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HENRY T. KING: Regarding Bill Ferchat's comment, I believe that we tend to fear Congress and are reluctant to present them with these proposals. Is there any way to bring Congress into this process without meeting such resistance?

JONATHAN T. FRIED: You are absolutely right, Henry any administration on the U.S. side, conducting the negotiations properly, needs to consult with Congress throughout the process, educating them as well as taking instructions from them. They certainly have been doing this throughout the Uruguay Round.

It is also important to remember that Congress is one among other entities. In the context to foreign policy, some say that there are 535 Secretaries of State. This may also be said for the U.S. trade representatives. Each Congressman looks at his own constituents, industries and geographic regions, and attempts to secure his vision of trade policy in the manner that is best suited to his own local or regional concerns. Even during the free trade negotiations we consulted with Congress.

Here some voices are at least willing to consider the possibility of some reforms to trade remedy laws. Certainly, some even credit Representative Sam Gibbons with the compromise reached in the House. If you choose to consult only with the lowest common denominator, you will not receive an answer. If consult in an educated fashion, you can nurture Congressional opinion, and I think there is room to do that here.

One thing that might make many Congressmen change their mind would be evidence of injury to American companies. No one has focused on the fact that although there were sixteen U.S. anti-dumping cases against Canadian companies since 1980, there were also forty Canadian anti-dumping cases against U.S. companies. If the U.S. bar or corporate sector was more aggressive in the use of trade remedy laws, people would then, in fact, be behind protection for their industries against the Canadian companies. That could change the equation, and I think that is the point Mr. Phillips made earlier.

WILLIAM S. MERKIN: You raise an excellent point, Jonathan. Many members of Congress or their staff, need to be focused on the benefit for the United States. One can not simply say to Congress, "We want to implement a new system to prevent harassment for our good friends in Canada." Congress will ask "Why should we bother? The Canadians must have something up their sleeves, we do not see what is in it for the United States." To find support in the United States for such changes, it is essential to address those in Congress who, at the mere mention of U.S.

trade remedy law, automatically react by saying, "Do not touch it. Do not weaken it."

The question of administrative consultation with Congress is always a difficult one. We receive negative publicity during our negotiations because it was generally felt that we did not adequately consult with Congress. I can recall sessions where we had scheduled a briefing the Ways and Means Committee and the only member who showed up, Sam Gibbons, did not even need to be convinced of the wisdom of what we were doing. Many times, unless they see an immediate need to become involved in an issue, Congressmen do not want to waste their time. It is usually in the final stages of negotiations when they want to become involved when it is usually too far along to really address these concerns.

On the other hand, if one has industry support and an established agenda, then it would be important to undertake a program of educating and changing the opinions of various Congressmen. Looking back at our negotiations, as Bill and I indicated, we really did not know what we wanted concerning the technical aspects of the anti-dumping law. And candidly, I have described a generic situation pertaining to trade remedy law, and the difficulties involved. I think it is safe to say that on the Canadian agenda, the number one priority was the issue of subsidy/countervail. I am not convinced that they knew going in what they wanted to accomplish on the anti-dump side. Bill was focusing more on the subsidy/countervail side where most of our early discussions took place. So, it is difficult approach Congress with some general concept without having all the details sorted out because they will immediately ask a number of questions. If a negotiator does not have the answers, then Congress will become leery of any future proposals.

JOHN R. MULLEN: What is the experience in dumping between Mexico and the United States, and is that likely to be a priority issue on the agenda of that free trade agreement negotiation?

WILLIAM H. CAVITT: My vague recollection is that the number of cases between the United States and Mexico is quite small compared with Canada, where the number is fairly large. There have only been a few cases through the years that have received any visibility

BARRY SOLARZ: Mexico has had sixteen cases against the United States since 1987. The United States has had three against Mexico.

LAIRD D. PATTERSON: On the one hand there is discussion concerning the grant for anti-dumping laws to these two similar economies. When we include Mexico, a complimentary economy, what does that do to the theory?

JONATHAN T. FRIED: There is a continuing Canada-U.S. Free Trade Agreement agenda, and regardless of whether we reach a trilateral agreement, I think there is a series of items between Canada and the United States that we can continue to address on a bilateral basis, includ-

ing certain laws, technical standards and agricultural groups. A trilateral free trade agreement does not necessarily mean the unraveling of the existing bilateral FTA, although, no one wants to prejudge the form or structure of the end result. Let us just see what common issues we have among the three countries. Having said that, it is contingent upon Canada and the United States to continue to discuss anti-dumping and competition on a bilateral basis, even within a trilateral free trade agreement area. There is nothing theoretically impossible about that. So, I do not see the two ideas as mutually exclusive.

RONALD J. WONNACOTT: Now that the United States seems prepared to consider negotiating a bilateral agreement with Mexico, an overlapping bilateral given the existence of the U.S.-Canadian bilateral agreement, which would make the United States a hub in a small hub and spoke system where Canada and Mexico are spokes. Is it recognized in Washington, D.C. the disturbing worlds that this creates in which the United States is assigning separate bilaterals for the sequence of applicants? Even if these are consistent, they are going to be far less attractive than an expanding free trade area, and of course, the objective of a country like Mexico is to tailor its agreement to its special needs. This means that those agreements are likely to be inconsistent and that means that the system is even more compromised. And is it as a necessity, is the cost recognized of this hub and spoke or overlapping bilateral system to the apparent beneficiary, the United States recognized as a necessity are the various costs to the United States recognized as well, of course, as the obvious cost to the spoke countries? Thirdly, is it recognized now that the importance for these reasons of negotiating a trilateral agreement or failing that, a agreement bilateral which could be carefully tailored to simulate a trilateral system and could be very easily folded into a trilateral sooner. I agree that every free trade agreement, every bilateral agreement, does liberalize trade in some sense, but it is also true that every non-multilateral free trade agreement does involve a protectionist element. Now, in an expanding free trade area, that protectionist element is damaging to excluded countries. In a hub and spoke system, elements of protection are far more fundamental because they run right through the system, leaving protection between all of the spoke countries and therefore much more damaging. As a consequence, the protection is greater, the damage is greater, and the potential gains are more substantially compromised. Are these things recognized in Washington D.C. as you are now, I understand, in a process of deciding historically which route is going to be taken in a process in which the decision may be made almost inadvertently?

WILLIAM H. CAVITT: Let me address the last question first. The Administration, with complete agreement, in January, has asserted that the United States continues to be committed to the multilateral trading system. We want to the Uruguay Round to succeed, we want this patient to survive. More than survive, to end up healthy and privy to the multi-

lateral trading system for the future. In that context, I would note, however, that the history of other agreements like the European Community, Australia and New Zealand, is that as long as they are trade liberalizing, that is to say that barriers are moved between the members and no new ones are erected vis-a-vise third countries, that the trade patterns demonstrated that export growth, both to the members and to non-members, by greater number than historical patterns. So that even separate regional trade liberalization, therefore, does contribute to the multilateral trading system. Now, obviously it benefits the members more than it benefits the non-members, but historically both have profited.

With respect to the prospects of the North American Free Trade Agreement as opposed to two bilateral agreements, clearly it is understood as a matter of economics that because of administrative needs, a North American Free Trade Agreement is preferable to two bilateral agreements. I think for the same reasons, within the broader context of the community, it is conceptually possible to negotiate in this case three bilaterals, U.S.-Canada, U.S.-Mexico and U.S.-Mexico and CAnada, and to have them be structured in such a way that they are tantamount to a North American Free Trade Agreement. We will have to see for the future whether these things sort themselves out or not. My hope would be that that is not the case, but rather that we end up with a single North American Free Trade Agreement.

ROBERT MATHATHISON: I am somewhat concerned whether you interpret it as a degree of pessimism or realism of Bill's pronunciation. However, I think he used a metaphor of the news that is on twenty-four hours a day, when the cloud cover goes, people will make some sort of damage assessment. When one looks at how global competitors are projecting, whether it is economic power or financial power from the East or Far East or whether we are talking about political power, we are not moving in on agricultural reform from the European side. I think one is faced with the reality, can you accept the status quo? I would hate to think that sound economic reasoning in terms of fulfilling the promise of the FTA cannot be communicated, and that the deliberations of this particular group, if it comes up with a sense of logic, cannot be used in some persuasive manner. So I would hope that we would have a much more optimistic response. I know you have shaken everybody up or at least me up, but how do we get to where we want to go, not so much that we can get to where we want to go?

WILLIAM S. MERKIN: My purpose is not to discourage the activity. My purposes is to put it into what I believe is a realistic context, given what we went through with the basic negotiations. That there is a tendency, especially in forums such as this, to say, "Well, this is great, let's go, and give it to our negotiators and we expect to see you come back with the deal." It does not work that simplistically, and I know most of you realize that. I just want to make sure that people understood that no matter how good your ideas are, there is a very difficult flow of

context in which this has to be dealt with and I think some of those discussions that have come up about finding what is in it for the United States, that there is no side to this whole story of trade remedy law. It is important in the beginning, in exercise of educating the political process, not just the utility of a replacement system, but the potential importance in the flow of context. I do not mean to say, everybody go home at lunch time, you are wasting your time. What I am saying is, remember there is a tough battle ahead, and you cannot just expect your two governments on their own to be able to turn that process around.

JONATHAN T. FRIED: I think the bottom line is that it is a political decision, elected politicians acted upon their constituents self-interest. As Bill Cavitt has emphasized, you need to give the American legislator a reason that makes it in his own interest to do so. I think your discussions can be divided into four possible reasons that may come to form. First, the number of anti-dumping cases against U.S. firms in CAnada is twice as large as U.S. cases against Canadian firms. There is more aggressive use of those laws in Canada. It is even of more interest to U.S. firms to relieve themselves of the burden they face with the Canadian laws. Secondly, Mexico has an interesting dimension, not only in negotiating a bilateral agreement. American firms are suddenly facing harassment or a taste of their own medicine. In Mexico, Korea and other countries that may not even be as transparent or as judicial as Canada and the United States are, there is going to be an even more immediate interest among American businessmen in doing something about the current regime rather than no change. Third, the failure of MTM goes two ways if it is a failure, and that is, "Well, we can't get anywhere in businesses where there was resistance in anti-dumping reforming as it was in 1985. We, in the United States are prepared to deal with people who are prepared to pay in good coin, with people who negotiate in good faith. Even though for the rest of the world we are not going to do anything, for Canada since it is reciprocal and there is a common interest, whether you want to call it a block methodology or not, some in the United States might say, we should solidify within the North American context. Finally, as before the recession in the United States that we saw in the early 1980s, I think particularly in the Democratic Congress, there will be renewed attention to the broader universe of competitiveness, and what will enhance American industry global competitiveness and certainly strength competition law as a discipline to be put into that context as well.

WILLIAM H. CAVITT: From my perspective, it seems to me we are dealing here with a basic law that a body at rest remains at rest. The dumping law currently is at rest. The case is yet to be made, for whatever reasons that dumping laws should be replaced with something else. Congress, and an not insignificant number of U.S. industrial interests, are likely to take the posture, "if it ain't broke, don't fix it." And accordingly it seems to me and I think a lot of what Bill Merkin is saying

is that it is incumbent upon those who see change to demonstrate if it is necessary.

ROBERT A. FERCHAT: We would like to thank the panel very much for their candor and openness and telling us how it is and how it shapes up to be. We certainly agree with Bill Cavitt, it is a hell of a time to be involved with trade, trade law and trade negotiations. It is very exciting and I admire his presentation. As far as Bill Merkin is concerned, we also admire Bill for the openness and honesty with us telling us how it is. I really question whether Congress has the option to continue it comfortableness with the old regime because there is a new bureau taking shape hemispherically throughout the alliances that are being built in the world, I do not think it is open yet. And, Jonathan, I think had a very interesting and accurate background for the whole scenario system demand as to barriers, we have to lower barriers. We have to expand our potential and in this particular case, anti-dumping 1907 1-B, as the European Community, the Australian, New Zealand cooperation has done. We think it is time to do it in Canada, and I think that the opportunity is perhaps here, we just have to find other levers to push to get it done. So thank you very much for your candor, your hard work and your intellectual breath.