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Discussion

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## DISCUSSION AFTER THE SPEECHES OF M. JEAN ANDERSON AND RICHARD DEARDEN

QUESTION, PROFESSOR KING: On the political will within the Administration, are there any people particularly in favor of Fast Track? What about Madeline Albright or Charlene Barchefsky? Can you get it done in time? Can you get it done before next year? How long do you anticipate that it will take, with hearings and all that, to get Fast Track?

ANSWER, MS. ANDERSON: As to who is in favor of it, certainly there are some very significant people in the Administration who are very committed to it. I think our United States Trade Representative, Charlene Barchefsky, is one of those people. I think our Treasury Secretary would be considered a proponent of it. Sandy Berger is a proponent. There are a number of people who are. I have no doubt that the State Department is very much for it. I would doubt that the trade issues have been enough of a focus of Madeline Albright's, but that is something she is personally attached to. I think as a policy matter, the State Department is very much for it. There are some other people who are in favor of it because it has been stated to be an Administration priority, but whether they are personally committed, I do not know. As to how long it would take, it could get done. It could certainly get done in 1997. I think there is a possibility it could get done within a few months in 1997. If a proposal is put forward with some real determination by the Administration, it can happen. But it could also get derailed, off the track. It is just speculation. It is impossible for me to guess. I do not know, maybe other people in the room have a better guess than I do.

COMMENT, MR. CUNNINGHAM: I have a comment on the domestic politics of that and then two questions about the international negotiation aspects of it. The comment is that it has always seemed to me that the way to get Fast Track done in the Congress has to be to have the same sort of coalition that got NAFTA done, which was largely having a U.S. Administration that was pushing for it. We have that. We also need a congressional constituency that is mostly Republican with only some Democrats. I am sure that is there for Fast Track now, if you have a Fast Track with no environmental and no worker rights encumbrances on it.

COMMENT, MS. ANDERSON: You have distilled what I said very well.

QUESTION, MR. CUNNINGHAM: It always seemed to me it has had something to do with Vice President Al Gore and Dick Gephardt. I wanted to actually talk to Vice President Gore about this, but I waited for hours at the Bhuddist Temple and he did not show up.

I have two questions on the international aspect of this. First of all, I hear the two of you talk about what is unfolding within the Americas, and for the life of me I cannot see what the road is for the Free Trade Area of the Americas, particularly when you say things like the United States is going to negotiate for itself, not with NAFTA. Are we going to be an adjunct member of MERCOSUR? I cannot see that.

It seems to me the only thing that makes sense is to get Chile signed onto NAFTA. Eventually MERCOSUR and NAFTA should merge. Now, I know there are problems with that, but I do not see any other way. What I am asking you is, is there any other way?

My second question is, do either of you have concerns that, because of all this milling around, that the attention, particularly the U.S. attention, will shift not toward free trade for the Americas, the political commitment, not toward a Free Trade Agreement for the Americas (FTAA), but toward the Pacific, toward the Asia-Pacific Economic Cooperation (APEC). And FTAA will languish as they pursue the prospects for whatever it is that they are going to achieve in the Pacific.

ANSWER, MS. ANDERSON: Okay, first question. I understand why you ask what the route could be to a real negotiation among thirty-four, hopefully thirty-five, countries in the Western hemisphere. It seems to me, though, the more likely route is going to be something that looks a little more like a smaller version of a WTO round with blocs within the negotiation. There have always been groupings of countries in a WTO negotiation or GATT negotiation, shared views, and I think NAFTA countries would do that and would try to insist on high standards of strong commitments and obligations and enforceability on things like investment and other areas, whereas MERCOSUR wants something a bit looser. They will try to stick together. I think part of it is going to be the same process as a GATT negotiation.

COMMENT, MR. DEARDEN: It is not an accession to NAFTA in any sense of the term.

COMMENT, MS. ANDERSON: No, I do not see it being an accession to NAFTA at all. That is why I think it is very important to have Chile in NAFTA, because I think that enhances the position of NAFTA as a standard for legal obligations in a hemispheric agreement, but I do not think it is an accession, no.

QUESTION, MR. MINNICK: Do you think that because the Canadian/Chilean negotiations decided to get rid of or add the dumping and countervailing duty issues, that that has shot the whole thing in the foot? The United States will never agree to that, and Canada will have a different negotiation than Chile, so how will NAFTA ever, as a group, agree to that?

ANSWER, MR. DEARDEN: First of all, they only agreed to exempt each other from anti-dumping investigations, not the countervailing measures as well. So that is still in play. But Canada is realistic, they know that the United States is going to get rid of any dumping actions or countervailing actions, and they are not going to shoot themselves in the foot over that. They just waved the white flag on the working group trying to come up with some solution to the issue, and it did not happen; zero concession from the United States, and they know it.

In my opinion, that is not going to affect the FTAA process and it is not going to affect the accession process. Sure, they want to say, you can do it, because we have done it with Chile. The response of the U.S. government was to ask, how many anti-dumping actions have you had against Chile? None. So what is the impact? Zero, okay. So, you know, it was not a big deal.

They were *ad idem*, both governments negotiating were *ad idem* on the issue. They did not think there should be anti-dumping actions allowed in the Free Trade Agreement. But that is not going to affect accession, and it is not going to impact on the FTAA.

QUESTION, MR. MINNICK: My point is, if you want to have NAFTA bringing in Chile, and you now have individual agreements that all of the countries will not agree to, what are you going to do if you do not at least get the minimum terms?

ANSWER, MR. DEARDEN: I expect that they will get the minimal terms. I think the floor is what is in NAFTA right now.

In Chile, in the Canada/Chile agreement, you do not have the floor of NAFTA. You do not even have half the chapters of NAFTA in that agreement, but it was able to be done at that level with Canada and Chile, and they knew that this was going to be abridged to the accession of NAFTA, but it is not supposed to be taken *golus bolus*. There is our protocol of accession in the United States government. We have already done it with Canada. That will not be the case at all. And that chapter, N, I think it is, that deals with anti-dumping duty elimination, will be between Canada and Chile. It will stay as a bilateral agreement. That will still be in play if Chile accedes to NAFTA. Canada and Chile just will not take anti-dumping actions against each other.

COMMENT, MS. ANDERSON: I agree with that. I do not think it

will make any difference.

QUESTION, PROFESSOR KING: On the labor and environmental side agreements, are they actually so important in the case of Chile? Is there any real problem for U.S. labor other than the principles involved? Can we do an *ad hoc* deal for Fast Track in Chile alone?

ANSWER, MS. ANDERSON: I think that would be a huge defeat for the Administration. If you have a Fast Track for Chile alone, you cannot go ahead and negotiate a Free Trade Agreement of the Americas. It might stop them from pretending they are going to negotiate is a fantasy. I agree that APEC is a fantasy. No, they have got to have a Fast Track that goes beyond Chile, one that is broad-based, in my opinion. As to labor and environment, there is a huge amount of confusion over this. First of all, Chile has already said they would happily sign on to the labor and environmental side agreements of NAFTA, that is not a problem for Chile. I do not think their signing on to those side agreements will be a problem for Mexico or Canada or the United States. The problem is a more ideological one, or it is politics cloaked in slogans. What those who want labor and then environmental provisions really want is not side agreements. Those side agreements do not have to be approved by the Congress. What they want are labor and environmental requirements that are integral parts of the trade agreements that would have to be approved by the Congress, because they would be integral parts of the agreements, and therefore they would not have to be subject to Fast Track or the whole agreement could go down.

What the opponents do not want is that integral kind of provision on labor and the environment. They also do not want side agreements, which seems a little bit silly. I think the opponents of labor and environmental side agreements carry it too far and are not doing themselves much good, because those side agreements do not really hurt anybody. I do not think they were necessary, but they probably do not hurt.

There is also some other complicated confusion over whether there are trade sanctions for the violation of a labor or environmental agreement. The Congress, the Administration, and the general public have been confused about it. I will not bore you with those technicalities, but be assured most of the argument is made by people who do not understand the law they are dealing with, so it gets really pretty silly.

QUESTION, MR. BEAULIEU: Just to follow up on the previous question, are you saying the reasonable compromise position is for both sides to agree that the Administration will pursue accession to both side agreements with Chile, but will not seek new environmental and labor language to be integrated in the main agreement as per the strong Fast Track language in your presentation?

ANSWER, MS. ANDERSON: My personal view of what a rational approach to Fast Track would be is not far from what I think the Administration is going to try to do, which is not to focus on labor and the environment as negotiating objectives.

Past Fast Track bills said that the Administration could negotiate provisions necessary or appropriate to the agreements concerned. Necessary or appropriate has been broadly defined to cover lots of sins, anything it took to satisfy some senator who needed some provision and an agreement in order to promise his vote. Because of the labor and environmental battles, there has been a lot of talk about changing that language to "necessary and trade-related," or "necessary and directly related to trade." There are a lot of negotiations over that. But it seems to me that the logical compromise would be to not have a provision in Fast Track that would suggest there could be or should be labor and environmental provisions negotiated as integral parts of the trade agreement, but to have one which would leave open the possibility in some agreements of there being some provisions, either in the agreements or as side agreements.

The AFL-CIO wants to bar any agreement from being eligible for Fast Track treatment unless it has integral provisions on labor and the environment. And, to me, that is a way to do it. I think that is a way of saying, "I am for Fast Track," when they are really very opposed to it or any trade negotiation. They simply want to sound like they are in favor of it when they are really opposing it.

QUESTION, PROFESSOR KING: Who actually has the votes in Congress to get this through?

ANSWER, MS. ANDERSON: I think if the Administration shows the political will and the determination to work with the Republicans on the Hill, then I think they can also muster enough additional Democratic votes for a reasonable Fast Track compromise. But that is going to be the coalition. I do not think that they will get voted down if they show the political will to move forward. And that is part of the reason I am so frustrated. They do not seem to show the political will to move, but I am a cynic about all these things.

QUESTION, MR. SCHAEFER: I have one question just to clarify things. If you have a side agreement that provides for possible trade sanctions, even if it is way down at the end of the road like the current NAFTA side agreements, is it your opinion that the President could enter that without Congressional approval, aside from whether he gets it via Fast Track upfront or afterwards? Do you think the President could enter that in his sole and inherent authority?

ANSWER, MS. ANDERSON: Yes, and you do not need to write the sanctions into the side agreements because if the Administration really wanted to, they could use Section 301 to enforce any agreement. That is a bit of an oversimplification.