on Smoking or Health, Islamic Society of North America, National Latino Council on Alcohol and Tobacco Prevention, National Association of County and City Health Officials (NACCHO), National Association of Local Boards of Health, National Center for Policy Research for Women & Families, National Education Association, National Woman's Christian Temperance Union, National Women's Law Center, Oncology Nursing Society.

Office of Family and Children's Ministries of Disciples Home Missions of the Disciples, Praxis Project, Presbyterian Church (USA), Washington Office, Seventh-day Adventist Church, Society for Public Health Education, Tobacco Program, Interfaith Center on Corporate Responsibility, United Church of Christ.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I have a couple comments. Again, I compliment my colleagues, Senator KENNEDY and Senator DEWINE. They have been steadfast in their advocacy. Senator DEWINE is right, he and Senator KENNEDY introduced this a long time ago. If I am correct, it did not pass out of a committee, it is not on the calendar, and all of a sudden it appears on the floor.

These are two bills combined, and my biggest objection is with the buyout. The buyout is $12 billion. How often do we spend $12 billion around here without having any hearing on it? The buyout did not pass out of a committee. It did not pass out of the Agriculture Committee. It certainly was not considered by the Budget Committee.

There is no payment limitation, I say to Senator GRASSLEY. In the House bill, with the $9.6 billion, it is estimated by one group to be 480 millionaires. Some estimates are 85 percent of the quota owners are not farmers. I do not know how many of those will be made millionaires.

The Senate bill we are going to vote on does not even eliminate the tobacco program. A lot of people are thinking we will spend this money, we will buy the quotas back, and then be done with it. No, there will be a Federal board set up by the Secretary. The Secretary will establish a permanent advisory board for the purpose of setting what kind of tobacco shall be in the Acreage Limitation Program, I tell my colleague from Nevada, where they limit acres, make recommendations on acres.

The Secretary, with the Tobacco Quality Board, shall establish and maintain the Acreage Limitation Program for each crop, each kind of tobacco. If we have an acreage limitation program, that is a price support program. That is a continuation of the tobacco program.

So we are going to throw away $12 billion and maybe benefit one tobacco company versus all the other tobacco companies, spend a whole lot more money, have another 100 some-odd pages of regulations, some of which were so intrusive—I have not had a chance to review these regulations in detail, but in past years, some of these regulations dealt with convenience stores. If a convenience store did not check IDs of people up to age 21 or age 25, they could be penalized and fined and successively with higher penalties. If they did not check IDs three or four times of somebody who is 24 years old—they are military and obviously old enough to smoke—if they did not check their ID, the fines could be in the thousands of dollars.

That was in previous regulations. I am not sure if it is in these regulations because I have not had enough time to decide. I know there is a blank check for the Secretary to outlaw tobacco if he so desires, to ban advertising if he so desires.

I don't like tobacco consumption. I don't want people to smoke. If Congress wants to ban tobacco, let's do it. Let Congress do it. Let the elected officials do it, not the Secretary of HHS. These regulations are too broad. I know Senator GREGG had a proposal that was not quite as aggressive. I would like to vote on it. I would like to consider the two. We don't even have the option. The option is take these regulations, 155 pages—and my guess is most were promulgated by the Clinton administration which we rejected earlier—and then let's add a $12 billion buyout program that almost guarantees we will have a buyout program that comes out of conference on the FSC/ETI bill.

My final comment is, two wrongs do not make a right. The House was wrong to put in a tobacco buyout in the FSC/ETI bill. Now we are going to double that wrong and almost ensure it is going to come back from conference with a multibillion-dollar buyout, where some people are going to make millions of dollars. We are going to pay people a whole lot of money and maybe even continue the program. That is absurd. That is a waste of money. That is paying people for the privilege—frankly, if they had a quota, the Government gave them a quota; they had a special benefit over all other landowners in the United States. Oklahoma did not have a quota. We could not grow tobacco if we wanted to. We could not get the higher prices. Now we give a special reward to people who have a quota. We buy them out, and we are going to have a price support program in addition if we pass the Senate language.

That is bad legislation. I hope our colleagues will recognize if they vote for this today and if it comes back from conference in any way resembling this, they are going to be embarrassed because a year or so from now, somebody is going to do a report saying XYZ tobacco quota owner—and there are several in the District of Columbia. I don't know how much tobacco is grown in the District of Columbia, but quotaholders in the District of Columbia get millions of dollars. They are going to be reading about this and be upset, and they are going to say: Congress, how could you do this? Then they are going to go back and say: Congress didn't debate this much.

I compliment my colleague from Ohio. Most of the debate has been on the FDA regulations, not the buyout.

I hope my colleagues reject the amendment.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, this has been a very good debate. In closing the debate, I thank all those who have participated. I ask my colleagues to vote yes. Ultimately, this is a question about common sense, having the FDA regulate this product, and it is a question of saving lives. That is what we will do.

I thank the Chair, and I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

UNITED STATES-AUSTRALIA FREE TRADE AGREEMENT IMPLEMENTATION ACT

Mr. GRASSLEY. I now ask unanimous consent that the FSC bill be temporarily set aside and I now move to proceed to H.R. 4759, the Australia Free Trade Agreement. I further ask consent that there be 6 hours equally divided between the chairman and ranking member or their designees; provided further that all other provisions of the statute remain applicable to the bill.

Further, I ask unanimous consent that following the use or yielding back of the time the Senate proceed to a vote on the passage of H.R. 4759, and immediately following that vote the Senate resume consideration of the FSC bill and proceed to a vote in relation to the DeWine amendment as provided under the order.

Finally, I ask unanimous consent that there be 2 minutes equally divided for debate prior to the second vote.

The PRESIDING OFFICER. Is there objection?

The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding that we would have 2 minutes on each side, if there is opposition to this, which I think there will be. Is that right?

Mr. GRASSLEY. Yes. That would be on the DeWine amendment?

Mr. REID. Yes.

The PRESIDING OFFICER. Does the Senator modify his request?

Mr. GRASSLEY. Yes.

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

Mr. REID. Before the distinguished chairman makes his statement, for the

3 hours on our side, I would ask that 90 minutes of that time be assigned to Senator DORGAN, 60 minutes to Senator CONRAD, 15 minutes to Senator DAYTON, and 10 minutes to Senator FEINGOLD.

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

The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The Senate will now proceed with 6 hours of debate equally divided.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, for staff and Senators who are not on the floor, I call attention to the fact that we are starting the debate on the United States-Australia Free Trade Agreement. We have 3 hours on this side. I have not had many requests for time, and I know that two or three Members want to speak. I urge those Members to come over early to speak because if we can yield back time we do want to do so.

I was only going to speak about 7 or 8 minutes. The Senator from Oklahoma wanted to speak 5 minutes. Is there any problem if I give the Senator from Oklahoma 5 minutes right now and then I speak 7 or 8 minutes and then the Senator from North Dakota can have the floor?

Mr. DORGAN. No problem.

Mr. GRASSLEY. I yield 5 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4759) to implement the United States-Australia Free Trade Agreement.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I congratulate Senator GRASSLEY and Senator BAUCUS for the way they have managed this bill. They have conducted their work in a very appropriate way. They had hearings on this bill. I want to compliment Ambassador Zoellick. Our trade negotiator did an outstanding job in putting this together.

This trade agreement is a win/win. It is a win for Australia and it is a win for the United States. I am pleased to see the Senate work as it is supposed to work. We had hearings on it. We had a markup in committee. We are now having it considered on the floor.

This is going to open additional markets and reduce tariffs for the United States. It is going to be a win for Australia as well. Both countries, strong allies, will benefit as a result.

Prime Minister Howard of Australia has been a good friend and ally of the United States. He has been steadfast in helping us in many ways, trade being one of them. Again, free trade, equal trade, open access, we are winning or gaining more because the tariffs were higher on their side in many respects and so this is positive for United States consumers and for Australian consumers.

Again, I want to compliment the administration for proposing this agreement, for the work that was done by our trade negotiators, and also by Senator GRASSLEY and Senator BAUCUS for bringing this up so quickly on the floor, getting it through the Finance Committee and ultimately through the Senate today. I also want to compliment our leader, Senator FRIST, for making this happen.

I led a delegation to Australia earlier this year. We felt very strongly in our support not only for this agreement but frankly in strengthening our relationships with such a great ally and friend as Australia. So I am very pleased to support this agreement. I urge our colleagues to support it with an overwhelming vote later this afternoon.

I yield the floor.

Mr. GRASSLEY. Mr. President, I yield 2 minutes to the Senate majority leader.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS CONSENT REQUEST—AUTHORIZING THE JUDICIARY COMMITTEE TO MEET

Mr. FRIST. Mr. President, the agreement we have underway provides for two votes later this afternoon. The first is final passage of the Australia free-trade bill and the second is the DeWine amendment to the FSC legislation. I hope we will not need all 6 hours set aside for the Australia bill. Some members have already spoken over the course of yesterday, and therefore we may be able to expedite consideration of this bill over the course of the afternoon by yielding back some time.

In any event, for the benefit of Senators, I wanted to notify them we will be stacking these two votes later today.

On another matter, I have been notified that the minority objected to the Judiciary Committee meeting today at 2. The other 12 committee requests were granted, and that one request was objected to. There is a lot of important work to be done by the Judiciary Committee. As I look at it, the chairman has four judges on the agenda, as well as legislation. As I look at the schedule, I note that the Hatch-Feinstein constitutional amendment on flag desecration was scheduled as well today. I feel it is important to get to both the nominations as well as the legislation.

It was only the other day there were complaints on the floor about not taking constitutional amendments through committee, and that is on their agenda today. Now we have objections to going through the process of having the committee meet to consider the nominations and legislation. I hope my colleagues on the Democratic side will rethink their objection so we can proceed and the Judiciary Committee can proceed with this important business and allow these committees to do their work.

I ask unanimous consent that the Committee on the Judiciary be authorized to meet to continue its markup on Thursday, July 15, 2004, at 2 p.m. in the Dirksen Senate Office Building, Room 226.

Mr. REID. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. REID. Mr. President, while the distinguished majority leader is on the floor, we have already started receiving calls in the cloakroom and I am sure the Republican cloakroom has received similar calls. If we are able to finish the work on the trade bill and the FSC conference legislation that is now before the body, will we have votes tomorrow?

Mr. FRIST. Mr. President, before I commit to no votes tomorrow, these two bills we are voting on today are very important and I would think we would not have votes tomorrow, but before people take that and sort of run with it, let me have some conversations over the next 30 minutes or so.

Mr. REID. Also, I ask the leader, through the Chair, would he also give some indication before the day is out as to what he plans on Monday?

Mr. FRIST. We will. There are a lot of Members whose schedules very much depend on when we vote either tomorrow or later tonight—hopefully not later tonight, but earlier tonight as well as on Monday night or Tuesday morning. We will work all of that out within the next hour or so, so we can notify Members.

Mr. DORGAN. Will the majority leader yield for a question?

Mr. FRIST. Be happy to.

Mr. DORGAN. Mr. President, the majority leader is speaking of schedules, in this case the schedule of the Senate Judiciary Committee. I inquire of the majority leader about the schedule with respect to legislation he and I have spoken about at great length. The last occasion was about midnight on the floor of the Senate, after which I allowed the nomination of Dr. McClellan to proceed. As a result of that, the issue of allowing prescription drug reimportation in this country and legislation that is bipartisan in scope with over 30 Senators now cosponsoring it, I had intended and hoped we would have an opportunity to vote on that on the Senate floor. I have not had the opportunity to speak with the majority leader at length in recent days, but my hope would be we could go back and revisit what is put in the CONGRESSIONAL RECORD. And my hope is what was put in the CONGRESSIONAL RECORD will then allow us to have an opportunity on the floor of the Senate to advance the legislation that we previously discussed dealing with the reimportation of prescription drugs and allowing us to put downward pressure on prescription drug prices in this country.

I ask the majority leader whether he has had an opportunity to go through that and whether he could give me some advice as to when he would allow that to be debated on the floor of the Senate?

Mr. FRIST. Mr. President, I will be happy to be in discussion with my colleague. Since our discussion, now many weeks ago, we have made real progress in terms of understanding the potential impact of allowing the reimportation of drugs. I think there has been a lot of discussion on both sides of the aisle. We had an extended meeting yesterday talking about the safety issue surrounding it.

Since our discussion, there have been hearings in the appropriate Health, Education, Labor and Pension Committee. There has been a bill put together by the principals in the committee, the responsible committee. There have been scheduled markups, and I believe there is a markup scheduled for next week on that particular bill. So progress is being made.

It is a very important issue. We are talking about not just reimportation and the cost of drugs, but we are talking about the safety of drugs being used. I think we have made a huge amount of progress over the last several weeks, so in terms of scheduling and looking at what time that might be considered on the floor of the Senate, I will be happy to be in discussion with my colleague.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am happy to bring to my colleagues the United States-Australia Free Trade Agreement Implementation Act. This is a bill that Congress must pass to actually implement what has been negotiated as the United States-Australia Free Trade Agreement. This is under the process that we call trade promotion authority. This is a process by which Congress, which has the constitutional power to regulate interstate and foreign commerce, has delegated negotiating authority to the President to negotiate certain trade agreements. But because we have that constitutional authority, we cannot give to the President of the United States the authority to change U.S. law as it might be negotiated.

So we are now dealing with legislation that changes U.S. law and makes the United States-Australia Free Trade Agreement not a treaty approved just by the Senate of the United States, as we know treaties are, by two-thirds vote, but this is basic law. It has passed the House of Representatives by a majority vote, hopefully it will pass the Senate by a majority vote, and it is to be signed by the President.

We are dealing with the constitutional authority of the Congress to regulate foreign and interstate commerce, but understanding that it is not reasonable to expect 535 Members of Congress to deal with foreign countries, we have asked the President to do that for us but under guidelines that we have set down and with Congress having the final authority. We are in the process of exercising that final authority.

As is true of almost any agreement, this one might not be perfect. However, I believe it will provide significant benefits to the United States, our economy, and particularly to the economy and the people of my home State of Iowa.

During committee consideration of the agreement, we heard from a number of different sectors of the economy which stand to benefit from the agreement. At the top of the list is the U.S. manufacturing sector and all the jobs that exist in that sector that will be stabilized and enhanced as a result of American manufacturing selling a lot more to Australia because certain duties that now are on those products will be gone.

Under the agreement, more than 99 percent of U.S. manufacturing exports to Australia will become duty free immediately after this agreement is signed by the President. This is the most significant reduction of manufacturing tariffs ever achieved in any U.S. free-trade agreement.

This is very good news for manufacturers such as the Al-jon company of Ottumwa, IA, employing 100 people. Today, about 10 to 15 percent of Al-jon's production is exported. They are confident that with a level playing field they can do even better. This bill helps level that field.

During testimony before my committee, John Kneen, chairman of the board of Al-jon, testified that while they have had some success selling in Australia, their exports are currently limited by two factors: First, Australia currently imposes a 5-percent tariff on their exports. And, second, the cost of shipping heavy equipment to Australia is very high. While we cannot do much about the cost of shipping, we surely can eliminate the 5-percent barrier with the enactment of this trade agreement.

It is not just the company of Al-jon that will benefit. Mr. Kneen testified that over 19,000 U.S. companies that currently export to Australia are likely to benefit from what he termed the ''instant competitive advantage'' provided by the elimination of these tariff barriers on U.S. manufacturing exports.

These companies include other Iowa manufacturers such as John Deere, which has four manufacturing plants in my State. John Deere anticipates increased exports to Australia on account of this free-trade agreement.

The U.S. agricultural sector stands to benefit from the agreement as well, as duties on all U.S. farm exports will be eliminated, reducing tariffs on U.S. agricultural exports by over $700 million. Processed food, soybeans, oilseed products, fresh and processed fruits and vegetables, all will benefit from these duty reductions. For U.S. farmers and our ranchers who compete with Australian agriculture, special safeguards and tariff rate quotas are included as part of the agreement to make sure that trade is not only free but fair.

The free-trade agreement negotiating process also opened the door to eliminate scientifically unfounded barriers to the importation of U.S. pork and U.S. pork for processing. These are all major Iowa products because we are No. 1 of the 50 States in the production of pork. While Australia made its scientific determination regarding pork outside of the free-trade agreement negotiations, the intensive consultation process that naturally flows from engaging in bilateral trade negotiations helped in the resolution of that very important matter. Dermot Hayes, an economist at Iowa State University, estimates that the elimination of these unfounded barriers could increase U.S. exports of pork to Australia by over $50 million annually.

The United States-Australia Committee on Sanitary and Phytosanitary Measures, and the Standing Technical Working Group on Animal and Plant Health Measures, which are established under the FTA, will help to ensure that all Australian standards on United States agricultural imports are based on sound science and are not used as a basis for protectionism.

Iowa's service providers will also benefit from new market-access openings in Australia for our service exports. These commitments, along with new, transparent trading rules, should provide a lot of important new market opportunities for Iowa's service exports.

And, for the first time, this agreement opens much of Australia's lucrative government procurement market to United States exporters. The government procurement provisions are especially important, as Australia is one of only a few developed countries that are not members of the World Trade Organization Agreement on Government Procurement.

In sum, the United States will benefit from the United States-Australia Free Trade Agreement. I urge my colleagues to vote for S. 2610, the United States-Australia Free Trade Agreement Implementation Act.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. BAUCUS. Mr. President, today the Senate begins consideration of the U.S.-Australia Free Trade Agreement. I support this agreement for one simple reason: Trade means jobs.

The U.S. economy is the most flexible, vibrant, and dynamic in the world. We owe that to the ingenuity of the American people and their relentless thirst to create and to innovate.

We also owe it to the policies we have put in place to support the innovation that keeps our economy growing and creating jobs. That includes embracing open trade.

Twelve million Americans—1 out of every 10 workers—depend on exports for their jobs. And these jobs pay thousands of dollars more than jobs unrelated to trade.

Now, some think of trade as helping only big multinational companies. In reality, trade helps companies of all sizes. Firms with fewer than 20 workers

make up two-thirds of American exporters.

Trade also creates benefits for communities across the country. In Montana, nearly 6,000 jobs depend on manufacturing exports. And more than 730 Montana companies, mostly small and medium-sized businesses, export products overseas.

Despite the well-known benefits of trade and the vibrancy of the U.S. economy, the last few years have been difficult ones.

Since January 2001, the American private sector has lost nearly 2 million jobs—mainly in manufacturing. And service-sector jobs—once virtually immune to international competition—have begun to move offshore in increasing numbers.

When people talk about jobs moving overseas, they frequently talk about trade. Too often, the proposed solution is to retreat into isolationism and raise barriers to trade. In my view, that's exactly the wrong approach. We should engage in more trade, not less.

But we must be smart about trade. We must enforce our trade laws and our trade agreements. We must ensure that markets remain open to U.S. companies, and that U.S. companies can compete on a level playing field.

We should reject the notion that we must lower standards in this country to compete. Instead, we must look to raise standards in the countries we trade with. The Trade Act of 2002 made tremendous progress in this regard, but we must continue to ''race to the top.''

The free trade agreement with Australia is the kind of agreement we should be negotiating. It offers both broad commercial benefits and high standards.

Australia is one of the few countries with whom the U.S. enjoys a trade surplus, with the bulk of this surplus in manufactured goods.

With this agreement, U.S. manufacturers predict that U.S. exports will grow by an additional 20 percent—$2 billion per year. Montana already exports $3.4 million per year in industrial goods to Australia. And these exports will grow with this agreement.

This is great news to manufacturing workers who have been hard hit by massive job losses. It is especially important in a State like Montana, where we have lost 3,300 manufacturing jobs in the past 4 years. These losses represented 15 percent of the Montana manufacturing workforce.

But it's not just about manufacturing. This agreement will also benefit U.S. service providers. Australia will expand access for cross-border services, and to enhance regulatory transparency. That will mean greater opportunities in financial services as well as those services provided through new and innovative technology.

Beyond these benefits, the agreement also increases protections for intellectual property. And it requires Australia to offer greater opportunities to U.S. bidders in government procurement.

All of these improvements will translate into a more fair and open market for U.S. producers. That will mean more jobs and higher wages for U.S. workers.

At the same time, this agreement opens the door to a greater relationship with one of the most vibrant and promising economies in the world. Australia stands as a gateway to the fast growing markets of Southeast Asia. This agreement will help U.S. companies further develop their export potential.

Now, some have expressed concerns regarding agriculture. Australia exports many of the same commodities that the U.S. produces—most notably, beef, dairy, and sugar. Yet Australia offers a much smaller consumer market in return.

Those of us from States that produce these commodities were concerned. However, given the close relationship between the U.S. and Australia, and given the substantial benefits to the manufacturing and service sectors, it was clear to me that Congress would approve an Australia agreement.

The only solution to this challenge for U.S. agriculture was good, old-fashioned tough negotiating. I urged Ambassador Zoellick to work hard to preserve the interests of rural America, by treating U.S. commodities sensitively.

I pushed him to ensure a long transition period, and to provide strong safeguards where necessary. I am pleased to report that U.S. negotiators responded to these concerns and met me more than half way.

For beef, there is an 18-year transition period and two automatic safeguards. As we drafted the implementing legislation for this agreement, I worked hard to ensure that there were significant protections for Montana's ranchers.

For dairy, the agreement ensures a slow pace for increased market access, while maintaining over-quota tariffs—a chief priority for U.S. producers.

Finally, U.S. negotiators preserved current sugar policy, in order to enhance our prospects to achieve global reform in the WTO.

These protections help shape an agreement that is balanced and sound. It enhances opportunities for U.S. companies and workers, while also being sensitive to the interests of our farmers and ranchers.

Let me turn to one final issue that has been receiving attention lately. In the last couple of days, some Members have questioned whether this agreement affects U.S. government regulation of prescription drugs.

These concerns involve the potential impact of trade agreements on U.S. healthcare programs, including Medicare, Medicaid and the VA and DOD programs, and the implications of the agreement on the adoption of drug reimportation legislation in the future.

USTR has assured Congress that the provisions in the agreement will not require any changes to the administration of U.S. health programs. And that no changes to current U.S. law or administrative practice are necessary to implement the agreement.

Furthermore, because Australia itself does not permit most pharmaceuticals to be exported, we are assured that this agreement will not impede Congress from considering and enacting reimportation legislation.

My own view is that the concerns raised by these provisions are more hypothetical in nature than concrete. Nonetheless, this is an issue that Congress—and the Finance Committee—should explore more thoroughly as we move forward on trade negotiations in the future.

I urge my colleagues to vote for this agreement. This is an agreement that will help our long-term competitiveness. This is an agreement that will create jobs. This is an agreement that is good for Montana and good for America. I hope it will receive strong support.●

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, we meet here in the Senate again to talk about the issue of international trade, a very important issue for our own country.

I would like to follow up on my colleague's comments about the Constitution. The Constitution does, indeed, talk about trade. It talks about who is responsible for international trade in this country. It is article I, section 8 of the Constitution. It says:

> The Congress shall have power to regulate commerce with foreign nations.

Yet Congress has largely given away that opportunity and the responsibility with respect to trade.

What the Congress has done, strangely enough, is to put itself in a straitjacket by voting and passing legislation called ''fast track''—which doesn't sound like English, perhaps, to most people—fast-track trade authority.

Fast track means that Members of Congress will promise that when a trade agreement is negotiated somewhere else in the world in secret, behind closed doors, by our trade ambassador, when it is finally brought back to the Senate for a vote up or down, the Congress will prevent itself from ever being able to offer amendments to change it if it thinks something in it is wrong. That is fast track. The Congress has decided to limit its own ability to fix problems. I didn't vote for fast track, but the majority of my colleagues did.

So we have a situation where we have a rather innocuous trade agreement today between the United States and Australia. There is not much in this agreement that is of great moment. There are a couple of bad things in it that should be taken out. We should have a vote on the provision dealing with pharmaceutical drugs. We ought to have an opportunity to amend this trade agreement in a way that deals with trading authorities, such as the

Australian Wheat Board and the authority in Australia that deals with the sale of cattle. These are state trading enterprises that would be illegal in this country. We are actually having to say, let's trade with someone else who has a monopoly in marketing operations in agriculture, and we will consider that fair. It is not fair at all. I will talk about that at some length.

In any event, the Congress, through its lack of wisdom, I must say, has decided to use what is called fast-track trade authority, which means this agreement is here now and no one may offer any amendments because Congress decided to put itself in a straitjacket. So we have a circumstance with no amendments.

Let me at least describe where we are with international trade. Most people do not want to talk about it.

This is a massive failure. This is a colossal failure of this country on international trade.

This chart shows the countries with which we have trade surpluses. They are not in red, they are in green. All these countries in red are countries with which we have trade deficits—some very large. You look at a map of the world and you will see that we have on only a very few occasions trade surpluses. One of them happens to be with Australia. That will soon be gone after we pass this trade agreement. That is the case with every trade agreement we have done. But Australia, Egypt, Belgium—there are just a few countries with whom we have a surplus. With the rest of the world, of course, we have a large, abiding, substantial trade deficit.

Last month, I put this on a chart and showed it on the floor of the Senate. The Washington Post says, ''U.S. Trade Deficit Set Another Record In April.'' That trade deficit was $48 billion in 1 month, almost $50 billion in 1 single month. Month after month after month we see this trade deficit.

Let me go through a bit and perhaps show some charts that might give us the opportunity to ask the question, Are we really doing well here?

This is all about jobs, as you know. It is about where the jobs are located. It is about outsourcing. It is about moving jobs from here to another country.

Let us look at what is happening to our trade balance. This is the merchandise trade deficit. You will see this is dangerous, in my judgment, and very alarming. You won't hear anybody come to talk much about it. This is sort of the unseen, the hidden part of our policy that will cause, in my judgment, substantial problems in the future. You can make a case that the budget deficit, the big budget deficit—incidentally, it is the biggest in history—will be repaid. It is a deficit the American people will repay to themselves. You can make that point. But you cannot make that point with the trade deficit. This large trade deficit will inevitably be repaid by a lower standard of living in this country. It is getting worse and worse year after year after year. And every single year, when another trade agreement is brought to the Senate floor, we are told what a wonderful agreement it is and how much we are going to sell and what good times we are going to have as a result of this agreement. Yet in every single case our trade deficit grows, jobs leave this country, and you will see that we are mortgaging this country's future.

Let me talk about some specifics, if I might. This is our trading partner to the north, Canada, a country with which we have a wonderful relationship. They, of course, have a terrific relationship with us with respect to this trade balance.

When we passed something called the North American Free Trade Agreement, we had a relatively modest trade deficit with Canada—somewhere in here. But now it has grown to be a very substantial trade deficit with Canada. I will talk a little about why in a few moments.

China is the granddaddy of trade deficits. You will see what is happening in China. We are seeing massive and record trade deficits, of $130 billion a year. It is getting worse, worse, worse, and it is going to hurt this country.

What about the European Union? We used to actually have a bit of a trade surplus with the European Union. That has gotten worse and worse. It is now nearly as large as the merchandise trade deficit we have with China.

Japan is another interesting one. Japan, while not quite as large as Europe and China, demonstrates the fundamental and relentless incompetence of policymakers in trade. Over and over again, year after year, every single year, we have this deficit with Japan, somewhere between $50 billion, $60 billion, $70 billion a year, every single year.

Now Mexico. We had this big old NAFTA, North American Free Trade Agreement we negotiated with Mexico and Canada. When we negotiated it, we had a trade surplus with Mexico and a modest deficit with Canada. We turned that into a big deficit with Mexico and a larger deficit with Canada. So much for whether this North American Free Trade Agreement worked.

We could not offer any amendments to any of these agreements because of this foolishness called fast track, which, incidentally, inhibits us today in the Senate on this trade agreement with Australia.

I will go through some of the examples. I could start by talking about Japan. I mentioned the circumstance with Japan. We have a large trade deficit with Japan, and it just keeps on going every single year, $45, $60, $70 billion, forever. Europe will not allow that, by the way, but we do. I am talking about Europe and its relationship with Japan. We are a country that, in most cases, converts what should be hard economic policy—that is, trade policy—into softheaded foreign policy and we do not want to take action anywhere to stand up for America's interests.

I will talk about Japan in the context of my State. We produce a lot of beef. We have a lot of ranchers who work hard. They get up in the morning and work on that ranch. They are hoping to make a decent living. They want to sell some beef to Japan. But guess what. Nearly 15 years after a beef agreement with Japan between our country and Japan, which was trumpeted on the pages of all the newspapers—the United States and Japanese trade negotiators reach agreement on beef—15 years later, there is a 50-percent tariff on every single pound of American beef that goes into Japan. That would be considered a failure under any circumstance here, but in our relationship with Japan, it is just fine—a 50-percent tariff on every pound of beef. Should we be able to send more T-bones to Tokyo? I think so, sure. The tariff actually went down to 38 percent, and because we got a little more beef in to Japan, it snapped back to 50 percent. It is symbolic of the trade problems we have.

Does anyone want to do anything? Do we hear anyone rushing off to try to solve that problem? No. No one talks about that problem.

Let me use the Chinese tariffs on cars for a moment. Two years ago we did a bilateral agreement with China—actually, almost 3 years ago, now—a bilateral trade agreement with China. Our country decided, through our negotiators with China—a country with which we have a large deficit and it is growing dangerously high—we decided in our bilateral trade in automobiles we would agree to the following: China, you can put a 25-percent tariff on any cars that we try to sell in China after a long phase-in and we will apply a 2.5-percent tariff to any cars that you might want to sell in our marketplace.

In other words, our negotiators signed up to a deal that said, we know you have a really big surplus with us, or we have a big deficit with you, but with respect to automobile trade, you go ahead and impose a tariff that is 10 times higher than the one we will impose on automobiles going back and forth between China and the United States.

Of course, right now, China is gearing up an auto industry for exports and our negotiators said it is fine for them to have a tariff that is 10 times higher than we would have. That is fundamentally incompetent. We do not know who negotiated that, of course. This is not a matter of Democrats or Republicans. It is just incompetence, gross incompetence.

I will talk a little about Korea and automobiles, and I have used this example many times. I don't have the latest year's data, but trust me, it is about the same. Over 600,000 Korean vehicles are coming into this country. Ships are on the high seas, packed with Korean cars, coming in so the American consumers can purchase them.

Good for our consumers. But when 618,000 Korean cars come into our country for our consumers to purchase, guess how many American cars are in the Korean marketplace for Koreans to purchase? There are 2,800 U.S. cars able to be sold in Korea and over 600,000 Korean cars in the United States.

With respect to Korea, I might point out that we actually were making some progress recently. It was with a vehicle called the Dodge Dakota. When it looked as if that was beginning to pick up, we were actually going to be able to sell some in Korea, they did not like that and took action quickly to begin to shut that down.

The question is, Why will this country, when all of this translates to jobs here or there, why will this country decide it is all right in our relationship with Korea to have them ship 600,000 cars this way and then keep American cars out of Korea? It does not make any sense to me. What that means is fewer jobs in the United States and more in Korea. That means people are laid off here and people are hired there.

I know the agreement we are debating involves Australia, and I will talk about Australia in a couple of minutes, but it is important to put this discussion in a frame of reference. We will hear today by those who support this trade agreement that this is a wonderful agreement, this is nirvana, and if we just step back and we can see into the future, this will be new jobs, new economic growth, new opportunity. Nonsense. Total nonsense.

In each and every circumstance, our trade negotiations have resulted in trade agreements that have undermined our jobs and undermined our economic growth.

Want to talk about specifics? I will put the charts back up. Europe, Japan, China, Korea, Canada, Mexico—show me one of these circumstances where the trade agreement has buttressed the producers in this country, the employers in this country, the workers in this country toward new opportunities. In the aggregate, with each of those circumstances, we have lost ground rather than gained ground.

I know when we talk about this, people, especially the more institutional thinkers on this subject, say, well, your discussion demonstrates you do not get it, you do not see over the horizon, you do not understand what is happening internationally. This is a global economy. Why not shape up and listen and you will finally begin to understand this. You are nothing but a xenophobic isolationist stooge. Join the rest of the protectionists and just sit down.

I am not a protectionist, unless that means you want to protect the economic interests of this country, and if so I plead guilty and demand to be called that. I want to protect the economic interests of this country. I believe it is in this country's best interest to expand opportunities to trade. I believe that strongly.

For the first 25 years after the Second World War, our trade policy was almost exclusively foreign policy because we were trying to help others get back on their feet. But in the second 25 years after the Second World War, trade policy continued to be foreign policy when, in fact, it should have been harder nosed economic policy.

I began to raise questions about trade as a result of a trade agreement with Canada some long time ago. I suppose it was around 14 years ago. I was serving in the House of Representatives and I was on the Ways and Means committee. They were going to vote on the United States-Canada Free-Trade Agreement. It, too, was done with fast track, where no one was able to offer an amendment. A little provision was stuck in that agreement that allowed the Canadian Wheat Board, a sanctioned monopoly in Canada and which sells Canadian wheat through the monopoly—and that would be illegal in this country—to continue to move massive quantities of Canadian grain, underselling our farmers with unfair prices and secret prices into our country, into our marketplace. I raised those issues but to no avail.

So we came to the final vote on the United States-Canada Free-Trade Agreement and the vote in the Ways and Means Committee of the House of Representatives was 34 to 1. I was the one who opposed it.

I was told by all my colleagues: We want this to be a unanimous vote. It is very important for our committee. You must join us to get a unanimous vote on this trade agreement. I said: But the agreement is bad. The agreement is wrong. The agreement is going to hurt farmers and ranchers in an awful way in this country. So I voted no.

About 3 years later, I drove to the Canadian border one day, the border between North Dakota and Canada. I rode with Earl Jensen, who was driving a 12-year-old orange truck. It was a little old 2-ton orange truck. We rumbled up to border with some durum wheat on the back of his truck, all the way to the Canadian border.

On this windy day, we saw 18-wheel trucks coming from Canada to the United States, all loaded with Canadian grain, all of them headed to our marketplace, all of them with secret pricing, all marketed by the Canadian Wheat Board—a monopoly—which would be illegal in this country. All the way to the border we saw those trucks, dozens and dozens of trucks. The Canadians were saturating our marketplace, injuring our farmers in dramatic ways.

Well, we got to the border in this little old orange 12-year-old truck. We had about, I guess, 100 bushels of durum wheat in the back. When we got to the border station, the Canadian folks said: What do you have in the back of this truck? We said: We have durum wheat from North Dakota.

Remember, all the way to the border, we had 18-wheel trucks full of durum wheat from Canada going into our marketplace at secret prices. We found later, incidentally, they were at prices that were dumped prices that were designed to undermine our farmers. But we were told at the border station entering Canada we could not get just a small amount of wheat from the United States into Canada. Why? Because you just cannot. It is the way this works. It is a trade agreement. One side gets to dump all their products into our marketplace, and a little orange truck gets stopped going into their's.

A woman from Bowman, ND, married a Canadian. She told me she came home to Bowman one day, and because she liked to make whole wheat bread, her dad from the farm loaded up some grain in a couple grocery sacks. She drove back to Canada after Thanksgiving. She got to the border. Again, all these 18-wheel trucks were hauling Canadian durum south. She got to the border, and they forced her to throw out these two bags of wheat from a North Dakota farm that she was going to take back into Canada to make whole wheat bread. It was because you could not take that into Canada.

There is not one person in this Congress, in my judgment, not one in the U.S. House, not one in U.S. Senate, who will stand up and say: Yes, that is fair. That is right. We support it. We stand by it. That is what we intended. Not one. Yet none will lift a finger to change it. And that is just one small example that got me involved in this question of fair trade. Why on Earth will this Congress not stand up for this country's economic interest?

When it comes to international trade issues with respect to the production of manufactured goods—I have mentioned before and let me do it again because I am not at all embarrassed by repetition, so let me do it again and again and again—the Huffy bicycles that are made in this country, which I have spoken about repeatedly, are a wonderful bicycle, but they are no longer American bicycles. Huffy bicycles, most people know, are bought at K-Mart and Wal-Mart and Sears. They are 20 percent of America's marketplace for bicycles. They were made in Ohio by workers who made $11 an hour. They were proud of their jobs. In fact, the Huffy bicycles had a decal on the front just below the handlebar with the American flag. But those workers in Ohio do not make $11 an hour. They were fired. Huffy bicycles are made in China for 33 cents an hour by people who work 7 days a week, in some cases 12 to 14 hours a day. And the people in Ohio, who were proud to make these bicycles, had to go home one day to say to their spouse: Honey, I've lost my job. It wasn't because I didn't do a good job. It wasn't because I didn't like my job. It was because I can't compete with 33-cents-an-hour labor.

I don't know, I guess this truly is a globalized economy. Globalization has galloped along, and we are not going to change it. Have the rules for globalization moved along quite so

quickly? I don't think so. What are the rules for globalization?

The next picture is of a little red wagon most of us have ridden in. The little red wagon is called the Radio Flyer. This little red wagon was an American fixture for 100 years. For 100 years, they made the little red wagon in our country. Not anymore. It is gone. You buy labor for pennies an hour somewhere and have them make the little red wagon, and then make sure you have them make it in a way that allows them to sell it back into the American marketplace.

Yes, you can still buy the little red wagon. You can still buy Huffy bicycles in the American marketplace. But they are not made here. They show up as a big red bar on that trade chart I showed you, and that big red bar means jobs, and it means jobs that left here and went there. It means a worker in Ohio who made the Huffy bicycle now does not have a job. Because they are bad workers? No. Because they will not work for 33 cents an hour. They cannot do that.

So there are all kinds of elements to this issue of international trade, something that, in my judgment, is going to impose a substantial burden on this country with the kind of Federal deficits and kind of trade deficits we are now waging. You cannot experience these deficits year after year after year and not be forced, at some point, to turn to them, face them, and deal with them.

We ought not, in my judgment, deal with them by saying that we want to retreat from trade. Our country, in my judgment, should lead the world in trade—but lead the world in saying to others: There is an admission price to the American marketplace. There is an admission price here. You cannot, as a country, decide you are going to hire kids, pay them pennies, put them in unsafe plants, fire them if they try to form a labor union, and then produce your product and ship it to Pittsburgh or Fargo or Los Angeles or Denver. You cannot do that because we won't let you do that.

I will give you an example in China. This is a story from the Washington Post that I was interested in. It is a tragic story, but it is a story that mirrors a story of a couple of young women who came to a hearing I held a few months ago from Honduras who worked in a factory. You can find them all over the country—the young kids who work in a carpet plant at age 11. They tell us they have their fingertips burnt deliberately so that when these young kids are making these carpets with needles and they stick their fingers, it won't hurt because the burning of the fingertips creates scarring, so it does not hurt the kids when they stick themselves. You can find this all over the world.

Let me describe this story. This happened to be in China. In this article, it says:

On the night she died, Li Chunmei must have been exhausted.

Co-workers said she had been on her feet for nearly 16 hours, running back and forth inside the Bainan Toy Factory, carrying toy parts from machine to machine.

It was the busy season before Christmas. Orders peaked from Japan and the U.S. for stuffed animals.

Long hours were mandatory, and at least two months had passed since Li and the other workers had enjoyed even a Sunday off.

Lying in her bed that night, staring at the bunk, the 19-year-old claimed she felt worn out.

The factory food was so bad, she said she felt as if she had not eaten at all.

''I want to quit,'' one of her roommates . . . remembered her saying. ''I want to go home.''

Finally the lights went out. [She] started coughing up blood. They found her in the bathroom a few hours later, curled up on the floor, moaning softly in the dark, bleeding from her nose and mouth. Someone called an ambulance, but she died before it arrived.

The cause of Li's death remains unknown. But what happened to her last November . . . in southeastern Guangdong province is described by family, friends and co-workers as an example of what China's more daring newspapers call guolaosi.

The phrase means ''over-work death,'' and applies to young workers who suddenly collapse and die after working exceedingly long hour days, day after day.

Stories of these deaths highlight labor conditions that are the norm for a new generation of workers in China. Tens of millions of migrants have flocked from the nation's impoverished countryside to its prospering coast.

Perhaps more evidence is in a story about child labor in El Salvador—a country that our trade ambassador has just signed a new trade deal with:

Jesus Franco has scars crisscrossing his legs from his ankles to his thighs, and many more on his small hands. For more than half of his young life—he is age 14—he has spent long days cutting sugar cane, and he has the machete scars to prove it. And so do his four brothers age 9 to 19.

The point of this is simple: The rules of trade, in my judgment, have to be rules that recognize what we have accomplished in this country. We had people die on the streets in this country, demonstrating for the right to organize as workers. We had people demonstrate and die in the streets over that principle. It was a hard-fought battle to demand that workplaces be safe for workers in this country but which got there. It was not easy to get kids out of coal mines and kids out of manufacturing plants with child labor laws, but we did it.

This country battled long and hard on the question of what is fair compensation, and we have a minimum wage. We fought all of those issues and established standards. Do we now believe the conditions of international trade shall be that anyone who produces anything anywhere should have admission to the American marketplace to sell that product in our marketplace? I don't think so. We ought to lead on the basis of what fair trade relationships really are.

There are so many more issues dealing with international trade, many of them that affect our farmers, affect ranchers, affect workers. They affect businesses, small businesses trying to make a living.

The Australia trade agreement is brought to us as an innocent, rather innocuous agreement. It is not the CAFTA agreement, the Central American Free Trade Agreement, which is completed but will not be brought to this Congress before the election. That, of course, is for political reasons. The Australia agreement, despite the fact that I will vote no—and perhaps a few of my colleagues will vote no—will pass today. It is not as controversial as the Central American Free Trade Agreement, which is going to have difficulty in the Senate. But CAFTA won't come before the Senate in the coming months, because the President and the trade ambassador decided they don't want to bring it here before the election. They don't want to have this debate.

I want to have this debate. I don't think that is a Republican or Democratic problem. I think both political parties have shortchanged the country over two decades on trade policy. But we ought to have the debate now because it is about jobs, growth, and opportunity in the future.

Let me talk for a moment about Australia. As I indicated earlier, the Australia trade agreement is with a country that is similar to ours in many respects, a much smaller economy but similar. I don't allege this is the kind of problem we had when we were trying to connect a trade agreement with the country of Mexico, where you were trying to connect two countries with dissimilar wages and dissimilar standards. That is not the case with Australia. Australia is a wonderful country with great people. I would love to visit Australia. I have not yet visited Australia and would love to do that at some point.

My complaint is that we reach a trade agreement that consigns farmers and ranchers to great jeopardy. Let me tell you why. The Australians, like the Canadians, sell their grain, their wheat, through an Australian wheat board. In fact, it is the second largest exporter in the world, with 16 percent of the global share. Every grain of that that is sold internationally is sold through the Australian wheat board which is a sanctioned state monopoly, a state trading enterprise that would be illegal in our country.

We have been told time and again by the trade ambassador that we are going to deal with that. In future trade agreements we will not allow state trading enterprises to exist in circumstances where they can undercut our prices and dump their products into our country.

I described the circumstance in Canada with the massive quantity of grain coming down to our country and my not being able to get into Canada with a little orange truck with a few bushels. We have for years attempted to get

information from the Canadian wheat board about the conditions under which they are selling into our marketplace at secret prices, and they have said: Go take a hike. We don't intend to tell you a thing. The prices are secret. We don't intend to disclose them. Get out of here. They told that to the GAO, which went up there at my request: We don't intend to tell you a thing.

What evidence we do have suggests that they, as most monopolists will do, abused their pricing power and decided at secret prices to undercut our marketplace, and they have dramatically injured our farmers. That is not only me speaking. That is from studies that have been done by the Center for Agriculture and Trade Research. They have calculated the dramatic amount of money lost by family farmers as a result of unfair trade.

Now we have an Australia trade agreement. The Australian wheat board continues to exist in this trade agreement. There is nothing in this agreement that says, as we hitch together and connect our two countries in a trade relationship, you must divest yourself or create a circumstance where you are not using a state trading authority unfairly. Nothing here prevents them from doing exactly what the Canadians do.

The Australians are also positioned to do great harm to our country on beef trade. There are almost no export benefits for our cattle and beef producers with this free-trade agreement. Given Australia's relatively small population, its very large cattle herd, and its position as the world's largest beef exporter, the potential of Australia becoming any kind of an importer of our beef is almost nil. Instead, the only significant benefit I can see and many can see as a result of this with respect to cross-beef trade will be the U.S. beef packing industry which will profit from increased imports brought in under this agreement.

The beef industry is highly concentrated in a way that is pretty dangerous. I mean dangerous to consumers because the more concentration you have, the more pricing power they have and the more they price profits away from ranchers and towards themselves. They price it in a way that is disadvantageous to consumers.

There are serious problems that could exist with respect to agriculture, and there is nothing anybody can do about that. I would love to offer an amendment that deals with these two issues, but you can't because of fast track.

Finally, there is a provision in this agreement that is particularly pernicious. This is a trade agreement with Australia that includes a provision on prescription drugs. This is from the New York Times:

> Congress is poised to approve an international trade agreement that could have the effect of thwarting a goal pursued by many lawmakers of both parties: The import of expensive prescription drugs to help millions of Americans without health insurance.
>
> The agreement, negotiated with Australia by the Bush administration, would allow pharmaceutical companies to prevent imports of drugs to the United States.

This is a trade agreement, and they stick in a provision about prescription drugs. They did the same in Singapore. My guess is, they will do it every chance they get. What is this? It is anticonsumer, pro-pharmaceutical industry. It is an attempt to thwart those in this country who want to find a way to put downward pressure on prescription drug prices. How might one do that? By allowing the market system to act.

We pay the highest prices for prescription drugs in the world, and yet we are not able to purchase the identical prescription drug, the same pill put in the same bottle, made by the same manufacturer, from a pharmacist who is 5 miles north of the United States-Canada border.

A man talked to me the other day in North Dakota. He said his wife had breast cancer and she has taken the drug Tamoxifen for her breast cancer for 5 years and has just finished. She is now off the drug. For 5 years they traveled to Canada to buy their 90-day supply of Tamoxifen and bring it back across the border because they will allow 90 days of importation for personal use of prescription drugs. A pharmacist can't do it, but an individual can if they live near the border. So for 5 years they traveled to Canada. Why? Because you can buy Tamoxifen in Canada for 10 percent or 20 percent of the price you will pay in the United States.

Why can't a pharmacist or a distributor go to Canada and buy that prescription drug? It is FDA approved, a drug that is put in the same bottle, made by the same company.

Another example is Lipitor. Lipitor is made in Ireland. It is one of the best-selling drugs in our country for the lowering of cholesterol. It is sent from Ireland to two places. It is made in Ireland in an FDA-approved plant. It is sent to Winnipeg and then Grand Forks, ND, and all over the world, of course. But the difference between the same bottles that are sent to Grand Forks, ND and Winnipeg is in Winnipeg you will pay $1.01 per tablet, and in Grand Forks you pay $1.81 per tablet. What is the difference? About 100 miles and a border and a provision that protects the pharmaceutical industry from reimportation. That is helped, with respect to Australia and other countries this administration intends to negotiate trade agreements with, by their sticking in this trade agreement a provision dealing with the reimportation of prescription drugs. It is anticonsumer, and it shows how little regard those who negotiated this have for the marketplace. Let's let the marketplace be the arbiter of consumer prices on prescription drugs. Let consumers have opportunities to access prescription drugs in other areas where there is a safe supply.

The Australia Free Trade Agreement is going to be passed by the Congress today—not with my vote, I might add, because I think it undercuts and potentially injures family farmers and ranchers and our senior citizens who need affordable prescription drugs.

I hope that even as we do this, as the Congress addresses this issue, those who care about the long-term economy, long-term economic health of this country, opportunities and growth of this country—I hope they will take a hard look at these trade relationships and about our aggregate trade deficits that are growing alarmingly. I am not asking that we today do anything that is particularly radical. I am saying we need to address these things. Can we, will we, should we address the trade deficit with Europe that is growing rapidly? Should we, can we address the trade deficit with China that is moving rapidly up, the highest in the world? Mexico? Canada? Korea? Can we address any of those? All of them relate to American jobs.

It is safe to say there is not one Member of the Senate who comes to work with a blue suit every day and takes a shower in the morning, not at night, because that's the nature of our job—it is safe to say there is not one Member of the Senate that ever lost his or her job because of a bad trade agreement. It is probably safe to say there is not one journalist in this country who consistently writes about trade issues and seldom talks about these trade balances. It is safe to say they have never lost their job because of a bad trade agreement. But we can talk about a lot of people who have. We have a chart that shows the number of people who have lost their jobs with respect to NAFTA. This is not my speculation; these are companies that actually applied to the Department of Labor as a result of laying off workers due to the North American Free Trade Agreement. There was a provision in NAFTA that if you lay off workers as a result of NAFTA, you can apply for trade adjustment assistance. Here are the top 100 companies certifying they laid off United States workers due to our trade agreement with Mexico and Canada—mostly Mexico in this case.

Levi Strauss is No. 2. They laid off 15,676 people. Levis are all-American. That is like bicycles and little red wagons, right? When you buy Levis these days, you are not buying American.

Fruit of the Loom shorts and T-shirts used to be made in America. I always said it is one thing to lose your shirt but now Fruit of the Loom is gone.

From these 100 companies alone, a couple hundred thousand people lost their jobs. They all had hopes, dreams, and aspirations. They love this country and try to do their best. They were told by any one of these companies, sorry, you are out of work, we are moving to Mexico.

Next time you buy a Fig Newton cookie, guess what. You are eating

Mexican food. Fig Newtons were made in America for a long, long, long time. But Fig Newtons, like Levis, like Fruit of the Loom, are now Mexican. When somebody says let's have Mexican food, go buy some Fig Newtons.

The point is this: We had people working in all these areas producing these products. I will go back to the chart that I used when I began about what has happened in the aggregate to our trade deficit year after year after year. It shows this very substantial failure. All of these big deficits represent jobs that moved, jobs that should have been here but are not, jobs that could have been created here but weren't, or jobs that were here and left.

Let me again say I don't believe the solution to this is putting up walls, deciding that we are isolationist, that this is not an international economy. I believe the answer to this is to finally use the term fairness in the context in which it ought to really mean fair trade for all countries. Trade agreements should be mutually beneficial. But these trade agreements, the ones I have described, consistently and relentlessly have been unfair to this country. We were big and strong enough in the 25 years after the Second World War to withstand that. We were the biggest, strongest, and best in the world, and we could take any country on in economic competition and beat them with one hand tied behind our back. After World War II, we were that good. As other countries grew and became stronger and better, they became tough international, economic competitors. Our trade policy never changed. It largely remained foreign policy.

Last year, the administration's Trade Policy Review Group recommended take action against China, for failing to live up to its obligations on China trade. But the administration didn't. Why? Because the administration concluded that this would upset the Chinese. That is foreign policy; it has nothing to do with hardnosed economic policy.

This country lives in a world in which we have incredibly tough competitors. It requires us, it seems to me—if we are going to maintain this standard of living, it requires us to care a little about the preservation of that standard of living, and that in turn depends on both the entrepreneurs and those who work, the producers and the workers.

We have not done nearly what we should do in this country to stand up for our economic interests on international trade. I believe trade can be good, but much of the trade we have been engaged in in recent years has resulted in the largest trade deficit in history and will inevitably detract from this country's opportunity to grow, prosper, and create new jobs in the future, unless and until this Congress and this administration stand up and understand we need to take action on behalf of our country to protect our economic interests. All I ask for is fair trade.

I will vote against the Australia Free Trade Agreement because it contains three bad trade provisions, because we cannot get these removed due to fast track, which itself is an unfairness perpetrated in the Congress.

My expectation is that, even without my vote, this free-trade agreement will pass. But I will be back to talk about trade issues in the future.

I yield the floor.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Ohio.

Mr. VOINOVICH. Mr. President, with a sense of regret, I come to the Senate floor to speak in opposition to the legislation before us to implement the free-trade agreement negotiated by the administration with our good friend and ally, Australia.

One thing I have made clear throughout my career in Government is the fact that I believe in free trade. As Governor of Ohio, I supported NAFTA and the establishment of the WTO. As a Senator, I supported permanent normal trade relations for China, the Andean Trade Preference Expansion Act, and the so-called ''fast track'' trade negotiating authority. I also supported our FTAs with Jordan, Chile, and Singapore.

Until very recently, our economy has been bleeding jobs—23,000 manufacturing jobs lost in my State of Ohio between May of 2003 and May of 2004, which is over half of the total 41,000 jobs lost in all sectors.

While I still firmly believe in free trade, I cannot stand idly by while our trade laws are ignored by other countries and go unenforced by our own. I will no longer allow the illegal trade practices of other countries that put good, hard-working Americans in the unemployment lines to be disregarded, because that is exactly what is happening.

When it comes to trade, China is the elephant in the room that everyone is afraid to acknowledge because they fear it will rear its ugly head. It seems as if we want to waltz with the Chinese and, for some reason, we are afraid to step on their toes for fear they might get mad.

As I and many of my colleagues see it, the two most prevalent trade issues we face are the manipulation of China's currency and their resistance to reform and enforcement of their intellectual property rights laws as required by their WTO accession agreement.

My good friend and colleague from South Carolina, Senator LINDSAY GRAHAM, and I held a press conference last month to highlight a finding in a report by the United States-China Economic and Security Review Commission, a Commission we in Congress created to suggest changes to current U.S. policies with regard to China.

The report issued by the Commission was quite alarming, and I suggest that every Member of both this and the other body read the trade sections of that report.

The Commission reinforces what I have been hearing from Ohio businesses and what I have been saying for years: China is not trading fairly and is hurting Ohio workers and American workers. As we know, since the early 1990s—this is the early 1990s—China has pegged its currency at 8.28 yuan per dollar, which is believed to be anywhere between 15 and 40 percent lower than it should.

This action has the effect of making U.S. products more expensive than items produced domestically. It also makes the retail prices paid here in the United States for Chinese goods artificially low, generating less demand for our domestic products. If demand is lowered both here and overseas of U.S.-manufactured goods, companies will lose money and lay off workers. They already have.

The Commission's report states that if China were to end its currency manipulation, it is believed other East Asian countries, such as Japan, Taiwan, and South Korea that have also manipulated their currencies in order to remain competitive with China, would also follow suit and end their manipulation.

The Commission has arrived at a unique solution to China's currency manipulation. They do not believe China's currency should be floated, as are most developed countries' currencies, because China's banking system and financial markets are simply not prepared. Instead, they recommend that it be pegged to a ''market basket'' of several trade-weighted currencies to avoid fluctuation of any one country. That is exactly the kind of ''outside the box'' thinking Congress had in mind when we created the Commission as part of the fiscal year 2001 Defense authorization bill.

The Commission recommends that the administration take strong action to thwart China's exchange rate practices, something I have repeatedly urged the administration to do myself.

Last fall, I introduced the Currency Harmonization Initiative through Neutralizing Action, CHINA, of 2003. This legislation requires the Secretary of the Treasury to analyze and report to Congress within 60 days whether China is manipulating its currency to achieve an advantage in trade. The CHINA Act also expresses the sense of Congress that the administration should pursue all means available to remedy China's currency manipulation.

The other pressing trade issue is China's lack of enforcement of intellectual property rights laws. This issue at least is getting some traction in the Senate. Unfortunately, not enough of my colleagues are aware of how bad this situation is or of how long the situation has persisted.

In April 1991, China was named a priority foreign country by the USTR under section 301. After further investigation, the U.S. threatened to impose $1.5 billion in trade sanctions if an IPR agreement was not reached by January

1992. While that deadline was met, by 1994, the USTR again listed China as a priority foreign country because they failed to properly enforce their laws. New talks failed for almost a year before a new agreement regarding Chinese IPR laws was reached.

As part of their new commitment, China agreed to take immediate steps within 3 months, establish mechanisms for long-term, effective enforcement, and provide greater market access for U.S. products. In 1996, USTR again listed China as a priority foreign country for not fully complying with the latest agreement. Talks stalled until China was threatened with $2 billion in sanctions when they reportedly satisfied U.S. demands.

However, the problem remains as estimates show the piracy rate for IPR-related products in China to be around 90 percent. Chinese law enforcement officials often lack the resources or the will needed to vigorously enforce IPR laws. Under the terms of the Chinese accession to the WTO, they were to immediately bring their IPR laws into compliance with the WTO Agreement on Trade Related Aspect of Intellectual Property Rights.

This also has not happened as promised. U.S. firms are still losing billions of dollars per year in China alone, and all we have to show for it is a string of broken promises that started in 1991.

I remember being in China in 1995 with a trade mission and speaking to the Chinese Government about the importance of enforcing their intellectual property rights. They said: Yes, we are going to do it. Here we are, 2004, and they have not continued to do the job they are supposed to be doing.

Regardless of China's staggering piracy and counterfeiting operations, they are far from being the only problem area in the world. The U.S. Trade Representative lists 18 countries as ones with which we have ''significant concerns'' with respect to their IPR laws and enforcement. In my opinion, this is far too many countries flouting their international obligations.

In the Governmental Affairs Subcommittee which I chair, I held a hearing on April 20, 2004, that focused on intellectual property violations in the manufacturing sector of the economy, and another on December 9, 2003, which examined the ability of the Department of Commerce and the U.S. Trade Representative to negotiate, monitor, and enforce our complex trade laws in a rapidly shifting global trade environment.

Also, just last month, I participated in a hearing held by Chairman LUGAR in the Foreign Relations Committee which focused on China's inability to enforce intellectual property rights when it comes to music, films, and software. To quote the testimony of Jack Valenti, the head of the Motion Picture Association of America:

Piracy problems are only becoming more severe. In 2002, the piracy rate in China for American films, home videos, and television programs was about 91 percent. In 2003, the pirates captured at least 95 percent of that market. The current level of piracy is worse than it has been at any time since 1995 when it was 100 percent.

But these industries are only the beginning of those suffering from China's disregard for international standards.

Perhaps the greatest problem to overcome is to change the perception in many countries that intellectual property rights do not exist. For U.S. manufacturers, artists, filmmakers, and others, the protection of intellectual property is not an abstract concept because at stake are their livelihoods and those of the people who work with them and for them.

We must make it clear we will not tolerate these trade violations. If the United States were to, in some way, violate a trade pact, the whole world would be beating down our door demanding we change our ways and pay for damages. But when we ask that countries follow the trade pacts to which they already agreed, we are denounced as bullies. Well, I say, let's be bullies.

My concern is that we may not be able to be bullies because, as I learned in my hearings, we do not have the mechanism in place to enforce our trade laws. In other words, we do not know who we should bully around because we do not know who is breaking what agreement. Moreover, testimony indicated that our Government is not doing anything to help the companies that are having their intellectual property stolen.

The state of enforcement is nothing short of abysmal. Amazingly, USTR only employs a grand total of 225 people. It has become painfully obvious that this is an insufficient number of employees to negotiate, monitor, and enforce our trade deals.

Given the impact of changing global economic forces, it is important for our trade agencies to have the right people with the right skills and knowledge to effectively monitor and enforce our complex trade agreements.

It was clear from the testimony delivered at the hearing that our Department of Commerce, the Customs and Border Protection Agency at the Department of Homeland Security, the USTR, and the rest of the 17 or more Federal agencies responsible for monitoring and enforcement of our trade agreements cannot do so effectively.

This could accurately be described as a case of the left hand not knowing what the right hand is doing. In my days of service in government as a Senator, Governor, and mayor, I have never seen such a hodgepodge of agencies and departments struggle with a relatively simple mission to enforce our trade laws.

Following my April hearing, I visited the Web site given as an example of what the Federal Government was going to do to help manufacturers that had become victims of counterfeiting. On that Web site was a telephone number, which I called. However, the person on the other end of the line had no idea that anyone but those with problems relating to immigration would ever be calling that number.

So I called later and I told them who I was, GEORGE VOINOVICH, U.S. Senator, and that I wanted to know what resources were available to victims of counterfeiting, and eventually I was connected to the correct person. Small business owners should not have to deal with such nonsense when asking their Government for assistance.

I am pleased to say that those answering the line are now aware of this other function. But the way it works is, if I am an Ohioan who has an IPR problem, I call this number and then they give me the number of my local Customs office and ask me to call them to begin my complaint. That is ridiculous. It is absolutely no help whatsoever to smaller manufacturers in this country.

I have been pressuring this administration at the highest levels to address the many issues we have with China. In March of this year, along with Senators LINDSEY GRAHAM, SCHUMER, and DURBIN, I sent a letter to President Bush requesting an emergency meeting with the President, Treasury Secretary Snow, and Ambassador Zoellick to discuss concrete action regarding continuing illegal undervaluation of China's currency. That was 5 months after I wrote to Ambassador Zoellick, Secretary Snow, and Commerce Secretary Evans urging them to initiate a 301 investigation into China's practice of currency manipulation.

The response we received from the administration? None. Nothing was known about the stance of this administration until April 28 of this year when Secretaries Snow, Chao, Evans, and Ambassador Zoellick held a press conference to announce they would reject a yet-to-be-filed 301 petition requesting an investigation into China's currency manipulation. Needless to say, I was extremely disappointed that the administration would announce such a position before even receiving the petition documents.

China continues to tolerate rampant piracy of copyrighted U.S. material, with rates of piracy running above 90 percent across all copyright industries for 2003.

This year, piracy is estimated to cost U.S. industries $2.6 billion. Technology has made it much easier to copy or steal the engineering, packaging, and so forth of a product than in the past.

I was talking with a shareholder in a golf club manufacturing outfit 6 months ago. He said that within 3 days after they put a golf club out on the market they were already counterfeiting it in China and sending it to the United States.

Another example, in my own State, Gorman-Rupp Company of Mansfield, which testified at my April hearing,

since 1933 has designed and manufactured pumps used for many applications, including water, wastewater, petroleum, government uses, and agriculture. A Chinese company has not only copied and exploited Gorman-Rupp product manuals and performance specifications, but the Gorman-Rupp logo is still displayed on the products in the Chinese company's literature. In other words, this is a case where they copied the machine, the pump, to a ''T,'' then they used the same promotional material that Gorman-Rupp uses for their material. They copied it line and verse and are using it to promote their pirated product.

Unfortunately, patents do not protect American manufacturers.

America's competitive edge is derived from innovation and the resulting steady influx of new products and services. Intellectual property rights protect and promote this innovative spirit. In too many cases with too many foreign countries, our intellectual property is the last edge we have because of a fundamentally unbalanced playing field.

Many of our competitors do not have to consider environmental standards, labor laws, employee safety, litigation costs—and this Congress has to do something about litigation costs in this country. It is a tornado cutting through the economy and we just sit here and do nothing—health care costs. Losing our intellectual property is the last edge we have.

The United States-China Economic and Security Review Commission believes the administration should file a WTO dispute on the matter of China's failure to protect IPR and to promulgate and enforce WTO-required laws. To quote the report:

> Follow through and action have been limited. . . . The Commission believes that immediate U.S. action is warranted.

I hope my colleagues read the report. The Commission believes that immediate U.S. action is warranted on this issue. There is a sense of urgency. We are just going to Tweedledee Tweedledum? We have done nothing since 1991 on IPR and it is now 2004 and we are still doing nothing?

As I said, I believe in a fair playing field in which competitive and comparative advantage wins the day. We cannot continue to let countries walk all over us. The one country that everyone seems to be afraid to call on the carpet for flagrant violations of their international agreements is China. I do agree with some of my colleagues that maybe the reason we are not doing it is because of foreign policy decisions, but we have to put a stop to China's illegal and unethical trade practices.

There are people who come into my office and literally shed tears, people who have been in business for years, and they are going out of business because of competition from China because of the fact they have taken their patents. So we need to do something. We have to do something now.

Despite these overwhelming problems facing our Nation's manufacturers, I must say I have yet to see any significant action on behalf of the administration to respond. Now I have talked to some people and they say, oh, yes, GEORGE, we are working on this; we are talking to people; we are negotiating and we are doing this.

Well, it is time to bring it to the surface. Let the American people know what they are doing instead of hiding out. Make it an issue. Let the Chinese know we are serious about this thing. Let them know the U.S. Congress is serious about it. Let them know the administration is serious about it. So we can get some action.

Last month I made it known that I would not support any new trade agreements until there was a movement on these two fronts, and that makes me feel very bad. I am a free trader. I believe in free trade. But we do not have fair trade. Maybe the only way this Senator from Ohio, who has a lot of people who are on the edge of losing their businesses, can maybe get someone's attention in the administration to get out and start talking about this the way they should be so the American people, and particularly the voters in Ohio and the manufacturers and the people losing their jobs, is to say to them I will not support any other trade agreement on the Senate floor until they do something about the currency manipulation in China and the enforcement of intellectual property rights.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, I see the Senator from South Carolina. I know he wants to speak so I will be succinct in my remarks.

I have listened to the Senator from Ohio, whom I greatly respect. I believe there are good free-trade agreements and there are bad free-trade agreements. I believe the proposed United States-Australia Free Trade Agreement is a good free-trade agreement. I intend to vote for it. I believe it will strengthen our economy. I believe it will create more jobs in the United States and it will also strengthen the historic close ties between our two countries.

I have a special fondness for Australia. In 1987, when I finished two terms in the Governor's Mansion, our family moved to Australia and we lived there for 6 months, my wife and I and three teenagers and a 7-year-old. I remember my 7-year-old son wanting to know if there would be McDonalds there. I remember fly fishing in Tasmania with my older son Drew, and thinking I was about as far from Nashville as I could get on Earth. I think maybe I was.

We didn't know much about Australia when we went, but we learned about Australia there, and we found it a great place to learn more about our own country. In spite of the distance between our countries, our countries could not be closer. Australians and Americans are literally cousins, almost first cousins. We are both pioneers. We both started out as underprivileged people. In some cases, our ancestors started out as prisoners, stuck in a new place, far from home, trying to find a new life.

They lived hard lives, those earlier ancestors, but each generation worked hard to make life better for the ones who came next. We successfully settled continents and, from a patchwork of natives and immigrants, created a unique identity, of which we are each proud.

It is our similarities that have led us to the close relationship we enjoy today. Australia has been one of our staunchest allies in our toughest times. We stood together in World War II, in Korea, in Vietnam, in the first gulf war, and in Iraq today. Australia contributed more than 2,000 troops to the effort in Iraq and has been a strong supporter in the war on terror. Their F–18 fighter aircraft have joined ours in air strikes on enemy military targets. Few countries in this world have been stronger allies of ours than the Australians.

Even before this agreement, Australia has been one of our major trading partners—$28 billion in two-way trade annually passes back and forth between the United States and Australia. In fact, the United States enjoys a rare trade surplus with Australia, $9 billion last year.

This agreement means our relationship can only grow stronger. It is good for us. It is good for them. The U.S. Trade Representative estimates the agreement will generate at least $2 billion per year in dollars for both countries by the year 2010. More than 99 percent of United States exports of manufactured goods to Australia will become duty free immediately upon ratification of this agreement—the most significant, immediate reduction of industrial tariffs ever achieved in a United States free-trade agreement. Australia in turn will see the elimination of tariffs on more than 97 percent of its exports. U.S. investment in Australia will increase, and closer ties with the United States economy will generate investment in Australia from all over the world.

I believe the United States-Australia Free Trade Agreement is good for our economy and it is good for our alliance. It benefits the farmers and manufacturers and investors and citizens of Australia as well. It further opens the door to trade in Southeast Asia, one of the fastest growing regions in the world.

I am pleased to add my voice in support of this momentous agreement and to celebrate the further strengthening of the tie between the United States and our first cousins in Australia.

The Senate will be talking about the tobacco buyout later today. I will be voting for the proposed amendment when it comes up.

Tobacco farmers in Tennessee have increasingly struggled to succeed under the antiquated federal supply and price controlled tobacco programs. I grew up in East Tennessee, and small family tobacco farms were a part of the lifestyle and economic vitality of that area where my family has lived for seven generations. Because of the Depression-era federal tobacco programs, the number of tobacco farmers in Tennessee has decreased from more than 35,000 farms in 1980 to roughly 20,000 today. Revenue has gone down by $25 million. We have 80,000 Tennesseans who depend on quota lease payments for some part of their income.

This legislation, that I intend to vote for, will provide a short term bridge to tobacco growers and quota holders and the communities in which they live. Tennesseans who own quotas will receive a fair transition away from lease income they have received. Growers will receive transition payments as well. The buyout would last over ten years and mean roughly $1 billion to the family farmers, quota lease owners, and communities in Tennessee.

I believe if we pass this legislation that it can be combined with what has passed the House of Representatives to be a program that is fair to the tobacco growers, good for the economy and doesn't cost the American taxpayer one red cent. It's hard to come up with a combination that good very often.

I have not been a fan historically of FDA regulation of tobacco, a legal product, and while I am not 100 percent satisfied with the FDA proposal, I am willing to accept this compromise in order to move the tobacco buyout forward.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I ask unanimous consent to speak for 20 minutes of the time under the control of the Democratic manager.

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

Mr. HOLLINGS. Mr. President, right to the point with respect to the Australia trade agreement, I join my friend from Tennessee in endorsing this particular trade agreement. Trade is what we say it is, a trade for the benefit of the particular countries involved. It is not aid. People wonder why we are in such difficulty. The difficulty lies in the proposition that the old David Ricardo doctrine of comparative advantage has been superseded now, not by any doctrine of natural advantages, such as Ricardo had in the early 19th century when he enunciated that particular doctrine, but it is contrived and we are the contrivers. We are looking at them, my colleagues in the Senate and the House, the Government itself.

If anybody wants to improve our position on trade, we can go right to the particular beef with respect to the distinguished Senator from Ohio. He said he called the Secretary of Treasury and asked that there be a petition for an investigation of China's trade practices, a 301 proceeding. He didn't get any results.

I see the distinguished ranking member, former chairman of our Budget Committee, on the floor. If you looked at 11 o'clock this morning, the public debt to the penny is $484 billion. Last year we ran a deficit of $562 billion. Don't give me this off-budget and on-budget, public budget, Government budget, private budget, or whatever else. No, that is how much more we spent than what we took in. It is already $484 billion and I will take all bets it will exceed $600 billion.

In fact, although they talk about the war and everything else of that kind, during the 5 years of World War II from 1941 to 1945, during that 5 years we added to the debt $200 billion, in the war to end all wars. We add that every 4 months under this administration, some $200 billion.

I mean, we are up, up, and away. So when you call over to the Secretary of Treasury and the Secretary of Treasury calls over to the Minister of Finance in Beijing, China, and he says: You know, you have good Senators. They are on my back. They are complaining. We have to get something done.

He says: Well, I am sorry, but we will have to quit, we will have to stop buying your bonds, quit financing your debt.

Japan has $400 billion of this Treasury. The Chinese have over $150 billion. So when we do not pay the bill and everybody says tax cuts, got to have tax cuts to get reelected—you now meet yourself coming around the corner. That is why you can't get the Secretary of Treasury to do anything on trade.

But let me go to Australia. The general measure of a good trade agreement is that it is with those countries that have relatively the same standard of living. The reason I point this out is because they would be amazed for me to come up in favor of a trade agreement. They have me down as a textile protectionist, and I have passed four textile bills that have gone through the House and Senate and been vetoed by Presidents Carter, Reagan, and George Herbert Walker Bush.

But be that as it may, yes, I voted for the Canadian Free Trade Agreement but against the Mexico Free Trade Agreement on NAFTA. Why? I can see my friend Senator Moynihan from New York saying: Wait a minute, down in Mexico they have to have a free market before they can have free trade.

There was the common market approach in Europe. Before they allowed Greece and Portugal into the common market, they taxed them as members of the European Union over a period of years for $5 billion, so that it could develop the entities of a free market, labor rights, respected judiciary, property rights, and the other things that go along with capitalism. Obviously, Australia, we always whine. I can hear my labor friends: We have to have labor rights, we have to have environmental protection. They have better labor rights in Australia and better environmental protection in Australia. But they have relatively the same standard of living.

Right to the point: We have a plus balance on trade. You don't get every one of the protections. There are some protections in there for beef, and there is a gradual opening. They phase out the tariff rate quota on dairy products over an 18-year period. And they import sugar. It is not liberalized in any way. That has been protected for the United States. Australia has maintained its monopolies on wheat, barley, and rice. They receive the right to maintain or restrict the foreign content of television programs.

In other words, they protect local production and the pharmaceuticals. We thought a bill was coming up shortly with respect to pharmaceuticals in Australia. They subsidize the drugs for the population there. Therefore, they wanted to restrict drugs coming from Australia into the United States because they didn't want to start subsidizing American consumers.

There are a few exceptions. But it is a solid agreement.

We don't have a better friend—whether we were going into Korea, whether we were going into Vietnam, whether we were going into Iraq. I am telling you right here and now that the best friend we have ever had is Australia.

We have relatively the same standard of living with different restrictions here, there, and yonder. If we can't get an agreement with them, who?

Let me talk about another particular point. There is none better in the Senate than my distinguished colleague from North Dakota, Senator BYRON DORGAN. He was talking about fairness.

After World War II, we started the Marshall Plan, and financed the development of Europe and the Pacific rim countries. We sent the equipment, the expertise, the money, the technology, and it worked. We spread capitalism. It has prevailed over communism in the Cold War, and everybody is happy. But in that 50-year period, instead of following our example by giving up a good part of the textile industry, giving up a good part of the automobile industry, giving up a major part of the electronics industry—and I could go right on down the list, steel and otherwise—they didn't follow suit.

When they talk about free trade, it is interesting to look at the 1992 foreign trade barriers. Some act like we have to set the example. We tried that for 50 years and flunked. We have flunked the course.

In 1992, they had 265 pages of restrictions in the foreign trade barriers—the Office of the U.S. Trade Representative. Then in 2002, 10 years later, they had exactly 455 pages. It went up by 200 pages. Since I have been doing this, the Trade Representative has put out a

newer one in smaller print. No kidding. They are clever over there. They don't think you are watching.

The movement is to protectionism. How in the Lord's world do you think we are going to survive in a trade war? That is what we are in—protectionism for free trade.

The question before this body is how to get there. Come on.

It is like world peace. Everybody is for world peace, but the best way to preserve the peace is to prepare for war. The best way to attain free trade is raise the barrier to a barrier. We then remove both. It is competition.

It is trade. The word ''trade,'' free trade is an oxymoron. There is nothing free. There is no free lunch.

I can tell you now in this globalization, come on. Senator, you don't know anything about globalization. You don't want to compete. You don't understand. We have globalized. We have globalization going on.

Did you know that the United States of America invented globalization? We invented it under Alexander Hamilton. We had just won our freedom as a fledgling colony.

The Brits said, Wait a minute, to Hamilton, we will trade with you what Britain produces best, and you in the new United States of America trade back with us what you produce the best. Hamilton started globalization. He told the Brits to bug off in his Report on Manufacturers.

We started globalization, and we have continued it.

Do you know what it takes for protectionism? We didn't even pass an income tax until 1913. We financed government for 100 and some years.

Theodore Rex said, on page 21—this is the turn of the last century under Teddy Roosevelt.

> This first year of the new century found her worth twenty-five billion dollars more than her nearest rival, Great Britain, with a gross national product more than twice that of Germany and Russia. The United States was already so rich in goods and services that she was more self-sustaining than any industrial power in history.
>
> Indeed, it could consume only a fraction of what it produced. The rest went overseas at prices other exporters found hard to match. As Andrew Carnegie said, ''The nation that makes the cheapest steel has other nations at its feet.'' More than half the world's cotton, corn, copper, and oil flowed from the American cornucopia, and at least one third of all steel, iron, silver, and gold.
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> Even if the United States were not so blessed with raw materials, the excellence of her manufactured products guaranteed her dominance of world markets. Current advertisements in British magazines gave the impression that the typical Englishman woke to the ring of an Ingersoll alarm, shaved with a Gillette razor, combed his hair with Vaseline tonic, buttoned his Arrow shirt, hurried downstairs for Quaker Oats, California figs, and Maxwell House coffee, commuted in a Westinghouse tram (body by Fisher), rose to his office in an Otis elevator, and worked all day with his Waterman pen under the efficient glare of Edison lightbulbs. ''It only remains,'' one Fleet Street wag suggested, ''for [us] to take American coal to Newcastle.'' Behind the joke lay real concern: the United States was already supplying beer to Germany, pottery to Bohemia, and oranges to Valencia.

We walked into the World War II Memorial and over on the right-hand side you see a saying by President Roosevelt in 1942 of how we won that war. He gave tribute to Rosie the Riveter, the American production machine. That is how we built it, with protectionism.

Now for 50 years, we have given it away. We continue to want to give it away and put ourselves in the hands of the Chinese and Japanese by not paying our bill. They are financing our debt.

There you are. That is the reason for the situation we are in. We are the ones to blame. Before you open up Smith Manufacturing, you have to have clean air, clean war, Social Security, Medicare, Medicaid, minimum wage, plant closing notice, parental leave, safe working place, safe machinery, the Americans with Disabilities Act—I can keep on going. But you can go to China for 58 cents an hour and have none of those requirements.

America is leaving and organized against us and the U.S. Chamber of Commerce has turned into the International Chamber of Commerce. The multinationals are taking it over and they are all hollering, ''free trade,'' ''free trade,'' continuing to produce overseas, dump back into the United States. And we are in the hands of the Philistines; namely, WTO.

Every time we bring a dumping case, they say it is violative of WTO. You can't sell a product at less than cost in the United States but you can take a foreign Lexus automobile and sell it for $35,000. That same automobile sells for $45,000 back in the Tokyo market. The competition is market share; it is not profit.

This is a very complicated subject. We have to come to grips with it. There are going to be exceptions to those countries that have the same standard of living. You have your national interests and national concerns.

I voted for free trade with Jordan. She is our only friend out there helping us with Israel in the Middle East. So you make those exceptions because it is in our national interest to do so.

But the general rule of thumb is, it is the standard of living, and on trade itself, we have to get organized. We need, instead of a Department of Commerce, a Department of Trade and Commerce. We need to transfer the special Trade Representative over there. We need to start enforcing our laws, get a U.S. attorney, an assistant U.S. Secretary of the Department of Justice as we have on the antitrust division and put him in there in the trust division with us in trade.

We have to get more Customs agents. We have to get in and start competing and quit whining against each other and understand we are not getting anywhere. We are going out of business every day. Exports and imports have been going up years on in, but, for the first time, our exports, now, have gone down in the last 4 years, rather than up.

Yes, thank Heavens for the farmer. I see the American farmer on the floor of the Senate. Thank Heavens we have the plus balance of trade there. Other than that, we are not making anything anymore.

Of course, in Europe, which was a good market, they do not want to buy anything from us on account of Iraq. We have turned them off. We are not only having to pay for Iraq in human tragedy and otherwise, but we have to pay for it in our trade balance now with Europe.

I could go right on down the list. Just one word. Yesterday, I picked up the article with respect to William Safire. Safire said we had no agents in Iraq, none. I have seen one figure $30 billion and another figure $40 billion intelligence effort and we had nobody in Iraq. It reminds me when I served for 8 years on the Intelligence Committee and we came back in before the gulf storm—the ''we'' being Senator Bill Cohen and myself—and we wanted to get briefing on Saddam going into Kuwait. They told us the CIA didn't have anybody that could brief us. We had to send over to the Defense Department.

George Tenet was the staff director at the particular time. Here, some 10 years later, we still don't have anybody. Do you know what they told me why we didn't have anybody? Because Israel will tell us. Mossad is the best intelligence in the world. And all of this dog chasing its tail about whether the intelligence was distorted or misinterpreted or pressured or what have you, I can tell you now the survival of Israel, our best friend, depends on having intelligence on what is going on in downtown Baghdad, all over Iraq, all over Syria, all over Iran, and in Egypt. They know. They got to know. And therein you do not need intelligence. That is the dog that didn't bark.

My friend Bob Novak was talking about the dog that didn't bark. If there had been any weapons of mass destruction, our friend, Israel, would have said: Go there, go here, go there. They knew it. And George Herbert Walker Bush said:

> I firmly believe we should march into Baghdad. . . . It would take us way beyond the imprimatur of the international law bestowed by the resolutions of the Security Council, assigning young soldiers to a fruitless hunt for a securely entrenched dictator and condemning them to fight in what would be an unwinnable urban guerilla war. It could only plunge that part of the world into even greater instability and destroy the credibility we were working so hard to reestablish.

It would turn the whole Arab world against us.

That is where we are.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I thank the Senator from North Dakota for his courtesy in letting me make a brief statement before he makes his statement.

I rise today to express my strong opposition to the United States-Australia Free Trade Agreement and the legislation that has been introduced to implement it. This is the latest in a string of deeply flawed trade agreements. It is a bad deal for dairy farmers, it is a bad deal for consumers, and it is a bad deal for Wisconsin.

The agreement undermines our dairy industry by displacing the domestic milk supply. It proposes to increase quota access to the U.S. market for Australia's dairy producers, while failing to address the flood of milk protein concentrate imports that is entering the country through a tariff loophole and that has been harming U.S. dairy farmers for some time. There can be no doubt that this agreement will put downward pressure on dairy prices and will further accelerate the loss of dairy farms in Wisconsin and across the Nation, which is something I have been working hard to stop.

Wisconsin is still the No. 1 producer of cheese in the United States. But this agreement will hurt Wisconsin cheesemakers as they attempt to compete against the ever-rising flood of Australian imports. By signing this agreement without addressing MPCs, the administration turned a blind eye to the concerns of the Wisconsin dairy industry.

The adverse effects of the agreement are not limited to our dairy farmers. During the informal mock markup, a majority of the Senate Finance Committee expressed concerns about safeguards to protect American ranchers and cattle producers from unfair imports of beef products. Those concerns underscore the importance of the administration consulting and working with Senators in the drafting of the implementing legislation.

Instead of honoring the informal process set forward in the trade promotion authority, the administration and the Senate leadership ignored these concerns. The result is to further undermine the ability of the Senate to weigh in on trade agreements, which was already greatly weakened by the passage of fast-track authority.

This is not the only problem with the trade agreement between the United States and Australia. As an original cosponsor of bipartisan legislation that would allow Americans to safely purchase prescription drugs from countries including Australia, I am particularly troubled by reports that this agreement would effectively ban reimportation of prescription drugs from Australia.

In February, I wrote to the Senate Finance Committee and urged them to address this issue before the unamendable legislation implementing the trade agreement was brought to the Senate floor for a vote. Now, reports raise real questions about whether Congress can repeal the trade agreement's ban on reimportation of prescription drugs from Australia, even if it later passed legislation permitting reimportation. I do not see why we should be voting now on a trade agreement that would potentially tie the hands of both Australia and the United States on this vitally important issue.

This legislation may well be a template for future trade agreements to include similar provisions that restrict the safe reimportation of drugs. I strongly disagree with efforts by trade negotiators to address an issue that Congress is currently actively considering. Congress should be setting policy on an issue as important as the importation and the reimportation of prescription drugs, not our trade negotiators.

There continue to be many concerns about the impact of this agreement on the U.S. health care system, particularly the Federal programs aimed at helping our veterans, our seniors, and our neediest citizens. These questions need to be resolved to ensure access to safe and affordable prescription drugs.

I have introduced a bill, S. 1994, which would address what I believe is one of the biggest flaws of the new Medicare prescription drug benefit. My bill would allow Medicare to negotiate the prices of prescription drugs offered under this new benefit. There is widespread support for giving Medicare this authority. It only makes sense we let Medicare use its considerable leverage to help lower the cost of prescription medicines for seniors. But there are questions about how this agreement would impact Medicare's ability to negotiate drug prices, should legislation such as mine be passed by Congress.

We need more time to answer these questions and to fully understand the possible interaction of this agreement with legislation to allow the safe reimportation of prescription drugs. Trade promotion authority provides expedited consideration of trade agreements, but we are well ahead of any deadlines imposed. This Chamber could easily have waited until next week or even into September to consider this measure. With only 20 hours of debate allowed, the Senate should not have rushed headlong into this debate today. There is simply no excuse for Congress hastily taking up the Australia Free Trade Agreement before resolving these questions.

The administration presented a bad deal to Congress and the American people. Not only will this agreement hurt Wisconsin's dairy industry, but the whole process has undermined Congress's constitutional authority over trade policy and it has weakened our ability to make policy. For those reasons, I will oppose the United States-Australia Free Trade Agreement implementing legislation, and I urge my colleagues to vote against this measure.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise to express my strong opposition to the so-called United States-Australia Free Trade Agreement. This is really not a free-trade agreement at all. This is a negotiated trade agreement, and our side, once again, lost the negotiation.

I believe the United States-Australia Free Trade Agreement is one more example of the United States trading away its economic strength for some other agenda. Somebody once said: The U.S. has never lost a war and never won a negotiation. That certainly is true of this agreement.

First, I believe the focus of our trade policy should be opening markets to U.S. exports where we have the most to gain. We need to level the playing field for our producers, and we need to open major markets around the world that remain closed to us. Unfortunately, that is not the trade policy or agenda being pursued by this administration.

Our current trade policy is completely off course. Our negotiators have failed to secure a good deal for agriculture in the WTO talks. Instead, they have opened trade talks with countries that offer few new export opportunities for the United States.

Commercial gain should drive our trade policy. But it has become clear that foreign policy considerations are the primary factor influencing our trade agenda. It is no secret here in Washington what this agreement is about. It is not about a trade advantage for the United States. It is not about improving the economic strength of America. This is a payoff. This is a payoff to Australia for backing our Iraq policy. That is what this is about.

Not surprisingly, the results of this flawed trade policy are abysmal. Our trade deficits are skyrocketing. Last year, the trade deficit hit an all-time record of $497 billion. And this year, what do we anticipate? Well, it is going to be much worse.

Mr. President and colleagues, we can look back and see what has happened under this trade agenda. In 1997, we had a trade deficit of $108 billion. That was only 7 years ago, and look what has happened. Every year it has jumped, and jumped dramatically. From 1998 to 1999, it went up almost $100 billion; from 1999 to 2000, almost $100 billion; from 2001 to 2002, up, up, and away again, approaching $100 billion for 2002 to 2003. Goodness knows where it will be this year.

These developments have serious consequences for our economy. This is not just numbers on a page. This is not just columns on a chart. This has real-world consequences for the U.S. economy.

Earlier this year, the Washington Post carried an article expressing the concerns of economists about our trade and budget deficits and the falling value of the dollar. It reported:

The twin trade and budget deficits are both approaching a half trillion dollars, and with

U.S. consumer debt also at record levels, it is up to foreigners to keep the U.S. economy afloat.

Let me repeat that: ''it is up to foreigners to keep the U.S. economy afloat.''

The U.S. economy now borrows $1.5 billion a day from foreign investors, said Sung Won Sohn, chief economist of Wells Fargo & Co., and that level could reach $3 billion a day in the near future.

Where are we getting the money from? The Senator from South Carolina had it right. We are approaching $600 billion from Japan, $150 billion from China. We are even borrowing money from the so-called Caribbean banking centers—$80 billion from the Caribbean banking centers. And we have yet our tin cup out, even in South Korea. Who would have guessed that the mighty and powerful United States would have to go hat in hand to South Korea and borrow $40 billion?

The Washington Post article went on to say:

Currency traders fretting over that dependency have been selling dollars fast and buying euros furiously. The fear is that foreigners will tire of financing America's appetites. Foreign investors will dump U.S. assets, especially stocks and bonds, sending financial markets plummeting. Interest rates will shoot up to entice them back. Heavily indebted Americans will not be able to keep up with rising interest payments. Inflation, bankruptcies and economic malaise will follow.

On agricultural trade, the story, regrettably, is much the same.

Things are getting worse, not better. Our surpluses have gotten steadily smaller since 1996. Always agricultural trade has been one of our leading areas of surplus, but that surplus is shrinking and shrinking steadily. Last year we had the smallest agricultural trade surplus since 1987. We are going full speed in reverse in every sector. This is an ominous warning to the American people of the direction of this flawed and failed trade policy.

The fact is, this administration is not leveling the playing field for our producers or opening major new markets for U.S. exports. Instead, it is opening our markets to a flood of agricultural imports unfairly traded that threaten American family farmers. To me, focusing on this free-trade agreement and more like it and neglecting a successful WTO agreement is a recipe for disaster for American agriculture. Mark my words, friends: We are going in the wrong direction.

Those with whom we compete are not playing according to some fair set of rules. They are subsidizing at a rate, in Europe alone, five times our rate here. They account for over 87 percent of the world's agricultural export subsidy in Europe, 30 times the rate here. And the results are clear. They are gaining market share year after year after year and now rival our own share of the world market.

America needs to wake up to the gathering threat. I regret to say, this agreement with Australia is a perfect example. On agriculture, the United States had almost nothing to gain and a lot to lose. The simple fact is that Australia is never going to be a large export market for U.S. commodities, but it poses a serious threat to certain commodities produced here at home such as beef and dairy. It is very clear. Any objective analyst can look and see what was the opportunity for America and what was the threat. The threat totally overwhelms the opportunity.

In addition, Australia has an export state trading enterprise known as the Australian Wheat Board. Grain growers in my State have had a bitter experience with these State trading enterprises. Ever since passage of the so-called Canadian Free Trade Agreement—again, that was no free-trade agreement; it was another negotiated trade agreement, and our side lost the negotiation there as well, especially when it came to agriculture—the United States has been flooded with a tidal wave of unfairly traded Canadian grain, undercutting our producers, undercutting our prices, putting our people at risk, costing my State nearly half a billion dollars.

Our neighbor to the north maintains a government-sponsored monopoly known as the Canadian Wheat Board. The Canadian Wheat Board is the only exporter of western Canadian grain. It is a monopoly. It uses this monopoly power to undercut prices to our producers, not just in my State of North Dakota but in Montana, in Idaho, in Minnesota, and all across the northern tier of the United States, undercutting through unfair trade practices the family farmers who are the heart of the heartland of America.

We have been fighting for 15 years to resolve problems created by the Canadian Wheat Board, and we have learned a bitter lesson. We have learned that once something is permitted in a trade agreement, it is virtually impossible to fix. That is why I was disappointed to learn that the Australia Free Trade Agreement does nothing—I hope my colleagues are listening—to curb the unfair trading activities of the Australian Wheat Board. This was a priority for many farmers. The U.S. wheat industry has decided to oppose this agreement because of this one defect alone.

Some will argue that we have a trade surplus with Australia, and, therefore, it is a good country with which to enter into a trade agreement. That argument sounds good, but history teaches us something quite different. I remember so well when we debated NAFTA. I want to make clear my own position on trade. I supported the agreement with China. I supported WTO. I opposed NAFTA. I opposed the Canadian Free Trade Agreement because in those cases, I believed our negotiators got taken to the cleaners. I will tell you, our negotiators got taken to the cleaners on this one as well.

The record, I believe, will be clear. Back in NAFTA, remember what we were told. We were told: We have a trade surplus with Mexico, and if we just approve this agreement, the surpluses will grow.

We can now go back and check the record. Did the $2 billion trade surplus that existed with Mexico before NAFTA increase? No. Did it stay the same? No. There is no trade surplus with Mexico anymore. Now we have a trade deficit, not a small trade deficit, not $2 billion, not $4 billion, not $8 billion, but $40 billion of trade deficit. And some come on this floor and call it a success. What would it take to call it a failure? I am amazed to hear people come out on this floor and call NAFTA a great success. We went from a $2 billion trade surplus to a $40 billion trade deficit, and they call that a success? What are they thinking of? We are full speed in reverse in this country in terms of our trade position in the world.

Trade agreements are no guarantee of trade surpluses, and opening our market to further import competition without creating new export opportunities is a serious mistake. That is exactly what this agreement that is before us today does when it comes to agriculture. There will be virtually no new agricultural exports to Australia as a result of this agreement. But when it comes to the American beef and dairy industries, there will be significant increases in imports that they will face—and on an unfair basis—because we know of all the hidden subsidies they have in Australia for those industries. We know how they play the game.

I have concluded that from the perspective of the farmers and ranchers I represent, this agreement is a bad deal.

Second, the mistake has been compounded by a massive loophole in implementing this bill with regard to beef safeguards. Ever since the Australia Free Trade Agreement was signed, the administration has said over and over that the agreement had an automatic guaranteed safeguard to protect our U.S. beef industry against unfairly traded imports. That is what they told us. That is what they told American ranchers and farmers, that it was automatic, that it was guaranteed. But check the fine print. See what they have done in the final hours. They have slipped you a Mickey. It is not guaranteed. It is not automatic. It is all subject to a waiver and a decision by one person who doesn't happen to be in the Congress of the United States.

We were told that the industry would not have to worry if imports of Australian beef surged or prices in this country plummeted. The safeguards were automatic and were guaranteed.

But now we find the safeguard is not automatic and not guaranteed. In fact, this safeguard has a loophole big enough to drive a cattle truck through. The implementing bill before us specifies that the USTR can waive the beef safeguards whenever it determines that extraordinary market conditions make it in the national interest to do so.

Here is what it says:

The United States Trade Representative is authorized to waive the application of this subsection if the Trade Representative determines that extraordinary market conditions demonstrate that a waiver would be in the national interest of the United States.

Who decides? The Trade Representative of the United States. That is not what the Constitution says. The Constitution doesn't say the Trade Representative decides these questions of international commerce. The Constitution of the United States says:

The Congress shall have power . . . to regulate commerce with foreign nations. . . .

Not the Trade Representative or Ambassador, but the Congress. And the Congress has given away its responsibility in these free-trade agreements with the fast-track procedure. We have done that based on a promise that is being violated in this agreement for the first time in a trade agreement.

Listen well, my friends. Listen well. Understand what is about to happen on the floor of the Senate. For the first time, in an unprecedented way, the role of Congress is being further reduced. The legislation before us does not require the Trade Representative to even consider the effect on the beef industry of waiving the safeguards. If he or she determines that a lower price for hamburger is in the national interest, it can waive the safeguard, even if doing so clearly injures the U.S. beef industry, which the safeguards are supposed to protect. The legislation doesn't give Congress, the body charged in our Constitution with regulating tariffs, any meaningful say in this decision.

As I show on this chart, Article I, section 8 of the Constitution says Congress shall have the power. In this agreement, it is the Trade Representative who has the power. The statement of administrative action says, ''The United States Trade Representative will notify Congress of its decision to waive the safeguard at least 5 days before the waiver goes into effect.''

The Congress shall have the power to get a 5-day notice of what the Trade Representative has decided. That is not what the Constitution of the United States intended. It didn't intend for a Trade Representative to give 5 days' notice to the Congress of the United States before their decision is made, with no role for the Congress of the United States. That is not what the Constitution says.

This agreement does not in any way commit the USTR to even listen if the Congress expresses concerns or objections. I don't think that is right. I don't think that is how this agreement had been sold to the American people. I know that is not the way it was sold to the ranchers and farmers of North Dakota, South Dakota, Montana, Idaho, and every other State. They were told there was automatic guaranteed protection for them.

That is why, when the Finance Committee conducted its markup of the Australia agreement 2 weeks ago, I offered an amendment. My amendment insisted that Congress have a say before the Trade Representative decides unilaterally to waive this safeguard.

This is where it gets interesting, because my amendment was adopted on a vote of 11–10. Here is the vote: 11 votes for the Conrad amendment, 10 votes in opposition. The Conrad amendment is not in the agreement that is before us. Have you ever heard of that happening before? Have you ever heard of an amendment passing in a committee that has jurisdiction and it is excluded when it comes out here on the floor? It is as though those 11 Senators never voted.

The administration ignored the amendment passed in the Finance Committee and, as a result, the legislation before us contains the very same loophole that was rejected by a majority of the Senate Finance Committee. That is profoundly unfair to America's ranchers and cattlemen. It ignores the express will of the Senate Finance Committee, and it is yet another example of why I have concluded this legislation is a bad deal.

Before moving on to discuss why I find this process so troubling, let me address one other issue that has been raised with respect to my amendment. Some have argued that my beef safeguard amendment was unconstitutional. That argument is simply a red herring designed to avoid a discussion of the merits of the amendment. I have yet to hear anyone argue that Congress should not have any say before the U.S. Trade Representative unilaterally waives the safeguard that was promised to America's cattlemen. The Finance Committee has a long history of considering conceptual amendments rather than requiring legislative language. That is how the Finance Committee of the United States does its work. We offer conceptual amendments that are later translated into legal language. That is the way it works.

My amendment said fundamentally that Congress must act before the U.S. Trade Representative can waive the safeguards promised to the beef industry. I have consulted with the Congressional Research Service, because one of their staff members asserted there might be a constitutional problem with what I proposed. I now have a memo from the very same gentleman who raised the constitutional question saying there were at least two ways to take my conceptual amendment and make it constitutionally permissible. But that is not what happened. As I have said, CRS has concluded in a memo to me that the concept expressed in my amendment could have been implemented in at least two ways without raising any constitutional problems.

First, the Conrad amendment could have been implemented through the statement of administrative action. The statement of administrative action is a document submitted to the Congress that explains the agreement on how the administration intends to implement it. Since the statement of administrative action is an executive branch document, it explains how the executive branch will choose to operate. No separation of powers problems would exist.

Moreover, this is precisely how a commitment to Senator BAUCUS with respect to the beef safeguard was implemented. It was not included in the legislation. It was put in the statement of administrative action.

Alternatively, it would have been entirely consistent with my amendment to implement it through a congressional disapproval process. This process is very familiar to Senators. For years, the Congress voted annually on a resolution extending normal trade relations, or most-favored-nation status, as it was then called, treatment for China. There has never been any question that this waiver process was fully constitutional. Thus, had there been any interest in making my amendment work, it would have been easy to find a way to do it.

So I can only conclude that those who talk about the Constitution are simply avoiding the real issue. The real issue is whether the U.S. Trade Representative should be given the power unilaterally to revoke a safeguard that was sold to our beef producers as an absolutely automatic guaranteed protection against surges of unfairly traded Australian beef imports that would damage our U.S. beef industry.

On that issue, a majority of the committee clearly said no. They didn't just say no, they voted no. I have yet to hear anyone make a persuasive argument why the USTR should be able to unilaterally take away this safeguard. It is unfair to those who supported my amendment. The process was short-circuited to drop the Conrad amendment. In particular, it is unfair to our ranchers and cattlemen to take away that safeguard.

Let me address the process the Finance Committee followed in dropping my amendment, and why it is so troubling.

The chairman of the Senate Finance Committee is a fine man. He is, in fact, a good friend of mine. But with all respect to the chairman, the process that was followed to subvert the will of the majority of this committee was egregious. It sets a very dangerous precedent that threatens the underpinnings of the fast-track process.

As all Members of this body already know, the Constitution gives the Congress—not the President—the responsibility for regulating foreign trade. Yet in recognition that we cannot have 535 trade negotiators, the Congress has agreed to the fast-track process for considering trade agreements.

In agreeing to fast track, each Senator gives up the most fundamental rights of a Senator. We give up our right to amend, the most fundamental right of all Senators. And we give up our right to extended debate, a second

of the most fundamental rights of any Senator. In essence, we are giving up our right to protect our constituents.

In return, there is supposed to be a detailed consultation—a detailed consultation—with the Congress throughout the process of negotiating trade agreements and developing the implementing legislation.

In practice, the Finance Committee in the Senate is the focus of this consultation because the Finance Committee has jurisdiction over trade policy. In theory, the committee has extensive input during the process of negotiating trade agreements and developing the legislation to implement them. Theoretically, it does not then need to amend the implementing bill once it is formally introduced.

Understand, here we are on the floor of the Senate. There is a treaty. Normally, every Senator would have the right to offer amendments to it. We would have the right to extended debate. We have given up those rights under the fast-track process. We do not have the right to amend. This bill will be considered in less than 20 hours. There is not the right to extended discussion, to illuminate, to educate so that people fully understand what is happening. Those fundamental rights of any Senator have been given up in the fast-track process.

When it comes to developing the implementing bill, this consultation occurs through what is known as the mock markup process because it is not a real markup because we have given up those rights. Instead, we have what is called a mock markup. The mock markup is the Finance Committee's opportunity to amend the implementing bill before it is formally introduced, and then cannot be amended under fast-track rules.

This informal process has a long history. For past agreements, the process has lasted months and produced a host of changes. To give just one example, 14 amendments were adopted during the mock markup of the North American Free Trade Agreement. The amendments added during mock markups were addressed in a mock conference and then included in the final formal implementing bill. I recall this history to make several points because people need to understand what is happening.

Everything has changed. We have never dealt with a trade matter in the way we are dealing with it today. My colleagues need to understand the consequences of what is about to happen because they are enormously serious for every Senator, and they are enormously consequential for this country.

First, in the past, the committees have always insisted on sufficient time for all members of the committee to review the draft implementing bill and have their concerns addressed.

Second, it is not at all unusual for changes to be made, for amendments to be made during the mock markup process, including many that did not have the support of the administration.

Third, when the mock markup process produced changes, it did not spell doom for the agreement.

Fourth and finally, the chairman of the Finance Committee did not vote down the package simply because it included a provision with which the administration or the chairman disagreed.

But what happened during the mock markup of this bill, the Australia free trade agreement, threatens to make a mockery—a mockery—of the process of congressional consultation. In the Australia agreement, we got the bum's rush.

The agreement was completed on February 13, but we did not see implementing legislation until June 18. More than 4 months went by with no implementing bill to review. And then after 4 months of delay, we were told we would have 4 business days before the mock markup to respond to a provision on the beef safeguards that was totally unexpected.

When I indicated my intent to offer an amendment, the Trade Representative made clear that my input was unwelcome. He simply did not want to entertain a serious substantive concern that is important to the ranchers and cattlemen whom I represent. Yet addressing these concerns before an unamendable fast-track bill is precisely the purpose of the mock markup process. That is the whole point of going through this exercise, is to give Senators a chance in the committee of jurisdiction to make changes if they prevail in a vote.

I did prevail in a vote. My side won, but it is not in this agreement. That has never happened before. Mr. President, I say to Senators, they better think long and hard about what that means. They better think long and hard about what that means for the process. They better think long and hard about what that means for fast track because if this trade of giving up our right to amend and our right to extended debate is a hollow one without meaning, that there is supposed to be a congressional consultation, that there is supposed to be a parallel process that allows Senators to alter the package before it comes to this floor, if that is all hollow, if that is all a sham, if that is all a phony exercise, then Senators better think long and hard about giving up that power to amend and that right to extended debate because the rest of this process has become an absolute sham.

I offered my amendment. It prevailed on an 11-to-10 vote, but the normal process was not allowed to play out. Instead, the committee followed the unprecedented course of voting down the amended recommendation in its entirety. Then the administration submitted its original proposal all over again without the amendment. That is good; that is arrogant.

In essence, what the administration is saying is that voting down a recommendation is tantamount to approving it. They are ignoring the clearly expressed will of a majority of the members when it comes to the language on beef safeguards. It is like voting down a bill on the Senate floor after it has been amended and trying to claim that defeat is the same as adopting the bill that was originally brought to the floor. What a sham.

That strikes me as dangerous. It opens the process to abuse, and it reduces the committee's role in crafting trade policy. It may have been expedient in this instance, but I believe that we will come to regret this precedent and this day. It invites a future President to ignore any recommendations made by the committee on future trade-implementing legislation.

Remember what the Constitution says? The power is with the Congress on the question of regulating commerce with foreign nations.

This is not a dictatorship. This is not a circumstance where the power was vested by the Constitution of the United States in the President of the United States. The Constitution of the United States says:

> The Congress shall have the power . . . to regulate commerce with foreign nations. . . .

The Australia Free Trade Agreement promises few, if any, benefits to U.S. agriculture and has little or no positive effect on our overall economy or perilously large trade deficits. Instead, it puts certain sectors of American agriculture at extreme risk.

Before I move on, I remind my colleagues that the fast-track process is up for renewal next year. To the extent that it becomes clear to colleagues that the consultation promised in the fast-track process is a sham, a snare, and a dilution, it will become infinitely more difficult to extend fast track. Who is going to want to give up their right to amend, who is going to want to give up their right to extended debate, if there is no right to serious consultation by the committees of jurisdiction; if it is all just a game and there is no meaning to votes that are cast? That is what is about to happen. It is a sham.

Moreover, the safeguards that were supposed to protect ranchers and cattlemen from excessive and unfairly traded Australian imports turned out to be a false promise. They are not automatic or guaranteed as promised. Instead, they can be waived at any time without any input from Congress. That is unfair to our ranchers, our beef industry.

Finally, the process that the Finance Committee followed sets a terrible precedent. No Senator should welcome the precedent that the administration can simply ignore the votes of the committee of jurisdiction on a particular trade issue important to the people we represent, secure in the knowledge that a trade-implementing bill can be pushed through as part of a larger take-it-or-leave-it package.

For all of these reasons, I will strongly oppose the Australia Free Trade Agreement that is before us.

I conclude by saying to my colleagues if anybody does not think we are setting a precedent that has enormous consequences down the road, think again. I have been here long enough to see what happens when this is done. For the purpose of expedient action one year, that precedent can grow like a cancer. Right now, I believe what is being done is so egregious and so wrong that it sows the seeds for undermining the entire fast-track procedure.

When Senators awaken to what is being done, I think they will be very reluctant to give up their fundamental rights to amend legislation implementing a trade agreement. I think they will be very reluctant to give up their right to extended debate. Those are the most fundamental rights of any Senator.

There is a reason those rights were extended to Senators. It is so they can protect the rights of the minority, so they could slow down a process so people could think carefully about the effects and the implications of legislation before this body. That is the fundamental constitutional role of the Senate. It is being jeopardized by this fast-track process that has become not just a fast track, it has become a railroad job.

When votes do not matter, when consultation does not matter, when one person decides the commerce with foreign nations, this country and this body has gone off the track.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I was hoping that the Senator from North Dakota would stay around. First, I support the Australia Free Trade Agreement because it is for the sole purpose that it is in the economic interest of the United States of America. I do it within our constitutional power to regulate interstate and foreign commerce. I do it in the tradition of the last 70 years, since the 1930s, of the United States doing everything it could to lead the rest of the world in the reduction of barriers to trade; to enhance not only the economy of the United States of America but the economy of the entire world.

Let no one have any doubt in their mind, this is in the economic interest of the United States and that is the only thing the United States ought to be considering as we consider this legislation.

The charge was made that the only reason we are doing this is because of the friendship of Australia and their support in our efforts in Iraq. If I can do something in the economic interest of the United States and at the same time enhance our relationships and show our respect for a friend in the world community of nations, I am not going to back away from doing that, because through almost 100 years of the involvement of the United States in military activity for the promotion of peace and liberty around the world Australia has been an ally on which we could count.

Australia is not going to agree to this agreement because they might like the United States of America. Australia is going to look at this and ask: Is it in their economic interest? Now, their administration has already said that it is because it is signed. I do not know whether Congress has acted down in Australia, but nobody is going to be concerned about the economic interests of America except Americans and the elected representatives of America. Nobody is going to be concerned about the economic interests of Australia except the people of Australia and their elected representatives.

It just happens that everything does not have to be black and white, that when we do things in public policy and in international trade and in our foreign relations sometimes things can be done to accomplish more than one thing, and it happens that we have an opportunity in this vote today not only to do something in the economic interests of the United States of America but also to enhance our relationship with a friend in the world.

From a member of a political party who is always badmouthing our President of the United States because he is engaged in world activities, military activities without seeking enough help from other nations and from the United Nations, I think it is talking out of both sides of your mouth when you condemn us for trying to do something for a nation that has been a friend of ours—in this case, Australia.

The other thing I noticed about the debate that just went on is the charts that have been put up all afternoon by people on the other side of the aisle bemoaning the unfavorable balance of trade we have. What do they want to do? Do they want to tell the consumers of America that you cannot buy from anywhere in the world you want? Why do we have the balance of trade we do? It is because the U.S. consumers are king and they can do anything they want to do and they are doing it. They are exercising their economic freedom. They are also exercising the opportunity of the marketplace to buy from what they think is the place to get the best quality for a certain price. That opportunity happens to be enhanced the greater the competition. The freer the trade around the world and the fairer the trade around the world, the more opportunities there are for our consumers to buy whatever they want to buy, of the quality they want, at what they consider a fair price.

I don't know that any Member of this Congress who has been complaining about the unfavorable balance of trade has introduced any legislation saying the consumers of America cannot buy this product or that product. Are they going to tell the consumers of North Dakota what they can buy or not buy? Are they going to certify to their people that their judgment as political leaders is better than the judgment of the consumer of America and the marketplace, including the consumer of North Dakota? I don't see them doing that.

The other thing is, why do we have an unfavorable balance of trade? One of the reasons is the people of America are not saving as much. But what do we get from the other side of the aisle when it comes to giving the taxpayers of America an opportunity to have more discretionary income? We hear complaints from the other side of the aisle that this side of the aisle is giving too many tax cuts because they happen to believe that 535 Members of Congress are smarter and better able to decide how to spend the money than the 130 million taxpayers of America. I don't believe that. But when taxes are high, there is less discretion for savings, and it impacts negatively upon our balance of trade.

The other thing I wonder about, with the other side of the aisle talking about the high trade deficit—one-third of that trade deficit comes from the importation of energy into America, mostly petroleum. We had an energy bill up last November, and that energy bill is defeated by a filibuster on the other side of the aisle. When we want to set an energy policy, so we import less energy, so we reduce our unfavorable balance of trade to some extent, they deliver 13 out of 49 Democrats to break a filibuster. When they want to kill the confirmation of judges who the President appoints, they can deliver 46 out of 49 Democrat votes to kill those judges. But when their own leader votes for a motion to bring about a national energy policy so we are not importing so much energy, so the balance of trade is not so unfavorable, what do we get from the other side? They don't even support their own leader when he says he needs it for his State.

So don't complain about the unfavorable balance of trade in America when you espouse policies that tend to make it worse, or question the wisdom of the consumers of America, to put your judgment above the judgment of 280 million people in America, that you know more than they do about what they ought to be doing with their money.

Now I want to address whether Congress is giving up constitutional power. I am addressing specifically the accusation that has been made by the Senator from North Dakota, Mr. CONRAD, who just finished his remarks. First of all, I have yet to see the memo obtained by Senator CONRAD from the Congressional Research Service which he says supports his claim that his amendment could be made constitutional. But in any event, with respect to his argument that one way to implement his amendment in a constitutional fashion would be in the statement of administrative action—and it is on that point that I want to comment—this is precisely the type of revisionist history that I warned of earlier, yesterday, in our committee meeting.

I read from the amendment that he put before the committee:

The amendment enhances the consultation requirement in the waiver provisions by adding a requirement in paragraphs 202(c)(4) and 202(d)(5) that the Finance and the Ways and Means Committees must both affirmatively approve a proposed waiver before the USTR can waive the application of a safeguard.

This amendment calls for specific changes to two sections of the implementing legislation. How could language added, then, to the statement of administrative action possibly effectuate this amendment, which calls for changes to the implementing bill? The answer is, very clearly it couldn't. But even if it could, this argument ignores the fact that the statement of administrative action is a statement of administrative action, not a statement of congressional action. But the amendment calls for action by two committees of Congress, not for action by the administration.

I would like to remind my colleague from North Dakota of the principle of separation of powers. In fact, that principle underlies the Supreme Court Chadha case and is the reason why the amendment as drafted and as voted on by the Finance Committee is unconstitutional. So any argument that the statement of administrative action offered a way to implement the amendment in a constitutional way is without merit.

What about the argument that the amendment could have been implemented in a constitutional way if requirements for action by the full Congress and presentation to the President for his signature were added, according to the decision of Chadha? In effect, under this interpretation, the amendment would require additional legislation to be enacted before a beef safeguard measure could be waived. That is the only way you could remain consistent with our Constitution. And it requires a contorted reading of the language of the amendment that was actually introduced and was voted on by the committee that day.

But let us assume that a legislative procedure was intended by the amendment, as contorted as that may be. The problem is, such a procedure conflicts with the obligations assumed by the United States in annex 3(a) of the agreement. In sections (b)(4) and (c)(5) of annex 3(a), the United States commits to retain the discretion not to apply a beef safeguard measure.

If the President is required to wait for congressional action before granting a waiver, that deprives the administration of the discretion to grant a waiver. Even if the amendment were to be implemented consistent with the U.S. Constitution, it would at the same time be inconsistent with the terms of the agreement.

Again, we see this amendment for what it truly is. It was political maneuvering, pure and simple. It was intended to obstruct the process. It was intended to force the administration to explain its rejection of an unconstitutional amendment or, based on these new arguments about constitutionality, the administration would be forced to explain its rejection of an amendment that was inconsistent with the agreement.

In either case, the administration's rejection of the amendment would have been used by some to argue that the trade promotion authority process was flawed, that the administration ignored the will of the Finance Committee.

They would have also argued that the administration had not done enough to protect the U.S. beef industry from imports, an allegation that is completely without merit if you read the terms of this agreement.

Any way that you revise the reading of the amendment, its purpose was to delay formal consideration of the bill and give opponents a political issue to try to exploit.

Again, as chairman of the Finance Committee, I did not want to see that happen. I wanted to end the obstructionism, end the political gamesmanship, and end the consideration of an unconstitutional amendment.

The majority of the committee voiced their will, and the amended recommendation was not approved. The trade promotion authority process was on and the process moved forward, leading us to the consideration of this very important legislation today, much in the economic interests of our people.

Again, I call on my colleagues to recognize the value of the underlying agreement with Australia and to support the implementation bill when we vote on it in a short period of time.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I will be brief. I thank my colleague from Iowa. I don't want to get into a debate about the Energy bill right now. We have our differences there. The only point I would make is, without six Members on his side of the aisle, we never would have succeeded. It was not just this side of the aisle.

I definitely want to reduce energy dependence, as do most of my colleagues. The bill had virtually no conservation, which many of us are for. I am for both new production and conservation. The bill had no conservation, and, of course, there is the ''e'' word which is very good for Iowa but not so good for New York. I will not get into the ''e'' word issue here. But there are different ways to increase conservation.

In the views of many of us, this bill was not a bill that would have reduced energy dependence the way it should have. Certainly, it didn't get much bang for the buck. I don't want to get into a debate with my colleague. I know we all want to vote. I appreciate the sincerity and eloquence which he brings to all of the debates. I enjoy having them with him, but today we will not.

I rise reluctantly against the US-Australia Free Trade Agreement before us today, for one reason only. There have been other issues with this agreement. In my State, we are very concerned about dairy. But I think the people who put the agreement together were mindful of that. While the dairy farmers of New York State are not overwhelmingly pleased with the provisions in the agreement, they believe they have come a long way. I think the agreement does do some good for manufacturing export, and I care about that. But what bothers me is one provision in this agreement. It bothers me so that it leads me to vote against the agreement; that is, the provision dealing with the importation of drugs.

It has become clear in recent weeks that the pharmaceutical industry has not only done everything in its power to thwart drug reimportation legislation before this Congress, but now they have hijacked the trade agreement negotiation process as well. That practice has to end.

Given that we have fast-tracked, many of us, when we see an odious provision put into the agreement, have no choice but to vote it down and hope it will come back without that provision. Frankly, that provision has very little to do with the guts of the Australia Free Trade Agreement. Prescription drug reimportation is a policy that has gained more and more bipartisan support as this year has progressed. My guess is that if, say, the bill from the Senator from North Dakota would get a vote on the floor, it would pass. It would pass in a bipartisan way. That, of course, is because the cost of drugs is going through the roof, and it is harder and harder for our citizens to pay for these miracle drugs. They are great drugs. I salute the pharmaceutical industry for coming up with them.

But one of the great problems we face is that the research is borne not by the citizens of the world but only by the citizens of the United States, even though the drugs are sold throughout the world. We have to do something to change that.

But as usually happens these days, as a proconsumer idea such as reimportation gains more and more momentum and support, the pharmaceutical industry begins to see the writing on the wall, and they look for every way possible to prevent it from becoming reality.

Now it seems, of all things, the US-Australia Free Trade Agreement has become the perfect vehicle to begin the march to put the kibosh on importation.

It is no longer enough that this administration refuses to stand up to PhRMA and negotiate lower drug prices.

The Medicare prescription drug bill, now law, that we have before us, is a failure. It is not even being mentioned by the President in his campaign because they refuse to let Medicare negotiate with the pharmaceutical industry

for lower prices. That costs about $200 billion, and that means there was not enough money to create a good program. But that is not enough.

Now that we have come up with another way to deal with the high cost of drugs, reimportation, the administration actively, through trade agreements, is helping the big drug companies ensure that they can get the same exorbitant prices in every market around the globe, and at the same time putting up a barrier around our borders to prevent lower drug costs from coming in. That has gone too far.

The administration says it is unacceptable that foreign price controls leave American consumers paying most of the cost of pharmaceutical research and development—I couldn't agree more. That hits the nail on the head.

We have to relieve U.S. consumers of some of the burdens of the cost of research and development by making sure that other equally developed countries pay their fair share. But that is not what we are talking about with the US-Australia Free Trade Agreement. Absolutely not.

What the administration is doing is giving the drug companies the tools to raise prices in other countries while pushing policies that keep low drug costs out of this country.

Is that fair? Does that provide any relief to the American consumer? Absolutely not.

I have heard the argument that this provision doesn't have a practical effect because the Australian Government doesn't allow the exportation of its drugs anyway.

First of all, if you look closely at the way it is written, it isn't limited to restricting importation from Australia.

As they say in Shakespeare, there's the rub.

If they really were just concerned with Australia, they would say nothing in this provision would affect importation anywhere else. But that is not the case.

This proposal creates an obligation for the United States to pass laws that prohibit importation not just from Australia but from everywhere, including Canada.

If it truly doesn't have a practical effect, or if it is not reasonable to assume that Australia would hold us to our obligations—who knows—for all we know, the Australian Government could make a deal with the pharmaceutical company to lower their prices—why is the provision in the agreement at all?

Why aren't pharmaceuticals at least exempted? Everyone knows what is going on in this Chamber about reimportation. Everyone knows what is going on in this country. In my State of New York, citizens from Buffalo, Rochester, the North Country, and even New York City get on buses and go for hours to buy drugs in Canada.

If this provision has no practical effect in this trade agreement, then its only purpose must be to make it more difficult to pass a drug importation bill. It can and might become precedential—we have it in Australia; we should put it elsewhere.

The provision was put in the Australia Free Trade Agreement to set a precedent, to lay the groundwork. The Industry Advisory Committee to the USTR on these issues has clearly stated this purpose. Their report states that ''each individual FTA should be viewed as setting a new baseline for future FTA/s''—that this should be setting a floor, not a ceiling.

If that is the case, that is bad news for the millions of Americans who must pay for prescription drugs and had hoped lower costs of imported drugs would prevail.

Simply put, this provision fortifies the administration's opposition to importation and makes the law that much harder to change. Beyond that, this trade agreement may even affect our ability to negotiate prices in the few programs in which the Federal Government still has some control.

The provision is nothing more than a backdoor opportunity to protect the big pharmaceutical companies' profits and keep drug prices high for U.S. consumers. I have had some talks with the heads of the pharmaceutical industries. Some of the more forward-looking progressive ones realize that something has to give; that the U.S. consumer cannot pay for the cost of research for drugs for the whole world; that the prices are getting so high that we have to do something; that the balance between the dollars of profit that are put into research versus the balance of dollars that are put into all kinds of salesmanship has to change. I hope those leaders in industry understand that putting this provision in this agreement undercuts that kind of view.

The nature of trade agreements is changing. They are not just about tariffs anymore. They are getting into other substantive policy issues which dictate the parameters for health care delivery around the world.

These are fundamental policy decisions with serious implications for access to affordable health care which can and will affect millions of people both overseas and, of course, here at home. Yet PhRMA is the only health care expert at the table for these negotiations. That has to end.

I also argue that adding provisions such as this, virtually extraneous provisions that come from someone else's agenda, and putting them into trade agreements hurts the argument for fast track. This is just what people who are opposing fast track said would happen. Here it is, a year later, it has.

There are all kinds of questions swirling about how this trade agreement may affect Medicare, Medicaid, the VA, and DOD programs, and to be honest, no one seems to be able to explain what its effects on these programs will be.

My view is we cannot, we must not wait until after these agreements are put together to consider their potential effects on U.S. policy. I warn my colleagues, vote for this and then you find out that you have locked yourself into something on drug policy that you never imagined. This Member is not going to do that. This Senator is not going to do that.

This provision can be stripped from the agreement and we can come back and pass it next week, next month. We cannot have it as an afterthought—something we are all scrambling to understand the day before the vote.

Frankly, drugs are not the same as tractors. There are huge public health implications to the decisions made by the USTR. It is frightening to think these decisions are being made without the input of a neutral public health advisory committee. We have to put an end to the practice of PhRMA inserting provisions into trade agreements that affect policy elsewhere. There must be someone at the table to protect access to affordable drugs and other health care in this country. The risks are too great to ignore.

For that reason, I will vote no on this agreement in the hopes we can strip out this odious provision and then move forward with the proposal which I will then support.

I ask unanimous consent that a related article from the New York Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 12, 2004]

TRADE PACT MAY UNDERCUT INEXPENSIVE DRUG IMPORTS

(By Elizabeth Becker and Robert Pear)

WASHINGTON, July 11.—Congress is poised to approve an international trade agreement that have the effect of thwarting a goal pursued by many lawmakers of both parties: the import of inexpensive prescription drugs to help millions of Americans without health insurance.

The agreement, negotiated with Australia by the Bush administration, would allow pharmaceutical companies to prevent imports of drugs to the United States and also to challenge decisions by Australia about what drugs should be covered by the country's health plan, the prices paid for them and how they can be used.

It represents the administration's model for strengthening the protection of expensive brand-name drugs in wealthy countries, where the biggest profits can be made.

In negotiating the pact, the United States, for the first time, challenged how a foreign industrialized country operates its national health program to provide inexpensive drugs to its own citizens. Americans without insurance pay some of the world's highest prices for brand-name prescription drugs, in part because the United States does not have such a plan.

Only in the last few weeks have lawmakers realized that the proposed Australia trade agreement—the Bush administration's first free trade agreement with a developed country—could have major implications for health policy and programs in the United States.

The debate over drug imports, an issue with immense political appeal, has been raging for four years, with little reference to the arcane details of trade policy. Most trade

agreements are so complex that lawmakers rarely investigate all the provisions, which typically cover such diverse areas as manufacturing, tourism, insurance, agriculture and, increasingly, pharmaceuticals.

Bush administration officials oppose legalizing imports of inexpensive prescription drugs, citing safety concerns. Instead, with strong backing from the pharmaceutical industry, they have said they want to raise the price of drugs overseas to spread the burden of research and development that is borne disproportionately by the United States.

Many Democrats, with the support of AARP, consumer groups and a substantial number of Republicans, are promoting legislation to lower drug costs by importing less expensive medicines from Europe, Canada, Australia, Japan and other countries where prices are regulated through public health programs.

These two competing approaches represent very different ways of helping Americans who typically pay much more for brand-name prescription drugs than people in the rest of the industrialized world.

Leaders in both houses of Congress hope to approve the free trade agreement in the next week or two. Last Thursday, the House Ways and Means Committee endorsed the pact, which promises to increase American manufacturing exports by as much as $2 billion a year and preserve jobs here.

Health advocates and officials in developing countries have intensely debated the effects of trade deals on the ability of poor nations to provide inexpensive generic drugs to their citizens, especially those with AIDS.

But in Congress, the significance of the agreement for health policy has generally been lost in the trade debate.

The chief sponsor of the Senate bill, Senator Byron L. Dorgan, Democrat of North Dakota, said: ''This administration opposes re-importation even to the extent of writing barriers to it into its trade agreements. I don't understand why our trade ambassador is inserting this prohibition into trade agreements before Congress settles the issue.''

Senator John McCain, an author of the drug-import bill, sees the agreement with Australia as hampering consumers' access to drugs from other countries. His spokesman said the senator worried that ''it only protects powerful special interests.''

Gary C. Hufbauer, a senior analyst at the Institute for International Economics, said ''the Australia free trade agreement is a skirmish in a larger war'' over how to reduce the huge difference in prices paid for drugs in the United States and the rest of the industrialized world.

Kevin Outterson, an associate law professor at West Virginia University, agreed.

''The United States has put a marker down and is now using trade agreements to tell countries how they can reimburse their own citizens for prescription drugs,'' he said.

The United States does not import any significant amount of low-cost prescription drugs from Australia, in part because federal laws effectively prohibit such imports. But a number of states are considering imports from Australia and Canada, as a way to save money, and American officials have made clear that the Australia agreement sets a precedent they hope to follow in negotiations with other countries.

Trade experts and the pharmaceutical industry offer no assurance that drug prices will fall in the United States if they rise abroad.

Representative Sander M. Levin of Michigan, the senior Democrat on the panel's trade subcommittee, voted for the agreement, which could help industries in his state. But Mr. Levin said the trade pact would give a potent weapon to opponents of the drug-import bill, who could argue that ''passing it would violate our international obligations.''

Such violations could lead to trade sanctions costing the United States and its exporters millions of dollars.

One provision of the trade agreement with Australia protects the right of patent owners, like drug companies, to ''prevent importation'' of products on which they own the patents. Mr. Dorgan's bill would eliminate this right.

The trade pact is ''almost completely inconsistent with drug-import bills'' that have broad support in Congress, Mr. Levin said.

But Representative Bill Thomas, the California Republican who is chairman of the Ways and Means Committee, said, ''The only workable procedure is to write trade agreements according to current law.''

For years, drug companies have objected to Australia's Pharmaceutical Benefits Scheme, under which government officials decide which drugs to cover and how much to pay for them. Before the government decides whether to cover a drug, experts analyze its clinical benefits, safety and ''cost effectiveness,'' compared with other treatments.

The trade pact would allow drug companies to challenge decisions on coverage and payment.

Joseph M. Damond, an associate vice president of the Pharmaceutical Research and Manufacturers of America, said Australia's drug benefit system amounted to an unfair trade practice.

''The solution is to get rid of these artificial price controls in other developed countries and create real marketplace incentives for innovation,'' Mr. Damond said.

While the trade pact has barely been noticed here, it has touched off an impassioned national debate in Australia, where the Parliament is also close to approving it.

The Australian trade minister, Mark Vaile, promised that ''there is nothing in the free trade agreement that would increase drug prices in Australia.''

But a recent report from a committee of the Australian Parliament saw a serious possibility that ''Australians would pay more for certain medicines,'' and that drug companies would gain more leverage over government decisions there.

Bush administration officials noted that the Trade Act of 2002 said its negotiators should try to eliminate price controls and other regulations that limit access to foreign markets.

Dr. Mark B. McClellan, the former commissioner of food and drugs now in charge of Medicare and Medicaid, said last year that foreign price controls left American consumers paying most of the cost of pharmaceutical research and development, and that, he said, was unacceptable.

Mr. SCHUMER. I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Arizona.

Mr. MCCAIN. Mr. President, the United States-Australia Free Trade Agreement negotiated by the administration is not perfect. The distinguished chairman and ranking member of the Finance Committee would agree with me on that point.

It is often said around here that we should not let the perfect be the enemy of the good. This agreement for which we vote on implementing legislation today passes the ''good'' test, but barely.

Throughout my career in public service, I have been an ardent supporter of free trade. Opening markets to the free flow of goods and services benefits America, benefits our trading partners. Trade liberalization creates jobs, expands economic growth, and provides consumers with access to lower cost goods and services. The North American Free Trade Agreement, despite criticism from some, has increased our cross-border trade between our northern and southern neighbors by incredible amounts of money, creating economic growth and prosperity on both sides of the border.

In my judgment, free trade should mean truly free trade. There are some portions of this agreement which take admirable steps in that direction. For example, over 99 percent of the manufactured goods traded between our two countries—manufactured goods—will be duty and quota free and textile and apparel tariffs will be phased out.

According to the International Trade Commission, U.S. consumers will receive a net welfare benefit increase of between $438 million and $639 million if the agreement is fully implemented.

Ideally, this free-trade agreement would reach 100-percent duty-free treatment and tariff elimination immediately but I recognize that may not be possible.

What I find truly offensive are protections for special interests such as dairy, beef, and sugar. Even these protections, however, pale in comparison with the language in this agreement that covers patented pharmaceutical products.

I am astonished by the decision of the U.S. Trade Representative, Mr. Zoellick, for whom I happen to have the greatest admiration and appreciation. I am astonished that he would include language which would impair our ability to pass and implement drug importation legislation.

The Singapore Free Trade Agreement, which went into effect on January 1, was the first free-trade agreement to include language that could impact drug importation. In a side letter of understanding between our respective Trade Representatives, both nations agreed the language would not prevent Singapore from engaging in the parallel importation of pharmaceuticals. Thus, the U.S. Trade Representative effectively made the provisions applicable only to the United States.

USTR claims this language is consistent with longstanding U.S. patent law. If that is indeed the case, and if Singapore is not obligated to abide by the language, then why is the language included in the agreement? I suspect it was included in order to protect powerful special interests and to provide a template on which to base intellectual property provisions in future free-trade agreements.

In fact, the Industry Sector Advisory Committee for Chemicals and Allied Products, which advised U.S. negotiators on this provision, stated that this language ''should not be viewed as setting any ceilings for the intellectual

property chapters for future free-trade agreements; rather, each individual free-trade agreement should be viewed as setting a new baseline for future free-trade agreements.''

This pharmaceutical language was slipped into the Singapore FTA below the radar screen, without recognition of its potential implications for drug importation. Since that time, similar drug provisions have cropped up again in both the Australia FTA before us and the recently completed Morocco FTA.

Let's be clear about this language. It is antithetical to the spirit of free trade and serves only to block American consumers from accessing lower cost goods and services.

Not only does the intellectual property language in the Australia FTA offend all free traders, it also contravenes clear congressional intent. Let's look at the facts. In 2000, Congress passed the Medicine Equity and Drug Safety Act, MEDS Act, to allow American consumers to import lower cost prescription drugs from 25 industrialized countries with regulatory systems similar to ours. Although language added to that law acted as a poison pill and effectively prevented importation from taking place, congressional intent was crystal clear: We want to allow Americans to import safe prescription drugs.

In the years after the MEDS Act passed, the cost of prescription drugs has continued to rise, the number of uninsured Americans has continued to grow, and Congress has continued to debate the issue of drug importation. This week, a study from Boston University found that drug spending, as a share of income, rose by 50 percent between 1998 and 2002.

In the last 3 years, several additional importation measures have passed both Houses of Congress with substantial bipartisan support. In States, cities, and counties across the country, governments are implementing programs that would allow their residents to import lower cost prescription drugs. Today, approximately two-thirds of Americans believe they should be able to import lower cost drugs.

Where does this leave us? Congress has repeatedly voted, with bipartisan majorities, to allow drug importation. States and local governments are doing the same. An overwhelming majority of Americans believe they have a right to import cheaper medicine. AARP, the leading advocacy group for senior citizens, recently joined the battle.

So a simple question comes to mind: What is our U.S. Trade Representative, who is charged with representing the interests of the American people, doing? Why deliberately include language in bilateral trade agreements that could thwart importation efforts? Why flagrantly disregard the intent of Americans and their elected representatives? It seems to me that the special interests have found friendly territory.

Now, supporters of this language will claim that nothing in this agreement prevents the Congress from passing legislation with respect to drug importation. They are absolutely correct. No trade agreement can prevent Congress from exercising its constitutional right to pass laws that govern our Nation. However, the language in this trade agreement does tie the hands of Congress, further complicating our efforts to pass a drug importation law.

The USTR general counsel, John Veroneau, testified along these lines last month. He told the House Ways and Means Committee that new legislation on drug importation ''could give rise to an inconsistency between U.S. law and a commitment under this trade agreement.'' Given that similar language is now in not one but three trade agreements, it will presumably present the same problem for each.

Let's be intellectually honest here. It is simply bad policy to enter into bilateral agreements knowing we want to modify domestic law and thereby place ourselves in violation of these various agreements. Imagine Americans' response if they knew that domestic health care policy was being crafted not by their elected officials in Congress but, instead, by free-trade negotiators.

Now that this language is in three agreements, a precedent has been established for future FTAs. Indeed, USTR officials have indicated they intend to pursue similar language in all future FTAs. This means that future drug importation legislation will leave us in violation of our obligations to an ever greater number of trading partners and allies, undoubtedly creating a greater challenge to enacting and implementing importation law.

When Americans wonder how this continues to happen, maybe they should take a glance at the list of intellectual property ''advisors'' who worked with the negotiators. These advisors include representatives from—guess who—drug companies—guess who—the pharmaceutical industry as a whole, and other lobbyists with a direct interest in blocking drug importation. How many public health and consumer advocacy groups were included on this committee? Zero.

There is a popular philosophy among coaches known as game slippage which offers that you can make your team practice all you want, but, invariably, come gametime, some of what was taught in practice will not be applied during the game. I fear the administration is suffering from game slippage. It appears that Congress's intent over the last several years to address drug importation has slipped from the collective conscience of the administration and the U.S. Trade Representative when negotiating gametime comes around.

Our trade negotiators must be less mindful of special interests and more responsive to the express intent of the Congress. We granted the President trade promotion authority in 2002 to demonstrate our Nation's reenergized commitment to negotiating strong free-trade agreements. TPA was designed to lead to free trade, not more protection. Yet we have protectionist measures in this FTA for the pharmaceutical, sugar, beef, and dairy industries that will likely result in higher prices and, in some cases, less supply.

This agreement is not the first in which the administration has made use of TPA to promote its legislative priorities. Last year, immigration provisions were included in the Singapore and Chile FTAs. If the administration is to continue to enjoy the privilege of TPA, trade agreements must no longer be vehicles that include items rightfully addressed by Congress under the Constitution.

The United States has been and should be the leading promoter of an open global marketplace. Steel tariffs, agricultural subsidies in the farm bill, and other forms of protection, however, have damaged America's free-trade credentials. If special interest carve-outs, as the one for the pharmaceutical industry in this FTA, continue to pollute our trade agreements, we will all be worse off. Our economy will suffer and our leadership role on trade will further decline.

I have spoken at length about the very serious drawbacks of the Australia FTA. I will reluctantly support this implementing legislation because it, nevertheless, will have a net positive impact on the American economy. I also will vote for it because of my profound respect for the Government and the people of Australia. They have bravely stood by us for many decades and have shown enormous courage in helping us to fight the global war on terror. We are privileged to call the Australian people friends, and my comments here today should in no way reflect poorly on the proud nation with which we will embark on a new trading relationship.

Mr. President, I will vote yes. But the administration must understand that continuing down a protectionist path harms American consumers and engenders ill will among our allies and trading partners. I support passage of this legislation, but should another FTA being negotiated now or in the future come before the Senate with similar protections for special interests, I will find it extremely difficult to do so again.

FSC/ETI TAX BILL

Mr. President, before I continue, I would like to mention just a word about the FSC/ETI tax bill that we apparently have an agreement to go to conference.

The June 19 editorial in the Washington Times, not known for liberal propaganda, stated:

> The ideal solution would have been a quick, simple repeal of FSC–ETI, which is bad economic policy in any case. . . .

Unfortunately, both the House and the Senate versions of the bill became magnets for special interests. A steady train of lobbyists tacked on $167 billion

in tax breaks over the next 10 years to the Senate bill, while the House bill expanded by $143 billion in similar additions. The Senate bill, for example, includes breaks for NASCAR racetracks and foreign dog-race gamblers, while the House version lavishes its attention upon tobacco growers, timber owners and alcohol distillers. The imminent House-Senate conference, predictably, promises to be a de facto food fight between congressmen, lobbyists and tax watchdogs. And so while the lobbyists duke it out, EU sanctions will continue to rise, and American manufacturers and the U.S. economy will deal with the consequences.

There are many other editorials about how incredible this bill has become and how we have lost any possible sense of what we are doing to our deficit and to the American people. If we pass this bill in its present form, I will do whatever I can to make sure every American knows what we have done here for the special interests in this town. Despite the passage of campaign finance reform, they rule in a way which is almost unprecedented at least in the 22 years I have been a Member of Congress.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, there is an order in effect allowing 2 minutes per side on the matter that will follow the Australia Free Trade Agreement, the tobacco amendment. I ask unanimous consent that there be a total of 4 minutes on each side.

The PRESIDING OFFICER. Is there objection?

Mr. INHOFE. Reserving the right to object, when would this time begin?

Mr. REID. I would say through the Chair to my friend, we are going to vote immediately on the free-trade agreement. We yield back any time on this side.

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

Mr. GRASSLEY. I yield back time on this side.

The PRESIDING OFFICER. The question is on the third reading and passage of the bill.

The bill (H.R. 4759) was ordered to a third reading and was read the third time.

Mr. HATCH. Mr. President, I rise today to support the United States-Australia Free Trade Agreement. I do so because it is good for the cause of free and fair trade, it is good for the United States, and it is good for Utah.

I wish to commend my colleagues on the Senate Finance Committee, particularly Chairman GRASSLEY and ranking minority member BAUCUS. They have assiduously worked with the administration to complete the legislation implementing years of negotiations. Working with our colleagues on the Ways and Means Committee, we have prepared legislation that, I believe, will pass overwhelmingly in both Houses. That it does so reflects on the strengths of this agreement, and on the hard work of members in both committees. To date, the process for putting this agreement in place has been fair. Members have been given ample opportunity to voice any concerns they may have about the substance of this agreement both on the Senate floor and in briefings with the U.S. Trade Representative's office. No one can legitimately say this has been a partisan process. No one can legitimately say they have not had a chance to review and comment on this historic agreement.

However, this agreement would not have been completed had Congress failed to provide the President with fast-track trade promotion authority. These agreements are complex, and the interests are vast, and, as we know, Congress can slow the process by endlessly nitpicking details for political advantage. Without trade promotion authority granted by a majority of this body to the President in 2002, the President would have failed to advance his agenda of creating American jobs by leveraging the strength of our economy into free and fair trade regimes created by us.

Toward that last point, I wish to commend the small team at the United States Trade Representative's Office, led by the extremely able Robert Zoellick, for their work through these years in advancing the President's free trade agenda. The Australia Free Trade Agreement before the Senate will boost our economy while advancing bilateral relations with our strongest partner in Asia as a result of the dedication of Bob Zoellick and the people at USTR.

Australia stood with us in our foreign policy challenges throughout the 20th century. In the beginning of this century, which was marked so soon after by the attacks of September 11, and our response with the global war on terror and the war to destroy the regime of Saddam Hussein, Australia has continued to stand with us. We have a history of friendship, based on shared civic values of democracy, individual freedom and free markets. We have no closer ally in Asia.

Of course this is not a sufficient reason to grant a free trade agreement, or FTA. The necessary and sufficient agreements in granting FTAs have to do with opening markets in a way that will fairly allow U.S. products to compete. I am pleased to observe that in this area, the Australia FTA does a superb job. In fact, the Australia FTA eliminates 99 percent of Australia's manufacturing tariffs immediately, giving U.S. firms an average 5 percent price advantage over international competitors in the Australian market. As well, the FTA grants tariff-free access to Australia's agricultural market for U.S. exporters, grants enhanced preferential access to U.S. services exporters to Australia, and removes foreign investment screening for several types of U.S. investment.

For my home State, this FTA gives Utah businesses a distinct advantage over their international rivals when trading with Australia. Australia's market is the 12th largest market for Utah goods, with total exports valued at over $67 million in 2003. The implementation of the Australia FTA will provide a large boost to Utah's auto parts, processed foods, sports equipment and medical equipment companies. These important and large industries within the State of Utah will now be able to export 99 percent of their goods to without facing manufacturing tariffs, this gives them, on average, a 5 percent price advantage over international competitors in the Australian market.

There are nine Australian-owned companies currently operating in Utah which insource several hundred jobs for Utahns. In all, there are over 320 jobs in Utah that are directly supported by trade with Australia, and hundreds more that are indirectly supported by Australian trade.

No agreement is perfect, whether it is with a developing economy, or a modern and developed economy, like Australia's. This FTA will provide an immediate opening to Australia's large market for agricultural products from our States. Currently, our prolific U.S. agricultural producers export more than $400 million in products to Australia.

In terms of granting access for Australian beef, the agreement allows for us to increase the beef import quota over an 18-year period. Quota increases to be granted in the first 3 years are conditional upon U.S. beef exports reaching 2003 levels, so that Australian beef exporters will not be able to exploit recent drops in U.S. beef exports caused by the mad cow scare. While quotas within tariffs will be removed, above-quota tariffs will also be phased out over time. The Congressional Research Service reports that ''initial quota increases represent an estimated $50 million in additional imports—less than ¼ of 1 percent of the value of annual U.S. beef output, and 1.6 percent of the value of U.S. beef imports.'' In addition, the agreement provides safeguards that will protect U.S. beef producers from surges in imports from Australia. These safeguards are permanent and apply to the transition periods, as well as after the transition periods.

This agreement is going to be good for the American economy. In addition to manufacturing and agricultural products, it provides an immediate opening in Australian markets for financial services, electronic commerce and U.S. investment. In the latter category, we should appreciate the implications of allowing U.S. investment to now use Australia as a base for greater expansion into the rapidly growing Asian markets. The benefits of this FTA to the U.S. economy equate to about $500 million per year. This translates into more U.S. jobs.

And, for me, this is the bottom line. Economic policymakers both in Congress and in President Bush's administration recognize that the most fundamental goal of economic policy is to support the economy and create American jobs. American workers, farmers and cattlemen are the most industrious and productive in the world. That is why, as the U.S. has expanded trade regimes based on the principles of fairness and transparency that define our economy, the U.S. has always been a net winner. The rest of the world wants to buy our goods because they are the best quality at the most affordable prices. The rest of the world wants to sell in our markets, because to do so, they must create products that compete in the most open and efficient market in the world. Successful U.S. free trade agreements protect our principles, advance our values, and provide opportunity for all those who compete fairly. And fair competition is something the citizens of Utah support. For these reasons and more I support the swift approval of this implementing legislation.

Mr. DURBIN. Mr. President, I rise today in support of the United States-Australia Free Trade Agreement. I maintain reservations about certain sections of this agreement, but overall I believe that this free-trade agreement succeeds in lowering tariffs on American goods entering Australia and will benefit my home State of Illinois.

The United States-Australia Free Trade Agreement, FTA, includes strong and comprehensive commitments by Australia to open their goods, agricultural and services markets to U.S. producers. The agreement would reduce a number of tariffs and duties currently affecting trade between the United States and Australia, reduce barriers for services and increase protections for intellectual property.

Under the trade agreement, as ratified by the bill, more than 99 percent of U.S. exports of manufactured goods to Australia would become duty-free immediately upon entry into force of the agreement. This is good for our country because increasing exports means more jobs here at home. This is beneficial to U.S. manufacturers, who expect to realize an additional $2 billion in exports a year.

Australia is a major trade and investment partner of the U.S. and is the ninth largest market for the export of U.S. goods, with a total trade close to $28 billion last year. Australia purchases more goods from the U.S. than any other country, and the U.S. enjoys a bilateral trade surplus of $9 billion. This is quite a difference from the $130 billion dollar trade deficit we have with China.

My home State of Illinois will benefit from the U.S.-Australia FTA. In 2003, Illinois' export shipments of merchandise to Australia totaled $925 million and Australia is the sixth largest export market for Illinois in 2003. Australia is an important market for Illinois goods as Illinois exports to Australia have grown significantly during a time when Illinois exports have fallen. While exports of goods from Illinois to Australia grew 12 percent over the 1999–2003 period, exports from the States to the world declined 10 percent over the same time.

Illinois exports range from agricultural and construction machinery, to engines, turbines and power transmission equipment, to motor vehicle parts, to general purpose machinery and to agricultural products. In short, people through nearly every sector of our economy will benefit from this agreement.

Illinois has lost 140,000 manufacturing jobs since January 2001 to many countries who do not have the same labor and environmental standards as the U.S. However, labor and environment have not been a source of controversy in this FTA. The Australian and U.S. economies are both modern and industrialized, and are at similar levels of development and environmental standards. In fact, Australia has a higher minimum wage than the U.S.

This agreement also extends protections for all forms of intellectual property rights. Australia agrees to extend the longevity of copyrights in order to accord protections to existing U.S. standards. Both countries also agree to ratify two international treaties involving recorded music and copyrights.

This agreement also gives our farmers new opportunities. All U.S. agricultural exports to Australia totaling more than $400 million will receive immediate duty-free access. Key agricultural products that will benefit from immediate tariff elimination include soybeans and oilseed products, fresh and processed fruits, vegetables and nuts, and pork products.

In addition, Australia also agreed to resolve outstanding sanitary and phytosanitary, SPS, disputes, chiefly affecting U.S. pork, citrus and corn. Since conclusion of the negotiations, Australia has taken steps to lift the SPS barrier against U.S. pork. This is good news for the many pork producers in Illinois.

While some of the provisions in these FTAs could serve as a model for other agreements, a number of provisions clearly cannot be, nor should they be. I believe that each country with whom we negotiate is unique; and while the provisions contained in the Australia FTA work for Australia, they may not be appropriate for FTAs with other countries, where there may exist very different circumstances.

Concerns about labor and environmental standards, however, should receive careful scrutiny on a case-by-case basis as different circumstances and situations warrant. Use of the ''enforce your own law'' standard is invalid as a precedent—indeed is a contradiction to the purpose of promoting enforceable core labor standards—when a country's laws clearly do not reflect international standards and when there is a history, not only of nonenforcement, but of a hostile environment towards the rights of workers to organize and bargain collectively. Using a standard in totally different circumstances will lead to totally different results. Many of us support the Australia Free Trade Agreement not only because they have good labor laws, but because they have the ability and willingness to enforce them.

I also noted that all commodities were not included in this FTA and that sugar was excluded. This exclusion should not be a precedent for future trade agreements as this could inhibit other export-oriented industries from their opportunity to win market access in future FTAs.

Without a doubt, there are parts of this agreement that I feel are less than perfect. This agreement has one very troublesome aspect to it, which has U.S. pharmaceutical industry fingerprints all over it.

This agreement gives the exclusive right of a patent holder to prevent the importation of a patented product without the consent of the patent holder.

By including this provision in this agreement, the ban on reimportation of prescription drugs into the United States becomes more than just a U.S. law, it becomes a matter of trade law.

That means that we are giving another country the right to challenge us if we pass the important Dorgan-Snowe bill allowing Americans to reimport prescription drugs from other countries, many of which have cheaper prices than the U.S. for the same drugs.

Congress is currently considering several bills to allow Americans to safely reimport prescription drugs from other countries. In fact, there was just a hearing in the Senate Judiciary Committee about this issue and the Senate Health, Education, Labor and Pensions Committee will mark up a proposal next week.

Why then is the trade negotiator for the Bush administration negotiating an issue that is being actively debated in Congress? Allowing this language in this agreement is effectively end-running the legislative branch.

On July 23, John Veroneau, general counsel for the Office of the U.S. Trade Representative, confirmed that new

legislation on drug reimportation ''could give rise to an inconsistency between U.S. law and a commitment under this trade agreement.''

Once again, the Bush administration has chosen big pharmaceutical companies over the American people. Prescription drug prices are rising between 14 and 19 percent per year, making already expensive drugs unaffordable for some. As Congress searches for solutions, the Bush administration is preserving the protections from international price competition for the prescription drug industry.

Further, this agreement may jeopardize the lower prices the Veterans Administration and Medicaid are currently able to negotiate. Under Article 15.11 of the agreement, ''suppliers'' have the right to challenge VA procurement decisions, including listing and pricing pharmaceuticals.

I do think, because of the positive provisions in this FTA relating to manufacturing, agriculture services, that we should approve this agreement. However, my vote for the Australia FTA should not be interpreted as support for using this agreement as a model for future trade negotiations. I will evaluate all future trade agreements on their merits and their applicability to each country. We need to ensure that core international labor rights and environmental standards are addressed in a meaningful manner and the rights of American consumers are protected.

Mr. KOHL. Mr. President, the writing appears to be on the wall where the U.S. Australia Free Trade Agreement is concerned. I suspect it will pass this body by a substantial margin. Still, I want to take a few moments to reflect on this agreement and what it may mean for Wisconsin.

Wisconsin has about 16,000 dairy farms. Altogether, production and processing activities in the state generate close to $20 billion in economic activity. Dairy accounts for about 200,000 Wisconsin jobs. I could go on at length, but my colleagues already know that I care deeply about Wisconsin agriculture and the families who depend on dairy.

And that is why I will vote against the U.S.-Australia Free Trade Agreement. While the final agreement maintains over-quota tariffs on dairy products, I remain very concerned that the overall effect on dairy farmers will be negative, particularly as it affects cheese markets which are of critical importance to Wisconsin dairy.

I am also concerned that this agreement sets up roadblocks for us to pass legislation that would allow Americans to buy less expensive prescription drugs from other countries. It includes a provision that protects the current right of drug companies to prevent importation of its patented drugs by other parties, in this case, parties in Australia.

I understand that his provision will have no practical effect in Australia, since Australian law already prohibits drug exports. However, I am concerned about the dangerous precedence this sets. A bipartisan majority in Congress supports legislation to allow drug importation from other countries, and I believe that at some point, it will be the law of the land.

Even though it may not matter for Australia, the United States will likely seek trade agreements with other countries in the future that do allow exports. The pharmaceutical industry must be put on notice that this kind of end-run around the will of Congress is not acceptable. And the administration must be put on notice that future trade agreements will have a hard time getting approval if we see these kinds of provisions again.

Trade negotiations, simply put, are nothing more than an elaborate process of setting priorities and making trade offs. Where the U.S.-Australia trade agreement is concerned, it seems clear to me that U.S. negotiators were willing to trade quite a bit away in order to protect and promote the interests of pharmaceutical manufacturers.

Unfortunately, dairy interests ended up on the wrong side of that deal. And though we avoided disaster after several of us made a final push to get our negotiators to focus on the impact their deals could have on our dairy industry, avoiding disaster is not enough to recommend the final agreement. This implementing bill does not improve—and probably harms—the chances for Wisconsin dairy producers to enhance their markets. As such, I cannot support it.

I believe in free and fair trade. But this bill implements neither of those principles. The massive benefits won by the pharmaceutical industry were not free, they were bought by concessions from other industries, dairy and I am sure others of importance in my colleagues' States. And the economic balance struck by the deal—where some favored industries do well at the expense of others—is not fair. I urge my colleagues to look carefully at the trade-offs this deal represents before casting your vote.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. BAUCUS. Mr. President, I appreciate the comments by my colleagues on the importance of U.S. beef and the impact upon it by this Agreement. The U.S. cattle industry is a cornerstone of rural America. Virtually every rural community in America is supported, in some way, by domestic beef production. This is especially true in Montana, where cattle and beef account for 25 percent of our State's economy. Nearly half of our State's economy depends on agriculture, overall. Since it's pretty tough to survive on one-half of an economy, it's easy to see how important this industry is to Montana. The cattle industry creates thousands of jobs and supports thousands of families.

This is why I fought so hard to ensure that this agreement reflected the particular needs and interests of Montana and U.S. cattlemen. When the administration first indicated their intention to negotiate an agreement with Australia, I was frankly concerned. Australia is one of the world's largest exporters of beef, offering a relatively small consumer market in exchange for access to ours.

I was faced with a choice. I could oppose the agreement from the beginning, or I could engage the process and try to forge as strong an agreement as possible. Opposing the agreement from the beginning would mean taking myself out of the process. At that point, I would be unable to best defend the interests of my constituents who had much at stake in the negotiations. Engaging the process would allow me a seat at the table, and an opportunity to insist on provisions that preserve the interests of Montana's cattlemen. Thus, engagement was the better choice.

After nearly a year and a half of tough negotiations, including countless meetings and conversations with U.S. negotiators, and Australian officials, as well, I am satisfied that we got as good a deal as we could. The agreement treats beef as a particularly sensitive product, taking into account the loss of U.S. global exports due to the discovery last year of BSE. It provides a long transition period for duty phase-out, and a slow, gradual increase in beef access to Australia. Most importantly, the agreement creates two safeguards that are triggered automatically whenever the volume or price-based conditions are met.

While the administration is given authority to waive the application of a safeguard—if certain, rare conditions are met—I also worked with Ambassador Zoellick and his staff to establish procedural requirements that must be met before a safeguard could be waived.

All in all, I am confident that the provisions in the agreement are strong and adequate. Still, our efforts illustrate the importance of these issues, not just for this FTA but for future agreements, as well. The United States traditionally exports 10 percent of its beef production, and this figure was growing until our export markets were blocked in the wake of last December's discovery of a single dairy cow infected with BSE.

Clearly, expanded trade is important to the U.S. cattle industry. Yet, extreme distortions in global beef markets pose a serious threat to the future of U.S. ranchers. All the hard work in the world won't amount to a hill of beans if we don't tackle the sources of these distortions—such as massive subsidies, high tariffs, and the like. I ask that a position paper, describing distortions in the global cattle and beef markets, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GROSSLY DISTORTED GLOBAL CATTLE AND BEEF MARKETS—HARMING U.S. CATTLE AND BEEF PRODUCERS AND RURAL AMERICA: IMMEDIATE STEPS NEEDED TO LEVEL THE PLAYING FIELD

I. INTRODUCTION

The global market place for cattle and beef trade is amongst the most heavily distorted of any sector of economic activity. The distortions have seriously harmed US cattle producers by reducing prices paid for U.S. product in the U.S. and around the world and by limiting export opportunities other than the United States for other major producing nations. The domestic cattle industry suffered staggering losses since the early 1990s measured in the billions of dollars, with more than 100,000 cattle ranches and farms ceasing operation or ceasing handling cattle in that time. The decline of the cattle industry in America—the largest part of American agriculture, has decimated rural communities across the country which depend on a healthy agricultural sector for survival.

While the United States market is very open (we are the largest importing nation despite being the largest producing nation and have very low tariffs on cattle and large volumes of beef that enter duty free under a TRQ system) and is characterized by little government support and science-based sanitary and phytosanitary measures, this is not true of most of the rest of the world. Our trading partners often employ (1) high tariffs, (2) massive subsidies (for some), (3) unscientific SPS measures, (4) misuse of state trading enterprises in grains to artificially lower costs of production in certain major exporting nations and (5) failure to open markets even where FTAs have been negotiated through the exclusion of large segments of agricultural trade (including cattle and beef) in violation of WTO obligations and requirements. Such actions ensure that many markets are closed, US exports are limited and global export prices and prices in the U.S. are lower than they would be in an environment of harmonized tariff levels, elimination of export and domestic subsidies and harmonized SPS standards.

While the European Union is the worst offender with combination tariffs well north of 100% ad valorem, more than $9.5 billion in subsidies to the sector and SPS measures that have been found inconsistent with WTO obligations, they are not alone. The U.S. government has estimated that bound tariffs in the sector by our trading partners average 85%. Subsidies are provided to expand exports and build up industries in major producing nations, such as Australia, Brazil, Canada as well as the EU. Two major trading partners, Australia and Canada, have state-trading enterprises for grains which are believed to distort prices for major inputs to domestic cattle production in those countries. Indeed, the Australian Wheat Board has acknowledged publicly that they do so. Fifty-eight countries closed their markets in whole or in part to U.S. exports after a single imported cow from Canada was found in Washington state to have BSE and have maintained restrictions without risk assessments to justify such action and contrary to the international standards established by the OIE. The result is artificially high prices in major consuming markets like Europe and Japan (in 2002 the average slaughter steer price in the EU was $127.42/cwt and in Japan Holstein steers sold at $171.57/cwt while U.S. steer prices never went above $75/cwt in any month of the year) and artificially low prices in open markets like the United States. U.S. producers who are blessed with abundant land and are highly educated and entrepreneurial are being destroyed not because they are not competitive but because the global market place is stacked against them.

While tariffs and subsidies are being negotiated as part of the ongoing WTO Doha Development Round, it is critical that the United States obtain parity for U.S. producers with both developed and developing countries on these critical issues through the negotiations. Based on discussions to date, such parity is unlikely without a sectoral approach being adopted for cattle and beef within the Doha Round.

Similarly, it is critical that other distortions be eliminated through harmonization of SPS standards actually applied by major consuming nations, that state trading enterprises be eliminated (or forced to end their distortive practices) and that countries not be allowed to maintain FTAs where in fact substantially all trade is not covered.

Without such comprehensive actions, current efforts to negotiate FTAs with many countries including most of the major producing nations—but few of the major consuming nations—has the potential perverse consequence of worsening the position of U.S. cattle producers and the rural communities which depend on them by further opening the U.S. market without ensuring that U.S. producers (and other producers) can compete in a non-distorted manner globally.

Finally, Congress has recognized that perishable products like live cattle and beef need special rules included in trade agreements to facilitate trade and provide the tools necessary to address pricing or volume problems quickly when they occur. The U.S.-Australia FTA includes such a provision for beef. It is critical that every trade agreement (whether bilateral, plurilateral or multilateral) have such special rules and that they be applicable to cattle and beef and be automatic in operation.

II. GLOBAL DISTORTIONS

A. Tariffs

The United States allows various categories of beef to be imported duty-free pursuant to free trade agreements (ex. Mexico and Canada under NAFTA) and preferential treatment programs (ex. Peru under Andean Trade Preference Act). Beef from all other countries is subject to a Tariff Rate Quota system and imports within the TRQ (covering 696,621 MT) are subject to a tariff that is nearly zero. Import volume that falls outside the TRQ is subject to a 26.4% duty. In contrast, major consuming and several producing nations maintain high tariffs and/or highly restrictive tariff-rate quotas (TRQs) to limit market access, which limits both export opportunities for U.S. producers, and leads to other producing nations focusing on the same open beef markets like the United States resulting in lower prices in the United States than would otherwise be the case.

COMPARISON 2003 EFFECTIVE TARIFFS ON BEEF

Code	Description	U.S. effective rate	Japan	China	Jamaica	Korea	EU [1]	Turkey
020130	Meat of bovine animals, fresh or chilled: Boneless	.274%	50% (safeguard) (normally 38.5% of CIF)	34%	40%	40.5%	79.5%	227.5%
020230	Meat of bovine animals, frozen: Boneless	2.15%	50% (safeguard) (normally 38.5% of CIF)	34%	40%	40.5%	[2] 93.1%	227.5%

[1] EU effective rate based on 2002 data.
[2] Based on tariff rates for 0202.30.10 and 0202.30.50.

B. Subsidies

Major beef producing nations have lavished billions of dollars in aid to support and expand beef productions in their respective countries. For example, the EU is largest agricultural subsidizer in the world, projected to spend over $9.5 billion for both export and domestic subsidies on their beef and cattle sectors in 2005. Likewise, Brazil has spent hundreds of millions of dollars to expand their beef sector through both domestic and export subsidies and is understood to be more than doubling the amount of subsidies to the sector in 2004 to roughly a half billion dollars. Further, both Australia and Canada are engaged in providing hundreds of millions of dollars in support to their respective cattle and beef sectors in an effort to artificially prop up those industries:

Country	*Est. Subsidy per Head*
EU	$87.94
Canada	6.12
Brazil	5.38
Australia	2.96

Conversely, outside of disaster assistance or drought relief, the cattle and beef producer in the United States receives no support from the government.

C. State Trading Enterprises

State Trading Enterprises maintained in Australia and Canada operate to distort internal prices for key feedstuffs through the use of wheat boards supporting larger herds than would otherwise be the case. The Australian Wheat Board Director has stated that: ''By controlling the export of grains used as feeds—wheat, barley, and sorghum—these entities are able to influence the domestic prices of feed, and thus benefit Australian cattle producers.''

D. Unjustified Sanitary and Phytosanitary Measures

Many of the major consuming countries have imposed restraints on U.S. exports of cattle and beef that are not based on risk assessments or otherwise comply with WTO SPS obligations. While all governments accept the fact that some trade restrictions may be necessary to ensure food safety and animal and plant health protection, the use of sanitary and phytosanitary restrictions to shield domestic producers from competition is unacceptable. For many years, the EU has unjustifiably banned U.S. exports of beef on the grounds of hormones despite adverse WTO panel and Appellate Body reports. Beginning in December of last year U.S. beef has been banned in fifty-eight markets around the world on the basis of BSE without adequate scientific justification or WTO notification. Such restrictive actions have largely eliminated in 2004 the export markets for U.S. beef, markets that have been built up over many years of business.

Global BSE Trade Ban in place as of Feb. 1, 2004 ([a] partially removed as of June 11, 2004; [b] country joined EU and ban lifted; [c] banned applies to Washington State only):

1. Argentina; 2. Australia; 3. Bahrain; 4. Barbados; 5. Belize; 6. Bolivia; 7. Brazil; 8. Brunei; 9. Bulgaria; 10. Canada [a].

11. Cayman Islands; 12. Chile; 13. China; 14. Colombia; 15. Costa Rica[a]; 16. Dominican Republic[a]; 17. Ecuador; 18. Egypt; 19. El Salvador; 20. Grenada.

21. Guatemala[a]; 22. Honduras; 23. Hong Kong; 24. Indonesia[a]; 25. Israel; 26. Jamaica; 27. Japan; 28. Jordan; 29. Kenya; 30. Korea.

31. Kuwait; 32. Latvia[b]; 33. Macau; 34. Malaysia; 35. Mexico[a]; 36. Nicaragua[a]; 37. Oman; 38. Panama; 39. Peru; 40. Philippines[a].

41. Poland[b]; 42. Qatar; 43. Republic of South Africa; 44. St. Kitts; 45. St. Vincent & Grenadines; 46. Saudi Arabia[c]; 47. Russia; 48. Singapore; 49. Surinam; 50. Taiwan.

51. Thailand; 52. Trinidad & Tobago[a]; 53. Turkey; 54. Ukraine; 55. United Arab Emirates; 56. Uruguay; 57. Venezuela; 58. Vietnam.

III. WTO INCONSISTENT FTAS RESULT IN LARGE VOLUMES OF BEEF COMING TO THE UNITED STATES THAN WOULD OTHERWISE BE THE CASE

Many countries have entered into free trade agreements (FTAs) where large portions of agricultural trade, including trade in cattle and beef, have been excluded from tariff concessions. Such actions raise serious questions about FTA compliance with obligations of GATT Article XXIV:8(b), which requires that FTAs eliminate duties and other restrictions on ''substantially all'' of the trade between parties to the FTA. Correct implementation of Article XXIV in the FTAs would result in expanded market opportunities for FTA partners and provides alternative markets to traditional export markets such as the U.S. Lack of alternative markets funnels product into the U.S. lowering prices here as well as into other markets not covered by FTAs. An examination of five of the EC's FTAs, as an example, shows the following product exclusions:

PERCENTAGE OF PRODUCTS EXCLUDED FROM TARIFF CONCESSIONS IN FIVE EC-FTAs

Country	HS 0102 Live bovine animals	HS 0201 Meat of bovine animals, fresh or chilled	HS 0202 Meat of bovine animals, frozen	Total % of agricultural products excluded
Mexico	100	100	100	35
South Africa	100	100	100	25
Tunisia	100	100	100	68
Morocco	100	100	100	67
Israel	100	100	100	87

IV. SPECIAL RULES FOR PERISHABLE AND CYCLICAL AGRICULTURAL PRODUCTS

In 2002 Congress recognized that producers of perishable, seasonal, and cyclical agricultural products, like cattle and beef, face unique challenges in the market. Some proposals have been made by the U.S. in the Doha Round in the Rules area but to date nothing has been put forward in the agriculture negotiations. In the United States-Australia Free Trade Agreement (FTA) this requirement was recognized by the Administration as it negotiated an agricultural safeguard for beef. While the terms within the U.S.-Australia FTA are discretionary and limited to beef, it is an important precedent for the type of automatic provisions that should be part of every FTA and part of the WTO.

V. THE HIGHLY DESTRUCTIVE EFFECT OF GLOBAL MARKET DISTORTIONS ON THE U.S. CATTLE AND BEEF SECTOR

Cattle and beef production comprises the single largest sector of U.S. agriculture. Cattle are raised in all fifty states and half of all U.S. farms have beef cattle as part of their operations.

Because cattle prices for U.S. producers are highly sensitive to demand movements, the combination of an open U.S. market, coupled with the global distortions outlined above, has resulted in massive dislocations to U.S. producers and the rural communities which depend on them in the last fifteen years.

BEEF CATTLE OPERATIONS, LOSSES AND 2002 CATTLE RECEIPTS

	No. of operations			Declines (% of 1993)	2002 Cash Receipts	
	1993	2002	Declines		(000s $s)	Rank
AL	32000	24000	8000	25.0	2,378,278	14
AK	90	90	0	0.0	27,906	49
AZ	2600	2100	500	19.2	1,094,056	29
AR	27000	27000	0	0.0	2,951,745	10
CA	15000	12500	2500	16.7	6,241,632	2
CO	10500	10900	0	0.0	3,501,589	9
CT	800	800	0	0.0	154,364	45
DE	230	230	0	0.0	546,329	39
FL	18000	16500	1500	8.3	1,239,225	28
GA	23000	21000	2000	8.7	2,889,736	12
HI	800	650	150	18.8	84,789	46
ID	7500	7600	0	0.0	1,998,531	17
IL	21000	15800	5200	24.8	1,562,297	22
IN	17000	12000	5000	29.4	1,551,019	23
IA	29000	26000	3000	10.3	5,074,754	5
KS	29000	28000	1000	3.4	5,325,329	4
KY	44000	40000	4000	9.1	1,960,679	18
LA	18000	13000	5000	27.8	614,049	38
ME	1400	1000	400	28.6	230,471	42
MD	3800	2700	1100	28.9	810,343	32
MA	1000	750	250	25.0	83,250	47
MI	8000	8000	0	0.0	1,259,700	27
MN	16000	15500	500	3.1	3,644,854	8
MS	27000	20000	7000	25.9	1,949,698	19
MO	62000	58000	4000	6.5	2,302,053	15
MT	11800	11400	400	3.4	985,498	30
NE	23000	21000	2000	8.7	5,824,295	3
NV	1400	1300	100	7.1	211,157	43
NH	500	530	0	0.0	56,276	48
NJ	1200	700	500	41.7	192,609	44
NM	7000	6500	500	7.1	1,382,052	26
NY	7500	6200	1300	17.3	1,870,160	20
NC	26000	21000	5000	19.2	3,944,013	6
ND	13200	11500	1700	12.9	723,656	37
OH	19000	17000	2000	10.5	1,630,227	21
OK	51000	50000	1000	2.0	2,893,460	11
OR	16000	12800	3200	20.0	808,131	33
PA	12500	12200	300	2.4	2,682,401	13
RI	160	160	0	0.0	6,300	50
SC	13000	9500	3500	26.9	760,227	35
SD	18000	16500	1500	8.3	2,059,513	16
TN	55000	45000	10000	18.2	913,073	31
TX	130000	133000	0	0.0	8,087,670	1
UT	5000	5600	0	0.0	807,752	34
VT	1100	1200	0	0.0	400,174	40
VA	24000	23000	1000	4.2	1,451,127	25
WA	14000	9700	4300	30.7	1,495,317	24
WV	15000	11000	4000	26.7	300,197	41
WI	9800	12000	0	0.0	3,768,302	7
WY	5100	5200	0	0.0	749,571	36

No. of Operations are for Beef Cattle & Calves, from USDA NASS, ''Cattle Final Estimates'' 1994–98 & 1998–2002. Cash receipts are for Livestock and products from USDA ERS.

For example, in a global market where there was a level playing field for U.S. cattle producers, the U.S. would have a huge and growing trade surplus as there are only a handful of countries with the capacity to supply large quantities of quality beef for export. Yet, prior to the BSE outbreak in Canada in 2003, the U.S. has been running a trade deficit in cattle and beef:

UNITED STATES BEEF AND CATTLE TRADE FLOWS, 1999–2003

[$1,000]

	1999	2000	2001	2002	2003
Cattle Imports	1,007	1,157	1,464	1,448	867
Cattle Exports	174	272	270	131	64
Total, Cattle	−833	−886	−1,194	−1,317	−803
Beef, Imports	1,904	2,205	2,514	2,513	2,364
Beef, Exports	2,655	2,909	2,548	2,489	3,036
Total, Beef	751	704	34	−24	672
Total, Cattle & Beef Trade	−82	−182	−1,160	−1,341	−130

Data Source: Department of Commerce, U.S. Census Bureau, Foreign Trade Statistics, HS 0102 (cattle), 0201 (fresh beef), and 0202 (frozen beef).

Limited U.S. exports, significant inflows of imports and massive global distortions have led to long-term unsustainable pricing and an unprecedented seven year decline in cattle inventory in the United States. For example, during the 1992–2001 decade USDA reports that financial returns for cow/calf producers were a negative $30.40 per bred cow per year, losses aggregating to the billions of dollars. With the massive losses, cattle herds have declined.

While the partial closure of the Canadian border in 2003 because of the BSE outbreak in that country has provided a temporary respite for US producers in terms of pricing levels, only correction of the global distortions can restore pricing equilibrium.

The unsustainable prices over the last fifteen years have resulted in ranching families going bankrupt by the thousands and being forced off of their land. In 1993, there were nearly 900,000 beef operations in the United States. By 2003, this number declined to 792,100 operations. In the late 1990s, auctions of equipment from ranches and farms were a weekly event across rural America as families lost everything they owned and saw the end of what was often generations-old family businesses.

The depressed pricing in the marketplace over most of the last fifteen years has meant a hollowing out of the ranching communities across American and with it the destruction of many of the rural communities dependent on ranch and farm economic health for survival.

VI. ACTION TO REFORM DISTORTIONS IS CRITICAL

Eliminating the global distortions in cattle and beef trade is important to every state in the United States, to thousands of rural communities and to some eight hundred thousand ranching and farming families that raise cattle in America. Some distortions can be addressed through the WTO Doha Negotiations but only if the level of ambition at least for cattle and beef is substantially higher than appears to be the direction of negotiations in mid-June 2004.

What is needed from the ongoing WTO Doha Development Round:

(a) elimination of all export subsidies (developed and developing countries);

(b) elimination of all domestic subsidies (developed and developing countries);

(c) harmonization of tariffs at a level comparable to that existing in the U.S. for all major consuming and all major producing nations; and

(d) maintenance of special safeguards on beef and/or the negotiation of special rules for perishable and cyclical agricultural products.

In addition, the U.S. must obtain through negotiation, dispute resolution or otherwise:

(a) a harmonization of SPS measures as applied to cattle and beef from all major consuming and producing nations;

(b) expansion of trading partners' FTAs to cover substantially all trade in fact, including cattle and beef where not presently covered; and

(c) elimination of state trading enterprises involved in grains, cattle or beef to ensure products are traded according to market principles without distortions.

Finally, it is critical that the United States include in any future FTAs special rules for perishable and cyclical agricultural products applicable to both cattle and beef that are automatic and both price and volume triggered.

Mr. BAUCUS. Mr. President, this position paper has been prepared by R–CALF USA, an industry association representing ranchers across the country including Montana.

Future trade agreements must seek to eliminate the distortions that undermine the prosperity of U.S. producers. That means the U.S. should negotiate agreements that offer real and substantial opportunities. That also means the U.S. must take a hard-nosed approach in the Doha Round of WTO negotiations.

This matter is crucial to the future of rural America. It is worth every ounce of effort we can pour into it, and I—for one—pledge to press this fight.●

Mr. ROBERTS. Mr. President, I rise to make several important points regarding the United States-Australia Free Trade Agreement.

As chairman of the Intelligence Committee and member of the Armed Services Committee, I am well aware of the valuable friendship that our two countries share. Australia's commitment to the fight in the Global War on Terror is unwavering. Australia's support in liberating and rebuilding Iraq has been crucial there.

This agreement provides better opportunities for Kansas manufacturers, especially those in the aviation and transportation sectors to increase exports to the Australians. I understand that there is strong, bipartisan, interregional support for this agreement across industries and across the country.

However, I feel compelled to share with my colleagues several things which trouble Kansas about the way this agreement was constructed.

I must tell our colleagues that in all the years I have had the privilege to serve Kansas and agriculture in the U.S. Senate and the House of Representatives, there have been few, if any, times when there was as much open hostility to trade as I sense in some areas today.

In Dodge City terms, ''The bloom is off the lily, and the lily was run over by a lawn mower.''

I have had more than one producer ask me just what we are doing being involved in all these trade agreements when it seems that agriculture is under attack.

We have dealt with and continue to deal with the BSE hurdles for our beef products, our farm and export programs are under attack through the Brazilian cotton case and our food aid programs are being attacked by others in the Doha round of WTO negotiations.

We have now completed, and this body is considering a free trade agreement with Australia that exempts a single commodity—sugar—at the expense of others, particularly wheat and beef.

Kansas producers, who do pay close attention to trade matters, are taking a look at this list of issues and saying: Hold on a minute, Pat. What is going on here?

I will share with you and the rest of our colleagues what I tell the folks at the coffee klatch in Dodge.

In addition to setting a dangerous precedent for future trade agreements, exempting sugar from the Australian FTA also sets a dangerous precedence for agriculture, especially for sugar itself. In the past, whether in trade agreements or trade disputes, whether it be in farm bills or budget reconciliations, the commodity and producer groups have sank or swam together.

Sugar's insistence on not participating in this free trade agreement makes it very likely that the rest of US agriculture will opt not to participate in sugar's defense the next time that program faces a WTO challenge, budget reconciliation measure, or amendment to end sugar's support program during the next farm bill.

Simply put, if sugar falls or jumps off the ag-boat in the future, it may very well find itself treading water while watching the rest of US agriculture drift away silently. Our producers will insist that we extract real concessions on state-traded enterprises, quotas, tariffs, etc. in future trade negotiations for their support for concessions on imports of agricultural goods here at home.

Simply put, you don't bring a knife to a gun-fight and expect our producers to stand with you.

I intend to support the United States-Australia Free Trade Agreement. I believe that it is in the best interest of our relationship with our friend and ally, Australia. However, singling out individual commodities in future trade agreements is not in the best interest of our Nation and threatens agriculture's support and, therefore, my support for future trade agreements.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

● Mr. KERRY. Mr. President, I placed in the RECORD a statement addressing the United States-Australia Free Trade Agreement when the Finance Committee first passed it. Today, I want to offer some additional thoughts on two issues that have arisen since then.

As I have said, I believe the agreement will promote our economic interests and job creation here in America. In addition, Australia is an important ally, and we must do all we can to ensure a healthy and vibrant relationship between our two nations. Overall, the agreement deserves our support.

However, I am disappointed that the administration has included provisions relating to pharmaceuticals in this agreement. It has been suggested that these provisions might block proposals to reimport drugs or undermine our Medicare and Medicaid programs. These provisions do not belong in this agreement and should not be considered as precedent for future agreements. The record should reflect that the U.S. Trade Representative has confirmed to the Congress that these provisions will not harm our domestic health programs or efforts to reimport drugs. And if the Trade Representative's claims in this matter should turn out to be wrong, I believe that a future administration and the Congress should act immediately to correct the agreement through whatever process is needed.

Second, I am disappointed that the Bush administration did not do more to ensure a level playing field for our important beef and dairy farmers. Further, the administration ignored the will of the Senate Finance Committee on this important issue. I was happy to support an amendment in the Finance Committee that helps ensure a level playing field for our domestic beef farmers. Unfortunately, the administration ignored this action and failed to include those enhanced protections in its final proposal. It would seem the administration is content with listening only to itself and a few select industries as it negotiates trade pacts for all of America. This is not consistent with our expectations under fast-track procedures.

Finally, as I have stated before, I am disappointed that the Bush administration did not build on the model of the United States-Jordan agreement by including strong and enforceable labor standards in the core of the agreement. Although Australia already has very strong labor rights and an effective enforcement regime, the agreement represents a missed opportunity to set a higher benchmark for future trade agreements by cementing the principle that labor and environmental standards are in the core of all new agreements.●

Ms. COLLINS. Mr. President, I rise in support of the Australia Free Trade Agreement. On balance, this agreement is overwhelmingly beneficial to the State of Maine, and to the country as a whole. Critical to my decision to support this agreement is the fact that it will provide new and expanded opportunities to Maine businesses that want to expand into the Australian market. This agreement will create and support good jobs in my State.

It is clear that businesses across Maine are interested in initiating or expanding trade with Australia. The Maine International Trade Center held a seminar recently on export market opportunities in Australia. Representatives from more than fifty Maine companies, including many small businesses and manufacturers, attended.

It is no wonder: the United States has a trade surplus with Australia of $9.1 billion, the second largest trade surplus of any U.S. trading partner. Australia is a net consumer of United States exports and particularly United States manufactured goods. Ninety-three percent of United States exports to Australia are manufactured goods, and 99 percent of these goods will be duty-free if the agreement is implemented. The National Association of Manufacturers predicts that the agreement could result in nearly $2 billion per year in new United States exports of manufactured goods to Australia, a boost to our hard-pressed manufacturers.

In addition, Australia is the 15th largest economy in the world and has been growing over the past few years while the rest of the world is in recession. This means more Australian buying power—and many new opportunities for Maine and United States companies to export their products to Australia.

Australia has a strong and vibrant trading relationship with Maine. Australia is Maine's 12th largest export market, and in 2003, Maine exported nearly $29 million in high-value goods, such as electrical equipment, computers, and paper products, to the country. The agreement will make these goods 99.25 percent duty free, on average, in the Australian market.

Maine's forest and paper products industry will be stronger and will be able to grow as a result of this agreement. The agreement lifts all Australian tariffs on all U.S. forest products, which currently face tariffs up to 5 percent. This is important, because the United States is Australia's second largest supplier of paper and paperboard, with exports totaling $178 million in paper products in 2003.

Expanded access to the Australian market will directly benefit Maine mills. For example, International Paper's mill in Jay ME, exports about 1,200 tons of paper to Australia every year. These exports currently face a 5 percent tariff. If the free trade agreement is implemented, the tariff will be eliminated, and International Paper will be able to fulfill its plans to increase the amount of paper it exports to Australia from Maine, preserving and even increasing the number of jobs supported by the mill.

The agreement will benefit other Maine companies as well. The elimination of tariffs will enable FMC Coporation's Rockland plant to significantly expand its export of carrageenan products to Australia. In Southern Maine, National Semiconductor and Fairchild Semiconductor will benefit from the agreement's elimination of tariffs on all U.S. high-tech manufactured goods and from expanded opportunities for U.S. suppliers to compete for a broad range of Australian government contracts.

The Maine Potato Board has endorsed the agreement because it will open and expand Australian markets for Maine potato products. The MPB notes that the long-term success of the Maine potato industry is absolutely dependent on the growth of new markets.

Despite the overwhelming benefits of this pact, I do have some concerns with this agreement. While Maine does stand to reap substantial benefits, I am disappointed that the United States Trade Representative has included language that conflicts with the goal of drug reimportation.

One of the greatest challenges facing American consumers is the high cost of prescription drugs. That is why I have long supported legislation to allow Americans to benefit from international price competition on prescription drugs by permitting FDA-approved medicines made in FDA-approved facilities to be imported into this country.

Despite the ongoing debate in Congress and the strong support for drug reimportation on the part of the American public, I am disappointed that our trade representatives have insisted on including language in this trade agreement that is contrary to these critically important efforts.

The Australian government already bans the export of drugs subsidized under the Australian Pharmaceutical Benefits Scheme. Since 90 percent of the drugs prescribed in Australia are subsidized, Australia would not be a significant source of supply of imported drugs into the United States, with or without this agreement. Drugs imported into the United States are far more likely to come from Canada and Western Europe.

I am concerned, however, that these provisions set a bad precedent. While Australia itself is not necessarily a good source for imported drugs, this language could become a template for future agreements.

I am also disappointed that this agreement provided some additional market access for Australian dairy products in the U.S. market. However, I am pleased the final version of the agreement includes marked improvements over initial drafts. For example, the agreement gradually phases in limited increases in dairy imports over an 18-year period. In addition, the agreement maintains the current U.S. above-quota tariffs on dairy products indefinitely. These improvements were included in the agreement after I joined with my colleagues in sending a letter to U.S. Trade Representative Robert Zoellick asking that the interests of our dairy farmers be taken into account as the agreement was negotiated. The inclusion of these provisions, in addition to my consultations with Maine's agricultural leaders, has led me to conclude that this agreement will not have a significant impact on Maine's dairy industry. Moreover, Australia currently exports only a small amount of MPCs to the United States, and this agreement will not change this.

Australia is one of our oldest and most reliable partners. The country is a growing market for high-value U.S. exports from both Maine and the country. The free trade agreement we are considering today will strengthen the economic and diplomatic ties between our countries. On balance, it is good for Maine, and for both countries.

Mrs. CLINTON. Mr. President, today the Senate will vote on the Australia Free Trade Agreement. Because I believe this agreement offers greater access to Australian markets for U.S. manufacturers as well help solidify a long-term relationship with Australia, a leading ally of the United States on a whole host of international challenges, I will vote in support of this agreement.

The Australia Free Trade Agreement will offer new opportunities for U.S. manufacturers as well as granting substantial access to U.S. services suppliers, including telecoms, financial services, express delivery, and professional services providers. These sectors are a critical part of New York's economy. Furthermore, Australia has been a stalwart ally of the U.S. and this agreement is another step in cementing that relationship.

I share the concerns raised by some of my colleagues regarding the drug importation language in the agreement. Quite simply, the United States Trade Representative should not be negotiating agreements that could impact on the drug importation debate and I have grave concerns about the inclusion of this language in the agreement. Similarly, in the Chile and Singapore agreements, I raised concerns about the inclusion of immigration provisions in those agreements. The continuing practice of the United States Trade Representative of including provisions in trade agreements which are rightfully in the jurisdiction of Congress is deeply troubling.

During my tenure as a Senator, I have voted for every trade agreement that has come before the Senate. However, I will find it difficult to support future trade agreements which contain language that impedes the jurisdiction of Congress regarding drug importation or other issues

While I wish the agreement had included provisions that provided greater market access for New York agriculture, I believe that a genuine effort was made to address the legitimate concerns of New York and other States' farmers and that, on balance, New York's economy will benefit from this agreement.

Despite my concerns over the drug importation provisions, I believe that, in the aggregate, New York will benefit more from having this agreement pass than if it failed. I also believe it sends a positive signal to Australia about the importance of the United States-Australia relationship. The Trade Representative should not make the mistake of concluding that a vote for the Australia Free Trade Agreement is a vote in support of this troubling drug importation provision.

When deciding how to vote on trade agreements, I look at each agreement in its totality and measure the impact of each agreement on the New Yorkers that I am privileged to represent. Because I believe that passage of the Australia Free Trade agreement will lead to more jobs and greater economic growth in industries that are an important part of New York's economy as well as strengthening the U.S. relationship with Australia, I will vote in support of this agreement.

Mr. LEVIN. Mr. President, article 17.9.4 of the United States-Australia Free Trade Agreement implementing legislation allowing patent holders to prevent the import of their patented products is redundant and should not have been included in the agreement. Australian law already bans the export of pharmaceuticals if such drugs are purchased under its Pharmaceutical Benefits Scheme, PBS, and PBS drugs account for over 90 percent of all drugs sold in Australia.

This language does not establish a precedent for other free trade agreements. According to the Senate Finance Committee, it is appropriate to raise objections if this language is included in a free trade agreement negotiated with a country that does not forbid the export of low cost pharmaceuticals. Therefore, I will support this agreement.

Mr. JEFFORDS. Mr. President, I firmly believe that free and fair economic relations between nations will accrue to the benefit of all parties. Our country was founded on the principle that all States would benefit from the free flow of commerce between equal parties. And our national economy has proved this to be true.

These same dynamics now operate on a global scale. Commerce can now reach around the globe with ease. Communications are instantaneous, even in the most isolated places. Our trading laws must keep pace with the emerging patterns. We must move to shape the emerging global marketplace into a productive and fair system—not sit back and condemn its advances and decry the loss of old economic structures. We can either be in the lead of this evolution, or we will be sidelined by it. I believe that America can and must exert leadership. One way we must assert leadership is by the negotiation of trade agreements that will lower the barriers to trade and level the playing fields for all players.

Trade agreements come together more naturally with developed nations that share our commitment to rule of law, strong worker protections and strict environmental controls. Australia is such a country. Even so, it has been difficult to resolve the differences in our two economies and allow protections for particularly vulnerable elements of each economy. Negotiations have taken place over a considerable length of time, and no side has gotten everything they want.

The provisions in the agreement relating to dairy, for instance, are an example of not getting all that we would like. I joined a bipartisan group of 30 Senators in a letter to the chief US trade negotiator, Ambassador Robert Zoellick, expressing our concerns for our Nation's dairy farmers and requesting favorable treatment for this struggling national industry. Under this agreement, imports may amount to two-tenths of 1 percent of U.S. dairy production. While I would have preferred no market penetration by Australian dairy imports, I am confident that our industry is strong enough to meet this competition. Additionally, this agreement will open up new markets for Vermont's dairy products. I am confident Vermont farmers will be able to take strong advantage of this opportunity.

Some concerns have been raised about provisions relating to prescription drugs. Transparency provisions in this agreement related to Government procurement decisions are designed to provide equal rights of appeal. The US Trade Representative, USTR, has indicated that these provisions will not require any changes in U.S. pharmaceutical purchasing programs. There has also been discussion about a provision in this agreement related to drug reimportation. As a strong supporter of passing drug reimportation legislation, I would not want to endorse any curtailment of future drug reimportation opportunities. In this case, however, Australian law prohibits the export of any drugs purchased through its government-subsidized program, the majority of all drugs sold in Australia. As a central part of the Australian Government's drug program, there is no reason to think that this prohibition would change. But I also warn USTR that it would be unacceptable to include language similar to article 17.9.4 in future trade agreements where reimportation might be an option in the event of a change in U.S. law. I am sure that the intense discussions around these provisions over the last few days have made this point quite clearly.

As with all significant agreements, we will find flaws and challenges with this agreement as it unfolds. But as international dispute mechanisms are perfected, we become better at settling them equitably and expeditiously. The future of our economy and the health of the global economy are dependent upon us improving our ability to devise more equitable and open trading systems.

The disparities between the economies of the developed world and the less-developed world continue to grow. This agreement comes between economies of equal strength, even though not of equal size. The experience we gain here in how to remove barriers to trade while protecting vital interests will inform us of how to more successfully tackle the difficult trade relations between our economy and those less-stable economies. Some would argue that the easiest way to relate to weaker economies is to put up greater barriers to trade—to prevent the export of any U.S. capital and prevent the entrance of any lower-priced goods into our market. I am more of an optimist than that. I believe that we can do better than lock out whole sectors of the global economy. I believe we must make efforts, learn from our mistakes, and move ahead to strengthen the flow of commerce, the equity of business and the opportunity for all people to earn a living.

Mr. KYL. Mr. President, I am pleased to join many of my colleagues in supporting this landmark United States-Australia Free Trade Agreement, FTA. I say ''landmark'' because it is both historic in that it underscores the invaluable relationship between the United States and Australia—a relationship that is built on friendship, loyalty, and mutual support for economic and political freedoms—but also because it breaks new ground for an FTA.

For the first time, a free trade agreement negotiated by the United States has addressed the worldwide problem of prescription drug price controls. The United States is virtually the only developed nation that does not regulate pharmaceutical prices. American consumers, who finance the bulk of research and development for the entire world, should be very pleased that the U.S. Government has begun broaching the subject with other developed countries. Because some of my colleagues have raised concerns about the pharmaceutical section, I want to briefly review what the FTA does, and what it does not do, in the area of pharmaceuticals.

First, it is important to note that Americans will only benefit from the drug provisions and, in truth, so will Australians. The FTA makes suitable progress on addressing Australia's drug price controls; the U.S. did not have to make any concessions in exchange. I say suitable progress because, while the agreement makes important progress, Australia does not embrace a free market for drug pricing with the accord.

I joined a number of my colleagues on a Congressional delegation trip to Australia at the beginning of the year. During our meetings with Australian government officials we had the opportunity to debate the Australian drug pricing system. I believe the agreement we will approve today was possible, in part, because of those discussions.

In the FTA, the U.S. and Australia state that they ''recognize'' the importance of innovative pharmaceuticals in delivering high-quality health care. Incorporated in this, both countries agree to set pharmaceutical prices based on the ''objectively demonstrated therapeutic significance of the pharmaceutical.'' In practice, the U.S. Government is already in compliance with this provision because our Government does not ''mandate'' prices; certain Government agencies may negotiate prices with drug companies, but by and large, we allow the free market, including negotiations between drug companies, and insurance companies, to determine prices. While Australia could not take the next step and price drugs accordingly or adopt market-pricing, this is still an important first step. If the U.S. can convince our friends and trading partners to agree that innovative pharmaceuticals benefit everyone and that R&D is both costly and necessary to our health, then we can begin arguing for better burden sharing of R&D costs.

I want to talk for a moment about price controls and the effect they have on research and development. Some of my colleagues argue that the U.S. should adopt prescription drug price controls indirectly by importing price-controlled drugs from other countries as a means of reducing drug costs for American consumers. I believe this would be a terrible mistake for a number of reasons, one of which is the effect it would have on R&D. To date, the

U.S. has seen private pharmaceutical research move to the U.S. from Europe specifically because of price controls. Companies are able to recoup their R&D costs in the U.S. market and are consequently more likely to develop their new, breakthrough pharmaceuticals in the U.S. Americans like having the R&D performed in our country—we like the quality jobs it brings and we like having first access to new products—but we do not like the fact that Americans pay for almost all of the R&D for the world. Americans know this is simply not fair. If the U.S. adopts price controls, we will see the development of new, innovative pharmaceuticals drop off because there will be no one left to fund R&D. Rather, we must begin persuading other developed, market economies to begin shouldering their share of the burden. That is why the fact that the agreement recognizes the importance of R&D is so critical.

The FTA also commits Australia to make both transparency and timeliness improvements to their Pharmaceutical Benefits Scheme, PBS, that are intended to make the listing process for new pharmaceuticals more open and fair. The PBS is the system by which the Australian government sets price controls and provides subsidies for nearly all drugs sold in Australia. To improve transparency, Australia agrees to establish an independent review board to hear appeals of PBS listing decisions. This will enhance transparency and accountability in the operation of the PBS. Companies will gain a better idea of how and why decisions were made regarding their drug submissions. Prior to this agreement, U.S. drug companies would submit information on a new drug for listing by the PBS, the PBS would set the price, and the company would be left with a ''take it or leave it'' situation.

Some of my colleagues have asked whether the U.S. will have to establish a similar independent review board, but the general counsel of the USTR clarified for the Senate Finance Committee, during the July 14, 2004 consideration of the FTA, that because our processes are already open and transparent, no independent review board is required for any U.S. Government purchases of pharmaceuticals, by the Veterans' Administration, for example).

Finally, the FTA establishes a ''medicines working group'' that will provide a forum for continued dialogue between the United States and Australia on pharmaceutical issues. During our meetings in Australia we suggested such a working group as a way to guarantee that, if our pricing concerns could not be resolved in the FTA, we could continue to discuss the issue. The subject matters that the group might consider are not limited by the agreement, and therefore can be expected to include the importance of market-based pricing.

Now, to address the concerns of my colleagues. First, the FTA does not ban the importation of price-controlled drugs. As my colleagues know, it is already illegal for individuals to import prescription drugs into the United States. Now, Congress may vote to amend U.S. law to allow individuals to import prescription drugs from foreign countries. I would strongly oppose this, but we may do it. This agreement would in no way prohibit Congress from changing U.S. law to allow drug importation. The new U.S. law would supercede the agreement and would take effect despite any inconsistencies with the agreement. Also as some of my colleagues know, Australian law prohibits the export from Australia of drugs that are subsidized by the Australian government. This only makes sense, from the perspective of Australian taxpayers. Australian law does allow nonsubsidized drugs to be exported; but in reality, most of the drugs marketed and sold in Australia are under the subsidized system. As a consequence, Australia is not likely to be a significant exporter of low-priced drugs to U.S. consumers, should Congress allow drug importation, regardless of what this FTA says.

Another charge raised by some of my colleagues is that the patent protections in the FTA will in some way prohibit drug importation. The patent protections included in the FTA merely state that both nations agree to protect the patent owners' rights to determine how, by contract or other means, their patent is used by a licensed third party. It is not specific to pharmaceuticals, nor is it unique to this FTA; other U.S. trade agreements include similar language that merely reiterates and is consistent with existing U.S. patent laws. That is, under U.S. law patent holders already have the right through contracts and by other means to limit the use of their products. If an unscrupulous person wanted to steal a U.S. company's drug patent, illegally make the drug, and sell it into the United States, it would be a violation of U.S. law, regardless of whether the U.S. entered into this FTA or not.

I urge all of my colleagues to review the facts if they have concerns with the drug provisions of this FTA because this agreement will not increase drug prices in the U.S., it will not increase drug prices in Australia, and it will not prevent the U.S. from changing our laws in any way. It will, however, begin an important dialogue with our Australian friends about the importance of R&D and of paying for R&D; this is an important first step. I urge all of my colleagues to support the agreement.

Mr. GRAHAM of South Carolina. Mr. President, I do not consider myself a protectionist, nor a free trader, but a balanced trader.

Having said that, I have not been a supporter of so-called free trade agreements in the past. I have been very skeptical of the free trade agreements—FTAs—our country has signed due to the detrimental impact that I believe they've had on our economy, especially the manufacturing industry. Most of the trade agreements we have signed since I have been involved in politics under both Democrat and Republican leadership have put American workers at an unfair disadvantage because they have encouraged trade with countries that have no labor standards, lack environmental and intellectual property laws, and violate agreements under the WTO.

Free trade only works when both countries play fairly. That is why I can support the U.S.-Australian Free Trade Agreement—USAFTA. Australia is a country that holds true to their word and will live up to their commitments in the agreement. Australia lives by the same rules of law that we as Americans live by. By maintaining an equivalent cost of production and standard of living to that of the United States, the USAFTA will improve the competitive advantages of both countries without encouraging the displacement of hard-working Americans.

I am extremely concerned about the negative impacts that unfair trade agreements have had on the manufacturing industry. South Carolina, particularly the textile industry, has been decimated by unfair trade, first with NAFTA and now with the People's Republic of China. We have lost thousands of jobs at home. In the last six years, nearly 230,000 U.S. textile jobs have been lost. Since 1997, the U.S. textile industry has closed more than 250 textile plants in the country. These mass layoffs and plant closings are a direct result of unfairly traded imports, especially from China. China's access to the U.S. textile and apparel market more than doubled in 2002, growing 117 percent and grew an additional 114 percent in 2003, according to the American Textile Manufacturers Institute.

During the negotiations on the Australian Free Trade Agreement, the Bush Administration negotiated a good deal for the textile industry and I appreciate their efforts in this regard. The USAFTA contains a strict yarn-forward rule of origin with no loopholes, exceptions, or carveouts. Therefore, the benefits of the USAFTA are limited to the participating countries only, effectively denying China the loophole through which they annually transship billions of dollars of manufacturing goods into this country. This is the first FTA to contain such a strict yarn-forward rule of origin and I hope that it is the first of many.

While I recognize the need to examine the problems with our current trade agreements, I support the USAFTA because I feel it has the opportunity to serve as a model for future FTAs. Furthermore, the implementation of the USAFTA will further strengthen the U.S. relationship with Australia, one of our most important and reliable strategic partners.

Mr. BURNS. Mr. President, today we are considering the United States-Australia Free Trade Agreement. There is

a lot to commend in the agreement before us. This deal is expected to add over $490 million annually to the U.S. economy. The benefits of this agreement to the manufacturing sector of America are significant. Tariffs on nearly all U.S. exports of manufactured goods are immediately eliminated. Intellectual property rights protections will be expanded, as will progress towards enhanced trade through e-commerce. I commend Ambassador Zoellick for his hard work on this deal.

I have been to Australia many times, and I have met with Prime Minister John Howard. The U.S. and Australia share many interests. We share similar values, similar standards of living, and similar goals. Australia is a close friend and important ally in the war on terror, and I recognize the value of our relationship. Because of the overall benefit to our economy and the close friendship the U.S. shares with Australia, I will be supporting this agreement today.

However, I have some reservations about the impact of this deal on Montana farmers, and I want to take a moment to address those.

While the beef industry has achieved a generally balanced phase-in of changes, the Australian Wheat Board remains a trade-distorting monopoly that could harm our domestic grain producers. I recognize that Australia has offered to reconsider the role of its Wheat Board in the context of the Doha negotiations, and I applaud that decision. But the Australia Free Trade Agreement provides no immediate benefit for Montana farmers.

Provisions relating to cattle are somewhat better than those for grains, but I want to take a moment and address an issue of concern for some in the beef industry. The automatic safeguards provided for in this agreement are subject to waiver, and that is troubling for some of our producers. While the Office of the U.S. Trade Representative has been clear that the waiver would be used only in extraordinary circumstances, I want to stress my belief that those safeguards are there for a reason. Should the Senate approve this agreement before us today, I expect USTR to use caution when considering waiving the safeguards. I appreciate the provisions in the implementing language that require USTR to consult with the Senate Finance Committee, the House Ways and Means Committee, and private sector advisory groups prior to taking action. Consultation requirements like these ensure that the best interests of our cattle producers will be protected. The inclusion of price and quantity safeguards represent real progress in achieving a balanced phase-in of free trade agreements, and I want to make sure they are properly used.

Despite these issues, I do believe that the Australia agreement is, in general, beneficial to the United States, and to Montana. It could certainly be improved, but Australia comes closer to a balanced deal than most FTAs have.

Again, I will vote for this agreement, but I call on Ambassador Zoellick to aggressively defend the interests of our agricultural sector in the Doha talks so that the future of free trade looks brighter for America's farmers and ranchers. Multi-lateral agreements, like the Doha talks, provide real opportunities for farmers and ranchers—and in that context, the United States and Australia will work together to liberalize trade for the benefit of all.

Mrs. LINCOLN. Mr. President, throughout my public service, I have been a supporter of free but fair trade. Trade is important to the Arkansas economy because it creates jobs by opening new foreign markets to Arkansas' largest exports. In 2003 alone, Arkansas employers and farmers benefitted from over $2.9 billion in manufacturing and agricultural exports sold around the world. From 1999 to 2003, Arkansas exports to Australia totaled some $246 million, according to data compiled by the International Trade Administration within the Department of Commerce.

With numbers like these, it is easy to recognize the benefits of freer trade. It is also easy to see that as tariffs are reduced and trade barriers are removed, these numbers can grow.

The benefits of trade don't stop there. Through trade we can improve economies throughout the world, not only making the world an even better customer to all the good products Arkansas has to offer, but improving the lives, working conditions, and environmental standards for millions of people around the globe.

However, while there are certainly benefits, there are usually other important factors that must be considered. As a supporter of freer and fairer trade, I remain passionate that our trade policies must be crafted to ensure that all U.S. industries remain competitive in a world marketplace that is not always free and, all too often, not always fair.

I remain passionate that each step towards freer trade must also be a step towards fairer trade and a more level global playing field. As a member of the Senate Finance Committee, I am pleased to have the opportunity to influence our Nation's trade agreements. In fact, jurisdiction of international trade is a large reason why I sought a seat on the committee, because while I certainly recognize the benefits that free trade creates, I also know the concerns we must address.

All too often, we are faced with the news of the loss of more manufacturing jobs. For Arkansas, the pictures of plant closings and news articles of job loss are more than just stories in the media, they are a harsh reality.

Since July 2000, my State has encountered an enormous loss of manufacturing jobs—nearly 35,000 to be exact, according to data provided by the National Association of Manufacturers.

I am deeply troubled that so many Arkansans have lost their jobs, not because they can't compete on a level playing field but because the cards have been stacked against them. That's what the jobs bill is all about—keeping jobs where they belong here at home.

Does that mean that we should shy away from a pro-trade agenda completely? The answer is no. Without a progressive agenda we are left with the status quo, which simply doesn't work.

With the status quo international labor and environmental standards remain low while tariffs and barriers for goods produced here in the United States remain unacceptably high.

Agriculture is a great example of this. When U.S. farmers look out at the world around them, they see an average bound tariff of 62 percent against their products while foreign farmers see just 12 percent imposed against their products coming into the United States. And when U.S. farmers look around the world, they see Europeans with subsidies as high as $400 per acre while our help to our farmers sit at less than $40 per acre. That is why we need a strong domestic farm policy.

The bottom line is that under the status quo jobs don't stay here in the United States where they belong. They move overseas. Throughout the negotiation of the Australia Free Trade Agreement, it became clear that this was a very unique agreement that presented both opportunities and challenges. A snapshot of Australia shows a highly developed country with comparable environmental and labor standards. Additionally, Australia is one of the few countries with which the United States enjoys a trade surplus—some $6 to 7 billion annually.

With the reduction of tariffs and the elimination of other trade barriers we can look forward to sending more U.S. manufactured and agriculture products to Australia. And that is exactly what happens in portions of this agreement.

In the Australia FTA, 99 percent of the tariffs on manufactured goods go to zero on day one. I have heard this agreement called the best agreement for manufacturers. With immediate free trade for 99 percent of U.S. manufactured goods, I would have to agree, especially when 93 percent of what we sell to that country is manufactured goods.

In addition, U.S. agricultural exports to Australia, totaling $400 million annually, would also gain immediate duty free access, benefitting Arkansas soybean farmers, for example.

However, given that total U.S. agriculture sales to Australia account for less than 1 percent of our worldwide sales, my message to United States Trade Representative Robert Zoellick has been that the United States' No. 1 responsibility to Arkansas farm families is, first do no harm.

There is a significant upside for Arkansas manufacturers and the more than 200,000 Arkansas families who make a good living because of this industry. However, there was not as much to be gained under this agreement in the area of agriculture, and

there could have been some risk, particularly to my cattlemen who are very important to me and my State. Now, Arkansas cattlemen can take on any country around the world in a fair global market, but a bilateral agreement like this cannot create that kind of fairness. That is why the Doha Round of the WTO is so important.

In the meantime, as the Senior Senator from Arkansas, my priority throughout this bilateral agreement was simple—ensure protections to safeguard the interest of Arkansas cattlemen and, second, get assurances from Australian trade negotiators that they will assist the United States in our effort to reform government export programs around the world.

While I still have concerns that I intend to continue to work to address with Arkansas cattlemen, my colleagues in the Senate, and Ambassador Zoellick in addressing, the Australia FTA does work to minimize any adverse impact on U.S. agriculture, and beef in particular.

Specifically, Australian access to U.S. markets for beef is opened slowly over an 18-year transition period. Increased imports from Australia are estimated to be limited to about 0.17 percent of U.S. beef production and 1.6 percent of beef imports to the U.S.

In addition, several important safeguards are included to ensure that additional Australian beef imports will not disrupt the domestic beef industry or depress American beef prices. For example, while the proposed FTA would gradually phase up Australia's quota of duty-free beef imports over 18 years, this phase up cannot begin until American beef exports return to levels seen prior to the discovery of bovine spongiform encephalopathy, BSE in the U.S. last January.

Moreover, the first reduction in the tariff will not occur for 9 years and not reach zero for 19 years after enactment of the FTA. Our trade officials also worked to include two additional safeguards in this agreement that will further protect the domestic beef industry. The first safeguard is ''volume-based'' and would be in effect during the 18–year transition period. This means that Australian beef imports cannot exceed 110 percent of total imports coming in ''duty-free'' at any point during this time period. If this does occur, the tariff rate will automatically snap back to the higher tariff we currently impose on imports from other countries with which we do not have free trade agreements.

The second safeguard—and the most important in my view—is ''price-based'' and goes into effect at the end of the 18–year period. This means that a tariff is reimposed on Australian beef imports if domestic beef prices drop to a certain level after tariffs have been eliminated. Both of these safeguards are automatically enforced at our borders based on the established import volume or domestic price levels. No additional review by Congress or the Administration is required to enforce these protective safeguards.

In short, I feel that our trade officials did a fair job of accentuating the positives for Arkansas while minimizing any negatives.

I am supporting this agreement because on the whole I believe our trade team showed sensitivity to Arkansas farm families. I am supporting this agreement because I am willing to find common ground with our negotiators when I feel they have listened to my concerns and acted on them. And I am supporting this agreement with the understanding that our negotiators will now turn to the WTO and other agreements whose benefits to my cattlemen will be substantial and certain.

I have been proud to work with my Arkansas cattlemen on a wide range of issues over the years. Whether it has been on disaster assistance, animal identification, trade, conservation, food safety, taxes or regulations, we have stood shoulder to shoulder. With the passage of this agreement we must now turn our attention to these and other important issues, starting with the opening of market places around the world that will be truly beneficial to the Arkansas cattlemen.

With the passage of this agreement, I am committed to doing exactly that.

Finally, I would be remiss if I didn't briefly touch on the pharmaceutical provisions in this trade agreement and my concern for the precedent that they may set.

While I am told, and I trust, that this will have no implication on the reimportation legislation that I and many of my colleagues support; while I am told, and I trust, that this will have no implication on how our Medicare and Medicaid programs operate; while I am told, and I trust, that this agreement will have no implication on the way the Department of Veteran's Affairs purchases their prescription drugs, I must restate that I am concerned.

Nonetheless, I want to reiterate that I am fully committed to pursuing Federal policies that will make prescription medications in the United States sale and affordable through legislation and future trade agreements.

We have a crisis here in America when it comes to the price of prescription drugs and I'm looking for solutions. Furthermore, I'm putting the Administration on notice that efforts to block access to cheaper drugs for my constituents will be met with resistance by this Senator until we make some real progress of our own here in this country.

Mr. NELSON of Florida. Mr. President, I would like to speak briefly about the Australia FTA. On balance, this agreement will benefit the United States and benefit Florida, and I will vote in favor of it. This is consistent with my record of supporting fair trade, opening overseas markets to Florida exports, creating jobs and economic growth in this country.

This agreement eliminates Australia's manufacturing tariffs, giving companies access to Australian markets. Florida exports a significant amount of goods and services, such as fertilizers, high technology computer simulators and aircraft parts. Florida companies and businesses support this agreement, because exports to Australia will create jobs in across many sectors.

Now, this agreement has important provisions relating to Florida's citrus industry that merit attention and oversight. The citrus industry is Florida's second largest—90,000 jobs depend on it, and the industry has a $9 billion economic impact on the State.

First, I would like to take a moment to reiterate the importance of preserving the tariff on imported frozen concentrated orange juice in the FTAA and WTO negotiations. I have spoken often in the past about this issue and I am going to continue to fight to preserve the tariff. Senator KERRY has already acknowledged how important the tariff is to Florida. I would also like to again urge the President to state publicly, in clear language, that we will not negotiate any reduction of the tariff.

In fact, I am pleased to see that the administration worked with Australia in this agreement to address another sensitive commodity, sugar. Sugar was excluded from the agreement, because of the unique circumstance surrounding the trade of sugar. We must reform international sugar trade not on a regional, or bilateral basis, but with the WTO. I would hope that the unique circumstances surrounding Brazil's manipulation of the citrus trade will lend it similar treatment in an FTAA.

With respect to the Australia FTA, this agreement presents an opportunity to resolve an outstanding issue between the U.S. and Australia that could pave the way for increased exports of Florida citrus. For the past 13 years, Florida's Department of Agriculture has worked with Australia to develop a protocol for the export of citrus to that country. Unfortunately, we have achieved only limited progress because Australia has effectively stonewalled the process at every step. Florida's citrus industry has worked hard to meet the import protocol requirements set by Australia, only to have Australia change them.

This administration must work with Australia to resolve issues inhibiting exports of Florida grapefruit in a timely fashion. This is important to the implementation of this agreement.

Most recently, after Florida's industry addressed the concern raised by the Australians on canker, they raised the issue of ''post-bloom fruit drop,'' PFD. This is more a weather condition anomaly, not a major disease concern that exists in a great deal of citrus production around the world, and it very difficult to transmit. And although PFD transmission to Australia is not

100 percent impossible, it is as close to impossible as anything the industry has seen. Australia must not put excessive protocols on Florida's producers because it could be a disastrous precedent for Florida's grapefruit industry, as other foreign markets could adopt this same non-tariff trade barrier.

The Australia FTA calls for the development of protocols to address many standing trade issues that have existed over the last several years—including Florida citrus. The agreement calls for negotiators to complete this process within a six month timeframe. This administration should seize this opportunity to resolve this issue in order to pave the way for increased Florida citrus exports to Australia.

The U.S. Government should remain committed to producing a reasonable, scientifically-based protocol that will not jeopardize other export markets or opportunities. Moreover, it is important that this process be completed on a timely basis to enable Florida's industry to enter the Australian market next season, which opens this November.

While I am a supporting the Australia trade agreement, I would like to take this opportunity to express my concern over other provisions included in it that could hamper congressional efforts to allow the importation of cheaper drugs from other nations.

I am a strong supporter of importation simply because I can no longer defend the exorbitant drug prices paid for by our Nation's citizens. The language in the agreement does not expressly prohibit the importation of drugs from other nations. However, because it is based on current law, any changes allowing importation would be in conflict with the terms of the agreement.

I am confident that the overall benefits of this agreement warrant my support and that should similar provisions dealing with importation be attempted in future trade agreements, enough opposition would rise to ensure that Americans do not continue to subsidize the cost of drugs for the rest of the world.

Mr. KENNEDY. Mr. President, I support the United States-Australia Free Trade Agreement. It has significant benefits to American manufacturers in all our States who have suffered too much in our troubled economy. In the past 4 years this vital sector has shed 2.5 million good jobs that may well take years to replace.

The agreement will immediately remove all Australian tariffs on virtually all goods manufactured in the United States. In doing so, it will provide a modest competitive advantage in the Australian market for U.S. manufacturers over competing firms in Asia.

In the past 4 years, the administration has done very little to combat the unfair trade practices of other nations to open their markets to more U.S. goods, and this agreement will help at least in part to redress the balance.

Massachusetts companies exported $254 million in goods to Australia last year, much of which were products in modern high-tech fields. If this agreement had been in place then, 98 percent of those products would have been duty free.

In addition, the fact that Australia has strong labor and environmental laws mean that this agreement will not result in a ''race to the bottom'' that drives down wages and degrades the environment. Many of us are concerned that the administration, in negotiating the agreement, was so reluctant, because of its ideology, to try to resolve some of our differences with Australia on specific labor issues, but those differences are not sufficient to cause rejection of the agreement. Good-paying jobs in the United States will not be replaced by low-wage jobs abroad in harsh and exploitive conditions.

In other trade agreements, that problem can be extremely serious, and we must continue to be vigilant that trade agreements respect the need for strong protection for labor conditions and for the environment as well.

A more serious problem in this agreement however, is its treatment of prescription drugs. These provisions are a blatant attempt by the administration to bypass Congress and set an irresponsible precedent for blocking the reimportation of prescription drugs. They build on similar provisions in the Singapore trade agreement. They are a statement of the priorities of the Bush administration that put profits of drug companies first and affordable drugs for patients last.

The current rules on importation or reimportation of FDA-approved drugs manufactured in FDA-approved plants are indefensible. They prohibit anyone except a drug manufacturer from importing drugs into the United States. They create a shameful double standard under which Canadians, Europeans and other foreign patients can buy American drugs at affordable prices, while American drug companies charge exorbitant prices to American patients.

The central issue is fairness for millions of Americans struggling to afford the soaring cost of prescription drugs. Americans understand fairness. They know it's wrong that for the same prescription drugs, U.S. patients pay 60 percent more than the British or the Swiss, two-thirds more than Canadians, 75 percent more than Germans, and twice as much as Italians.

Prescription drugs often mean the difference between health and sickness—or even life and death—for millions of Americans. Drug companies are consistently the most profitable industry in the Nation, yet they overcharge countless families. It's wrong for patients to go without the drugs they need because the Bush administration won't stand up for patients against the price-gouging of the pharmaceutical industry.

Senator SNOWE, Senator DORGAN, Senator MCCAIN, Senator DASCHLE, and I and other colleagues have proposed legislation to give American patients a fair deal at long last. Our proposal will legalize imports of safe U.S.-approved drugs manufactured in U.S.-approved plants. U.S. consumers will be able to buy FDA-approved drugs at the same fair prices as they are sold abroad.

The drug industry and the Bush administration argue that imported drugs jeopardize the health of American consumers because of the possibility of counterfeiting or adulteration. Under our proposal, that argument can't pass the laugh test.

Our proposal sets up iron-clad safety procedures to guarantee that every drug imported legally into the United States is the same FDA-approved drug originally manufactured in an FDA-approved plant—whether the drug is manufactured abroad and shipped to the United States, or whether it is manufactured in the United States, shipped abroad and then imported back into the United States.

Compare our rigorous requirements with what happens today. Fraudulent dealers throughout the world can establish Web sites or advertise low-cost drugs in other ways and claim to be Canadian pharmacies. Individuals have no way of knowing whether they are purchasing safe or unsafe drugs or whether the seller is legitimate or not. All such sales are illegal. The only rule is let the buyer beware.

The FDA has eloquently testified about the Wild West situation that American consumers face every day under the current rules. As long as it is illegal to buy safe drugs at low prices, the trade in unsafe drugs will flourish. As long as we bury our heads in the sand and fail to guarantee the availability of safe and legal imported drugs, millions of American patients will continue to risk their health on potentially unsafe, unapproved, and counterfeit drugs. Our bipartisan proposal gives patients access to drugs at prices they can afford, and it protects them against the danger of the essentially uncontrolled and uncontrollable counterfeit drugs they face today.

It is because of the rigorous safeguards in our bill that Dr. David Kessler, who served under both Republican and Democratic Presidents as Commissioner of the FDA, has stated that our proposal ''provides a sound framework for assuring that imported drugs are safe and effective.''

Dr. Philip Lee, one of the Nation's leading authorities on prescription drugs, a physician who served as the Assistant Secretary of Health under two Presidents, and a former Chancellor of the University of California at San Francisco, has emphasized that our proposal ''will reduce rather than increase the likelihood of counterfeit drugs entering the U.S. supply chain from abroad and that drugs imported under the program will meet FDA standards for safety and effectiveness.''

On imported drugs, safety is the first responsibility—and it is a responsibility that our bipartisan proposal fulfills. But legalizing safe drug imports is

only half the battle to bring fair prices to consumers. Legalization is meaningless unless it is backed by strong measures to prevent drug manufacturers from manipulating the market to subvert the law.

Already, American drug companies are retaliating against imports from Canada by limiting the amount of drugs they sell to Canada and denying drugs to pharmacies that re-sell them to American patients. A few weeks ago, a group of senior citizens was forced to cancel a bus trip to Canada because the Canadian pharmacies they relied on for affordable drugs were effectively shut down by U.S. drug companies.

Our proposal includes strict rules to close the loopholes that drug companies use to evade the law. Violations will be considered unfair trade practices, and violators will be subject to treble damages. Any proposal that does not include comparable protections is a fig leaf, not a solution.

The provisions of the Australian Free Trade Agreement, however, opens a gaping hole in these protections. One way that a drug company can circumvent an importation law is by claiming that an American importer who purchases a drug from a European wholesaler has violated the patent held by the drug company.

It has long been a settled feature of patent law that the first sale of a product in the domestic market exhausts the patent. If you buy a car and then resell it to a friend, the car manufacturer can't sue you for violating its patent. A recent court decision, however, stated that the rule of exhaustion through first sale does not apply to international sales. Therefore, a drug company can make a condition of its contract that a foreign buyer won't resell a drug to a United States importer. If the foreign buyer does so, the importer could be sued for a violation of the patent.

Broad application of this rule to drug company sales would nullify any reimportation bill that Congress passes. That is why our legislation specifically states that reimportation of a prescription drug is not a patent infringement. The Australia Trade Agreement, however, states that it is an obligation of the United States to ''provide that the exclusive right of the patent owner to prevent importation of a patented product . . . without the consent of the patent owner shall not be limited by the sale or distribution of the product outside its territory.'' This obligation does not apply just to drugs imported from Australia, but to drugs imported from anywhere in the world. If this obligation could be enforced, it would nullify any drug importation bill passed by Congress, and guarantee that drug makers could continue gouging American consumers, no matter what the Congress does.

This prohibition was not added to the agreement because the Australians wanted it. Their domestic drug industry is small, and their own laws generally do not allow reimportation to the United States. The prohibition was added because the U.S. Trade Representative insisted on it.

It's there because the pharmaceutical industry wanted it as a model for future agreements. It's there because the Bush administration puts the interests of drug companies higher than the interests of American patients.

Fortunately, this provision has limited practical significance. The only party with standing to enforce the agreement is the Australian Government, and it is unlikely to bring any enforcement action. But it puts our country in the awkward position of endorsing a principle against the best interests of our people, and it is an ominous indication of what the Bush administration will try to do in future agreements.

I intend to vote for this agreement, because of the advantages it offers to American business and consumers. The attempts to bar drug reimportation included in the agreement are not enforceable in any meaningful way. But we must be vigilant against attempts to include any such provision in future trade agreements.

Year in and year out, drug industry profits are the highest of any industry in the United States. Yet year in and year out, patients are denied life-saving drugs because those astronomical profits are possible only with astronomical prices—prices that drug companies can't charge anywhere else in the world, because no other country in the world would let them.

A broad coalition of groups representing senior citizens and consumers have endorsed our bipartisan proposal. It's time to end the shameful price gouging. It's time for basic fairness in drug prices. It's time for this Congress to pass a genuine drug import bill. It's time for the U.S. Trade Representative to start standing up for the interests of the American people, not just the interests of the pharmaceutical industry.

Mr. BINGAMAN. Mr. President, I am of the view that a basic precondition to the U.S. trade agenda operating on the right track is having a consistent and coherent policy foundation. I have always argued that expanded trade can be a powerful tool to promote economic growth and improved standards of living in the United States and around the world. It can help countries develop, ease poverty, raise standards of living, and eliminate instability. It can encourage the high-wage job growth and technological innovation in the United States. In general, I consider myself to be someone that supports trade. In fact, my record shows that I have.

But I also believe that trade policy must shape the rules by which trade and international economic policy is conducted to maximize its benefits and minimize its liabilities, both domestically and internationally. Trade liberalization is not inevitably better for the United States. But it can be better for the United States, and frequently is better for the United States, and we should pursue it under the right conditions.

Based on the results of U.S. trade policy, I am not sure we are doing that right now. In fact, I have to wonder if we are on the wrong track completely. Here is the bottom line:

Over two million U.S. manufacturing jobs lost; record and rising U.S. trade and budget deficits, so large that the IMF has warned that they could destabilize the global economy; moving from a trade surplus to a trade deficit in one of the few areas we still have a competitive advantage—high-technology products; major cuts by the administration in the education, workforce, and science and technology programs that ensure we have a competitive edge in these products in the future; major increases in outsourcing in the services sector, with no clear indication of whether this provides net benefits for the U.S. economy; continued major barriers to American products in foreign markets—both as a result of tariff and nontariff barriers; a distinct lack of effort on the part of the administration to pursue dispute settlement at the WTO for countries in direct violation of trade laws; a one-size-fits-all approach to U.S. trade policy, where little consideration is given to the actual ability of individual countries to implement agreements or whether the agreements will actually provide long-term benefits; a knee-jerk subordination of U.S. economic security to U.S. foreign policy concerns; insufficient consultation with Congress by the administration during the fast-track process; insufficient explanation by the administration of the potential impacts of trade agreements on our own economic system, including the environment, taxation, healthcare, and so on; and insufficient attention to the impact of trade agreements on American workers, in particular the provision of trade adjustment assistance so workers can increase their skill-set and sustain U.S. competitiveness.

I would argue what we are doing in U.S. trade policy at this point in time is following a policy where trade agreements are assumed to be good, with little regard for the actual implications of the agreement for our country's overall economic security. I would not suggest that economic considerations can be the only rationale for trade agreements, but certainly it must be the primary rationale.

In my State of New Mexico, I have seen directly the unintended but very negative consequences of trade agreements in areas typically not considered to be an important part of them—things like housing, health care, the environment, immigration, and so on. These issues are what many people call the ''externalities'' of trade. We have not paid close enough attention to these issues in trade agreements, but from where I sit we cannot afford to do

this any longer. Small provisions in trade agreements have had substantial unanticipated consequences over time. Trade agreements must look at the overall implications of trade on countries, not just trade flows.

As an example, the United States-Australia Free Trade Agreement contains language that could have a potentially negative impact on the U.S. health care industry. Although the Finance Committee leadership received assurances from the Bush administration that this language is consistent with our normal obligations under the Government Procurement Agreement, I believe the language is ambiguous at best.

To this end, at yesterday's Finance Committee executive session I requested a letter from the Department of Health and Human Services stating specifically that this program would not negatively impact our current efforts to obtain lower cost prescription drugs for Americans. I received the letter this morning, and I will include it for the RECORD.. I have received assurances from the Secretary that the provisions under Annex 2–C of the agreement related to pharmaceuticals do not require changes in any U.S. Government health care programs.

However, I requested assurances from the Secretary that Chapter 15.11 related to Domestic Review of Supplier Challenges do not require changes in any U.S. Government health care programs, nor does the Secretary intend to use the agreement—Annex 2–C or Chapter 15—to change any U.S. Government health care programs. I did not receive this assurance, but I want to make it clear that I have an expectation to do so. If the administration does not intend to use this free trade agreement, there is no real reason that they shouldn't state so explicitly. I request again at this time that they do so, and I believe that request is compatible with the statements made by my colleagues on the floor this afternoon.

There is another problem with this agreement. I am extremely disappointed that the Conrad amendment related to beef safeguards that was adopted during the markup in the Finance Committee was not included in the final language. I feel very strongly that the vote was indicative of the will of the Finance Committee on the FTA and that the revised version would have offered additional protections for American ranchers and should have been included. The fact it was not included in the final language is a violation of the spirit of the Trade Promotion Authority, or fast-track, legislation passed in 2002. Combined with the lack of attention on the pharmaceutical issue, I think this is a mistake on the part of the administration in that it makes the formation of bipartisan consensus on trade policy problematic in the future.

These specific criticisms aside, after careful consideration, I felt the benefits of this agreement outweighed its liabilities. It is my view that the FTA gives a strong boost for trade and investment between United States and Australia that will ultimately benefit the economic security interests of our country. The FTA eliminates 99 percent of Australia's manufacturing tariffs immediately, grants incremental tariff-free access to Australia's market for U.S. farmers and ranchers, provides enhanced preferential access for U.S. telecommunications and service companies, and removes existing foreign investment screening procedures that have been a market barrier for U.S. firms. Significantly, labor and environment standards in Australia are compatible with the International Labor Organization and the laws we have in the United States. I believe there is an economic complementarity between the United States and Australia that is unique, and it should be encouraged.

So while I have some concerns, I will support the United States-Australia Free Trade Agreement. I look forward to working with my colleagues in the future to ensure that the Administration and the Congress work together to establish a broad bipartisan effort to ensure we work together more effectively in the future. The goal is to bring about expanded international trade so we have economic growth and jobs for the American people. That is the bottom line.

I ask unanimous consent to print the letter to which I referred in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC, July 15, 2004.

Hon. CHARLES GRASSLEY,
Chairman, Finance Committee,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN GRASSLEY: Thank you for your interest in federal and state health care programs, and particularly for your leadership in expanding access to affordable prescription drugs for seniors under the Medicare Modernization Act.

I understand that in yesterday's markup on the Australia free trade agreement Senator Bingaman asked whether the commitments in this agreement would affect US government health care programs. It is our belief that the provisions of Annex 2–C do not require any change in how US government health care programs are operated—either the Annex does not apply to them by its terms or the programs are operated consistently with the Annex's provisions.

I am providing a copy of this response to Senator Bingaman as well. Thank you again for your efforts.

Sincerely,

TOMMY G. THOMPSON.

Mr. DODD. Mr. President, I rise today to speak about the United States-Australia Free Trade Agreement, FTA, which is currently pending before this body. This agreement is the culmination of nearly two years of difficult negotiations and hard work by U.S. and Australian officials. Today we have the opportunity to pass the implementing legislation that would pave the way for formal adoption of this FTA, and when that vote occurs, I intend to support this agreement.

As my colleagues are aware, U.S. exports to Australia totaled over $13 billion in 2003. According to the United States Trade Representative, USTR, Australia is quickly growing as a major destination for U.S. goods. For example, over the past 5 years, the rate of growth for U.S. exports to that nation has increased more than twofold over U.S. exports to the rest of the world. And during these years, aerospace products and parts—a sector vital to U.S. manufacturing and our national security—have been the leading growth category. In 2003, the aerospace sector exported an impressive $2.4 billion in merchandise to Australia.

Since 1999, my home State of Connecticut has witnessed a 72.8 percent increase in the value of its exports to Australia. Trade with that nation directly supports more than 1,800 jobs in Connecticut. Other States have benefited similarly. Indeed, during this same time period, U.S. exports as measured by dollar increases have grown faster in only seven other nations.

But these figures and the potential impact of this agreement are even more striking when one examines the types of items that we export to Australia. I point out to my colleagues that a full 92 percent of U.S. exports to that nation are manufactured goods. I know that I don't need to remind my colleagues that over the past several years, more than two million manufacturing jobs have been lost here in the U.S. More than 30,000 people in my home State of Connecticut have lost jobs in the manufacturing sector.

In a variety of ways, we here in Congress have sought to address the domestic loss of manufacturing jobs and infrastructure. I have worked hard to affect a turnaround in the conditions of this sector—long the lynchpin of the U.S. economy. It doesn't take an economist to realize that this agreement will likely help to strengthen U.S. manufacturing.

That is not to say that a United States-Australia FTA will be a panacea for our manufacturing woes here at home. It will not. But in my view, the steady growth and large manufacturing component of United States-Australia bilateral trade suggest that it will help. For this Senator, that fact is one of the most compelling reasons to support a United States-Australia FTA.

Moreover, it should not go without mention that in 2001, 86 percent of U.S. exports to Australia were from small and medium-sized businesses. That figure—86 percent—amounted to more than 16,000 U.S. firms. If this trend continues, with the passage of this agreement, tens of thousands of small and medium-sized businesses here in the U.S. also stand to benefit.

Nearly 2 years ago, I voted against final passage of fast track authority

for the President. I did so because I didn't believe that legislation included adequate language making it crystal clear that a primary negotiating objective of future trade agreements must be to ensure that our trading partners live up to internationally accepted labor and environmental standards.

In that context, I believe that Australia is a model of what we should expect from other governments with whom we craft trade agreements. Australia is more than just a staunch ally—it is also a nation that has substantial labor and environmental protections. These protections will help to safeguard the lives of workers globally and the natural resources on which we all depend. Equally as important, they will help to ensure that American workers are given a level playing field on which to compete.

Despite my overall support for this agreement, I feel that it is important to mention one item of concern. As my colleagues are aware, the United States-Australia FTA includes language that would allow prescription drug manufacturers to prevent the reimportation of their products.

We do not currently import drugs from Australia, and that is unlikely to change given that Australian law prohibits the exportation of prescription drugs. So as a practical matter, this provision of the FTA will not affect drug prices in this country. But I want to make it perfectly clear that this should not set a precedent, nor prevent us from adopting a law that would allow drug reimportation in the future. While I will live with this provision in the context of a bilateral agreement with Australia, I do not believe that it should have broader global implications.

This concern aside, I look forward to voting on the implementing legislation for the United States-Australia FTA. I intend to cast my vote in favor of this agreement, and I encourage my colleagues to do the same.

Mr. JOHNSON. Mr. President, in my home State of South Dakota and across America, hardworking producers tirelessly contribute to the production of our Nation's food supply. Our Nation's producers consistently preserve the safety and wholesomeness of the commodities they produce, ensuring America's food security and contributing to our overall well-being. It is because of our producers and ranchers that we enjoy the safest food supply in the world, and we owe them our thanks.

It is the well-being of the agricultural community which I am concerned for, and it is the well-being of our rural communities that is threatened with the possible implementation of the Australian-United States Free Trade Agreement.

It is evident that while Australia could stand to benefit substantially from a free trade agreement with the United States, limited opportunities exist for the U.S. livestock industry and agricultural sector. For example, in 2003, agricultural and food exports to Australia accounted for only $611 million. This figure accounts for only one percent of U.S. worldwide sales. The overall value of U.S. agricultural imports from Australia equaled an astounding $2.1 billion. These numbers speak loudly for the type of economic opportunity this agreement poses for Australia, at the detriment of our domestic producers.

Our South Dakotan beef producers are dedicated to producing a quality, wholesome, and nutritious product. They are successful even in the face of market concentration, packer ownership issues, and an ever-changing agricultural landscape. The FTA with Australia poses yet another burden for our agriculture producers. Phasing out U.S. above-quota duties on beef over an 18-year period and gradually increasing and lifting quota levels by the end of that period will not encourage growth in our own agriculture economy, and instead, provide a valuable market for the Australian agricultural sector.

The quota increases will take effect when U.S. beef exports return to their 2003 level, the level before the discovery of ''mad cow'' disease levels, or three years after the effective date of the agreement, whichever is earlier. After the transition period, a price-based safeguard should be available. Such action, even with supposed safeguards after the transition period for market disruptions, will be harmful to U.S. beef producers. I have several concerns about how these safeguards would be utilized, and the actual effect on our producers.

Along with my colleagues, I have written to President Bush, as well as United States Trade Representative Robert Zoellick, to convey my concern about this agreement. While sugar was excluded from the agreement, I, and a number of my Senate colleagues, had requested that beef and cattle be excluded from negotiations of the Australia FTA as well. This request was not heeded. Additionally, a letter was sent concerning Australian imports of dairy, yet another sensitive agriculture commodity that was included in the FTA, and the potentially significant impacts on our pricing system it will have and the inconsistencies it presents with respect to our Federal efforts to financially assist producers.

Our beef industry is a crucial component of the agricultural sector in South Dakota, and we should not enter into trade agreements with Australia, or any other country, that would further damage our agriculture industry. Given our weak economy, we cannot afford to lose more jobs, and we must guard against economic hardships in our rural communities.

Another disturbing component to the FTA with Australia is the prescription drug language. United States citizens continue to pay the highest prices in the world for prescription drugs. A study by Families USA found that for the 50 drugs most frequently used by seniors that year, prices rose 3.4 times the rate of inflation in 2002. Such statistics are staggering, and meaningful solutions are needed now.

That is why I am a cosponsor of S. 2328, the Pharmaceutical Market Access and Fair Trade Act, legislation that will provide American consumers access to affordable, life-saving medications through prescription drug reimportation.

This legislation would provide South Dakotans with access to reimported drugs through personal importation of up to a 90-day supply of a drug from Canada, and eventually, once the Food and Drug Administration puts safety protocols in place, individuals would be able to purchase drugs directly from Canadian and U.S. wholesalers and pharmacies would be able to import drugs from facilities in several countries that are registered, fully inspected and approved by FDA.

Unfortunately, the trade agreement before us today threatens to dismantle the efforts we are now taking to provide more affordable drugs in our country. The agreement includes provisions which require that the two governments ensure that brand-name drug companies have the right to prevent the importation of their products.

While supporters of the trade agreement claim that we should not be concerned about this provision because Australian law already bans the export of subsidized prescription drugs, this sets a dangerous precedent for future trade agreements, which we cannot ignore.

This seems to be yet another attempt by the Bush administration to prevent reimportation. Two-thirds of Americans support reimportation as an effective strategy to reduce the cost of prescription drugs. The President is clearly sending a signal that he cares more about the pharmaceutical industry's profits, than access to life-saving medicines for U.S. citizens.

Ms. MIKULSKI. Mr. President, I am proud to support the United States-Australia Free Trade Agreement. I have opposed some trade agreements in the past because I am not willing to put American jobs on a slow boat to China or a fast track to Mexico. However, I am ready to support free trade when it is fair trade, and that is what we are talking about today.

This agreement ensures fair trade with one of our closest allies. It will also bring an expansion of opportunities for American workers and American businesses.

America's relationship with Australia is about our shared history and shared values. Australia has been one of America's staunchest allies in times of war, sending troops to fight beside our own in both World War I and II, the Korean war, the Vietnam war, Afghanistan and now Iraq. In sending troops to fight alongside our own in Iraq, Australia was one of only three countries to fight along with America from the outset of war.

America and Australia share a common terrorist threat. Al-Qaida attacked America on September 11, and 10 Australian citizens died that day. A group linked to al-Qaida also killed almost 100 Australians in the Bali bombings. Our security relationship is strengthened by the ANZUS treaty, through which we work together for our mutual security. Now is the time to strengthen our economic partnership with a free-trade agreement.

I stand in support of this free-trade agreement because it is good for America and good for Maryland. It will protect and even create American jobs, and my first priority is fighting for jobs today and jobs tomorrow. This free-trade agreement will boost trade, increase efficiency and competitiveness, and result in additional foreign investment.

By eliminating Australian tariffs on our manufactured goods, American companies will be able to sell goods without penalty to our Australian allies. In my own State of Maryland, this means semiconductors, medical equipment, and fiber optic cable and switching equipment. This could mean as much as $2 billion for the U.S. economy in just the first year of agreement.

This free-trade agreement will also provide new opportunities for American farmers. The United States is now the second largest exporter of food to Australia, an exchange with a value of almost $400 million a year.

However, I do have concerns about the United States-Australia Free Trade Agreement. I am concerned about what this agreement might mean for America's families trying to buy prescription drugs. Instead of making America's families a priority, this agreement protects drug companies and prioritizes the rights of prescription drug patent holders.

We cannot use this as an excuse for Congress not to pass prescription drug reimportation legislation. We need a regulated framework for drug reimportation so drug reimportation can take place out in the sunshine, rather than underground. Congress must act this year to control the spiraling cost of prescription drugs for our families.

With regard to labor rights, I think free-trade agreements should always include enforceable and high labor and environmental standards. This will ensure that the workers don't miss out and the environment doesn't suffer when businesses boom.

The Australian and American systems have much in common. We share democratic processes and labor rights such as freedom of association, the right to collective bargain, and the right to strike. We could have set the bar higher for workers around the world. Instead the United States-Australia Free Trade Agreement is a missed opportunity. It contains no enforceable standards to protect labor rights or the environment.

The free-trade agreement with Jordan included a minimum standard of labor rights and environmental protection. People now talk about the ''Jordan standard.'' We finally had an opportunity to create an even higher standard, an ''Australia standard'' of labor rights. We could have used this standard if we renegotiated CAFTA and for future trade agreements. While we ensured our intellectual property rights are enforceable, we did nothing about our labor rights in this trade agreement.

I am willing to support the Australia Free Trade Agreement only because Australia's own laws are so strong. When I visited Australia, I saw that Australia stands up for its families, its workers and its environment. Almost 25 percent of Australian employees are union members. That's nearly double the level of union representation here. Australian workers are paid a livable minimum wage, receive 4 weeks of annual leave and are guaranteed high standards of workplace safety. Australia's world-class health-care system offers first-rate maternity care to its new mothers, with extra time in the hospital and a public health nurse to teach first time moms how to care for their newborns.

The United States-Australia Free Trade Agreement isn't perfect. Yet I support it because it will mean jobs for America.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. BAUCUS. Mr. President, before we conclude today's debate, I just take a minute to thank some of the staff who have worked very hard on this agreement.

I first thank Ambassador Zoellick's team, particularly Ralph Ives, Matt Niemeyer, Lisa Coen, and Ted Posner. We worked closely with them for nearly 2 years, and I have appreciated their dedication to getting a good agreement.

I also thank the staff of the Senate Finance Committee. On the Republican side, Everett Eissenstat, Stephen Schaefer, and David Johanson.

And finally I thank my own staff on the Finance Committee, Russ Sullivan and Bill Dauster, who head up our Committee staff. Our trade team: Tim Punke, Shara Aranoff, Brian Pomper, and Sara Andrews. Liz Fowler, who worked on the pharmaceutical provisions. And I especially thank John Gilliland, one of our International Trade Counsels who has done a tremendous job, particularly on the difficult and sensitive agriculture issues.•

Mr. DASCHLE. Mr. President, Australia is a very important ally and trading partner. As we all know, Australia joined the U.S. in our military efforts in both Iraq and Afghanistan. This support is vital, and it is appreciated.

While it is important to continue our cooperative relations, I am extremely concerned about the negative impact the free trade agreement could have on my State of South Dakota and the rest of rural America, particularly on the agricultural sector of our economy.

For many months, I urged our negotiators to exclude beef and cattle from the agreement. I am disappointed that they have not only rejected this suggestion, but have proposed that we allow the Australians additional access to our beef markets.

The FTA would establish an 18-year phase-in of increased Australian access to American markets. While 18 years may seem like a long time to some people, I know many ranchers in South Dakota to whom it will not seem so long when the phase-in starts and depresses our beef and cattle markets.

Both beef and cattle are very sensitive sectors, and they have become even more so with the recent mad cow disease scare. Beef and cattle are more sensitively traded items because they are both perishable and have cyclical market dynamics—leaving beef and cattle off the table seemed to make a lot of sense.

The administration refused and included beef provisions in the agreement. To add insult to injury to ranchers in South Dakota and across the country, the administration ignored an amendment on the beef safeguards in the agreement that Senator CONRAD offered in the Finance Committee.

The administration's actions were wrong on process and wrong on substance, in my view.

The Congress delegates substantial constitutional authority through the fast-track procedures. It retains, however, an informal ability to recommend changes to the implementing legislation of trade agreements.

Senator CONRAD had a very simple amendment. He said if the administration was going to waive critical safeguards for ranchers, then the Senate Finance and the Ways and Means Committee must concur. This was well in the bounds of the agreement and supported by a majority of the members of the Finance Committee.

The committee then went through the contorted exercise of voting the agreement down to make it easier for the administration to ignore the Conrad amendment, which they did.

This action makes it more clear that this agreement is not good for the ranchers in South Dakota, and that is the main reason why I oppose it.

Additionally, the U.S. dairy industry should not be faced with added unfair competition by allowing the Australians increased access to our dairy markets. Dairy producers from around the Nation have expressed this concern to me.

The increased access to our U.S. dairy markets is particularly troubling for South Dakota, as we have been working aggressively to expand our dairy operations.

I am also concerned about the current U.S. tariffs on wool that our negotiators have agreed should be gradually eliminated over 4 years. We have a small, but important, wool industry in

South Dakota, and anyone familiar with lamb and wool knows that it is a very import-sensitive industry. Most producers have struggled over the last decade to simply stay in business.

While it is only indirectly related to the FTA, I also want the record to reflect my continuing concern about the treatment of some contracts awarded to Australia under the Iraq Oil-for-Food Program. I know that several of my colleagues, including Senator GRAHAM of South Carolina, are reviewing contracts under the Oil-for-Food Program, and I hope that their inquiry will include a review of the wheat contracts awarded under that program.

To that end, my recent exchange of letters with Agriculture Secretary Veneman specifically reference contracts awarded to Australian producers since the liberation of Iraq, and press reports indicate that the specifics of these contracts—in particular the price of wheat—were the same as those negotiated under the Oil-for-Food Program during Saddam's regime.

According to her letter to me, Secretary Veneman has had USDA personnel review these contracts and has assured me that she is certain that no preferential treatment was granted to Australian producers at the risk of American producers. I hope that is the case, but to ensure that it is the case, I am urging Secretary Veneman to provide all the research and analysis her staff did to Senator GRAHAM for his Oil-for-Food investigation and to Paul Voelker who is undertaking an investigation on behalf of UN Secretary General Annan.

In addition, the patent provisions in this agreement raise troubling implications. Many of us in Congress—on both sides of the aisle—have been working to legalize the safe importation of lower-cost prescription drugs from Canada and other industrialized countries.

It is no secret that the administration has opposed our efforts. And what I see in this agreement relating to patents may be of concern in how it affects drug importation.

Simply put, the administration should not use trade agreements as a back-door way to impede the safe importation of FDA-approved drugs at lower prices. The administration needs to make clear that this agreement does not do just that.

I am also concerned about other provisions in this agreement relating to pharmaceuticals and how they may impact other program, such as Medicaid, and whether the agreement may impede our ability to alter or improve the deeply flawed Medicare drug benefit enacted last year.

Finally, let me reiterate that, in my judgment, the Australia FTA goes too far and treats our farmers and ranchers unfairly.

Not only am I dissatisfied with both the treatment of our agriculture sector in the agreement, but I also have concerns about the process executed to implement our negotiated terms.

It is extremely important that we have a level playing field on which American producers can compete. Given a fair chance, American producers are among the world's finest. But the deck must not be stacked against them.

I have concluded that this FTA is not in the interests of South Dakota. Regrettably, I must oppose it.

Mr. FRIST. Mr. President, I rise to speak in support of the H.R. 4759, legislation to implement the United States-Australian Free Trade Agreement.

I am excited by the new opportunities for both the United States and Australia that will be created under this important agreement. I strongly support its passage.

I thank all my colleagues in the Senate and the other body for their hard work. In particular, I thank Chairman GRASSLEY and Senator BAUCUS and their staff for working together in a bipartisan way to get us to this moment.

I also thank the U.S. Trade Representative and his team and the Australian Embassy for bringing us to this moment.

Our two economies are closely linked. Australia is one of our most important trade partners. The facts speak for themselves.

Two-way trade between our nations in goods and services totals $28 billion annually. We have a $9 billion trade surplus with Australia, our greatest with any nation. More than 99 percent of our exports to Australia will enter duty-free once the agreement goes into effect.

According to the National Association of Manufacturers, more than 19,000 U.S. firms are already selling into the Australian market. Ninety-three percent of U.S. exports to Australia are manufactured goods. As many have pointed out, this is indeed a ''Manufacturer's Free Trade Agreement.''

This agreement is expected to produce an increase in $2 billion annually in trade for both nations by 2010. That means the creation of as many as 40,000 new jobs directly related to this agreement.

In my home State of Tennessee, Australia is an important market for our goods. Tennesseans export more to Australia than to France. Last year, Tennessean companies exported $225 million to Australia, a 10-percent increase from 1999.

In turn, The United States is already Australia's largest source of imports and second-largest export destination. So this agreement will benefit both our countries.

U.S. farmers benefit from this agreement, too. The United States exports $400 million annually in agricultural goods to Australia. These exports will receive immediate duty-free access.

This agreement will offer substantial new markets for U.S. services as well. The agreement will provide new openings for telecommunications, express delivery, energy, construction, engineering, financial services, and many other sectors. And this agreement lifts restrictions on U.S. investment in Australia.

In addition to opening new markets, there are other benefits to U.S. and Australian businesses. Australia is the gateway for U.S. businesses to Asia. The Australians have close ties to their Asian neighbors.

This agreement will pave the way for new, dynamic partnerships between United States and Australian firms. And with the elimination of tariffs and lowering of trade barriers for most industrial products under the agreement, U.S. firms, partnering with Australian firms, will be able to better compete in the growing Asian markets.

But this agreement is about more than increasing business opportunities. Australia is one of our most steadfast allies and a key partner in the war on terror. Australians have fought beside Americans in every major conflict in the last 100 years. This agreement strengthens an already close bond forged between two old friends.

This agreement is strongly supported by the business community. The U.S. Chamber, the world's largest business federation, representing more than three million businesses, strongly supports this agreement. The National Association of Manufacturers, the leading voice on manufacturing in the United States, has called for its immediate passage. I am pleased that we are ready to do that today.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered. The clerk will call the roll.

Mr. MCCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 80, nays 16, as follows:

[Rollcall Vote No. 156 Leg.]

YEAS—80

Alexander	Corzine	Kennedy
Allard	Craig	Kyl
Allen	Crapo	Landrieu
Bayh	DeWine	Lautenberg
Bennett	Dodd	Levin
Biden	Dole	Lieberman
Bingaman	Durbin	Lincoln
Bond	Ensign	Lott
Boxer	Enzi	Lugar
Breaux	Feinstein	McCain
Brownback	Fitzgerald	McConnell
Bunning	Frist	Mikulski
Burns	Graham (FL)	Miller
Campbell	Graham (SC)	Murkowski
Cantwell	Grassley	Murray
Carper	Gregg	Nelson (FL)
Chafee	Hagel	Nelson (NE)
Chambliss	Harkin	Nickles
Clinton	Hatch	Pryor
Cochran	Hollings	Reed
Coleman	Hutchison	Roberts
Collins	Inhofe	Santorum
Cornyn	Jeffords	Sarbanes

Sessions	Stabenow	Thomas
Shelby	Stevens	Warner
Smith	Sununu	Wyden
Specter	Talent	

NAYS—16

Akaka	Feingold	Rockefeller
Byrd	Inouye	Schumer
Conrad	Johnson	Snowe
Daschle	Kohl	Voinovich
Dayton	Leahy	
Dorgan	Reid	

NOT VOTING—4

Baucus	Edwards
Domenici	Kerry

The bill (H.R. 4759) was passed.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMERICAN JOBS CREATION ACT OF 2004—Continued

AMENDMENT NO. 3563

The PRESIDING OFFICER. Under the previous order, the question now occurs on the DeWine-Kennedy amendment. There is 4 minutes per side prior to the vote.

The Senator from Ohio.

Mr. DEWINE. Mr. President, I understand we have 4 minutes on each side.

The PRESIDING OFFICER. There is 4 minutes on each side.

The Senator from Ohio.

Mr. DEWINE. I yield to my colleague from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, very briefly, I want to make sure people understand the tobacco buyout portion of the amendment upon which we are about to vote. No. 1, to make sure there are no misunderstandings or misconceptions, this amendment will end a tobacco price support program. That will be over. Second, there were several hearings on this proposal, both in the House and a field hearing in North Carolina chaired by Senator DOLE.

I also want to make it clear how this amendment would pay for the buyout. It would be paid for by a manufacturer's fee, not by the taxpayers.

It was suggested that 85 percent of the recipients of the buyout are not farmers. In fact, every single quotaholder owns at least part of a farm. They may have leased it out, but they own at least part of a farm. So these do go to farmers.

I hope our colleagues will support the buyout. I think it is a reasonable proposal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. I yield to my colleague from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the heart of this amendment is the FDA provision which will lead to fewer children starting to smoke and fewer adults suffering tobacco-induced disease. If parents want their children to grow up and grow up smoke-free, if they want to shield them from a $9 billion campaign designed to entice children into smoking, if they want to help millions of smokers kick the habit before it kills them, they will support the DeWine-McConnell-Kennedy amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I am going to urge my colleagues to vote against this amendment for two or three reasons. One, the bill we are voting on has never been marked up out of the Agriculture Committee. It has never been marked up in the HELP Committee. We are going to spend billions of dollars. We are rewriting the farm bill. We have a $12 billion buyout for tobacco farmers.

I heard my colleague from Kentucky say it ends the tobacco program. It does not end the tobacco program. This amendment was offered late last night, but under the bill of the Senator from Kentucky it did not eliminate the program. The House bill spends $9.6 billion and it does eliminate the program. It eliminates this quota. This bill eliminates quotas, but it does not eliminate the Secretary from having the authority to be able to restrict acreage on who grows tobacco. So we are going to spend $12 billion and not even eliminate the program, and not have any limitation on how much it is going to cost?

It is estimated the House bill would have almost 500 people make $1 million. This bill is much more generous than the House bill. There are going to be a few people who are going to become multimillionaires as a result of this bill, but yet we were not given the chance to offer any amendments. We could not say there should be a limit of $250,000 per person who is not a farmer. Incidentally, 85 percent of the people who receive money from the buyout are not farmers, are not living on a farm. So this is a buyout for a few people.

The FDA section is the biggest grant of power to the FDA, which not only gives them the power to regulate tobacco, but frankly I believe they can ban tobacco. It is a blank check to do almost anything they want—the most sweeping power they have ever been given. I think the House was wrong to add the $9.6 billion tobacco buyout in their tax bill, and two wrongs do not make a right. Now we are adding totally unrelated things, not considered by committee. It is going to cost billions of dollars, and we are going to add it to the Senate bill.

It is going to come back from conference in all likelihood with some provision. I think it jeopardizes the entire FSC bill. I do not think it should become law. Certainly, this is not the way it should become law. If it should become law, let us take it up freestanding and give Senators the right to amend and discuss it before spending billions of dollars.

The cost of this buyout is multiples of the so-called quota buyout we did for peanuts. It is going to cost billions of dollars. I urge our colleagues to vote no on the amendment.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. How much time remains?

The PRESIDING OFFICER. There is 2 minutes.

Mr. DEWINE. Mr. President, we regulate every product that is consumed in this country today. We put the contents of that product on the label—every product except tobacco. It makes absolutely no sense. This is a very modest bill, a very modest proposal, that gives the FDA the authority to regulate tobacco. I point out to my colleague, it does not give the FDA the authority to ban tobacco. It does not give the FDA the authority to do that at all. It is a modest compromise, but it will save lives. It makes sense.

One of the biggest health problems we have in this country today is underage smoking. We know if we can get a child at 19 or 20 and he or she does not start smoking by then, they probably will never start smoking. This bill allows us to get at advertising targeted at young people, which is a major problem today.

I yield the remainder of my time to my colleague from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I am prepared to vote.

Mr. DEWINE. We yield back our time.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Pursuant to rule XII, paragraph 3, I ask unanimous consent to be excused from voting on this question.

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

The Senator from Oklahoma.

Mr. NICKLES. How much time do I have remaining?

The PRESIDING OFFICER. There is 1 minute 17 seconds.

Mr. NICKLES. Mr. President, on page 45 of the bill, it says:

> The Secretary may by regulation require restrictions on the sale and distribution of a tobacco product, including restrictions on the access to, and the advertising and promotion of, the tobacco product, if the Secretary determines that such regulation would be appropriate for the protection of the public health.

If the Secretary determines something is appropriate for the protection of the public health, they can do whatever they want, I believe, including banning tobacco. That is very broad discretion for the Secretary of Health, to do whatever they want.

Also, the program does not end the tobacco program. At least it didn't in Senator MCCONNELL's bill. We have not had a chance to really review it, but it didn't in his bill. It did in the House bill. I compliment the House. If you are going to spend $10 billion, you ought to