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## Senate

The Senate met at 10 a.m. and was called to order by the Presiding Officer, the Honorable JEAN CARNAHAN, a Senator from the State of Missouri.

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, we dedicate this day to discern and do Your will. We trust in You, dear Father, and ask You to continue to bless America through the leadership of the women and men of this Senate. Help them as they grapple with the problems and grasp the potential for the crucial issues before them today.

You provide us strength for the day, guidance in our decisions, vision for the way, courage in difficulties, help from above, unfailing empathy, and unlimited love. You never leave us or forsake us; nor do You ask of us more than You will provide the resources to accomplish. So, here are our minds, think Your thoughts in them; here are our hearts, express Your love and encouragement through them; here are our voices, speak Your truth through them. For You are our Lord and Saviour. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable JEAN CARNAHAN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, July 27, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEAN CARNAHAN, a Senator from the State of Missouri, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mrs. CARNAHAN thereupon assumed the chair as Acting President pro tempore.

### RESERVATION OF LEADER TIME

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

### DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 2299, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2299) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

Pending:

Murray/Shelby amendment No. 1025, in the nature of a substitute.

Murray/Shelby amendment No. 1030 (to amendment No. 1025), to enhance the inspection requirements for Mexican motor carriers seeking to operate in the United States and to require them to display decals.

Gramm amendment No. 1168 (to amendment No. 1030), to prevent violations of United States commitments under the North American Free Trade Agreement.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

### SCHEDULE

Mr. REID. Madam President, the majority leader has asked I advise everyone that the Senate will resume con-

sideration of the Transportation Appropriations Act under postcloture conditions. Cloture was invoked yesterday by a margin of 70-30.

We hope to be able to work out an agreement on this matter today, if possible. If we can't, we would have a vote tonight on the matter now before the Senate dealing with cloture at approximately 8:45. There will be votes throughout the day on other matters if we are not able to work something out.

As we announced yesterday, we very much hope we can move to the agricultural emergency supplemental authorization bill. It is extremely important that be done prior to the August recess. We also have, as my friend, the ranking member of the Banking Committee, knows, concern about moving forward on the Export Administration Act, which also should be done before our August recess because that law expires in mid-August. The high-tech industry throughout America has been calling our offices asking that we do this. With the slowdown of the high-tech industry, we need to move this legislation.

As I indicated, there will be rollcall votes throughout the day. We hope we can move forward on other matters, but we understand the Senate rules and will abide by whatever Senators MCCAIN and GRAMM think is necessary.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mrs. MURRAY. Madam President, the Senate is now considering the Transportation appropriations bill that has now been before the Senate for a week. There are a number of provisions in this bill that are extremely important to our Nation's infrastructure. This is a bill that I have been very proud to work on in a bipartisan way with the ranking member of my committee, Senator SHELBY. I will take a moment this morning to recognize the tremendous work and help of Senator SHELBY and his staff and our staff. They have spent long nights negotiating this bill this week, working to a

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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point where we could get this bill out and do it in a way that provides the infrastructure we think is so important, whether it is for our airports, our railways, whether it is for our roads or waterways.

There are extremely important provisions in this bill for many Members of the Senate. We have had considerable requests from every Member of the Senate for important infrastructure improvements in their State. I am very proud of the work Senator SHELBY and I have done. We have worked extremely hard for the last 5 months to put this bill together. I think we have done a very good job. We have met and exceeded every request of this President, unlike the House, and we have done a good job, I believe, of meeting the transportation requirements of every Senator who has come to us.

I was pleased yesterday we were able to come to cloture on this measure on a very strong vote from the Senate of 70-30. I realize there are some Members of the Senate who think the provisions do not meet their requirements, but I think we have done a very good job of not doing what the House did, which was to absolutely prohibit any truck from coming across the border, and not do what the President has asked, which was to simply open up the borders and let trucks come through at will, but to put together a comprehensive piece of legislation which I believe will clearly mean we will be able to have a bill that is passed that assures constituents, whether they live in Washington State or constituents living in border States, when they see a truck with a Mexican license plate, they will know that truck has been inspected, that its driver has a good record, that it is safe to be on our highways, as we now require of Canadian trucks and American trucks.

Can we do better for all trucks on our highways? Absolutely. But it is clear we need to make sure, as NAFTA provisions go into place and we do start getting cross-border traffic, we can assure our moms who are driving kids to school, or our families who travel on vacation, or each one of us as we drive to work today, that we know our highways are safe. I believe the provisions we have put into this bill do make sure that happens.

I understand from the Senator from Nevada we will have a vote sometime this morning. I will take some time between now and then to walk through again what the compromise provisions are. I think they are very solid and give a lot of assurance. It is important we understand what we are passing out of the Senate.

The DOT plans to issue conditional operating authority to Mexican truck companies based on a simple mail-in questionnaire. All that Mexican truck companies will need to do is simply check a box saying they have complied with U.S. regulations and then their trucks will start rolling across the border. In fact, under the Department of

Transportation plan, Mexican trucking companies will be allowed to operate for at least a year and a half before they are subjected to any comprehensive safety audit by the DOT.

So under the committee provisions that we have written in a bipartisan manner with the members of Senator SHELBY's staff, under the subcommittee's unanimous vote, and under the full committee's unanimous vote, no Mexican trucking firm will be allowed to operate beyond the commercial zone until inspectors have actually performed a compliance review on that trucking company. This review will look at the conditions of the truck and the recordkeeping. They are going to determine whether the company actually has the capacity to comply with United States safety regulations, and once they have begun operating in the United States, Mexican trucking firms will undergo a second compliance review within 18 months. That second review will allow the Department of Transportation to determine whether the Mexican trucking firm has, in fact, complied with United States safety standards, and it will allow them to review accident breakdown rates, their drug and alcohol testing results, and whether they have been cited frequently for violations.

The ratification of NAFTA 7 years ago anticipated a period when trucks from the United States, Canada, and Mexico would have free rein to service clients across all three countries. This was not really a change in policy as it pertained to Canada since the United States and Canada had reciprocal trucking agreements in place long before NAFTA was ever required. But it did, as we know, require a change when it came to truck traffic between the United States and Mexico.

Let me say that again. We have had a long-time policy that pertains to Canada because we have had reciprocal agreements in place for some time. But with the ratification of NAFTA, and now with the January deadline coming upon us, we knew we had to take action when it came to truck traffic between the United States and Mexico.

For several years the opening up of the border between these two countries was effectively put on hold by the administration because they had great concern over the absence of reasonable safety standards for trucks that were operating in Mexico. While Mexican trucks have been allowed to operate between Mexico and a very defined commercial zone along the border—20 miles—the safety record of those trucks has been abysmal. In fact, the Department of Transportation's own inspector general, the General Accounting Office, and many others have published a number of reports that have documented the safety hazards that have been presented by the current crop of Mexican trucks crossing the border.

At a hearing of the Commerce Committee just last week, the inspector

general came to that committee hearing and testified about instances where trucks have crossed the border literally with no brakes. Think about the impact of that, if you are a mom driving your kids to school, or if you are driving a bus carrying a busload of kids to school, or driving on vacation, or if you are going to work: A truck that has no brakes and it has crossed the border because we have lack of inspectors, we have lack of inspection, and we have the lack of ability to assure the safety of those Mexican trucks.

Officials with that IG office visited every single border crossing between the United States and Mexico, and they have documented case after case of Mexican trucks entering the United States that were grossly overweight, that had no registration or insurance, and that had drivers with no licenses. We have an obligation to assure that the trucks that drive on our roads have registration, have insurance, have drivers with licenses, and that meet our weight requirements. These are simple, basic safety measures that we have to reassure every family who drives in our country.

In fact, according to the Department of Transportation's most recent figures, Mexican trucks are 50 percent more likely to be ordered off the road for severe safety deficiencies than United States trucks. And Mexican trucks are more than 2½ times more likely to be ordered off the road than Canadian trucks. Equally troubling to all of us is the fact that Mexican trucks have been routinely violating the current restrictions that limit their area of travel to the 20-mile commercial zones.

Knowing these things, we knew we had an obligation as we passed this bill in the Transportation Appropriations Subcommittee to make sure we put in safety requirements. Knowing that Mexican trucks are 50 percent more likely to be ordered off the road, we knew we had to put in safety requirements to assure, as trucks begin to travel beyond that 20-mile limit, even though as some of our colleagues have pointed out they are already doing so illegally—but once they are allowed to do that under the President's order, we need to make sure those trucks are safe before they come in.

The DOT inspector general found that 52 Mexican trucking firms have operated improperly in over 26 States outside the four southern border States. Already, in 26 States of our country, we have these trucks coming in. That is one reason Senator SHELBY, the ranking member of the Transportation Subcommittee, and I put the money into this bill that the House had stripped out—\$15 million more than the administration had requested—in order to ensure that we have inspectors in place and inspection stations and weigh stations, so we can monitor the traffic crossing our southern border.

An additional 200 trucking firms violated the restrictions to stay within

that commercial zone in the border States. We know Mexican trucks have been found operating illegally as far away from the Mexican border as New York State in the Northeast and my own State of Washington in the Northwest. We know the trucks are coming in now illegally to 26 States from 200 trucking firms. We want to make sure that as it becomes legal for them to be crossing the border, they are safe; that is a basic safety requirement, that we have an obligation as Senators to be able to go home and say to our constituents as the NAFTA provisions take effect.

Let me just take a moment to remind my colleagues, I supported NAFTA. I support free trade. I believe this NAFTA provision will raise the safety and health standards and labor standards for all three countries as it goes into place. But it will not do that if we lessen the safety requirements of the United States as it is implemented. That is why this provision is so critical.

One thing I found shocking was that the inspector general reported on one case where a Mexican truck was found, on its way to Florida to deliver furniture, and when that vehicle was pulled over, that driver had no logbook and no license. As I said, this is not unique; there have been experiences such as this in half of the States of the continental United States.

Given that kind of deplorable safety record, the official position of the U.S. Government since the ratification of NAFTA was that the border could not be opened to cross-border trucking because of the safety risks involved.

Why has that changed? Why are we now dealing with this provision on the floor of the Senate? Two things have basically changed that policy of restricting those trucks to within that 20-mile border.

First of all, of course, a new administration has come into power and they have said they want our borders opened.

Second, the Mexican Government successfully brought a case before the NAFTA arbitration panel. That panel has ruled the U.S. Government must initiate efforts to open the border to cross-border traffic. So in order to do that, a frenzy of activity occurred at the Department of Transportation so the border could be open to cross-border trucking, as soon as this autumn, they said.

The Department of Transportation has cobbled together a series of measures that was sort of intended to give us, as United States citizens, a sense of security, but I really saw it as a false sense of security as this new influx of Mexican trucks is coming across the boarder.

Both the House and the Senate Transportation Appropriations Subcommittees have looked at what the Department of Transportation is doing very hastily to allow these trucks in, and we determined it was woefully inadequate.

When the House debated the Transportation appropriations bill for fiscal year 2002, its concerns about the inadequacy of the Department of Transportation's safety measures were so grave that it resulted in an amendment being adopted on the floor of the House that prohibited the Department of Transportation from granting operating authority to any Mexico-domiciled trucking company during fiscal year 2002.

That amendment passed by a 2-to-1 margin. It is an amendment that prohibits the Department of Transportation from granting operating authority to any Mexican domiciled truck. That amendment passed 2 to 1 by a vote of 285-143. By the time the Transportation bill left the House, it was in pretty bad shape. Not only did they pass that amendment 2 to 1 to prohibit any truck from coming across, but they stripped every penny of the \$88 million the administration requested to improve the truck safety inspection capacity of the United States-Mexico border.

That bill, I believed, and Senator SHELBY believed, and others who worked with us believed, was simply the approach that went too far by taking all of the money away so there were no inspectors, no inspection stations, no weigh stations, and no ability to allow the NAFTA provisions to go through. We believed that the administration's position, on the other hand, was also woefully inadequate. Their position was to allow Mexican trucks to come in, come across our borders, traverse all our States, and inspect them later. The House has one extreme and the White House has another extreme.

That is why Senator SHELBY and I sat down and worked with members of the appropriations subcommittee and the full committee. I commend Senator STEVENS and Senator BYRD who have been working diligently with both of us. They care deeply about the many provisions in this bill, from the infrastructure improvements that affect all of our highways and our waterways. The Coast Guard and the FAA have worked with us to move this bill to a point so we can get it passed in the Senate, get it to conference, work out the differences between us and the White House, and move to a point where we can fund the critical infrastructure, as many of our constituents sit in traffic this morning and listen to this debate.

What Senator SHELBY and I have done is to really write a commonsense compromise that will inspect all Mexican trucks and then let them in.

Let me say that again. The compromise position between the House at one extreme and the White House at another is to make sure that all Mexican trucks are inspected, and then let them in. Just as we require Americans to pass a driving test before they get a license, the bipartisan Senate bill requires Mexican trucks to pass an inspection before they can operate on our roads.

As I said, our bill includes the \$103 million. That is \$15 million more than the President's request.

The reason I say that again pointedly is the administration has said that with the provisions Senator SHELBY and I have put into this bill, they will not have the money to implement it.

I remind the administration that they asked for \$15 million less than we appropriated. We put \$103 million into this bill for border truck safety initiatives. If the Department of Transportation, the OMB, and the President determine when this bill gets to conference that we do not have enough money for the truck safety activities and that should be part of our discussion, they need to request more money in order to put that in place. We are happy to work with them on that request. But just to say we have not appropriated enough money and we can't ensure the safety of trucks coming in, to me, is a woefully inadequate response.

The bill we have before us establishes a number of enhanced truck safety requirements that really are intended to ensure that this new cross-border trucking activity doesn't pose a safety risk to our families and the people traveling on our highways, whether it is in a southern border State or a northern border State.

None of us wants to be sitting here several months from now or a year down the road and have a horrendous accident occur in our States and find after the fact the truck that was involved in the accident was never inspected at our border because of lack of inspections, was never weighed, or that the driver had an invalid operating license or a poor safety record. None of us wants to face our constituents with that kind of tragedy.

Senator MCCAIN has been a wonderful help to me in the past. We worked together on a bill on pipeline safety after a tragedy occurred in my State where three young people were killed when a pipeline broke. Oil from that pipeline traveled down along a 1-mile stretch of river in Bellingham, WA. Three young boys were fishing by that river and playing by that river. Tragically, one of them lit a match and the entire mile of that river burst into flames. Three young boys were tragically killed on that day.

As the ranking member of the Commerce Committee, Senator MCCAIN has been just absolutely wonderful in working with us on that provision and working to pass a bill out of the Senate. But, unfortunately, it is now hung up in the House, and it has been for some time. I hope they can move it forward to ensure that our pipelines are safe. But we did that after a tragic accident.

I think it is much more effective, much more wise, and the right thing to do to put the safety requirements in place before we are reacting to a tragic accident.

The safety provisions that are included in this Senate bill were developed based on the recommendations the committee received from the DOT inspector general, the General Accounting Office, and law enforcement authorities, including the highway patrols of the States along the border.

The provisions we put in this bill didn't just come from matching. We worked very closely, looking at what the DOT inspector general recommendations were, the GAO, law enforcement authorities, and highway patrols working along the southern border. We used their recommendations to draft and put in place what we believe are very strong safety provisions within the underlying bill.

Once again, I was very pleased that 70 Members of the Senate affirmed that we do indeed need to have these safety requirements in place and to move this bill along to final passage so we can put in place the important infrastructure requirements that this country is demanding and that our constituents are demanding.

Mr. DURBIN. Madam President, will the Senator from Washington yield for a question?

Mrs. MURRAY. I am pleased to yield to the Senator.

Mr. DURBIN. Will the Senator from Washington please advise Members of the Senate and those who are following this debate where we are in this debate on the Transportation appropriations bill?

Mrs. MURRAY. I think it was 2 weeks ago that the Senate Transportation Subcommittee unanimously passed a Transportation bill. The Senator from Illinois serves on that committee and has been working with us. I appreciate his concern. He has a number of projects in Illinois that I know he wants to have put in place, but he doesn't want them hung up by a long and protracted debate over another issue in the Senate. I know the Senator from Illinois, who serves on our subcommittee, worked well with Members on the other side several weeks ago. It was a little more than a week ago that it passed out of the full committee of the Senate Appropriations Committee. We worked in a bipartisan way and unanimously voted out the provisions of this bill that fund the infrastructure needs of all 50 States, which include the safety provisions we are discussing this morning. We went to this bill last Friday. I believe it was around 2 in the afternoon.

Mr. DURBIN. Is the Senator from Washington telling us that we have been debating this bill for a week?

Mrs. MURRAY. Yes. This bill has been debated in the Senate for an entire week now. We began debate last Friday morning. I made my opening remarks. Senator SHELBY and I have worked very closely on this bill. He made his opening remarks. We opened it up for debate. We have one amendment that is now pending on the bill that Senator SHELBY and I put forward

which adds additional safety requirements to the underlying bill. It is, frankly, supported by every Member of the Senate, and by the White House, which has been requesting improved safety conditions as well. That began last Friday.

We asked Members to come to the floor to begin the debate, and we offered our bill up for amendment.

Mr. DURBIN. May I ask the Senator, I am trying to recall how many times we have voted this week on amendments to this bill. I can't recall more than a handful of times that we have voted.

Mrs. MURRAY. The Senator is correct. Senator SHELBY and I have been here. In fact, I got up at 4 o'clock Monday morning to come back from my home State of Washington to be on the floor Monday afternoon and ask Senators to bring their amendments forward. We waited. We have had a few amendments. I believe we have had four or five with which Members came to the floor and finally offered. We were here Monday evening:

I came back on Tuesday morning, ready and begging and telling Senators: We are ready to move this bill along. Offer your amendments. We will vote them up or down. In a week, we have only passed a handful of amendments that Senators have brought to the floor. I would have been happy if there were 20 amendments. Send them forward. We will vote them up or down.

Mr. DURBIN. If the Senator will yield, I ask the Senator from Washington, I believe she believes, as I do, that the nature of this legislative process in the Senate is, if you have an amendment, you should have the right to offer it, debate it, and bring it to a vote.

Mrs. MURRAY. Absolutely. The Senator from Illinois is correct. We are here. Senators have a right to offer amendments. We are happy to consider their amendments. In fact, we have had several amendments on both sides that were adopted by voice vote. We have been waiting in this Chamber. Our staffs have been working diligently until 2 or 3 o'clock in the morning every night in negotiations with Senators concerned about the safety provisions, as well as working with Members who have provisions within the bill. We could have finished this easily Monday evening with the number of amendments we have.

Mr. DURBIN. If the Senator will yield, on this important issue about the inspection of Mexican trucks and drivers coming into the United States, is it not a fact that yesterday we had a procedural vote, known as a cloture vote, which basically says that at some point the debate has to end, and we have to come to a vote? Can the Senator from Washington tell us what the vote was of the Senate to bring this debate to an end and bring this issue to a vote?

Mrs. MURRAY. The Senator from Illinois is correct. After sitting here all

Friday, Monday, Tuesday, and Wednesday, it was determined, since Senators were unwilling to offer amendments and have them voted up or down, we needed to move along. As the Senator from Illinois knows, serving on the Appropriations Committee, we have a number of other appropriations bills that need to pass in order to meet the October 1 deadline. There are many other priorities of Senators.

We decided the best way to move forward was to have a cloture vote, which then allows us to move along and finish this debate. Seventy of the 100 Senators said: Yes, it is time to move along; We are done with offering amendments; We want to get this bill passed; We want the infrastructure improvements that are in this bill; We support the safety requirements; Move it out of the Senate so we can get to a conference and pass this bill.

Mr. DURBIN. I ask the Senator from Washington if she will yield for one or two more questions, and then I will yield the floor back to the Senator.

Mrs. MURRAY. Yes.

Mr. DURBIN. Is it not true that because we have spent literally a week with very few, if any, amendments being offered, with very little debate on the floor, and really just a slowdown of activity, that we have been unable to consider other important legislation? There is an Agriculture supplemental appropriations bill, which is an emergency bill that is needed, that we have been unable to bring to the floor, as well as the Export Administration Act, which is important for our economy so we can try to get people back to work and get businesses moving forward.

All of this is being delayed because we have been unable to even come to a vote on important questions such as the inspection of Mexican trucks and drivers. Is that not correct?

Mrs. MURRAY. The Senator from Illinois is absolutely correct. What is in this bill is extremely important to my constituents. We have some of the worst traffic in the Nation. I know the Senator from Illinois has severe traffic problems. We share airport concerns in our home States for which this bill has improvement funding. We are ready to go to final passage.

I would just add, I say to the Senator from Illinois, we have a managers' package ready to go. We could be done in the next half hour, move this bill out, and go to the Ag bill to which the Senator referred. I am deeply concerned that we have delayed its passage.

I have apple farmers and tree fruit farmers in central Washington who are in severe financial straits. They have suffered through a drought that has hurt their crops. They have suffered through the impact of an Asian market that has declined tremendously in the last several years. Many of them are having to sell their farms. To me, it is devastating to watch these poor families. We have help for them in that Ag

bill. We have help for them in it, but they will not have that help until we pass this bill and move it on. And we need to do that, as the Senator from Illinois knows, before we leave next Friday. We have to get it to conference.

I ask the Senator from Nevada, am I correct that we need to get the Ag bill to conference, out of conference, and back to the floor?

Mr. REID. Absolutely.

Mrs. MURRAY. So every minute we delay here means that a family farmer in Yakima, WA, who is suffering under severe financial distress, is going to have to sit through an August break—a month-long August break—not knowing whether or not they are going to get help from the U.S. Government.

Mr. DURBIN. I say to the Senator from Washington, thanks for yielding for those questions. I will fight for any Senator's right to offer an amendment, and also to debate it and bring it to a vote. That is what a legislative body is all about. What we have seen for the past week is a slow dance. There are people who just do not want to see the Senate roll up its sleeves and get down to work.

We have a lot of things to do, such as for farmers, for exporting, and even for important issues such as the ones in the Transportation bill.

I salute the Senator from Washington for her patience and her perseverance and her strength. I hope we can get this job done very quickly and this bill passed.

Mrs. MURRAY. I thank the Senate from Illinois.

I would reiterate, again, that we are ready to go to final passage at a moment's notice. We could wrap this bill up in the next half hour quite easily. We have a managers' package. I do not believe there is any other Senator who has any requests out there. We could pass the managers' package and move to third reading within a few minutes and Senators could go home for the weekend.

I know many Senators have called and said: Can we finish? I have a noon flight I need to catch. I know that planes are leaving and people have plans for this weekend. I certainly would like them to be able to go home and see their families. I would like to go home and see my family, of course, but I am willing to stay here if that is what we need to do. And I will stay here because what is in this bill is so critically important to my constituents at home who are now sitting in traffic at 7:30 in the morning.

Many of them are traveling to work right now, probably sitting in traffic on the Alaskan Way Viaduct or the I-5 corridor because we have failed to do our job.

Mr. BYRD. Madam President, will the distinguished Senator, who is the manager of the bill on this side of the aisle, yield for a question?

Mrs. MURRAY. I would be delighted to yield to the Senator.

Mr. BYRD. I have a brief statement to make. I would like to make that

statement and go on to other issues. The distinguished Senator from Arizona has been waiting. I would like to make my speech and get back to my office.

Could the Senator tell me about when I might be able to get the floor? How much longer will she need?

Mrs. MURRAY. Madam President, I ask unanimous consent that we do this: That the Senator from Arizona have 5 minutes to speak, and that following the Senator from Arizona, the Senator from West Virginia have—

Mr. MCCAIN. As much time as he might consume.

Mrs. MURRAY. As much time as he may consume.

Mr. GRAMM. We have plenty of time.

Mr. MCCAIN. Could we modify that? Could I have 7 minutes?

Mrs. MURRAY. Absolutely. That the Senator from Arizona have 7 minutes, and that following that, the Senator from West Virginia be recognized, and following that I would like to finish my remarks.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. Reserving the right to object, and I will not object, other than to alert those Senators here. I have spoken to Senator MURRAY. She has spoken to Senator SHELBY. When these remarks are finished, there is going to be a motion to table on this amendment. I want to make sure everyone understands that or, otherwise, the Senator from Washington will move now to table.

Mrs. MURRAY. Madam President, I amend my unanimous consent request to state that following the Senator from Arizona and the Senator from West Virginia, Senator SHELBY would like—

Mr. GRAMM. Reserving the right to object.

Mrs. MURRAY. I ask that Senator SHELBY have 5 minutes.

Mr. GRAMM. Why don't you complete yours and then let me speak.

Mrs. MURRAY. And then I will be recognized at that time.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. GRAMM. Reserving the right to object, Madam President, I would like to have an opportunity to speak before the motion to table is put.

Mrs. MURRAY. How much time would the Senator like?

Mr. GRAMM. I would like to have the opportunity to speak. I don't know exactly how long it is going to take. I will not speak for any extended period of time, but I want to hear what else is said.

Mrs. MURRAY. I will be happy to yield to the Senator from Texas for a specific period of time. If we can't work that out, then I will make the motion to table.

Mr. MCCAIN. I object to the unanimous consent request.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mrs. MURRAY. Madam President, then I will continue my remarks at this time.

Madam President, in a moment I am going to review the committee's safety recommendations in detail. But first I want to address the issue of compliance with NAFTA because it has been an issue that we have been talking about for some time.

I have heard it alleged in this Chamber that the provision that was adopted unanimously by the committee is in violation of NAFTA. I want the Senators in this Chamber to understand that nothing could be further from the truth.

I voted for NAFTA. I support free trade. My goal in this bill has always been to ensure that free trade and public safety progress side by side.

Rather than take my opinion on this issue or that of another Senator, we have a written decision by an arbitration panel that was charged with settling this very issue.

That arbitration panel was established under the NAFTA treaty. That panel's rulings decide what does and does not violate NAFTA.

I have heard many Senators say that provisions violate NAFTA or that the President should decide what violates NAFTA. In fact, I believe the amendment that is pending before the Senate says the President should decide what violates NAFTA. We do not decide that here. The arbitration panel decides what violates NAFTA. I will read to the Senate a quote from the findings of the arbitration panel. That quote is printed right here on this poster. I will take a minute to read it.

Mr. REID. Will the Senator from Washington yield?

Mrs. MURRAY. I am happy to yield.

Mr. REID. I would like to propound a unanimous consent request.

Madam President, I ask unanimous consent that following the remarks of the Senator from Washington, the Senator from Arizona, be recognized for 7 minutes; the Senator from West Virginia for 10 minutes; the Senator from Texas be recognized for up to 10 minutes; that the Senator from North Dakota be recognized for 10 minutes, Mr. DORGAN; and following that, the Senator from Alabama be recognized for 5 minutes for the purpose of offering a motion to table the amendment now pending.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mrs. MURRAY. Madam President, with that, let me quickly read this and remind my colleagues that the arbitration panel has stated that:

The United States may not be required to treat applications from Mexican trucking firms in exactly the same manner as applications from United States or Canadian firms. . . .

In other words, we have the ability within this country to write the safety provisions that we have written under these provisions to ensure the safety of the people who travel on our highways. That is the premise we have made. The amendment that we will be voting on

shortly says that the President can decide what violates NAFTA and what does not.

Clearly, the arbitration panel makes that decision. The Senate effectively, I remind my colleagues, voted on the pending amendment when we tabled the Gramm-McCain amendment by a vote of 65-35. That amendment, as the amendment we will vote on shortly, is really a wolf in sheep's clothing. It is designed to gut the safety provisions in this bill by allowing the President to waive whatever safety provision in the bill he does not like.

If the Appropriations Committee thought that the DOT's plans to address the safety risks posed by Mexican trucks were adequate, we wouldn't have put the important safety provisions into this bill.

What this amendment does say is, OK, administration, whatever safety requirements in this bill you don't like, find a White House attorney who will say it is a violation of NAFTA.

Which provision will they choose to throw away? Will it be the requirement to verify that a Mexican truck driver's licence has not been revoked? Will it be the requirement to inspect trucks when they come across the border? Will it be a requirement to demonstrate that the Mexican trucks have insurance? Under the amendment we will vote on, we won't know. It simply says we will allow the President to gut whatever safety requirement he would like.

I voted for NAFTA. My goal is not to stop free trade. My goal is to see that free trade and safety progress side by side.

I yield the floor to the Senator from Arizona.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, I am sorry the Senator from Illinois just left the floor because he seemed to be deeply concerned about the process. From a Chicago Tribune editorial, headlined "Honk If You Smell Cheap Politics," I will read a couple of quotes. Quoting from the Tribune:

As political debates go, the one in the Senate against allowing Mexican trucks access to the U.S. is about as dishonest as it gets. The talk is all about safety and concern about how rattletrap Mexican semis, driven by inept Mexicans, would plow into Aunt Bee putt-putting to the grocery store in her Honda Civic somewhere in Pleasantville, U.S.A.

Truth is that Teamster truckers don't want competition from their Mexican counterparts, who now have to transfer their loads near the border to American-driven trucks, instead of driving straight through to the final destination. But to admit that would sound too crass and self-serving, so Sen. Patty Murray, and others pushing the Teamster line, instead are prattling on about road safety.

It ends with:

President Bush vows to veto this version of the bill, and quite rightly so. In 1993, the U.S. signed and ratified NAFTA. The agreement went into effect in 1994. There is no

justification now, more than seven years later, for the U.S. to try to weasel out of some of its provisions.

I ask unanimous consent that the complete editorial be printed in the RECORD.

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

[From the Chicago Tribune, July 27, 2001]

#### HONK IF YOU SMELL CHEAP POLITICS

As political debates go, the one in the Senate against allowing Mexican trucks access to the U.S. is about as dishonest as it gets. The talk is all about safety and concern about how rattletrap Mexican semis, driven by inept Mexicans, would plow into Aunt Bee putt-putting to the grocery store in her Honda Civic, somewhere in Pleasantville, U.S.A.

Truth is that Teamster truckers don't want competition from their Mexican counterparts, who now have to transfer their loads near the border to American-driven trucks, instead of driving straight through to the final destination. But to admit that would sound too crass and self-serving, so Sen. Patty Murray (D-Wash.), and others pushing the Teamster line, instead are prattling on about road safety.

The Bush administration—with a surprising assist from Arizona Sen. John McCain—is right to insist that the U.S. comply with its obligations under the North American Free Trade Agreement and allow Mexican trucks full access to our roads, beginning in January.

Under NAFTA, which went into effect in 1994, there was supposed to be free access to all trucks within Canada, the U.S. and Mexico by January of last year. That only makes sense: There is no point in freeing up trade but restricting the means to move the goods.

But with the 2000 elections looming, President Bill Clinton caved in to pressure from the Teamsters and delayed implementation of the free-trucking part of the agreement. Democratic presidential candidate Al Gore got the Teamsters' endorsement and the Mexican government filed a complaint against the U.S. for violation of NAFTA rules. Mexico won.

A spokesman for the U.S.-Mexico Chamber of Commerce and others in Washington have whispered there may be bits of racism and discrimination floating around in this soup, because Canadian trucks and drivers are not subjected to similar scrutiny and can move about freely anywhere in the U.S.

It's worthwhile to note, too, that while the U.S. is banning Mexican trucks, Mexico is returning the favor, so neither country's trucks are going anywhere. As it stands, Mexican trucks can come in only 20 miles into the U.S. before they have to transfer their load.

Safety need not be an issue. An amendment proposed by McCain and Sen. Phil Gramm (R-Texas) incorporates safety inspection safeguards to be sure drivers and trucks are fit to travel U.S. roads. It's roughly modeled after California's safety inspection system along its own border with Mexico. Presumably, Mexico would inspect the trucks going the other way.

Those are reasonable measures to protect motorists on both sides of the border.

But Sen. Murray's amendment sets up a series of requirements and hurdles so difficult to implement that they would, in effect, keep the border closed to Mexican trucks indefinitely.

President Bush vows to veto this version of the bill, and quite rightly so. In 1993, the U.S. signed and ratified NAFTA. The agreement went into effect in 1994. There is no

justification now, more than seven years later, for the U.S. to try to weasel out of some of its provisions.

Mr. MCCAIN. The Senator from Washington just stated how she had received requests for Transportation appropriations from every Member of this body. I hope she will correct the record. She received no request from my office. She received no request, nor ever will receive a request from my office, for any transportation pork-barreling of which this bill is full.

This bill has surpassed the President's total budget request by nearly \$4 billion. This year's bill contains 683 earmarks totaling \$3.148 billion in porkbarrel spending. Last year, there was only \$702 million. I congratulate the Appropriations Committee on this.

Always in the contract game of porkbarrel spending, some benefit substantially more than others. The State of West Virginia, for instance, will be the proud recipient of \$6,599,062 under the National Scenic Byways Program. Of that money, \$619,000 will be directed towards "Promoting Treasures Within the Mountains II" program; \$8,000 will be given to Virginia's chapel, and \$22,640 will go to fund the SP Turnpike Walking Tour.

The State of Washington will also benefit substantially from the National Scenic Byways Program. Under that portion of the bill, Washington will receive \$2,683,767, of which \$790,680 will fund the North Pend Orielle Scenic Byway—Sweet Creek Falls Interpretive Trail Project; \$190,730 will be directed to the Paden Creek Visitor and Salmon Access, and \$88,000 will fund the Oakcreek wildlife Byway Interpretive Site Project.

The programs go on and on. Let me tell you the real problem here, how great this problem gets over time: \$4,650,000 is carved out of the Coast Guard portion of this bill to "test and evaluate a currently developed 85-foot fast patrol craft that is manufactured in the United States and has a top speed of 40 knots. Fortunately, and I am sure, coincidentally, for the State of Washington, there is only one company in the country which produces such a vessel, and it just happens to be Guardian Marine International, located in Edmonds, WA. Not only did the U.S. Coast Guard not ask for this vessel, they looked at the Guardian vessel, considered its merits, and concluded that it would not adequately meet the Coast Guard's needs. Taxpayers of America, look at the Guardian fast patrol craft which will be yours whether the Coast Guard wants it or not.

Yesterday, very briefly, my friend from Nevada said that I was mistaken in my comments about setting a precedent. I think his comments were well made. I accept them. There has not been the parliamentary movement as there should have been. I stick to and want to reiterate and will continue to reiterate my comments that what we are doing on an appropriations bill is precedent setting. We are changing and



violating a solemn treaty made between three nations, and we are doing it on an appropriations bill.

The Senator from Washington just enumerated the wonderful language for safety that they have on an appropriations bill.

The authorizers, the committees that are given the responsibility and the duty to authorize, are the ones who should have written this language. The Appropriations Committee should only be appropriating money. Instead, in a precedent-setting procedure, they have now decided to include language which, according to the Governments of two countries, Mexico and the United States, two freely elected Governments of both of those countries have deemed in violation of this solemn treaty.

This language, according to the Mexican Government, according to the U.S. Government, is in violation of the North American Free Trade Agreement. We are subject, obviously, to significant sanctions but, more importantly, again, the Senator from West Virginia is on the floor and he knows the history of this body more than I do. I do not know of a single other time in the history of this body that a solemn agreement, a treaty, has been tampered with on an appropriations bill—in fact, abrogated to a large degree.

There were great debates over the role of the United States in Vietnam. That was conducted under the aegis of the Foreign Relations Committee. There were other great debates on other foreign policy issues. All of them were conducted in this Chamber under the aegis and responsibility of the Foreign Relations Committee and sometimes the Armed Services Committee.

I know of no time where the great debates on treaties were conducted as part of an appropriations bill on Transportation. This debate should be taking place under the responsibility of the Foreign Relations Committee and the Commerce, Science, and Transportation Committee, and I allege again this is a precedent-setting move which, if it carries—and I still hope that it does not—I am convinced the President can muster 34 votes to sustain a veto. This will have very serious consequences for the way we do business in the Senate.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. BYRD. Madam President, I say to my friend from Arizona, who mentioned the money for scenic byways in West Virginia, all highways in West Virginia are scenic, all highways. They are all scenic, and the money in this bill for scenic highways in West Virginia is going to be yielded in conference with the House.

I take great pride in the fact that all of West Virginia's highways are scenic, and I thank the Senator from Arizona for bringing to the attention of the Senate these scenic byways.

There are scenic byways in Arizona also. My wife and I traveled through

Arizona in 1960 on our way to the Democratic Convention in Los Angeles. We took the southern route, and we came back to Washington on the northern route. They are beautiful States that we traveled through.

Madam President, the North American Free Trade Agreement, NAFTA, went into effect on January 1, 1994. I voted against NAFTA. Now, 6 years later, the costs associated with NAFTA are becoming increasingly clear.

On February 6, 2001, a NAFTA dispute resolution panel concluded that the U.S. refusal to approve any applications from Mexican motor carriers who wanted to provide cross-border trucking services is a breach of NAFTA. Even though the panel determined that the Mexican regulatory system for trucks was inadequate, they decided that this was an insufficient legal basis for the United States to maintain its moratorium on approving cross-border trucking applications. In other words, the panel decided that, even though Mexican trucks barreling down American roads would endanger human health and safety, these trucks must be allowed to enter.

This panel's decision has shifted the American public's concern about safety into high gear. The Administration has said that it intends to lift the toll-gate to Mexican trucks sometime before January 1, 2002. Instead, we ought to downshift and carefully consider our route on this issue. Believing that Mexican trucks will suddenly come into compliance with U.S. trucking safety standards within the next six months is like believing that a car will keep running without gas.

Mexican trucking is not well regulated. Mexican truck- and driver-safety standards are nearly nonexistent. Mexican law fails to require many of the fundamentals of highway safety policy that are required by U.S. law and regulation, such as enforced hours of service restrictions for truck drivers or the use of log books. There is no Mexican truck safety rating system and no comprehensive truck equipment standards. From the lack of basic requirements, it is apparent that Mexico is making little investment, and undertaking no regular maintenance, to ensure that its trucks operate in accordance with fundamental trucking safety standards. Opening our borders to more Mexican trucks would allow Mexico to export more than just goods to the United States; it would export truckloads of danger.

Without Mexican investment to ensure that its motor carriers are operating safely, the financial burden of ensuring the safety of Mexico-domiciled motor carriers operating in the United States is loaded onto the shoulders of the American taxpayer. From 1995 to the present, the U.S. Department of Transportation has dedicated \$22 million to the border States, above normal allocations, for the purpose of enhancing inspection capabilities. The Senate's fiscal year 2002 Department of

Transportation Appropriations bill would appropriate an additional \$103.2 million for increased border inspections of Mexican trucks. This amount is \$15 million above the level included in the President's request. Of the more than \$103 million provided, \$13.9 million is provided to the Federal Motor Carrier Safety Administration to hire 80 additional truck safety inspectors, an amount of \$18 million is provided for enhanced Motor Carrier safety grants for the border, and \$71.3 million is provided for the construction and improvement of Motor Carrier safety inspection facilities along the border between the United States and Mexico. Have we taken leave of our senses?

In addition to the costs associated with an increased need for inspection, more Mexican trucks on U.S. roads will compromise safety, and could result in serious accidents on our highways. During fiscal year 2000, Federal Motor Carrier Safety Administration reports show federal and state border inspectors performed 46,144 inspections on Mexican trucks at the border and within the limited commercial zones where some Mexican trucks are currently allowed to travel. For those trucks that were inspected, the percentage of trucks taken off the road for serious safety violations, declined from 44 percent in fiscal year 1997 to 36 percent in fiscal year 2000. Regardless of these inspections, the fact remains that more than one in three Mexican trucks is a lemon. And we cannot count on inspections to cull out every single one of these time bombs and get them off our highways.

In February, I wrote to U.S. Trade Representative Robert Zoellick and Transportation Secretary Norman Mineta to urge that the United States not compromise the safety of America's highways. We cannot, because of a NAFTA dispute resolution panel decision, subvert U.S. safety standards that have been put in place to protect travelers on our Nation's roads. Until the United States and Mexico agree on comprehensive safety standards, and until the United States is able to effectively enforce those standards, we must stand on the brakes against efforts that would compromise current U.S.-imposed safeguards for Mexican trucks.

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Texas is recognized.

Mr. GRAMM. Madam President, so many issues have been talked about. I want to begin my short remarks by reading the amendment which is pending, because we are going to vote on this amendment when a motion is made to table it. What the amendment does is it accepts everything in the Murray amendment with the following proviso:

Provided that notwithstanding any other provision of the act, nothing in this act shall be applied in a manner that the President finds to be in violation of the North American Free Trade Agreement.

In other words, unless something is in violation of the North American Free Trade Agreement, every provision in the Murray amendment will stand if this amendment is adopted.

Senator MURRAY and her supporters say nothing in her provision violates NAFTA. If nothing in her provision violates NAFTA, then this amendment will have no effect. This amendment, in essence, shows the emperor has no clothes. We are having a lot of discussion on how tough a safety standard we want. Under NAFTA, we can impose any safety standards we want on Mexican trucks, but we have to impose the same standards on Canadian trucks and on American trucks. Everyone is in agreement; we need to have safer trucks. Our own trucks need to be safer, Canadian trucks need to be safer, and Mexican trucks need to be safe to come into the country.

What is at issue is not safety but protectionism. What is at issue is, we had a President, George Bush, in 1994, who signed a solemn agreement with Mexico and Canada called the North American Free Trade Agreement. Then under another President, President Bill Clinton, we ratified this agreement by enacting a bill in Congress that President Clinton signed. Now, under another Republican President, President George W. Bush, we have an effort to enforce the agreement we entered into. Now we have an effort on an appropriations bill to violate the treaty we negotiated and signed in 1994 and that we ratified under a Democrat President.

Our colleagues keep talking about safety, but nothing having anything to do with safety would be stricken by this amendment. This amendment would strike provisions that violate NAFTA. What are some of those provisions? Provisions that say Mexican trucks have to carry a different type of insurance than American trucks and Canadian trucks. Provisions that say Mexican truckers cannot lease their trucks in the same way American truckers and Canadian truckers can lease their trucks; penalty provisions where the penalties are different for Mexican trucks than they are for American trucks and Canadian trucks; provisions that say until we promulgate regulations that have to do with the bill passed in 1999 that Canadian trucks can operate, American trucks can operate, but Mexican trucks cannot operate. There is no more logic to that provision in the Murray amendment than there would be in saying we are not going to live up to a treaty obligation we made until February the 29th occurs on a Sunday. It is totally and absolutely arbitrary and totally and absolutely illegal, and it violates an agreement we entered into and have enforced under three Presidents.

What our amendment does is simply say, take everything in the Murray amendment and it becomes the law of the land unless it violates NAFTA—unless it violates an agreement we entered into and Congress ratified. That

is exactly what the amendment does; no more, no less.

If you vote against this amendment, obviously you stand up on the floor of the Senate and say anything you want to say; it is a free country. But if you vote against this amendment, you can't say, it seems to me, that you believe the Murray provision does not violate NAFTA. If you think it doesn't violate NAFTA, why not vote for this amendment and settle this issue? Obviously, anybody who votes against this amendment believes this amendment, despite all the denials of all the proponents, violates obligations we have in an agreement we entered with Mexico.

All over the world we are trying to get countries to live up to their agreements they have with us. What kind of credibility are we going to have when we go back on a solemn commitment we made to our neighbor to the south? What kind of credibility are we going to have when we treat our northern neighbor in one way, have one set of rules for them, but then we say to our southern neighbor, we have an entirely different set of rules for you. In fact, we have to implement laws we passed in the past before you are even going to get an opportunity, in violation of NAFTA, to ever have a chance to compete.

The plain truth is, as the Chicago Tribune pointed out this morning, Teamster truckers don't want competition from their Mexican counterparts. This is not about safety; this is about raw, rotten protectionism, and it is about a willingness to go back on a solemn commitment that our Nation made. I believe this is very harmful to America. I think it undercuts the best ally we have ever had in a President of Mexico.

I reiterate, this may happen, but it is not going to happen until every right that every Member of the Senate has is fully exercised. This is an important issue. Some of our colleagues might wonder; in fact, people watching this probably wonder, when Senator MCCAIN and I clearly don't have the votes, why don't we give this thing up? Our Founding Fathers, in establishing the structure of the Senate, understood there would be times when there would be issues that were important to America that were confusing, that people wouldn't understand, that could be cloaked in other issues. They understood there would be vital national interests at stake. For those circumstances, they gave one Member of the Senate the right to have extraordinary powers. It seems to me that having been blessed to have the opportunity to serve here, as we all have, when we believe that a fundamentally important issue to the future of America and, in this case, our relationship with our neighbor to the south and our credibility in the world are at stake, any Member has an obligation to use those rights.

I don't like inconveniencing my colleagues, but let me make it clear, at

8:42 tonight we will be in a position where cloture can occur on the bill. I am ready to vote. But I am going to exercise my full rights. The people of Texas hired me to represent their interest and the national interest, and Texas and the national interest are both violated by going back on a treaty we made with Mexico.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. DAYTON). Under the previous order, the Senator from North Dakota is recognized for 10 minutes.

Mr. DORGAN. Mr. President, as I walked on the floor, I heard the words "raw, rotten protectionism" used on the floor of the Senate. I had to smile because that is such an ill described position with respect to what the Senate is doing. If you were to try to misdescribe what is going on in the Senate, you could not do it more aggressively than to use terms such as "raw, rotten protectionism." There is nothing protectionist about this issue.

This issue is about a trade agreement called NAFTA: a terrible trade agreement that, in my judgment, sold out the interests of this country; a trade agreement that turned a very small surplus with the country of Mexico into a huge deficit; and turned a moderate deficit with Canada into a large deficit. NAFTA is a trade agreement that has not served this country's interests, and we are now told, as a part of this trade agreement, we are required as a country to allow Mexican long-haul trucks into this country. We are told that if we don't let in Mexican long-haul trucks, we are somehow guilty of violating the NAFTA trade pact. According to my colleague from Texas, if we don't allow Mexican long-haul trucks into America, Mexico intends to retaliate on the matter of corn syrup.

Sometimes it is a little too confusing. Mexico is already abusing its trade policies on corn syrup by imposing the equivalent of a tariff ranging from 43 percent to 76 percent on corn syrup exported from this country to Mexico. A panel has already ruled against Mexico on the issue of corn syrup, and, yet, they are now threatening that they may take action on United States corn syrup if we don't allow Mexican long-haulers into this country.

Is someone not thinking straight here? The only question, in my judgment, on this issue is, Is it in the interests of the American people to allow Mexican long-haul trucks into this country at this time? If we allow Mexican trucks to operate unfettered throughout the United States, will it sacrifice highway safety? Will it jeopardize people on American highways? The answer to all of these questions is it will jeopardize safety, it will compromise safety on our highways, and this is not the time to do this.

Both the United States and Mexico have had 6 years to cogitate about this—6 years. Really almost nothing



has been done. We have 27 border crossings where trucks enter the United States, but a minuscule percent of those trucks are inspected. Thirty-six percent of the Mexican trucks now coming into this country, and are now limited to a 20-mile zone, are turned back for serious safety violations—36 percent. In most cases there are no inspections at all. There are no facilities to inspect. In only two of the border locations are there inspection facilities during all commercial hours. In most cases, there are no parking spaces and there are no phone lines to verify, for example, commercial driver's license data, and so on.

I have said it before, and I will say it again—I know it is repetitious, but it is important to do—the San Francisco Chronicle, God bless them, sent a reporter down to ride with a long-haul trucker. He filed a report. Here is what he said.

This trucker he rode with traveled 1,800 miles in 3 days, slept 7 hours in 3 days—7 hours in 3 days—and drove a truck with a cracked windshield that would not have passed U.S. inspection. The situation is much different in Mexico than in the United States. In Mexico, there are no standard hours of service in Mexico. There is a logbook requirement, but it is not enforced so truckers do not have them. During the Chronicle reporter's ride with the Mexican trucker, there were no safety inspections along the way.

Now we are told if we do not allow Mexican long-haul trucks into this country, we are somehow in violation of NAFTA. This is not violating anything. I am so tired of a "blame our country first" on all these issues. We are not going to violate anything if we decide that highway safety in this country is important enough to say we will not, under any circumstances, allow Mexican long-haul trucks into this country until we have a regime of compliance and safety inspections that give us the assurance, yes, the assurance that Mexican trucks coming into this country and the drivers are meeting the same rigorous, aggressive standards we apply to American drivers and American trucks.

Mr. DURBIN. Will the Senator yield for a question?

Mr. DORGAN. Do you want yourself, your families, your friends, your neighbors looking in the rearview mirror to see an 80,000-pound vehicle coming behind you with a driver who has not slept in 24 hours, who has brakes that may not work, and who has come across the border and has not been inspected? Is that what you want for yourself or your family? I do not.

Let me just say again, there is not a ghost of a chance by January 1, when President Bush wants to allow these trucks in, that the inspectors necessary to assure the protection of American drivers on America's roads will be in place. How do I know that? Because the Department of Transportation's Inspector General testified be-

fore the Commerce Committee and said the administration is short of inspectors. Even the plan they are proposing will not allow the inspectors to be present to make sure these trucks coming into our country are safe.

I will be happy to yield.

Mr. DURBIN. I would like to ask the Senator from North Dakota a question. I voted for NAFTA, but I voted for it with the understanding that we could impose the same health and safety standards on companies and countries exporting to the United States that we impose on American companies; that that would be fair trade. We would be treating ourselves the same way as we treat others.

I want to make it clear for the record, and I think the Senator from North Dakota has made this point, all we are trying to establish is that Mexican trucks and Mexican drivers will be held to the same standards of safety and competency as American trucks and American drivers. Is that the case?

Mr. DORGAN. That is exactly the case. Let me just again say that when the term "raw rotten protectionism" is used, it is wrong. There is nothing about this proposal to require similar standards on Mexican trucks coming into this country as already exists for the American trucking industry—there is nothing raw about that, there is nothing rotten about that, and there is nothing that is protectionist about that. It represents common sense, something that is too often obscured in these debates in this country in public policy. It is especially obscured in trade policy.

Let me just say this to my friend from Illinois. I am aware of not one trade agreement that this country has negotiated that would require us as Americans to sacrifice safety on America's roads. There is not one trade agreement or one word in a trade agreement that requires us to do that. We should not do that. We will not do that.

When President Bush says on January 1 we are going to remove the 20-mile limit, and we are going to have Mexican drivers and trucks come into this country unimpeded, when in fact he has not proposed the inspectors and compliance officers necessary to make certain this could be done safely, in my judgment he is saying this trade agreement requires us to diminish standards on America's roads. I will not accept that. I do not support that. None of us in this Chamber, in my judgment, should vote for it.

The PRESIDING OFFICER. The Senator will please suspend. Please take other conversations off the Senate floor.

Mr. DORGAN. Mr. President, how much time remains?

The PRESIDING OFFICER. Two minutes.

Mr. DORGAN. The Senator from Texas is attempting to weaken the provisions in the Murray bill. I happen to think the Murray provisions are too

weak. I would like a stronger provision. I want the House provision to prevail that simply says during the next fiscal year, no funds will be used for certifying long-haul Mexican trucks to come into this country unimpeded beyond the 20-mile limit. As I said, I happen to think the Murray provision is not strong enough.

The amendment that is before us is to try to weaken the Murray provision. In my judgment, it makes no sense. I will not use terms such as "raw, rotten protectionism" because they are totally inappropriate about this decision. This is not about discrimination. It is not about trade. It is not about protectionism. It is not about anything that is raw or rotten. It is about whether we are willing to stand up for standards we have already established in this country for safety on our road dealing with 18-wheel, 80,000-pound trucks.

Do you want a driver behind you who has just come across the border who has been awake for 24 straight hours and is driving a truck that is unsafe, with no brakes? I don't think so. These standards are radically different in the United States. Ten hours of consecutive driving is all you can do in the United States. You have to have logbooks. In Mexico, they have no logbooks.

Alcohol and drug testing: In the United States, yes; in Mexico, no.

The list goes on and on and on.

We are nowhere near having equivalent standards and there is not a ghost of a chance of that happening on January 1. All of us ought to recognize it. This is not about trade. It is about safe hours and it is about common sense. I hope when this vote is taken, common sense will prevail.

The PRESIDING OFFICER. The Republican assistant leader.

Mr. NICKLES. I ask unanimous consent to speak for 5 minutes on this amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Reserving the right to object, I have been wanting to seek recognition, but I understood we were going to a rollcall. I say to the Senator from Oklahoma that if I can have 5 minutes to speak, I will not object.

Mr. NICKLES. I have no objection to the Senator speaking. I wish to speak for 5 minutes. If he wishes to, he can ask consent.

Mr. DURBIN. I ask consent that the Senator from Oklahoma and myself each be recognized for 5 minutes to speak.

Mr. REID. Reserving the right to object, if I may make a parliamentary inquiry, if we add 10 minutes to the time we have already, when will the vote take place?

The PRESIDING OFFICER. That will be 11:33.

Mr. REID. Senator SHELBY also has time.

The PRESIDING OFFICER. There will be 15 minutes and then the vote. Is there objection? Without objection, it

is so ordered. The Senator from Oklahoma.

Mr. NICKLES. I am appreciative of the cooperation of our colleagues and also of the quality of the debate. I think we have had an interesting debate. I compliment the participants. I will just make a couple of comments.

I am reading this amendment and listening to some of the debate yesterday, and looking at this amendment, it says:

Provided, That notwithstanding any other provision of the Act—

Talking about the Murray amendment that is included in the Transportation bill—

nothing in this Act shall be applied in a manner that the President finds to be in violation of the North American Free Trade Agreement.

I know I heard people say yesterday the Murray amendment, the underlying legislation that is in the appropriations bill, is compliant with NAFTA, it is compliant with our treaty, a treaty we have already signed.

If that is the case, I think the proponents should adopt this amendment. I wish they would. I would think they would accept it. It would further clarify that we are going to keep our word in the treaty. A treaty is making a commitment on behalf of the United States with other countries. We should keep that.

If we are going to rewrite the treaty on this appropriations bill, we have a problem. I think we have a couple of problems because clearly this is legislation on an appropriations bill and we made rules that we were not going to do that. Now it turns out the rules are only sort of applicable. In other words, you can legislate—if you are in the committee and you legislate in committee, it is OK, but you cannot legislate on the floor.

Maybe we need to probably address that, and we probably will at a later date. But now I look at the legislation, and I have heard some people say that the legislation that came out of committee violates NAFTA. The proponents say no, it doesn't. Here is language that says nothing in this act should be applied in a manner that the President finds to be in violation of the NAFTA. This is further clarification that we are not going to violate NAFTA. That makes sense.

If we are going to rewrite treaties on appropriations bills, something is wrong. What about the Foreign Relations Committee? What about the Commerce Committee and committees that have jurisdiction over NAFTA? What about consulting the NAFTA partners? I have heard they are upset about the language that is coming out of the committee and that came out of the House.

I urge the proponents of the Murray amendment to adopt this language. I think it would further clarify. Maybe it would make a lot of this problem go away. This might make this bill entirely acceptable on all parts. This could be the solution.

I have heard people say nothing in the underlying bill violates NAFTA. Then let's accept this amendment. I believe we could have final passage on this bill today, and we could move on towards other legislative agenda items that all of us would like to do, including some nominations.

Mr. REID. Mr. President, will the Senator yield for a question?

Mr. NICKLES. Yes.

Mr. REID. Is that an offer?

Mr. NICKLES. I would love to see that happen. I do not know if the other proponents will consult other people; maybe we can make that an offer. I would love to see that happen.

I think adoption of this language further clarifying that we are not doing anything to violate NAFTA would help make this bill much more presentable and much more acceptable—both to the administration and our trading partners in Mexico and in Canada.

I urge my colleagues not to support a tabling motion. Let's pass this amendment and this bill. Let's go to conference.

Mr. GRAMM. Mr. President, will the Senator yield?

Mr. NICKLES. Yes.

Mr. GRAMM. In response to the question from the distinguished Democrat floor leader, I believe the adoption of this amendment would make this debate an honest debate. We would all then agree that it does not affect NAFTA. I think that would be a major step in working out this whole thing. With the adoption of this amendment, I think in a fairly short period of time we could probably work this out in a way that, A, the Department of Transportation can implement, and, B, the President of Mexico and the President of the United States are not embarrassed by us abrogating NAFTA. I think this would be the linchpin for working something out, if we adopt it.

Mr. NICKLES. Today.

Mr. GRAMM. I think if we decided to, we could solve this problem within 2 hours. Working with the Department of Transportation, we could come up with an agreement that the Department of Transportation could make work. That is the first requirement. And, second, that does not violate our obligations under NAFTA.

Mr. NICKLES. Mr. President, I very much appreciate Senator GRAMM's comments, and also Senator REID's suggestion. I think this may help us break this bottleneck. I think too many people are too dug in to kind of look and say how we can fix this problem which we got into by legislating on an appropriations bill and possibly rewriting treaties. That is wrong, at least in this Senator's opinion. This language clarifies that we are not going to violate the treaty.

Let's pass this amendment and this bill, and let's go to other legislative agenda items.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is recognized for 5 minutes.

Mr. DURBIN. Mr. President, first I would like to ask the Senator from Washington, the chairman of the subcommittee, if she would yield for a question.

Mrs. MURRAY. I am happy to yield for a question.

Mr. DURBIN. Would she comment on the pending Gramm amendment and the impact she believes it will have on establishing standards for safety for Mexican trucks and Mexican truckdrivers?

Mrs. MURRAY. I thank the Senator for the question. I would be happy to enter into negotiations to talk about accepting this amendment if it didn't actually gut the provisions we have before us. This administration basically says to the President—actually the White House attorney would designate it—the provision of the underlying bill violates NAFTA. That is their position, not ours. It is their decision. They could revoke the Mexican driver's license provision we have, or the inspection of the trucks across the border and the insurance issue on Mexican trucks. At their whim, they could say we think that violates NAFTA.

I think the Members of the Senate have spoken quite loudly, 70-30, that we believe the provisions in this Senate bill are ones that we believe will protect drivers in the country. We have already seen what the DOT protections were. I believe the underlying amendment certainly as written is not safe for American drivers.

Mr. DURBIN. I agree with the Senator from Washington. If we adopt the amendment of Senator GRAMM of Texas, we are basically saying there are no standards when it comes to Mexican trucks and when it comes to Mexican truckdrivers. It is whatever the White House attorneys decide. That, frankly, is an abdication of the responsibility of the Senate.

I hope all Members will join in voting for this Gramm amendment. I voted for NAFTA. When I voted for NAFTA, I was told that the United States would never have to compromise health and safety standards, and, that if we impose standards of safety on American trucks and truckdrivers, the same standards will apply to Canadian and Mexican truckdrivers. If we impose standards of the safety on our trucks, the same standards will be imposed on Mexico and Canada.

That is what is known as fair trade and fair standards evenly applied. Senator GRAMM and those on the other side of the aisle don't want fair trade. They want to have it so the Mexicans and Canadians and others who trade with the United States can establish in the name of free trade their own standards.

This weekend when you are on the highways across America and you look in the rearview mirror, if the truck coming up behind you is an American truck, you can be sure of one thing: It is subject to hours of service requirements so that the truckdriver doesn't stay in that seat so long that he is half

asleep and driving off the road. You know the American truckdriver has to keep a logbook so we know where he has been and how long he has been driving. He is subject to inspection. He has been subject to alcohol and drug testing. He has had a physical. You know the minimum weight limit for the truck is 80,000 pounds, and so forth. But under the standards imposed by the Mexican Government, none of these apply. There are no hours of service requirements. If the truck coming up behind you on the highway is driven by a Mexican truckdriver, there is no prohibition or limitation on the hours he can drive the truck. Under their law, he has to keep a logbook. He ignores it, as most Mexican truckdrivers do. There is no basic alcohol and drug test, and there is no requirement for physicals as in the United States.

Let me tell you about an accident. If you get involved in an accident with a truck driven by an American driver for an American truck company, they have to have liability insurance between \$750,000 and \$4 million for that accident. The Mexican truckdriver, about \$70,000 worth of insurance to cover bodily injury as well as physical damage.

When we say the Mexicans are going to have an opportunity to trade in the United States and we want to strike down trade barriers, we are not trying to strike down common sense. Common sense says that whether your family is on the road going to a Virginia vacation, or for business, when you look in the rearview mirror, or pass a truck, you ought to know that there is a safety standard applied to everybody who wants to use American highways.

Senator MURRAY has put in a reasonable amendment. She established the same standards for Mexican trucking companies and truckdrivers as the United States. Those who oppose this amendment don't want that to happen. The Gramm amendment gives the widest loophole in the world. Some attorney in the White House can declare that the standards for insurance, for example, for Mexico are just fine at \$70,000. That is wrong. It is wrong for the American families who expect this Senate to stand up and protect them when it comes to the use of American highways.

I favor free trade. I voted for free trade. But I didn't do it with a blindfold. I did it with the knowledge that we ought to have standards to protect American companies, American individuals, and American consumers, and that the same standards should apply to those exporting to the United States and those producing in the United States. This is not protectionism. This is commonsense. Vote against the Gramm amendment.

The PRESIDING OFFICER. The Republican assistant leader.

Mr. NICKLES. Mr. President, just for the information of our colleagues, we will be voting probably within 5 minutes. I believe there will be a motion to table the Gramm amendment. So just

for the Cloakrooms to alert all colleagues, there will be a rollcall vote in 5 minutes.

The PRESIDING OFFICER. Under the previous order, the Senator from Alabama is recognized for 5 minutes.

Mr. SHELBY. Mr. President, over the course of the past several days, we have heard several Senators explain what they believe the North American Free Trade Agreement does and does not do. I believe this debate would be better served by reviewing the agreement itself.

Part Seven, Chapter Twenty, of NAFTA establishes the Free Trade Commission which shall resolve disputes that may arise regarding its interpretation or application. NAFTA also establishes a dispute settlement process in the event that the Free Trade Commission is unable to resolve a matter or if a third party brings forth a cause of action. Under NAFTA in these cases, the Commission "shall establish an arbitral panel." Again, I am quoting from the agreement.

Mr. President, I ask unanimous consent that the North American Free Trade Agreement Part Seven: Administrative And Institutional Provision be printed in the RECORD.

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

#### NORTH AMERICAN FREE TRADE AGREEMENT

##### Part Seven: Administrative and Institutional Provisions

##### Chapter Twenty: Institutional Arrangements and Dispute Settlement Procedures

#### SECTION A—INSTITUTIONS

##### Article 2001: The Free Trade Commission

1. The Parties hereby establish the Free Trade Commission, comprising cabinet-level representatives of the Parties or their designees.

2. The Commission shall:

- (a) supervise the implementation of this Agreement;
- (b) oversee its further elaboration;
- (c) resolve disputes that may arise regarding its interpretation or application;
- (d) supervise the work of all committees and working groups established under this Agreement, referred to in Annex 2001.2; and
- (e) consider any other matter that may affect the operation of this Agreement.

3. The Commission may:

- (a) establish, and delegate responsibilities to, ad hoc or standing committees, working groups or expert groups;
- (b) seek the advice of non-governmental persons or groups; and
- (c) take such other action in the exercise of its functions as the Parties may agree.

4. The Commission shall establish its rules and procedures. All decisions of the Commission shall be taken by consensus, except as the Commission may otherwise agree.

5. The Commission shall convene at least once a year in regular session. Regular sessions of the Commission shall be chaired successively by each Party.

##### Article 2002: The Secretariat

1. The Commission shall establish and oversee a Secretariat comprising national Sections.

2. Each Party shall:

- (a) establish a permanent office of its Section;
- (b) be responsible for

- (i) the operation and costs of its Section, and

- (ii) the remuneration and payment of expenses of panelists and members of committees and scientific review boards established under this Agreement, as set out in Annex 2002.2;

- (c) designate an individual to serve as Secretary for its Section, who shall be responsible for its administration and management; and

- (d) notify the Commission of the location of its Section's office.

3. The Secretariat shall:

- (a) provide assistance to the Commission;

- (b) provide administrative assistance to

- (i) panels and committees established under Chapter Nineteen (Review and Dispute Settlement in Antidumping and Countervailing Duty Matters), in accordance with the procedures established pursuant to Article 1908, and

- (ii) panels established under this Chapter, in accordance with procedures established pursuant to Article 2012; and

- (c) as the Commission may direct

- (i) support the work of other committees and groups established under this Agreement, and

- (ii) otherwise facilitate the operation of this Agreement.

#### SECTION B—DISPUTE SETTLEMENT

##### Article 2003: Cooperation

The Parties shall at all times endeavor to agree on the interpretation and application of this Agreement, and shall make every attempt through cooperation and consultations to arrive at a mutually satisfactory resolution of any matter that might affect its operation.

##### Article 2004: Recourse to Dispute Settlement Procedures

Except for the matters covered in Chapter Nineteen (Review and Dispute Settlement in Antidumping and Countervailing Duty Matters) and as otherwise provided in this Agreement, the dispute settlement provisions of this Chapter shall apply with respect to the avoidance or settlement of all disputes between the Parties regarding the interpretation or application of this Agreement or wherever a Party considers that an actual or proposed measure of another Party is or would be inconsistent with the obligations of this Agreement or cause nullification or impairment in the sense of Annex 2004.

##### Article 2005: GATT Dispute Settlement

1. Subject to paragraphs 2, 3 and 4, disputes regarding any matter arising under both this Agreement and the General Agreement on Tariffs and Trade, any agreement negotiated thereunder, or any successor agreement (GATT), may be settled in either forum at the discretion of the complaining Party.

2. Before a Party initiates a dispute settlement proceeding in the GATT against another Party on grounds that are substantially equivalent to those available to that Party under this Agreement, that Party shall notify any third Party of its intention. If a third Party wishes to have recourse to dispute settlement procedures under this Agreement regarding the matter, it shall inform promptly the notifying Party and those Parties shall consult with a view to agreement on a single forum. If those Parties cannot agree, the dispute normally shall be settled under this Agreement.

3. In any dispute referred to in paragraph 1 where the responding Party claims that its action is subject to Article 104 (Relation to Environmental and Conservation Agreements) and requests in writing that the matter be considered under this Agreement, the complaining Party may, in respect of that

matter, thereafter have recourse to dispute settlement procedures solely under this Agreement.

4. In any dispute referred to in paragraph 1 that arises under Section B of Chapter Seven (Sanitary and Phytosanitary Measures) or Chapter Nine (Standards-Related Measures):

(a) concerning a measure adopted or maintained by a Party to protect its human, animal or plant life or health, or to protect its environment, and

(b) that raises factual issues concerning the environment, health, safety or conservation, including directly related scientific matters,

where the responding Party requests in writing that the matter be considered under this Agreement, the complaining Party may, in respect of that matter, thereafter have recourse to dispute settlement procedures solely under this Agreement.

5. The responding Party shall deliver a copy of a request made to paragraph 3 or 4 to the other Parties and to its Section of the Secretariat. Where the complaining Party has initiated dispute settlement proceedings regarding any matter subject to paragraph 3 or 4, the responding Party shall deliver its request no later than 15 days thereafter. On receipt of such request, the complaining Party shall promptly withdraw from participation in those proceedings and may initiate settlement procedures under Article 2007.

6. Once dispute settlement procedures have been initiated under Article 2007 or dispute settlement proceedings have been initiated under the GATT, the forum selected shall be used to the exclusion of the other, unless a Party makes a request pursuant to paragraph 3 or 4.

7. For purposes of this Article, dispute settlement proceedings under the GATT are deemed to be initiated by a Party's request for a panel, such as under Article XXIII:2 of the General Agreement on Tariffs and Trade 1947, or for a committee investigation, such as under Article 20.1 of the Customs Valuation Code.

#### *Consultations*

##### *Article 2006: Consultations*

1. Any Party may request in writing consultations with any other Party regarding any actual or proposed measure or any other matter that it considers might affect the operation of this Agreement.

2. The requesting Party shall deliver the request to the other Parties and to its Section of the Secretariat.

3. Unless the Commission otherwise provides in its rules and procedures established under Article 2001(4), a third Party that considers it has a substantial interest in the matter shall be entitled to participate in the consultation on delivery of written notice to the other Parties and to its Section of the Secretariat.

4. Consultations on matters regarding perishable agricultural goods shall commence within 15 days of the date of delivery of the request.

5. The consulting Parties shall make every attempt to arrive at a mutually satisfactory resolution of any matter through consultations under this Article or other consultative provisions of this Agreement. To this end, the consulting Parties shall:

(a) provide sufficient information to enable a full examination of how the actual or proposed measure or other matter might affect the operation of this Agreement;

(b) treat any confidential or proprietary information exchanged in the course of consultations on the same basis as the Party providing the information; and

(c) seek to avoid any resolution that adversely affects the interests under this Agreement of any other Party.

#### *Initiation of Procedures*

##### *Article 2007: Commission—Good Offices, Conciliation and Mediation*

1. If the consulting Parties fail to resolve a matter pursuant to Article 2006 within:

(a) 30 days of delivery of a request for consultations,

(b) 45 days of delivery of such request if any other Party has subsequently requested or has participated in consultations regarding the same matter,

(c) 15 days of delivery of a request for consultations in matters regarding perishable agricultural goods, or

(d) such other period as they may agree,

any such Party may request in writing a meeting of the Commission.

2. A Party may also request in writing a meeting of the Commission where:

(a) it has initiated dispute settlement proceedings under the GATT regarding any matter subject to Article 2005(3) or (4), and has received a request pursuant to Article 2005(5) for recourse to dispute settlement procedures under this Chapter; or

(b) consultations have been held pursuant to Article 513 (Working Group on Rules of Origin), Article 723 (Sanitary and Phytosanitary Measures Technical Consultations) and Article 914 (Standards-Related Measures Technical Consultations).

3. The requesting Party shall state in the request the measure or other matter complained of and indicate the provisions of this Agreement that it considers relevant, and shall deliver the request to the other Parties and to its Section of the Secretariat.

4. Unless it decides otherwise, the Commission shall convene within 10 days of delivery of the request and shall endeavor to resolve the dispute promptly.

5. The Commission may:

(a) call on such technical advisers or create such working groups or expert groups as it deems necessary,

(b) have recourse to good offices, conciliation, mediation or such other dispute resolution procedures, or

(c) make recommendations, as may assist the consulting Parties to reach a mutually satisfactory resolution of the dispute.

6. Unless it decides otherwise, the Commission shall consolidate two or more proceedings before it pursuant to this Article regarding the same measure. The Commission may consolidate two or more proceedings regarding other matters before it pursuant to this Article that it determines are appropriate to be considered jointly.

#### *Panel Proceedings*

##### *Article 2008: Request for an Arbitral panel*

1. If the Commission has convened pursuant to Article 2007(4), and the matter has not been resolved within:

(a) 30 days thereafter,

(b) 30 days after the Commission has convened in respect of the matter most recently referred to it, where proceedings have been consolidated pursuant to Article 2007(6), or

(c) such other period as the consulting Parties may agree,

any consulting Party may request in writing the establishment of an arbitral panel. The requesting Party shall deliver the request to the other Parties and to its Section of the Secretariat.

2. On delivery of the request, the Commission shall establish an arbitral panel.

3. A third Party that considers it has a substantial interest in the matter shall be entitled to join as a complaining Party on delivery of written notice of its intention to participate to the disputing Parties and its Section of the Secretariat. The notice shall be delivered at the earliest possible time, and in any event no later than seven days

after the date of delivery of a request by a Party for the establishment of a panel.

4. If a third Party does not join as a complaining Party in accordance with paragraph 3, it normally shall refrain therefore from initiating or continuing.

(a) a dispute settlement procedure under this Agreement, or

(b) a dispute settlement proceeding in the GATT on grounds that are substantially equivalent to those available to that Party under this Agreement.

regarding the same matter in the absence of a significant change in economic or commercial circumstances.

5. Unless otherwise agreed by the disputing Parties, the panel shall be established and perform its functions in a manner consistent with the provisions of this Chapter.

##### *Article 2009: Roster*

1. The Parties shall establish by January 1, 1994 and maintain a roster of up to 30 individuals who are willing and able to serve as panelists. The roster members shall be appointed by consensus for terms of three years, and may be reappointed.

2. Roster members shall:

(a) have expertise or experience in law, international trade, other matters covered by this Agreement or the resolution of disputes arising under international trade agreements, and shall be chosen strictly on the basis of objectivity, reliability and sound judgment;

(b) be independent of, and not be affiliated with or take instructions from, any Party; and

(c) comply with a code of conduct to be established by the Commission.

##### *Article 2010: qualifications of Panelists*

1. All panelists shall meet the qualifications set out in Article 2009(2).

2. Individuals may not serve as panelists for a dispute in which they have participated pursuant to Article 2007(5).

##### *Article 2011: Panel Selection*

1. Where there are two disputing Parties, the following procedures shall apply:

(a) The panel shall comprise five members.

(b) The disputing Parties shall endeavor to agree on the chair of the panel within 15 days of the delivery of the request for the establishment of the panel. If the disputing Parties are unable to agree on the chair within this period, the disputing Party chosen by lot shall select within five days as chair an individual who is not a citizen of that Party.

(c) Within 15 days of selection of the chair, each disputing Party shall select two panelists who are citizens of the other disputing Party.

(d) If a disputing Party fails to select its panelists within such period, such panelists shall be selected by lot from among the roster members who are citizens of the other disputing Party.

2. Where there are more than two disputing Parties, the following procedures shall apply:

(a) The panel shall comprise five members.

(b) The disputing Parties shall endeavor to agree on the chair of the panel within 15 days of the delivery of the request for the establishment of the panel. If the disputing Parties are unable to agree on the chair within this period, the Party or Parties on the side of the dispute chosen by lot shall select within 10 days a chair who is not a citizen of such Party or Parties.

(c) Within 15 days of selection of the chair, the Party complained against shall select two panelists, one of whom is a citizen of a complaining Party, and the other of whom is a citizen of another complaining Party. The complaining Parties shall select two panelists who are citizens of the Party complained against.

(d) If any disputing Party fails to select a panelist within such period, such panelist shall be selected by lot in accordance with the citizenship criteria of subparagraph (c).

3. Panelists shall normally be selected from the roster. Any disputing Party may exercise a peremptory challenge against any individual not on the roster who is proposed as a panelist by a disputing Party within 15 days after the individual has been proposed.

4. If a disputing Party believes that a panelist is in violation of the code of conduct, the disputing Parties shall consult and if they agree, the panelist shall be removed and a new panelist shall be selected in accordance with this Article.

#### *Article 2012: Rules of Procedure*

1. The Commission shall establish by January 1, 1994 Model Rules of Procedure, in accordance with the following principles:

(a) the procedures shall assure a right to at least one hearing before the panel as well as the opportunity to provide initial and rebuttal written submissions; and

(b) the panel's hearing, deliberations and initial report, and all written submissions to and communications with the panel shall be confidential.

2. Unless the disputing Parties otherwise agree, the panel shall conduct its proceedings in accordance with the Model Rules of Procedure.

3. Unless the disputing Parties otherwise agree within 20 days from the date of the delivery of the request for the establishment of the panel, the terms of reference shall be: "To examine, in the light of the relevant provisions of the Agreement, the matter referred to the Commission (as set out in the request for a Commission meeting) and to make findings, determinations and recommendations as provided in Article 2016(2)."

4. If a complaining Party wishes to argue that a matter has nullified or impaired benefits, the terms of reference shall so indicate.

5. If a disputing Party wishes the panel to make findings as to the degree of adverse trade effects on any Party of any measure found not to conform with the obligations of the Agreement or to have caused nullification or impairment in the sense of Annex 2004, the terms of reference shall so indicate.

#### *Article 2013: Third Party Participation*

A Party that is not a disputing Party, on delivery of a written notice to the disputing Parties and to its Section of the Secretariat, shall be entitled to attend all hearings, to make written and oral submissions to the panel and to receive written submissions of the disputing Parties.

#### *Article 2014: Role of Experts*

On request of a disputing Party, or on its own initiative, the panel may seek information and technical advice from any person or body that it deems appropriate, provided that the disputing Parties so agree and subject to such terms and conditions as such Parties may agree.

#### *Article 2015: Scientific Review Boards*

1. On request of a disputing Party or, unless the disputing Parties disapprove, on its own initiative, the panel may request a written report of a scientific review board on any factual issue concerning environmental, health, safety or other scientific matters raised by a disputing Party in a proceeding, subject to such terms and conditions as such Parties may agree.

2. The board shall be selected by the panel from among highly qualified, independent experts in the scientific matters, after consultations with the disputing Parties and the scientific bodies set out in the Model Rules of Procedure established pursuant to Article 2012(1).

3. The participating Parties shall be provided:

(a) advance notice of, and an opportunity to provide comments to the panel on, the proposed factual issues to be referred to the board; and

(b) a copy of the board's report and an opportunity to provide comments on the report to the panel.

4. The panel shall take the board's report and any comments by the Parties on the report into account in the preparation of its report.

#### *Article 2016: Initial Report*

1. Unless the disputing Parties otherwise agree, the panel shall base its report on the submissions and arguments of the Parties and on any information before it pursuant to Article 2014 or 2015.

2. Unless the disputing Parties otherwise agree, the panel shall, within 90 days after the last panelist is selected or such other period as the Model Rules of Procedure established pursuant to Article 2012(1) may provide, present to the disputing Parties an initial report containing:

(a) findings of fact, including any findings pursuant to a request under Article 2012(5);

(b) its determination as to whether the measure at issue is or would be inconsistent with the obligations of this Agreement or cause nullification or impairment in the sense of Annex 2004, or any other determination requested in the terms of reference; and

(c) its recommendations, if any, for resolution of the dispute.

3. Panelists may furnish separate opinions on matters not unanimously agreed.

4. A disputing Party may submit written comments to the panel on its initial report within 14 days of presentation of the report.

5. In such an event, and after considering such written comments, the panel, on its own initiative or on the request of any disputing Party, may:

(a) request the views of any participating Party;

(b) reconsider its report; and

(c) make any further examination that it considers appropriate.

#### *Article 2017: Final Report*

1. The panel shall present to the disputing Parties a final report, including any separate opinions on matters not unanimously agreed, within 30 days of presentation of the initial report, unless the disputing Parties otherwise agree.

2. No panel may, either in its initial report or its final report, disclose which panelists are associated with majority or minority opinions.

3. The disputing Parties shall transmit to the Commission the final report of the panel, including any report of a scientific review board established under Article 2015, as well as any written views that a disputing Party desires to be appended, on a confidential basis within a reasonable period of time after it is presented to them.

4. Unless the Commission decides otherwise, the final report of the panel shall be published 15 days after it is transmitted to the Commission.

#### *Implementation of Panel Reports*

##### *Article 2018: Implementation of Final Report*

1. On receipt of the final report of a panel, the disputing Parties shall agree on the resolution of the dispute, which normally shall conform with the determinations and recommendations of the panel, and shall notify their Sections of the Secretariat of any agreed resolution of any dispute.

2. Wherever possible, the resolution shall be non-implementation or removal of a measure not conforming with this Agreement or causing nullification or impairment

in the sense of Annex 2004 or, failing such a resolution, compensation.

#### *Article 2019: Non-Implementation—Suspension of Benefits*

1. If in its final report a panel has determined that a measure is inconsistent with the obligations of this Agreement or causes nullification or impairment in the sense of Annex 2004 and the Party complained against has not reached agreement with any complaining Party on a mutually satisfactory resolution pursuant to Article 2018(1) within 30 days of receiving the final report, such complaining Party may suspend the application to the Party complained against of benefits of equivalent effect until such time as they have reached agreement on a resolution of the dispute.

2. In considering what benefits to suspend pursuant to paragraph 1:

(a) a complaining Party should first seek to suspend benefits in the same sector or sectors as that affected by the measure or other matter that the panel has found to be inconsistent with the obligations of this Agreement or to have caused nullification or impairment in the sense of Annex 2004; and

(b) a complaining Party that considers it is not practicable or effective to suspend benefits in the same sector or sectors may suspend benefits in other sectors.

3. On the written request of any disputing Party delivered to the other Parties and its Section of the Secretariat, the Commission shall establish a panel to determine whether the level of benefits suspended by a Party pursuant to paragraph 1 is manifestly excessive.

4. The panel proceedings shall be conducted in accordance with the Model Rules of Procedure. The panel shall present its determination within 60 days after the last panelist is selected or such other period as the disputing Parties may agree.

#### *SECTION C—DOMESTIC PROCEEDINGS AND PRIVATE COMMERCIAL DISPUTE SETTLEMENT*

##### *Article 2020: Referrals of Matters from Judicial or Administrative Proceedings*

1. If an issue of interpretation or application of this Agreement arises in any domestic judicial or administrative proceeding of a Party that any Party considers would merit its intervention, or if a court or administrative body solicits the views of a Party, that Party shall notify the other Parties and its Section of the Secretariat. The Commission shall endeavor to agree on an appropriate response as expeditiously as possible.

2. The Party in whose territory the court or administrative body is located shall submit any agreed interpretation of the Commission to the court or administrative body in accordance with the rules of that forum.

3. If the Commission is unable to agree, any Party may submit its own views to the court or administrative body in accordance with the rules of that forum.

##### *Article 2021: Private Rights*

No Party may provide for a right of action under its domestic law against any other Party on the ground that a measure of another Party is inconsistent with this Agreement.

##### *Article 2022: Alternative Dispute Resolution*

1. Each Party shall, to the maximum extent possible, encourage and facilitate the use of arbitration and other means of alternative dispute resolution for the settlement of international commercial disputes between private parties in the free trade area.

2. To this end, each Party shall provide appropriate procedures to ensure observance of agreements to arbitrate and for the recognition and enforcement of arbitral awards in such disputes.

3. A Party shall be deemed to be in compliance with paragraph 2 if it is a party to and is in compliance with the 1958 United National Convention on the Recognition and Enforcement of Foreign Arbitral Awards or the 1975 InterAmerican Convention on International Commercial Arbitration.

4. The Commission shall establish an Advisory Committee on Private Commercial Disputes comprising persons with expertise or experience in the resolution of private international commercial disputes. The Committee shall report and provide recommendations to the Commission on general issues referred to it by the Commission respecting the availability, use and effectiveness of arbitration and other procedures for the resolution of such disputes in the free trade area.

## ANNEX 2001.2

*Committees and Working Groups**A. Committees*

1. Committee on Trade in Goods (Article 316)

2. Committee on Trade in Worn Clothing (Annex 300-B, Section 9.1)

3. Committee on Agricultural Trade (Article 706)

Advisory Committee on Private Commercial Disputes Regarding Agricultural Goods (Article 707)

4. Committee on Sanitary and Phytosanitary Measures (Article 722)

5. Committee on Standards-Related Measures (Article 913)

Land Transportation Standards Subcommittee (Article 913(5))

Telecommunications Standards Subcommittee (Article 913(5))

Automotive Standards Council (Article 913(5))

Subcommittee on Labelling of Textile and Apparel Goods (Article 913(5))

6. Committee on Small Business (Article 1021)

7. Financial Services Committee (Article 1412)

8. Advisory Committee on Private Commercial Disputes (Article 2022(4))

*B. Working Groups*

1. Working Group on Rules of Origin (Article 513)

Customs Subgroup (Article 513(6))

2. Working Group on Agricultural Subsidies (Article 705(6))

3. Bilateral Working Group (Mexico United States) (Annex 703.2(A)(25))

4. Bilateral Working Group (Canada Mexico) (Annex 703.2(b)(13))

5. Working Group on Trade and Competition (Article 1504)

6. Temporary Entry Working Group (Article 1605)

*C. Other Committees and Working Groups Established Under this Agreement*

## ANNEX 2002.2

*Remuneration and Payment of Expenses*

1. The Commission shall establish the amounts of remuneration and expenses that will be paid to the panelists, committee members and members of scientific review boards.

2. The remuneration of panelists or committee members and their assistants, members of scientific review boards, their travel and lodging expenses, and all general expenses of panels, committees or scientific review boards shall be borne equally by:

(a) in the case of panels or committees established under Chapter Nineteen (Review and Dispute Settlement in Antidumping and Countervailing Duty Matters), the involved Parties, as they are defined in Article 1911; or

(b) in the case of panels and scientific review boards established under this Chapter, the disputing Parties.

3. Each panelist or committee member shall keep a record and render a final account of the person's time and expenses, and the panel, committee or scientific review board shall keep a record and render a final account of all general expenses. The Commission shall establish amounts of remuneration and expenses that will be paid to panelists and committee members.

## ANNEX 2004

*Nullification and Impairment*

1. If any party considers that any benefit it could reasonably have expected to accrue to it under any provision of:

(a) Part Two (Trade in Goods), except for those provisions of Annex 300-A (Automotive Sector) or Chapter Six (Energy) relating to investment,

(b) Part Three (Technical Barriers to Trade),

(c) Chapter Twelve (Cross-Border Trade in Services), or

(d) Part Six (Intellectual Property),

is being nullified or impaired as a result of the application of any measure that is not inconsistent with this Agreement, the Party may have recourse to dispute settlement under this Chapter.

2. A Party may not invoke:

(a) paragraph 1(a) or (b), to the extent that the benefit arises from any crossborder trade in services provision of Part Two, or

(b) paragraph 1(c) or (d),

with respect to any measure subject to an exception under Article 2101 (General Exceptions).

Codex Alimentarius Commission, the World Health Organization (WHO), the Food and Agriculture Organization (FAO), the International Telecommunication Union (ITU); or any other body that the Parties designate;

Land transportation service means a transportation service provided by means of motor carrier or rail;

Legitimate objective includes an objective such as:

(a) safety,

(b) protection of human, animal or plant life or health, the environment or consumers, including matters relating to quality and identifiability of goods or services, and

(c) sustainable development,

considering, among other things, where appropriate, fundamental climatic or other geographical factors, technological or infrastructural factors, or scientific justification but does not include the protection of domestic production;

Make compatible means bring different standards-related measures of the same scope approved by different standardizing bodies to a level such that they are either identical, equivalent or have the effect of permitting goods and services to be used in place of one another or fulfill the same purpose;

Services means land transportation services and telecommunications services;

Standard means a document, approved by a recognized body, that provides, for common and repeated use, rules, guidelines or characteristics for goods or related processes and production methods, or for services or related operating methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a good, process, or production or operating method;

Standardizing body means a body having recognized activities in standardization;

Standards-related measure means a standard, technical regulation or conformity assessment procedure;

Technical regulation means a document which lays down goods characteristics or their related processes and production methods, or services characteristics or their related operating methods, including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a good, process, or production or operating method; and

Telecommunications service means a service provided by means of the transmission and reception of signals by any electromagnetic means, but does not mean the cable, broadcast or other electromagnetic distribution of radio or television programming to the public generally.

2. Except as they are otherwise defined in this Agreement, other terms in this Chapter shall be interpreted in accordance with their ordinary meaning in context and in the light of the objectives of this Agreement, and where appropriate by reference to the terms presented in the sixth edition of the ISO/IEC Guide 2: 1991, General Terms and Their Definitions Concerning Standardization and Related Activities.

## ANNEX 908.2

*Transitional Rules for Conformity Assessment Procedures*

1. Except in respect of governmental conformity assessment bodies, Article 908(2) shall impose no obligation and confer no right on Mexico until four years after the date of entry into force of this Agreement.

2. Where a Party charges a reasonable fee, limited in amount to the approximate cost of the service rendered, to accredit, approve, license or otherwise recognize a conformity assessment body in the territory of another Party, it need not, prior to December 31, 1998 or such earlier date as the Parties may agree, charge such a fee to a conformity assessment body in its territory.

## ANNEX 913.5.A-1

*Land Transportation Standards Subcommittee*

1. The Land Transportation Standards Subcommittee, established under Article 913(5)(a)(i), shall comprise representatives of each Party.

2. The Subcommittee shall implement the following work program for making compatible the Parties' relevant standards-related measures for:

(a) bus and truck operations

(i) no later than one and one-half years after the date of entry into force of this Agreement, for non-medical standards-related measures respecting drivers, including measures relating to the age of and language used by drivers,

(ii) no later than two and one-half years after the date of entry into force of this Agreement, for medical standards-related measures respecting drivers,

(iii) no later than three years after the date of entry into force of this Agreement, for standards-related measures respecting vehicles, including measures relating to weights and dimensions, tires, brakes, parts and accessories, securement of cargo, maintenance and repair, inspections, and emissions and environmental pollution levels not covered by the Automotive Standards Council's work program established under Annex 913.5.a-3,

(iv) no later than three years after the date of entry into force of this Agreement, for standards-related measures respecting each Party's supervision of motor carriers' safety compliance, and

(v) no later than three years after the date of entry into force of this Agreement, for standards-related measures respecting road signs;



(b) rail operations

(i) no later than one year after the date of entry into force of this Agreement, for standards-related measures respecting operating personnel that are relevant to cross-border operations; and

(ii) no later than one year after the date of entry into force of this Agreement, for standards-related measures respecting locomotives and other rail equipment; and

(c) transportation of dangerous goods, no later than six years after the date of entry into force of this Agreement, using as their basis the United Nations Recommendations on the Transport of Dangerous Goods, or such other standards as the Parties may agree.

3. The Subcommittee may address other related standards-related measures as it considers appropriate.

#### ANNEX 913.5.A-2

##### *Telecommunications Standards Subcommittee*

1. The Telecommunications Standards Subcommittee, established under Article 913(5)(a)(ii), shall comprise representatives of each Party.

2. The Subcommittee shall, within six months of the date of entry into force of this Agreement, develop a work program, including a timetable, for making compatible, to the greatest extent practicable, the standards-related measures of the Parties for authorized equipment as defined in Chapter Thirteen (Telecommunications).

3. The Subcommittee may address other appropriate standards-related matters respecting telecommunications equipment or services and such other matters as it considers appropriate.

4. The Subcommittee shall take into account relevant work carried out by the Parties in other forums, and that of non-governmental standardizing bodies.

#### ANNEX 913.5.A-3

##### *Automotive Standards Council*

1. The Automotive Standards Council, established under Article 913.5(a)(iii), shall comprise representatives of each Party.

2. The purpose of the Council shall be, to the extent practicable, to facilitate the attainment of compatibility among, and review the implementation of, national standards-related measures of the Parties that apply to automotive goods, and to address other related matters.

3. To facilitate its objectives, the Council may establish subgroups, consultation procedures and other appropriate operational mechanisms. On the agreement of the Parties, the Council may include state and provincial government or private sector representatives in its subgroups.

4. Any recommendation of the Council shall require agreement of the Parties. Where the adoption of a law is not required for a Party, the Council's recommendations shall be implemented by the Party within a reasonable time in accordance with the legal and procedural requirements and international obligations of the Party. Where the adoption of a law is required for a Party, the Party shall use its best efforts to secure the adoption of the law and shall implement any such law within a reasonable time.

5. Recognizing the existing disparity in standards-related measures of the Parties, the Council shall develop a work program for making compatible the national standards-related measures that apply to automotive goods and other related matters based on the following criteria:

- (a) the impact on industry integration;
- (b) the extent of the barriers to trade;
- (c) the level of trade affected; and
- (d) the extent of the disparity.

In developing its work program, the Council may address other related matters, including

emissions from on-road and non-road mobile sources.

6. Each Party shall take such reasonable measures as may be available to it to promote the objectives of this Annex with respect to standards-related measures that are maintained by state and provincial government authorities and private sector organizations. The Council shall make every effort to assist these entities with such activities, especially the identification of priorities and the establishment of work schedules.

#### ANNEX 913.5.A-4

##### *Subcommittee on Labelling of Textile and Apparel Goods*

1. The Subcommittee on Labelling of Textile and Apparel Goods, established under Article 913(5)(a)(iv), shall comprise representatives of each Party.

2. The Subcommittee shall include, and consult with, technical experts as well as a broadly representative group from the manufacturing and retailing sectors in the territory of each Party.

3. The Subcommittee shall develop and pursue a work program on the harmonization of labeling requirements to facilitate trade in textile and apparel goods between the Parties through the adoption of uniform labelling provisions. The work program should include the following matters:

(a) pictograms and symbols to replace, where possible, required written information, as well as other methods to reduce the need for labels on textile and apparel goods in multiple languages;

(b) care instructions for textile and apparel goods;

(c) fiber content information for textile and apparel goods;

(d) uniform methods acceptable for the attachment of required information to textile and apparel goods; and

(e) use in the territory of the other Parties of each Party's national registration numbers for manufacturers of importers of textile and apparel goods.

Mr. SHELBY. The amendment offered by the Senator from Texas that we have been talking about proposes instead to grant to the President of the United States the sole and final authority to determine what violates NAFTA in regard to highway safety. As much as I respect the office of the President of the United States and particularly this President, the office of the President is not—and should not be—put in this position. In addition, it is unnecessary because the Constitution, as we all know, already gives the President the power to veto legislation.

I believe it is a slippery slope to pursue the concept that the President of the United States, or any other administration official, should determine whether acts of Congress are consistent with treaty obligations or other laws.

I put my faith in the Founding Fathers and their wisdom to separate judicial and executive functions. The Senator from Texas, my good friend, makes some interesting and novel arguments. I would hope that his enthusiasm for his interpretation of NAFTA would not overwhelm our collective support for the constitutional separation of the executive and judicial branches of Government.

The Senator from Texas has argued on several occasions that the Murray-Shelby provision contains what he al-

leges are four violations of NAFTA. While I believe that we should allow the processes set forth in the NAFTA agreement that I quoted from to determine that, let me assure the Senator from Texas that if his amendment is adopted there is without question one violation of NAFTA—because his amendment clearly creates a new dispute resolution process within the office of the President that appears to be inconsistent—totally inconsistent—with NAFTA itself.

Mr. President, we have talked about this issue. I think we know what is going on. At this point, I move to table the Gramm amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from California (Mrs. FEINSTEIN) is necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. FEINSTEIN) would vote "aye."

Mr. NICKLES. I announce that the Senator from Missouri (Mr. BOND), the Senator from Montana (Mr. BURNS), the Senator from Wyoming (Mr. ENZI), and the Senator from Alabama (Mr. SESSIONS) are necessarily absent.

I further announce that if present and voting the Senator from Montana (Mr. BURNS) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 65, nays 30, as follows:

[Rollcall Vote No. 253 Leg.]

#### YEAS—65

Akaka	Dorgan	Miller
Allen	Durbin	Murray
Baucus	Edwards	Nelson (FL)
Bayh	Ensign	Nelson (NE)
Biden	Feingold	Reed
Bingaman	Graham	Reid
Boxer	Harkin	Rockefeller
Breaux	Hollings	Santorum
Byrd	Hutchinson	Sarbanes
Campbell	Inhofe	Schumer
Cantwell	Inouye	Shelby
Carnahan	Jeffords	Smith (NH)
Carper	Johnson	Smith (OR)
Chafee	Kennedy	Snowe
Cleland	Kerry	Specter
Clinton	Kohl	Stabenow
Collins	Landrieu	Stevens
Conrad	Leahy	Torricelli
Corzine	Levin	Warner
Daschle	Lieberman	Wellstone
Dayton	Lincoln	Wyden
Dodd	Mikulski	

#### NAYS—30

Allard	Frist	Lugar
Bennett	Gramm	McCain
Brownback	Grassley	McConnell
Bunning	Gregg	Murkowski
Cochran	Hagel	Nickles
Craig	Hatch	Roberts
Crapo	Helms	Thomas
DeWine	Hutchison	Thompson
Domenici	Kyl	Thurmond
Fitzgerald	Lott	Voinovich

#### NOT VOTING—5

Bond	Enzi	Sessions
Burns	Feinstein	

The motion was agreed to.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

Mr. SHELBY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1180 TO AMENDMENT NO. 1030

(Purpose: To require that Mexican nationals be treated the same as Canadian nationals under provisions of the Act)

Mr. MCCAIN. Mr. President, I send a second-degree amendment to amendment No. 1030 to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 1180 to amendment No. 1030:

At the end of the amendment add the following:

Notwithstanding any other provision of this Act, no provision of this Act shall be implemented in a manner that treats Mexican nationals differently from Canadian nationals.

Mr. REID addressed the Chair.

Mr. MCCAIN. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. MCCAIN. I will be glad to yield to the Senator from Nevada for a question.

Mr. REID. I do not think the Senator wants to. I am going to move to table.

Mr. MCCAIN. I thank the Senator from Minnesota. I thank him very much for recognizing me.

Mr. President, this amendment is very simple. It simply says the Mexican nationals will be treated exactly the same as Canadian nationals. It has nothing to do with requirements on trucks. It has nothing to do with requirements. It has nothing to do with how these individuals residing one to our north and one to our south would be treated exactly the same way as citizens of their country and trading partners.

I hope there will be no question that our neighbors to the north and the south will be treated on an equal and equitable basis.

I want to quote from the report again from the NAFTA dispute resolution panel.

I remind my colleagues, I believe we have 51 second-degree amendments on file. After this one is dispensed with, we will have 50 amendments remaining. They are all important additions. Hopefully, these modifications can be made to this legislation.

I point out, as we continue to debate this issue again I quote, since a number of my colleagues are in the Chamber, an editorial in the Chicago Tribune. I see my colleague from Illinois. The headline is: "Honk if you smell cheap politics." That is the headline. I emphasize for my colleagues, I am quoting from an editorial. This is not a reflection of my personal views:

As political debates go, the one in the Senate against allowing Mexican trucks access to the U.S. is about as dishonest as it gets.

The talk is all about safety and concern about how rattletrap Mexican semis, driven by inept Mexicans, would plow into Aunt Bea putt-putting to the grocery store in her Honda Civic, somewhere in Pleasantville, U.S.A.

Truth is that Teamster truckers don't want competition from their Mexican counterparts, who now have to transfer their loads near the border to American-driven trucks, instead of driving straight through to the final destination. But to admit that would sound too crass and self-serving, so Sen. Patty Murray (D-Wash.), and others pushing the Teamster line, instead are prattling on about road safety. . . .

Under NAFTA, which went into effect in 1994, there was supposed to be free access to all trucks within Canada, the U.S. and Mexico by January of last year. That only makes sense: There is no point in freeing up trade but restricting the means to move the goods.

But with the 2000 elections looming, President Bill Clinton caved in to pressure from the Teamsters and delayed implementation of the free-trucking part of the agreement. Democratic presidential candidate Al Gore got the Teamsters' endorsement and the Mexican government filed a complaint against the U.S. for violation of NAFTA rules. Mexico won.

A spokesman for the U.S.-Mexico Chamber of Commerce and others in Washington have whispered there may be bits of racism and discrimination floating around in this soup, because Canadian trucks and drivers are not subjected to similar scrutiny and can move about freely anywhere in the U.S.

It's worthwhile to note, too, that while the U.S. is banning Mexican trucks, Mexico is returning the favor, so neither country's trucks are going anywhere. As it stands, Mexican trucks can come in only 20 miles into the U.S. before they have to transfer their load.

Safety need not be an issue. An amendment proposed by McCain and Sen. Phil Gramm (R-Texas) incorporates safety inspection safeguards to be sure drivers and trucks are fit to travel U.S. roads. It's roughly modeled after California's safety inspection system along its own border with Mexico. Presumably, Mexico would inspect the trucks going the other way.

Those are reasonable measures to protect motorists on both sides of the border.

But Sen. Murray's amendment sets up a series of requirements and hurdles so difficult to implement that they would, in effect, keep the border closed to Mexican trucks indefinitely.

President Bush vows to veto this version of the bill, and quite rightly so. In 1993, the U.S. signed and ratified NAFTA. The agreement went into effect in 1994. There is no justification now, more than seven years later, for the U.S. to try to weasel out of some its provisions.

The amendment, which I guess is going to be shortly tabled—I ask that the amendment be read one more time.

The PRESIDING OFFICER (Ms. STABENOW). Is there objection?

Mr. REID. Objection. I did not hear the request.

Mr. MCCAIN. I asked that the amendment be read.

Mr. REID. That is fine.

Mr. MCCAIN. I will read it myself. I am more eloquent than the staff anyway.

Mr. REID. I would love to hear the amendment read.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

AMENDMENT NO. 1180

At the end of the amendment add the following:

Notwithstanding any other provision of this Act, no provision of this Act shall be implemented in a manner that treats Mexican nationals differently from Canadian nationals.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Mr. MCCAIN. Madam President, do I still have the floor?

The PRESIDING OFFICER. The Senator lost the floor when he had the clerk read.

Mr. MCCAIN. Very good.

The PRESIDING OFFICER. The question is on agreeing to the motion. The clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from California (Mrs. FEINSTEIN) and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. FEINSTEIN) would vote "aye."

Mr. NICKLES. I announce that the Senator from Missouri (Mr. BOND), the Senator from Wyoming (Mr. ENZI), the Senator from Oklahoma (Mr. INHOFE), the Senator from Alabama (Mr. SESSIONS), the Senator from Alaska (Mr. STEVENS), the Senator from Tennessee (Mr. FRIST), and the Senator from Montana (Mr. BURNS) are necessarily absent.

I further announce that, if present and voting, the Senator from Alabama (Mr. SESSIONS) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 34, as follows:

[Rollcall Vote No. 254 Leg.]

#### YEAS—57

Akaka	Dayton	Lieberman
Baucus	Dodd	Lincoln
Bayh	Dorgan	Mikulski
Biden	Durbin	Murray
Bingaman	Edwards	Nelson (FL)
Boxer	Feingold	Reed
Breaux	Graham	Reid
Byrd	Harkin	Rockefeller
Campbell	Hollings	Sarbanes
Cantwell	Hutchinson	Schumer
Carnahan	Inouye	Shelby
Carper	Jeffords	Smith (NH)
Chafee	Johnson	Smith (OR)
Cleland	Kennedy	Snowe
Clinton	Kerry	Stabenow
Collins	Kohl	Torricelli
Conrad	Landrieu	Warner
Corzine	Leahy	Wellstone
Daschle	Levin	Wyden

#### NAYS—34

Allard	Craig	Gramm
Allen	Crapo	Grassley
Bennett	DeWine	Gregg
Brownback	Domenici	Hagel
Bunning	Ensign	Hatch
Cochran	Fitzgerald	Helms

Hutchison	Murkowski	Thomas
Kyl	Nelson (NE)	Thompson
Lott	Nickles	Thurmond
Lugar	Roberts	Voinovich
McCain	Santorum	
McConnell	Specter	

## NOT VOTING—9

Bond	Feinstein	Miller
Burns	Frist	Sessions
Enzi	Inhofe	Stevens

The motion was agreed to.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Madam President, it seems to me one of the very few things that has been agreed upon in the civilized world over the last few years is the benefits of free trade. It is the source of much of the prosperity we have enjoyed in this country because our advances in technology have led to increases in productivity. It has put us in a very competitive position with regard to the world. Trade has been an integral part of that. It has lifted millions and millions of people out of poverty.

As we see around the world, the expansion of free market philosophy sometimes leads to more democratic institutions. Very much of it is based on these economies opening up. Very much of that has to do with the benefits of free trade where people make the things that they make best and do the things they do best, open up their borders, turn their backs on protectionism, and engage in free trade with other countries.

The most remarkable example of that recently, it seems to me, would be the country of China. We have seen that country under Deng, starting back some years ago, opening up that country's economy somewhat, as many problems we have with them. I will not go into that today. That is a different subject for another day. But we have some very serious difficulties with them in terms of nuclear proliferation, for example. There is a story just today about that in the press that is very disturbing. We will deal with that at the appropriate time.

But we have to acknowledge that they have lifted millions and millions of their people out of poverty. They have bought into the notion that in order for them to prosper economically, in order for them to feed the 1.3 billion people they have, they are going to have to open up somewhat economically and they are going to have to engage in free trade.

We believe in the engagement of free trade with them, even to the extent of the substantial trade deficit. I think it is about \$84 billion in deficit we are now running with them. But it attests to our commitment that we have for the general proposition of the benefits of free trade.

A third of the U.S. economic growth during the 1990s came from exports. Since the cold war, the United States has championed the values of democracy and free trade. Global free trade advances the democratic values of consumer choice, workers' rights, transparency, and the rule of law.

Therefore, it pains me to see us begin to move away from the principles of free trade and to hold ourselves open for the criticism that we are violating the agreement into which we entered. The argument can be made that while the world is moving in one direction, we in some respects are moving in another. There are more than, I believe, 133 trade agreements around the world. The United States is a party to two of them. One of the ones that has been beneficial to all parties concerned has been NAFTA. It has been beneficial to my State of Tennessee. I think it has been beneficial to the United States in general.

It pains me to see us move away from our solemn commitment. I think that is what the Murray provision does. I think that is the primary reason for the concern expressed by the Senator from Arizona and the Senator from Texas because their opinion—and apparently the opinion of the President of the United States—is that provision violates our commitment under NAFTA; it violates our commitment to free trade. We are moving in the wrong direction. We are moving in one direction when the rest of the world seems to finally have been convinced of what we are supposed to believe in; that is, benefits of free trade.

Trade benefits small businesses. Ninety-seven percent of all exporters are small businesses that employ fewer than 500 people. Free trade is an invaluable tool to economic development, oftentimes far more successful than direct aid. Trade encourages investment, creates jobs, and promotes a more sustainable form of development. Jobs created through trade often require higher levels of skills and create a higher standard of living for workers.

It is to everyone's benefit—and certainly to this country's benefit—to engage in activities that raise the standard of living which, in turn, often leads, as I say, to demands for individual rights in countries where those are so sorely lacking.

The combined effects of the Uruguay Round trade agreements and NAFTA have increased U.S. national income by \$40 to \$60 billion a year. Over 85 percent of NAFTA trade is manufactured goods, which grew by over 66 percent between 1993 and 1998.

On the agricultural front, which is important to my State, one of every three acres of U.S. farmland is planted for export.

So that is what is going on in the world. That is of what we are a part. That is in what we should be taking a leadership role. So when we are dealing with the primary trade agreement that we have, and dealing with our own hemisphere, and our own backyard, and our neighbors to the north and our neighbors to the south, and we, because of domestic, political, and economic pressure, willy-nilly do things that might be pleasing to certain, limited constituency groups but not only violate the agreement but violate the

principles for which we are supposed to stand, when we do that, we are moving in a wrong and dangerous direction.

The United States is better off today because of that commitment we made. I think the United States is better off today because of that agreement we made. The U.S. economy experienced the longest peacetime expansion in history. That was not because we sat still. That was not by accident. All 50 States and the United States territories participate in NAFTA, and almost all have reaped benefits from more liberalized trade with both Mexico and Canada.

U.S. trade with NAFTA countries grew faster than the rate of global trade expansion. Overall, NAFTA has benefited the entire continent of North America through its promotion of competitiveness and lower prices for consumers. We all are very much aware of the fact that some folks have been displaced—some in my own State have been displaced—as we have gone through the adjustment our economy is having to go through now.

We all know that as we move from an agricultural economy to an industrialized economy to a very high-tech economy that we have now—as we move from one of those areas to another, there are some displacements, and it is unfortunate. The Government should be helpful in legitimate respects to make sure that, as far as workers are concerned, for example, we are mindful of that.

We have passed legislation, some of which workers in my own State have benefited from, to help make this adjustment come about, knowing that we have to make this adjustment, that we have to move from certain areas of our economy into other areas that are more competitive in the world economy and the world market that we have now.

But overall, from the time NAFTA was signed until last year, the following things have happened: U.S. gross domestic product grew by over \$2 trillion, unemployment in the United States fell from 7 percent to 4 percent, real income rose by an average of \$2,500 for every American. Trade between the United States and Mexico has tripled since 1993 to over \$250 billion in 2000. Total merchandise trade among the NAFTA countries was \$656 billion in 2000. The United States now trades more with Canada than with the EU. Total United States trade with Canada has doubled to \$400 billion. Trade with NAFTA countries doubled from 1993 to 2000, while U.S. trade with the rest of the world grew by half as much.

So not only is free trade important, but this particular episode in our Nation's history with regard to free trade is especially important. The figures bear that out when looking at the American economy.

On another related subject, during the 1994–1995 peso devaluation, Mexico experienced its worst recession since 1932, with a 7-percent decrease in GDP. During the same time, U.S. exports fell

by 8.9 percent, while European and Asian exports fell by 20 to 30 percent.

While in crisis, Mexico raised import tariffs on goods from all of its trading partners, with the exception of NAFTA members. NAFTA prevented the United States from experiencing the level of loss felt by both Asia and Europe.

Trade creates jobs. Over 20 million new jobs were generated by the U.S. economy during the 1990s. The U.S. Chamber of Commerce estimates that by 1999 NAFTA had created over 685,000 export-related jobs in the United States. Over 12 million U.S. jobs now rely on trade in this country.

Economists estimate that the \$70 billion increase in United States exports to Mexico since NAFTA began created about 1.3 million new jobs. The U.S. Department of Commerce estimates that 6 million U.S. jobs are dependent on NAFTA-related exports alone. This gives us some indication of the significance of what we are dealing with.

Again, it pains me to see us move in a direction, not because we don't have a right to protect ourselves from trucks or anything else—we can enter into agreements that do that. When we deal with the agreements to start with, we can enter into those things. We can implement those agreements in ways that protect us. All that is allowed under NAFTA. But we cannot have different requirements for our friends in Mexico than we have for our friends in Canada. That is just not right, and it is not compliant with NAFTA. With all of these benefits, I think it is important that we understand what is at stake.

As self-centered as we might want to be—and I hope we are not, but even if we were, it is to our benefit to have a stable and a growing and a prosperous neighbor to the south, as well as to the north, for obvious reasons—for reasons having to do with immigration, for reasons having to do with the economy. That common border is not going to go away. Now that we have new leadership in Mexico, we have the opportunity to make progress in a lot of areas that we have not been able to for some time.

Surpassing Japan, Mexico is now the United States' second largest trading partner. Since the agreement's implementation, Mexico's gross domestic product has increased at an average annual rate of 3.7 percent. I think we have a right—the Nation that came up with the Marshall plan, the Nation that rebuilt much of Europe and Japan after World War II—to be proud of that.

Mexico's credit has improved as a result of NAFTA. Mexico has successfully paid back its loans from the 1995 peso crisis ahead of schedule. Early this spring, Mexico paid off all of its IMF loans. This successful recovery prompted major credit analysts to upgrade Mexican sovereign and corporate debt to investment grade.

Thanks in part to the democratic influence of free trade, NAFTA played a significant part in making Mexico a more democratic country. NAFTA helped foster the civil society in eco-

nomic development that enabled Mexico to successfully transition to democratic rule after several years of a one-party system.

Those are some of the benefits of free trade in general. Those are some of the benefits to one of our trading partners. At this point in our history, when so much positive is going on in the world in terms of taking down barriers, in terms of intercourse of commerce and the flourishing of market principles in places heretofore unknown to them, we should be leading the world in all of these things. We should not be a part of only two agreements when the rest of the world is moving on. That is bad enough.

But now we are doing things, little by little, that are taking us in one direction while the rest of the world seems to be going in another. We are now in the midst of debating trade or environmental and labor standards. We have entered into an agreement with Jordan, and we are very concerned about their environmental standards. They happen to have some of the better labor and environmental standards already in that part of the world. Now, for domestic reasons, we want to impose nontrade-related requirements on people with whom we want to trade. They in turn, if we do that, have the right to impose those same things on us and to take us to court, so to speak, over changes in our own law potentially.

We don't give our President trade promotion authority. We have heard the debate on fast track over several years now. The President of the United States has not had the ability to enter into these agreements, putting us at a large disadvantage with regard to a large part of the world.

Again, why are we so reticent? Why are we moving in one direction? Why are we becoming more closed and raising more barriers at a time when the rest of the world is doing what we have always said we wanted them to do in taking down barriers, entering into bilateral and multilateral agreements?

I don't know why we would want to do that. I don't know why we would not want to give the President trade promotion authority. I do not know why we would want to hold ourselves up to the accusation of protectionism under these circumstances.

Should people of that persuasion succeed in restricting the freedom of trade, it will be U.S. consumers and workers who will lose out. Trade barriers will never prevent low-wage or low-skilled worker displacement. New technologies and improved efficiency will always displace low-wage and low-skilled workers. I am afraid that is an economic reality. We need to be convinced, apparently, of the obvious proposition that if we are really concerned about labor standards and the environment in some of these other countries, we need to help them lift their economy up so that they can take care of those matters themselves.

We are never going to make any permanent improvement because we try to coerce some small nation, through a trade agreement, to improve their labor and environmental laws. What we can do is enter into trade agreements with them that will let them participate in this global economy and in this prosperity that so many countries and so many people have enjoyed because of free trade and more open markets and which, as I said, in many cases leads to more democratic institutions. We are seeing that play out in Mexico as we speak, moving in the right direction. It is all a part of the same picture. It is a picture where free trade has the central role.

When I look at the current debate we are having, it is unfortunate that it is taking some time. But as I look at it and as we are required as individual Senators to make decisions as to where we stand, we ought to think hard about exactly where we stand and where we ought to stand. All these general principles I have been talking about in terms of the benefits of free trade and how it has benefited our country and how it has benefited Canada and Mexico and how this particular free trade agreement has benefited all of us, all those principles apply to the issue at hand. That is, are we doing something on an appropriations bill, almost as an afterthought as it were, that is going to move us not only contrary to the provisions of the solemn undertaking that we made with regard to NAFTA but take us contrary to the philosophical beliefs and longstanding positions that this Nation has had?

My understanding is that we can make changes or we can have requirements to implement the provisions under these agreements. We are free to do that with regard to Canadian trucks or Mexican trucks or anything else. We can implement this agreement in ways that will protect us, but we cannot change the agreement. We can't change the requirements, and we cannot give different treatment to Mexicans than we do Canadians.

We just voted down an amendment that said simply that we need to treat Canadians and Mexicans alike because we are all three in the same agreement. That was voted down. How anybody could vote against that, I have a hard time understanding.

We are getting down to some very core philosophies and beliefs. I am wondering what people will think about the United States of America in terms of a future trading partner when we cannot even reach a consensus on something such as that, which is not only the right thing to do, the clearly nondiscriminatory right thing to do, but it is the only thing to do to be in compliance with the agreement.

I appreciate the indulgence of the Chair.

Mr. GRAMM. Will the Senator yield for a question?

Mr. THOMPSON. I am happy to yield.

Mr. GRAMM. The Senator is a distinguished lawyer. I am not a lawyer, much less being a distinguished one. But I wanted to read to the Senator the language of NAFTA—it is very short—and ask the Senator if he would give to us his interpretation of what it means and what kind of parameters it sets.

This is in the section of the North American Free Trade Agreement that the President signed in 1994 and then we ratified. A Republican signed it. A Democrat led the ratification, and now we have a Republican President. We are in the third administration committed to this agreement that we entered into.

In the area we are discussing, cross-border trade and services, we have simple language as to what we committed to. I ask the Senator to just give us a description of what he, as a lawyer, a former U.S. attorney, sees this as meaning.

The heading on it is "National Treatment." This is what we committed to, pure and simple:

Each party shall accord to service providers of another party treatment no less favorable than that it accords in like circumstances to its own service providers.

That is what we committed to. That is called national treatment.

Would the Senator give us sort of a legal and commonsense definition of what that is and what that means?

Mr. THOMPSON. Well, to me it means that we have to treat them and their people the way we treat ourselves and our people. That is a fundamental of trade and trade agreements, and something that is fundamental to this particular agreement. It has to do with the concept of equality and comity. It doesn't matter that one country is richer than another or has more population than another. It puts countries, from the standpoint of the agreement, from the standpoint of trade, on a basis of equal trading partners. We will treat you the way we treat our own people.

I must say, if we violate that and we treat them worse than our own people or worse than another trading partner or partner to the same agreement, such as Canada, then obviously they are going to reciprocate. And they are going to treat our people—in this case, our truckers—seemingly, however they feel they are entitled in reciprocation of us violating the agreement.

Mr. GRAMM. If I may, I will follow up by again, calling on the Senator's knowledge of the law and experience with it. Let me give the Senator some examples of provisions in the Murray amendment. In light of this provision that President Bush signed and we ratified with the support of President Clinton and which we are now trying to enforce under the new President Bush, I wanted to get your reading as to whether these provisions would violate the agreement that we made. Currently, Canadian trucks are almost all insured by companies from Great Britain; Lloyd's of London, I think, is the largest insurer of Mexican trucks.

Mr. THOMPSON. You mean Canadian.

Mr. GRAMM. Yes, Canadian. Some are insured by Canadian companies; some are insured by American companies. Most American trucks are insured by American companies, but not all American trucks. Lloyd's of London, as I understand it, insures some trucks. Quite frankly, it is very difficult to tell with a modern company where it is domiciled.

The Murray amendment says that Mexican trucks, unlike Canadian trucks and American trucks, have to have insurance bought from companies that are domiciled in the United States. Now, American trucking companies are required to have insurance. Mexican trucking companies are required to have insurance. The insurance has to meet certain standards. Canadian trucking companies are required to have insurance. But the Murray amendment says, unlike American trucking companies and unlike Canadian trucking companies, Mexican trucking companies have to buy insurance from companies domiciled in the United States of America.

In light of the language I just read, would the Senator see that as about as clear a violation of NAFTA as you could have?

Mr. THOMPSON. Yes, I would. I would wonder how we would view it if Canadians passed a law saying that American trucks had to buy insurance from companies that were domiciled in Mexico. I can't imagine anything that would be more contrary to the spirit I just described a minute ago. My understanding is—and the Senator can correct me if I am wrong—we can implement the agreement in several different ways. We are not bound; we can even do it different ways with regard to different trading partners, as long as it is an implementation under the circumstances that are presented in order to protect ourselves in ways we think are appropriate and reasonable. But we can't change the requirements of the agreement.

That seems to me to be a flatout change of the requirements—basic requirements of the agreement, and it goes contrary to the spirit and the letter of the law with regard to that agreement. Under the agreement, you simply can't treat different trading partners in different ways or change the terms or the requirements of the agreement.

Mr. GRAMM. Let me ask this. Under the Murray amendment, there is a provision that says while American trucks are obviously operating all over our country, and Canadian trucks are operating—about a thousand of them—and they are operating under current law, because of a bill we passed in 1999 called the Motor Carrier Safety Improvement Act—and I want to read you a short part of this which is relevant. Basically, what this bill finds is that the Department of Transportation is failing to meet the statutorily man-

dated deadlines for completing rule-making proceedings on motor carrier safety and in some significant safety rulemaking proceedings, including driver hour of service regulations; extensive periods have elapsed without progress toward resolution and implementation. Congress finds that too few motor carriers undergo compliance reviews, and the Department's database and information systems require substantial improvement to enhance the Department's ability to target inspection and enforcement resources.

Finding these things, Congress, in 1999, passed a bill mandating that the Department of Transportation promulgate rules related to truck safety nationwide to apply to all trucks operating in America. Under President Clinton and now under President Bush, those rules, which turned out to be time consuming and complicated, have not been implemented. Canadian trucks are still operating even though these rules have not been implemented. American trucks are, obviously, operating even though these rules have not been implemented, or else we would not be eating lunch today.

But the Murray amendment said that because we have not promulgated these rules, until they are promulgated and until this bill is implemented, even though it applies to all trucking in America—until this happens, Canadian trucks would not be allowed into the United States of America. Now I ask, is that any less arbitrary a discriminatory provision than saying they would not be allowed until a full Moon occurred on a day where the Sun was in eclipse?

Mr. THOMPSON. I would say this would be worse than the hypothetical you mentioned about the Moon or the Sun because the situation you described there is within our discretion. The Sun and the Moon aren't, but, basically, as I understand what you read there, we are setting up a condition and basically saying we are going to discriminate until we comply with a condition that we have set up for ourselves. Quite frankly, it seems to be—and you might want to reread that original language you asked me about. It seems to me—

Mr. GRAMM. I will. It says—and this is the national treatment standard, and maybe I should pose this as a question. Is the Senator aware that the language in the national treatment standard says this? And this is a commitment we made to Canada and Mexico when the President signed this agreement in 1994 and the agreement that we committed ourselves to when we ratified it. The language is simple:

Each party shall accord the service providers of another party treatment no less favorable than that it accords in like circumstances to its own service providers.

Mr. THOMPSON. Well, it seems to me that the situation you referred to a moment ago is pretty directly contrary to that provision you just read.

(Mr. DAYTON assumed the Chair.)

Mr. GRAMM. Let me pose just two more questions. Under the Murray amendment, a Mexican trucking company—let me start, if I may, by stating what the policy is today. As you are probably aware, most trucking companies do not own trucks; they lease trucks. The interesting thing about this whole debate is that we are debating as if Mexico is going to go out to some junkyard somewhere and put together a truck and drive it to Detroit. The reality is that they are going to rent the truck from Detroit just as American companies do. But we have this vast system where companies lease to each other because the last thing on Earth they want as a trucking company is to have a quarter-of-a-million-dollar rig sitting in their parking lot.

So if an American company has some restriction put on it, it is subject to some suspension or to some restriction or some limitation. And there is not a big trucking company in America that at one time or another has not been subject to one of these things.

In the United States and in Canada today, if a company is subject to some limitation so they cannot use the truck, then they lease it to somebody else. The Murray amendment says if a Mexican company is subject to some suspension, restriction, or limitation, the Mexican company cannot lease a truck to anyone else.

In light of the fact we committed that each party shall accord to service providers of another party treatment no less favorable than that which it accords, in like circumstances, to its own providers, does the Senator believe one can possibly justify, under NAFTA, allowing Canadian truck operators to lease their trucks and American truck operators to lease their trucks when they are under some restriction or limitation but not allow Mexican trucking companies to lease their trucks under exactly the same circumstances? Would the Senator not see that as a flagrant violation of NAFTA?

Mr. THOMPSON. In other words, there is no such requirement for Canadian trucks? There is no such requirement?

Mr. GRAMM. No, no such requirement.

Mr. THOMPSON. There is no such requirement imposed on trucks in the United States?

Mr. GRAMM. No such requirement.

Mr. THOMPSON. There is a requirement on Mexico, and Mexico alone, Mexican companies; is that what the Senator is saying?

Mr. GRAMM. That is right.

Mr. THOMPSON. That is, by definition, discriminatory and seemingly clearly contrary to the agreement. That is an interesting provision in and of itself. I am wondering whether or not an entire Mexican company is restricted, even if there is a problem, say, with just one or two trucks.

Mr. GRAMM. If they are subject to some limitation, they will be unable to lease their trucks to another user, say, in the United States or Canada.

Mr. THOMPSON. I do not know what that limitation would be, but obviously that is very broad.

I guess what is going through my mind is whether or not, even if we could under the agreement enter into such an arrangement, that would be a wise or fair thing to do because there is not a trucking company in the world that does not have some violations every once in awhile.

It cannot be prevented. There is too much stuff going on, and having been a truckdriver a little bit myself, I am very much aware that, try as one might, one has to have a lot of rules and regulations and a lot of difficulties facing them.

Obviously, nobody wants any renegades doing business anywhere, but to say any limitations ever placed on a company when they are doing business with regard to, say, maybe even one truck at one location, that in effect bans them for the rest of the Nation with regard to any other trucks, maybe even other trucks leased from another company, I do not see the wisdom in that, quite frankly. Regardless whether it is a good idea or not, it seems to be clearly discriminatory.

Mr. GRAMM. If I could pose the following question: Does it seem to the Senator that it might not only be discriminatory but pernicious in the following sense, that obviously this amendment was written by somebody who knew something about the trucking business?

Mr. THOMPSON. Sure.

Mr. GRAMM. I wonder if it does not strike the Senator as possible that the supporters of this amendment would recognize—and I am not talking about any Member of the Senate; I am talking about interest groups in the country—would recognize one of the ways of assuring no Mexican trucking company could ever compete with any American trucking company and Mexican drivers could never compete with American drivers would be to say that if one has any limitation imposed on them, they have to have their fleet sitting out on their tarmac. It seems to me that is more than unfair or a violation of NAFTA. That is a provision I believe one could argue is simply aimed at saying we are not going to allow Mexican trucks to operate, period.

Mr. THOMPSON. I say to the Senator, that is sad but true. It has a great deal to do with competition, or the desire for lack of competition, and when I say I do not see the wisdom in it, I guess I do not see the wisdom in such a provision unless I am a competing trucker who wants to look for any opportunity to make sure they have less competition. Unfortunately, that is what free trade is all about—competition.

When we entered into NAFTA, we committed ourselves to free and open competition. So I hope we do not get into a situation where we try to hang on technicalities or other provisions that are not only contrary to the

agreement but are designed to limit competition.

I do not think we have a thing in the world to be afraid of. On the one hand, the implication seems to be that these are all terrible trucks and they do not know how to operate them. On the other hand, we are afraid of that kind of competition. It does not seem to make a whole lot of sense to me.

Mr. GRAMM. Let me ask the Senator about the final provision of the Murray bill. I could go on and on, but I am trying to make a point by a pattern. As the Senator knows from having been in the truckdriving business for awhile, there are various kinds of penalties one can get. One can get a parking ticket. They can get a speeding ticket. They can get a violation they are overloaded. They can get a violation for something blowing off their truck. They can get a violation if their mud flaps have gotten torn off. They can get a violation because of their tires. They can get a violation because their blinker does not work. It may look as if it is working inside, but it is not working outside.

Mr. THOMPSON. They have not had enough rest.

Mr. GRAMM. They have not had enough rest.

As a result, recognizing not all of these violations are equal, in the United States we have a list of penalties one can get, which might be a \$50 fine, a \$100 fine, and for serious things they might take someone out of their truck. They might not let one drive for a month. They might penalize the company. They might fix that kind of a problem by entering into an agreement with the company.

In America and in Canada today, we have a variety of penalties. In the Murray provision, if one is in violation of any of these requirements, one can be forever banned from operating trucks in the United States of America. Does that sound as if it is complying with NAFTA?

Mr. THOMPSON. For American trucks?

Mr. GRAMM. No, it is not for American trucks. It is not for Canadian trucks. It is for Mexican trucks. In other words, there is one regime of penalties for American trucks and Canadian trucks, but there is another regime for Canadian trucks, and the regime is focused on the death penalty.

Mr. THOMPSON. Does the Senator mean Mexican trucks?

Mr. GRAMM. I am sorry. I am focused south from Texas, but in the Chamber maybe it is obvious from the votes we are focused more north from here.

In any case, A, does the Senator see that as a violation; and, B, does the Senator see that again as one of these things which goes beyond a violation, where the objective is basically to prevent competition, more than just discriminate against Mexico but to create these artificial barriers which they cannot overcome?



Mr. THOMPSON. I think clearly so.

I have a broader concern in this, and that is, what is the signal that is being received from Mexico and from Mexicans who watch this and listen to this debate and see all of these provisions which are clearly discriminatory, that we do not treat Canada this way, but we are treating Mexico this way. What kind of signal is that?

We have a lot of highball rhetoric on the Senate floor about matters of discrimination, and worse, but I am wondering, in a situation such as this when it comes down to dollars or when it comes down to domestic interest groups that get involved in it, to try to pressure the United States to violate agreements we have entered into, what kind of signal that sends. And I wonder what President Fox, who has come in as a breath of fresh air, who has instituted components of democracy that they have not had, has reached out and is trying to get his arms around a tough economic situation in a complex culture and heritage, and has a good relationship with our President—I wonder what he must be thinking as he looks at all this. I don't think it is good.

Mr. GRAMM. Could I pose a question on that? With practical experience, I can only speak within my own lifetime, but in my lifetime we have never had a President of Mexico who was as committed in dealing with Mexico's problems and problems we have between the two countries or who was as remotely pro-American as President Fox.

This is a President who does not have a majority in his own Congress. In fact, he was elected President defeating the PRI, which is the old established party, but he does not have a majority in either the House or the Senate. He has numerous critics, and he has a coalition government where his Foreign Minister opposed NAFTA when NAFTA was adopted. He is a person who has, in essence, gotten way out on a limb in saying we can be a partner with the United States of America. Something that means more than that in Mexico is, we can be an equal partner with America.

How do you think it affects him in his political situation where, because he didn't have a majority in the Congress in either house, and he had been elected in almost a revolutionary election, he felt compelled to put together a coalition government where his Foreign Minister opposed NAFTA and who now will simply say, it is an agreement we entered into? That is as far as he will go.

What kind of position do you think it puts him in when we are no longer talking about idle speculation? I went through four different areas where, based on your legal background, you clearly concluded that there is no question, not even a gray area, that there are four—at least those are the only ones we went to—outright violations of NAFTA in the Murray amendment. No question about that, he said.

In what kind of position do you think it puts President Fox in when the United States Senate adopts provisions that violate the commitment we made to Mexico when we entered into NAFTA, we said Mexico was an equal partner with Canada and the United States, but they are not quite?

Mr. THOMPSON. I imagine his political opponents would see this as an opportunity to question his effectiveness and his relationship to this country.

It is coming at a time when he made certain commitments to work with us on problems that are very important to us. He has made commitments with regard to the illegal immigration problem knowing, as I believe most of us do, that before we can ultimately deal with that problem, we are going to have to have some progress in terms of the Mexican economy.

We can't beggar our neighbor and get by with it in this world today. We especially can't with that common border we have of 1,200 miles. We cannot solve that problem without a better Mexican economy. NAFTA is at the heart of that. He has to be looking at all of that and seeing us move away from that.

I say his political opponents have to be looking at that and seeing an excellent opportunity to do harm to NAFTA and the principles of NAFTA and to do harm to a new, fresh face on the scene who, as you say, is the best friend we have had down there in a long time, and who is trying to do the right thing.

For all those reasons, it is extremely unfortunate we are moving in that direction.

How much time remains on my hour?

The PRESIDING OFFICER. Eight minutes thirty seconds.

Mr. THOMPSON. I reserve the remainder of my time, and I yield the floor.

AMENDMENT NO. 1165 TO AMENDMENT NO. 1030

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Is it not true that the rules of cloture provide an amendment does not need to be read?

The PRESIDING OFFICER. The Senator is correct.

Mrs. MURRAY. I call up amendment No. 1165.

The PRESIDING OFFICER. The clerk will report.

Mrs. MURRAY. Mr. President, I move to table the amendment and I ask for the yeas and nays.

Mr. GRAMM. I ask the amendment be read.

The PRESIDING OFFICER. Senators will withhold.

Mrs. MURRAY. I ask for the yeas and nays.

The PRESIDING OFFICER. Regular order is for the clerk to report the amendment by number.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY] proposes an amendment numbered 1165.

The amendment is as follows:

At the appropriate place, insert the following: "Provided, That this provision shall be effective five days after the date of enactment of this Act."

Mrs. MURRAY. Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. GRAMM. There is not a sufficient second.

The PRESIDING OFFICER. At the moment there is not a sufficient second.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 3. Leg.]

Bennett	Gramm	Nickles
Daschle	McCain	Reid
Dayton	Murray	Thompson

The PRESIDING OFFICER. There are nine Senators present. A quorum is not present. The clerk will call the names of the absent Senators.

The legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. I move to instruct the Sergeant at Arms to request the presence of absent Senators. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Connecticut (Mr. DODD), the Senator from California (Mrs. FEINSTEIN), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. FEINSTEIN) would vote "aye."

Mr. NICKLES. I announce that the Senator from Missouri (Mr. BOND), the Senator from Montana (Mr. BURNS), the Senator from Wyoming (Mr. ENZI), the Senator from Tennessee (Mr. FRIST), the Senator from Oklahoma (Mr. INHOFE), the Senator from Alabama (Mr. SESSIONS), the Senator from Alaska (Mr. STEVENS), the Senator from Kansas (Mr. ROBERTS), and the Senator from Pennsylvania (Mr. SANTORUM), are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 28, as follows:

[Rollcall Vote No. 255 Leg.]

YEAS—60

Akaka	Cleland	Fitzgerald
Baucus	Clinton	Graham
Bayh	Cochran	Grassley
Biden	Conrad	Gregg
Bingaman	Corzine	Harkin
Boxer	Daschle	Hatch
Byrd	Dayton	Hollings
Campbell	Domenici	Hutchinson
Cantwell	Dorgan	Inouye
Carnahan	Durbin	Jeffords
Carper	Edwards	Johnson
Chafee	Feingold	Kennedy

Kerry	Mikulski	Sarbanes
Kohl	Murray	Schumer
Landrieu	Nelson (FL)	Shelby
Leahy	Nelson (NE)	Stabenow
Levin	Nickles	Thompson
Lieberman	Reed	Torricelli
Lincoln	Reid	Wellstone
Lugar	Rockefeller	Wyden

## NAYS—28

Allard	Ensign	Smith (NH)
Allen	Gramm	Smith (OR)
Bennett	Hagel	Snowe
Breaux	Helms	Specter
Brownback	Hutchison	Thomas
Bunning	Kyl	Thurmond
Collins	Lott	Voinovich
Craig	McCain	Warner
Crapo	McConnell	
DeWine	Murkowski	

## NOT VOTING—12

Bond	Feinstein	Roberts
Burns	Frist	Santorum
Dodd	Inhofe	Sessions
Enzi	Miller	Stevens

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The Senator from Washington.

VOTE ON AMENDMENT NO. 1165

Mrs. MURRAY. Mr. President, I ask for the yeas and nays on my motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

Mr. REID. I announce that the Senator from California (Mrs. FEINSTEIN), the Senator from Vermont (Mr. JEFFORDS), and the Senator from Georgia (Mr. MILLER), are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. FEINSTEIN), would vote "aye."

Mr. NICKLES. I announce that the Senator from Missouri (Mr. BOND), the Senator from Montana (Mr. BURNS), the Senator from Wyoming (Mr. ENZI), the Senator from Tennessee (Mr. FRIST), the Senator from Oklahoma (Mr. INHOFE), the Senator from Kansas (Mr. ROBERTS), the Senator from Alabama (Mr. SESSIONS), the Senator from Alaska (Mr. STEVENS), and the Senator from Wyoming (Mr. THOMAS), are necessarily absent.

I further announce that if present and voting the Senator from Montana (Mr. BURNS), would vote "yea."

The PRESIDING OFFICER (Mr. CORZINE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 256 Leg.]

## YEAS—88

Akaka	Cantwell	DeWine
Allard	Carnahan	Dodd
Allen	Carper	Domenici
Baucus	Chafee	Dorgan
Bayh	Cleland	Durbin
Bennett	Clinton	Edwards
Biden	Cochran	Ensign
Bingaman	Collins	Feingold
Boxer	Conrad	Fitzgerald
Breaux	Corzine	Graham
Brownback	Craig	Gramm
Bunning	Crapo	Grassley
Byrd	Daschle	Gregg
Campbell	Dayton	Hagel

Harkin	Lincoln	Schumer
Hatch	Lott	Shelby
Helms	Lugar	Smith (NH)
Hollings	McCain	Smith (OR)
Hutchinson	McConnell	Snowe
Hutchison	Mikulski	Specter
Inouye	Murkowski	Stabenow
Johnson	Murray	Thompson
Kennedy	Nelson (FL)	Thurmond
Kerry	Nelson (NE)	Torricelli
Kohl	Nickles	Voinovich
Kyl	Reed	Warner
Landrieu	Reid	Wellstone
Leahy	Rockefeller	Wyden
Levin	Santorum	
Lieberman	Sarbanes	

## NOT VOTING—12

Bond	Frist	Roberts
Burns	Inhofe	Sessions
Enzi	Jeffords	Stevens
Feinstein	Miller	Thomas

The motion was agreed to.

Mr. SHELBY. I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE. Mr. President, for the information of all Senators, there will be another vote. There will be a number of additional votes, five or six votes between now and 8 o'clock tonight. There will be another vote immediately.

I ask unanimous consent that the Senator from Utah be recognized for 30 minutes and that I be recognized immediately following the completion of his statement immediately following the next vote.

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

AMENDMENT NO. 1164 TO AMENDMENT NO. 1030

Mr. DASCHLE. Mr. President, I call up amendment No. 1164.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 1164 to amendment No. 1030.

The amendment is as follows:

(Purpose: To provide for an effective date)

At the appropriate place, insert the following: "Provided, That this provision shall be effective four days after the date of enactment of this Act."

Mr. DASCHLE. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from California (Mrs. FEINSTEIN) and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. FEINSTEIN) would vote "aye."

Mr. CRAIG. I announce that the Senator from Missouri (Mr. BOND), the Senator from Montana (Mr. BURNS), the Senator from Wyoming (Mr. ENZI), the Senator from Tennessee (Mr. FRIST), the Senator from Oklahoma

(Mr. INHOFE), the Senator from Oklahoma (Mr. NICKLES), the Senator from Kansas (Mr. ROBERTS), the Senator from Alabama (Mr. SESSIONS), the Senator from Alaska (Mr. STEVENS), and the Senator from Wyoming (Mr. THOMAS) are necessarily absent. I further announce that if present and voting the Senator from Montana (Mr. BURNS), would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 257 Leg.]

## YEAS—88

Akaka	Domenici	Lott
Allard	Dorgan	Lugar
Allen	Durbin	McCain
Baucus	Edwards	McConnell
Bayh	Ensign	Mikulski
Bennett	Feingold	Murkowski
Biden	Fitzgerald	Murray
Bingaman	Graham	Nelson (FL)
Boxer	Gramm	Nelson (NE)
Breaux	Grassley	Reed
Brownback	Gregg	Reid
Bunning	Hagel	Rockefeller
Byrd	Harkin	Santorum
Campbell	Hatch	Sarbanes
Cantwell	Helms	Schumer
Carnahan	Hollings	Shelby
Carper	Hutchinson	Smith (NH)
Chafee	Hutchison	Smith (OR)
Cleland	Inouye	Snowe
Clinton	Jeffords	Specter
Cochran	Johnson	Stabenow
Collins	Kennedy	Thompson
Conrad	Kerry	Thurmond
Corzine	Kohl	Torricelli
Craig	Kyl	Voinovich
Crapo	Landrieu	Warner
Daschle	Leahy	Wellstone
Dayton	Levin	Wyden
DeWine	Lieberman	
Dodd	Lincoln	

## NOT VOTING—12

Bond	Frist	Roberts
Burns	Inhofe	Sessions
Enzi	Miller	Stevens
Feinstein	Nickles	Thomas

The motion was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, at the request of Senator LOTT pursuant to rule XXII, I yield his remaining hour to Senator GRAMM of Texas.

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

Mr. DASCHLE. Mr. President, with the indulgence of the Senator from Utah, 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. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, the Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I thank the majority leader for his courtesy and accommodation. I appreciate the opportunity to speak at this time. I have been told by a number of my colleagues they appreciate the fact that I

have the opportunity to speak because it gives them a half hour so they can go back to their offices and do something worthwhile. Some of them, as they said that, promised to read my remarks in the RECORD. I am very grateful for that indication.

Mr. President, I hold the seat from the State of Utah that was held for 30 years by Reed Smoot. Senator Smoot rose to be the chairman of the Finance Committee and was one of the leading powers of this body. He did many wonderful things. He was an outstanding Senator in almost every way. However, he had the misfortune of being branded in history because of his authorship of the Smoot-Hawley tariff, which stands in American economic history as something of a symbol of the isolationist-protectionist point of view. I have said to Senator Smoot's relatives, who are my constituents, with a smile on my face, that I have to do my best as a militant free-trader to remove the stigma of protectionist from this particular seat. I can say that all of Senator Smoot's relatives are equally as excited about free trade as I am, and they have indicated that they approve of that.

I rise to talk in that vein because I think much of the debate that has gone on here would be debate that might go all the way back to Reed Smoot. There is a protectionist strain in our attitude towards trade in this country, and it is showing itself in this debate—a position that says, well, yes, we believe in free trade, but we can't quite trust our trading partners to do the right thing when free trade begins. Yes, we believe in allowing Mexican goods and services to enter the country, but we don't quite trust the Mexicans themselves to take the responsibility of providing those services. This is particularly focused now on the issue of Mexican drivers at the wheels of Mexican trucks.

I am very interested that in this debate we are being told again and again that this bill does not violate NAFTA; that this is an issue about safety rather than an issue about NAFTA; this is not protectionist; this is not isolationist; this is not an obstruction of free trade; this is just about safety.

Of course, if you frame the question about safety, what Senator wants to rise on this floor and be against safe trucks? What Senator wants to rise on this floor and say, I am in favor of massive highway accidents caused by unsafe drivers? Nobody wants to take that posture. Yet that is why the attempts have been made to frame the debate in that fashion—so that it will ultimately end up a 100-to-nothing vote in favor of safety. If we were to ask the Senate to vote solely on the issue of safety, it would be a 100-to-nothing vote.

I would vote in favor of safety. Everybody is in favor of safety. However, the key vote I think came when the Senator from Texas offered a very short, one-sentence amendment that would have said nothing in this bill

violates NAFTA. That amendment was voted down. Once again, nothing in this bill violates NAFTA, says the amendment. And the amendment gets voted down. How do we interpret that decision? We have to interpret that decision as saying that something in the bill absent that amendment does violate NAFTA. Otherwise, the amendment would have been adopted 100 to nothing because we say we are in favor of safety. We should say we are in favor of NAFTA.

I can understand those who are opposed to NAFTA voting against that amendment. But NAFTA passed this body by a very wide margin. It was bipartisan. It was supported across the aisle. NAFTA ran into some trouble in the House but not in the Senate. NAFTA has always been strongly supported here. Why didn't an amendment that says nothing in this bill shall be allowed to violate NAFTA pass with the same wide margin? It must be that there is something in this bill that violates NAFTA and people do not want to get that exposed. They don't want to have the basis for a lawsuit and someone coming forward and saying because of the Gramm amendment that says nothing in this bill can violate NAFTA, this provision of the bill has to go, or that provision of the bill is in conflict and has to be removed.

I think there is a *prima facie* case here, by virtue of the vote that has been cast, that this bill violates NAFTA. That is the position of the administration. The administration is not antisafety. The administration is anxious for proper inspection. Indeed, the Mexican Ambassador and other Mexican officials have said they are in favor of proper inspection and they don't want unsafe trucks rolling on the roads in America any more than we do.

Stop and think about it. Would it be in the Mexicans' self-interest to send dangerous trucks into the United States to cause accidents in the United States? Would that be a wise foreign policy move for the Mexicans as they try to build their friendship with the United States? It is obviously in their self-interest to see to it that the trucks that come across the border are safe. The Mexicans are not stupid. They would not do something so obviously foolish as to send unsafe trucks here.

So what are we talking about? We are talking about pressures within the American political system that want NAFTA to fail. We are talking about special interest groups inside the American political circumstance that want to keep Mexican influences out of America for their own purposes. These are people who were unable to defeat NAFTA in the first place. So they decide they will defeat NAFTA, or the implementation of NAFTA in the second place, by adopting regulations in the name of something that everybody agrees with, such as safety, that will produce the effect of destroying NAFTA and preventing NAFTA from taking place. We know how powerful

some of those influences are within the American political circumstance.

We have seen how some people around the world are reacting to the new reality of a borderless economy. Some people use the phrase "globalization." I prefer to describe what is happening in the world as the creation of a borderless economy.

We see how money moves around the world now quite literally with the speed of light. The old days when money was transferred in attache cases handcuffed to the wrists of couriers who went in and out of airports are over. You can transfer money by sitting down at a PC that is connected to the Internet, pushing a few buttons and a few key strokes, and it is done, so that international investors pay no attention to artificial geographic borders. They move money. They move contracts. They move goods around the world literally with the speed of light.

Now, that upsets people. That upset some people in Seattle. They wanted to stop it, and they turned to looting, rioting, and civil disobedience in an attempt to stop it. From my view, that was a very difficult and unfortunate thing that happened in Seattle. The then-President of the United States was a little less convinced it was an unfortunate thing and said: Maybe we ought to listen to these people. Maybe there is something to which we ought to pay attention.

It got worse. Now it has escalated to the point, in Genoa, where one of the demonstrators has been killed—killed because of his attempt to see to it that we go back to the days when there were firm walls around countries, when the borders meant protectionism, where we go back to the attitude that produced the Smoot-Hawley tariff sponsored by the Senator in whose seat I now sit.

I do not mean to blame Senator Smoot because Senator Smoot was simply responding to the conventional wisdom of his day that said: If you keep all economic activity within your own borders, you will be better off. Senator Smoot, however well intentioned, was wrong.

I remember one historian who said the Smoot-Hawley tariff, contrary to conventional wisdom, did not cause the Great Depression; it merely guaranteed that it would be worldwide because we had reached a point in human history where one must trade with somebody other than one's own tribe.

There was a time when all trade took place in the same valley, among members of the same family, the tribe descending from a single patriarch. All of the trade took place there. Then they discovered they could do better if they started to trade with other tribes, but they stayed close to home. That mentality stayed with us. That mentality was behind the Smoot-Hawley tariff. That mentality is comfortable. That mentality makes us feel secure. It does not involve any threatening risk of dealing with strangers. It makes you

feel really good when you are determined to trade only within your own tribe, but if you are going to increase your wealth, you are going to have to start trading with another tribe, and that means that artificial borders have to start coming down.

The Smoot-Hawley tariff demonstrated the foolishness of trying to keep trade entirely within the borders of a single country. But there are those, whether they are at Seattle or Genoa or, frankly, some on the floor of the Senate, who still want to do that, who still want to say: We will not trade outside our borders.

They fail to stop the treaties that say we will trade outside our borders, so they are saying: All right, if we cannot stop the treaty, we can at least stop the implementation of the treaty by adopting regulations that make it impossible for the treaty to work.

The fact is, in the United States we produce more than Americans can consume. That comes as a great surprise to many husbands and wives who think their spouses can consume all there is to consume, but it is true. We produce more than Americans can consume. We produce more food than Americans can eat. No matter how fat Americans seem to get in all of the obesity studies, we still cannot eat all the food we produce. We have to sell this food to somebody other than Americans, and that means we have to deal with the borderless economy. As we have taken steps to do that, we have entered into these free trade agreements.

We have to allow other people to come into our country with their goods and their food if we are going to send our goods and our food into their country. It is just that fundamental. I wish I could sit down with the demonstrators at Seattle and Genoa and elsewhere and explain that to them because, as nearly as I can tell, they do not understand that it is in their best interests to allow the borderless economy to grow, just as Senator Smoot did not understand, in his well-intentioned attempt to help the economy of the United States, that his protectionist stance was against his own best interests.

We found that out in the United States. We paid an enormous price for the protectionist attitudes that dominated this Chamber and both parties in the 1930s. Understand that the Smoot-Hawley tariff was not jammed down the throats of a recalcitrant Democratic Party by a dominant Republican Party. It was adopted as proper policy all across the country: Let's not trade outside our own borders. Let's protect what we have here and not expose it to the risk that foreigners might, in some way, profit at our loss.

As I say, the Smoot-Hawley tariff guaranteed that the Great Depression would go worldwide. We are smarter than that. We have treaties that are better than that. Frankly, I believe if Reed Smoot were still in this Chamber, he would endorse that; he would say:

Learn from the mistakes of the past and move forward. He was that kind of a forward-thinking individual. But there are those, with regulations in this bill, who say: No. Since we couldn't defeat NAFTA, we will have to stop NAFTA another way.

The administration has made its position very clear. They intend to live up to the requirements of the treaty that has been signed. They intend to see to it that the United States discharges its responsibilities. They have said the language in this bill does not do that. And the President, if absolutely forced to do it—which he does not want to do—if absolutely forced to, has said he will veto this bill and send it back to us to rewrite.

I know of no one on either side of the aisle who wants that to happen. I know of no one who wants to have a veto. So under those circumstances, why aren't we getting this worked out? Why aren't we saying: All right, the President said he would veto it. The Mexicans have said they believe it violates NAFTA. Let's sit down and see if we can't work this out.

We cannot be that far away. I understand meetings have gone on all night trying to work it out: Nope, we can't do it. We won't budge. I am told: Well, go ahead, vote for this. It will be fixed in conference. In my opinion, that is a dangerous thing to try to do. I hope that is what happens. That is what many of the senior members of the Appropriations Committee have told me: Go ahead, vote for it. Let it go through without a protest. We will fix it in conference. I hope they are correct, but I want to make it clear that as the bill gets to conference the process is going to be watched. There are people who are going to pay attention to what goes on.

If indeed, by the parliamentary power of the majority, this gets to conference in its present language, let's not have it go to conference without any protest; let's not have it go to conference without any notification of the fact that in the minds of many of us, who are free trade supporters, this bill is a modern-day regulatory reincarnation of Smoot-Hawley.

I do not mean to overemphasize that. It is not going to cause a worldwide depression. It is not going to do the damage that Smoot-Hawley did. But it is crafted in the same view that says: A special interest group in the United States, that has power in the political process in the Senate, that is opposed to implementation of NAFTA, can, by getting Senators to stand absolutely firm on language that clearly violates NAFTA, have the effect of preventing NAFTA from going into effect on this issue.

So I hope everyone will understand the posture that I am taking.

This bill, in my view, clearly violates NAFTA. The vote that was taken against the Gramm amendment signals that people understand that it violates NAFTA or the Gramm amendment

would have been adopted overwhelmingly.

I congratulate President Bush for saying, as the Executive Officer of this Government, charged by the Constitution with carrying out foreign policy: I will defend the foreign policy posture taken by the signers of NAFTA, and I will veto this bill, if necessary.

My being on the floor today is simply to plead with all of those who are in charge of the process of the bill and the language of the bill, to understand that they have an obligation, as this moves towards conference, to see to it that the effect of the Gramm amendment that was defeated takes place; that the bill is amended in conference in such a way that it does not violate NAFTA and that we do not go back on our international commitments; that we do not return to the days of my predecessor, Senator Smoot, and export protectionism around the world.

Mr. REID. Will the Senator yield?

Mr. BENNETT. I am happy to yield. Might I inquire of the time I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

#### EXECUTIVE SESSION

#### NOMINATION OF JOHN THOMAS SCHIEFFER, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO AUSTRALIA

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the nomination of John Schieffer to be Ambassador to Australia, reported earlier today by the Foreign Relations Committee, the nomination be confirmed, the motion to reconsider be laid on the table, that any statements be printed in the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection? The Senator from Idaho.

Mr. CRAIG. Mr. President, reserving the right to object, and I will not object, I would like to engage the assistant majority leader. I am extremely pleased to see that one of our nominees is moving this evening, Mr. Schieffer, to become Ambassador to Australia. I do know that the assistant Republican leader and the assistant majority leader have been working for the last several days to get us to a point of a definable number of nominees that might be considered before we go out today and before we go out for the August recess and some time line as it relates to the consideration of others that are before us.

The Senator from Nevada understands some of our frustration. I am looking at a gentleman now before the Judiciary Committee who has not been