—as findings—and why the Administration is directed to develop a strategy to counter or reverse this problem, or lose fast track.

This bill also contains a principal negotiating objective directing negotiators not to undermine U.S. trade laws. This fully expresses Congress's view that maintaining trade laws is among the highest priorities in our trade negotiations.

Finally—and most importantly, I believe—this bill directs the President to send a report to Congress, 6 months before he signs an agreement, that lays out what he plans to do with respect to our trade laws.

This is important. This provision provides that the President—before he reports on any other issue—must lay out any changes that would have to be made to U.S. trade laws. This will give Congress a chance to affect the outcome of the negotiations well before they occur.

In fact, to buttress that point, the bill provides for a resolution process where Congress can specifically find that the proposed changes are “inconsistent” with the negotiating objectives. I suspect that if either House of Congress were to pass such a resolution—by the way, it is privileged. I mean it is nondebateable. It cannot be filibustered. So the relevant committees—House Ways and Means and Senate Finance—report this out, and it starts with a resolution offered by any Member of Congress in the respective bodies. I suspect that resolution—again, privileged, not filibustered, not amendable—would be very much listened to by the President.

If they don't get that message, there are ways that either House of Congress can derail a trade agreement. But I don't think it would come to that. I think the agreement would be renegotiated in that circumstance—and that is the point.