the environmental rules and regs and everything else of that kind.

I appreciate the body yielding the floor. My plea is, let's be fair to each other. Just don't come here and try to do away with the Jones Act now when we are trying to build America. Please don't do away with the industrial strength of the United States, pointing a finger: You are a protectionist; we are not going to start protectionism.

That is what built the country—good, strong protectionism.

Mr. DORGAN. I ask unanimous consent that the Senator be given 5 additional minutes.

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

Mr. DORGAN. Let me ask if the Senator will yield for a question. The Senator comes to the floor often and talks about Ricardo and the doctorate of comparative advantage. I used to teach a little economics in college. There is no doctrine of comparative advantage in most of these unfair trade circumstances. Most of what has happened with respect to advantage is political; that is, the political system of the country decides we are going to have a state monopoly which trades in your country.

Mr. HOLLINGS. That is right.

Mr. DORGAN. So decisions are made to allow 12-year-old kids to work in a manufacturing plant for 12 cents an hour. That is unfair. Manufacturing plants to operate without safe working places. Manufacturers will dump chemicals into the streams and the air and send the product to the store shelves in Pittsburgh and Los Angeles and Fargo and Charlotte. That is unfair. These are political decisions in countries around the world about the conditions of production.

People listen to the Senator from South Carolina, and some are going to say: It is the same old stuff. He just wants to be a protectionist.

In my judgment, there is nothing wrong with protecting American interests and requiring fair trade. If that is what protecting is about, sign me up. I want to protect our country's economic interests. But I believe the Senator from South Carolina feels as I do. I support expanded trade. I believe expanded trade is healthy. I believe we can compete anywhere in the world. But I demand fair trade. When trade is not fair, this country has a responsibility to stand up for its producers. It has failed to do that time and time again. Is that not the case?

Mr. HOLLINGS. That is the case. The unfairness of it is here in the ''Foreign Trade Barriers'' book from 10 years ago. I think we spotted it with about 260 pages and 10 years hence that we got free trade. We are getting rid of the barriers, remember. We are helping out agriculture by decimating our industrial strength. I am trying to open the eyes of my farmer Senator friends. Instead of 260 pages, this book is 453 pages. When I held up this book yesterday, it was very interesting. Oh, it just put these fleet a flitter. They gathered around and you can tell the fixes they got—we are trading more. Well, wait a minute, you are getting more trade agreements? Your debate has been all year long that you are losing out on the agreements, that we are passing them by. All these countries are getting agreements and we are not getting any. Of course, that is not the case.

Let's look now and see. For example, Korea had 10 pages of restrictions here in 1992. In 2002, they have gone to 27 pages. Japan has gone from 18 pages of restrictions to 42—they are not lowering barriers.

The European economic community, 32 pages in 1992. They have come down to 20 pages. We are doing pretty good there. I hope we can do better than with bananas. We don't even produce a banana. These special Trade Representatives ought to be embarrassed. India's was 8 pages, and it went up to 14. You can see what is happening in these countries—where we are supposed to be lowering the barriers, we are increasing them with trade agreements.

So, come on, let's stop, look, and listen. Give each Senator a chance to stop, look, and listen. Don't give me those fast tracks and whip it on through with the special interest lawyers. I tell my textile people, the lawyers are working this thing on K street; I have nothing to do with it. By the time I get a bite at the apple and a chance to even discuss it, they give me limited time, and the vote is already fixed. Nobody listens because the vote is already fixed. So why pay attention to the thing? Let's move on. We have to get our work done around here. So nothing happens. We are supposed to learn and exchange views from all parts of the country.

When I came here 35 years ago, I tell you it was an educational experience. We didn't have TV, so if you wanted to find out what was going on, you were in the cloakroom. There were always 25 to 30 Senators in either cloakroom and you could engage in debate, listen to the other Senators, their experience, and their constituent needs and things of that kind. And then we had a concurrent majority to move forward for the good of the country.

Mr. DORGAN. Will the Senator yield for one additional question?

Mr. HOLLINGS. Yes.

Mr. DORGAN. Senator HOLLINGS raised the issue of bananas. I wanted to explore that for a moment. Is it not the case that our country had a big fight with Europe about bananas?

Mr. HOLLINGS. Yes. One fellow from Ohio gave a lot of political contributions. We didn't have any bananas. Do you know where they grow bananas?

Mr. DORGAN. No. We were fighting with Europe because they would not allow bananas into the European economies. I mentioned today that we had a dispute with Europe about beef. We went to the WTO and won a case against Europe. You know how we penalized Europe? We said: We are taking action against your truffles and your goose liver and Roquefort cheese.

Mr. HOLLINGS. They have got no embarrassment, I can tell you that.

Mr. DORGAN. We were fighting with Europe about bananas and we don't produce them. Those bananas were coming from the Caribbean, and Europe would not let them in.

Mr. HOLLINGS. JOHN MCCAIN is right—money controls, campaign finance is needed. I can tell you that right now. We haven't gotten it yet. We are moving in that direction about soft money, but we have doubled the contributions and everything else. That was a compromise Senator MCCAIN had to make. Now I have to travel to California, maybe Nevada, and New York, and maybe Missouri even to get that kind of money. I cannot find that in South Carolina. Even a Republican friend—and I have some Republican friends, but they don't want to contribute. If their name appeared in the little news squib, and they might say Saturday night when they go to the club: Why did you give to that Democrat? Why embarrass the family and the wife and everybody else? They just don't give. So I travel around the country, and beg from my friends and try to stay in office. They have been good to me. Here I am. But I cannot get the attention of anybody.

I used to say I would love to serve in the Senate rather than practice law because I not only could make the final arguments, like I used to in the courtroom, but I can go in the jury room and vote. But the vote means nothing. Now the way this thing is geared up, over the past 35 years we don't have a discussion, don't have the deliberateness or the consideration.

I appreciate the distinguished Senator from Nevada yielding. 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. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ANDEAN TRADE PREFERENCE EXPANSION ACT

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

The legislative clerk read as follows:

A bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under the Act, and for other purposes, which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and insert the part printed in italic:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Andean Trade Preference Expansion Act''.

TITLE I—ANDEAN TRADE PREFERENCE

SEC. 101. FINDINGS.

Congress makes the following findings:

(1) Since the Andean Trade Preference Act was enacted in 1991, it has had a positive impact

on United States trade with Bolivia, Colombia, Ecuador, and Peru. Two-way trade has doubled, with the United States serving as the leading source of imports and leading export market for each of the Andean beneficiary countries. This has resulted in increased jobs and expanded export opportunities in both the United States and the Andean region.

(2) The Andean Trade Preference Act has been a key element in the United States counternarcotics strategy in the Andean region, promoting export diversification and broad-based economic development that provides sustainable economic alternatives to drug-crop production, strengthening the legitimate economies of Andean countries and creating viable alternatives to illicit trade in coca.

(3) Notwithstanding the success of the Andean Trade Preference Act, the Andean region remains threatened by political and economic instability and fragility, vulnerable to the consequences of the drug war and fierce global competition for its legitimate trade.

(4) The continuing instability in the Andean region poses a threat to the security interests of the United States and the world. This problem has been partially addressed through foreign aid, such as Plan Colombia, enacted by Congress in 2000. However, foreign aid alone is not sufficient. Enhancement of legitimate trade with the United States provides an alternative means for reviving and stabilizing the economies in the Andean region.

(5) The Andean Trade Preference Act constitutes a tangible commitment by the United States to the promotion of prosperity, stability, and democracy in the beneficiary countries.

(6) Renewal and enhancement of the Andean Trade Preference Act will bolster the confidence of domestic private enterprise and foreign investors in the economic prospects of the region, ensuring that legitimate private enterprise can be the engine of economic development and political stability in the region.

(7) Each of the Andean beneficiary countries is committed to conclude negotiation of a Free Trade Area of the Americas by the year 2005, as a means of enhancing the economic security of the region.

(8) Temporarily enhancing trade benefits for Andean beneficiaries countries will promote the growth of free enterprise and economic opportunity in these countries and serve the security interests of the United States, the region, and the world.

SEC. 102. TEMPORARY PROVISIONS.

(a) IN GENERAL.—Section 204(b) of the Andean Trade Preference Act (19 U.S.C. 3203(b)) is amended to read as follows:

''(b) IMPORT-SENSITIVE ARTICLES.—

''(1) IN GENERAL.—Subject to paragraphs (2) through (5), the duty-free treatment provided under this title does not apply to—

''(A) textile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on that date;

''(B) footwear not designated at the time of the effective date of this title as eligible articles for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

''(C) tuna, prepared or preserved in any manner, in airtight containers;

''(D) petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;

''(E) watches and watch parts (including cases, bracelets, and straps), of whatever type including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply;

''(F) articles to which reduced rates of duty apply under subsection (c);

''(G) sugars, syrups, and sugar containing products subject to tariff-rate quotas; or

''(H) rum and tafia classified in subheading 2208.40 of the HTS.

''(2) TRANSITION PERIOD TREATMENT OF CERTAIN TEXTILE AND APPAREL ARTICLES.—

''(A) ARTICLES COVERED.—During the transition period, the preferential treatment described in subparagraph (B) shall apply to the following articles:

''(i) APPAREL ARTICLES ASSEMBLED FROM PRODUCTS OF THE UNITED STATES AND ATPEA BENEFICIARY COUNTRIES OR PRODUCTS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—Apparel articles sewn or otherwise assembled in 1 or more ATPEA beneficiary countries, or the United States, or both, exclusively from any one or any combination of the following:

''(I) Fabrics or fabric components formed, or components knit-to-shape, in the United States, from yarns wholly formed in the United States (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in the United States), provided that apparel articles sewn or otherwise assembled from materials described in this subclause are assembled with thread formed in the United States.

''(II) Fabric components knit-to-shape in the United States from yarns wholly formed in the United States and fabric components knit-to-shape in 1 or more ATPEA beneficiary countries from yarns wholly formed in the United States.

''(III) Fabrics or fabric components formed or components knit-to-shape, in 1 or more ATPEA beneficiary countries, from yarns wholly formed in 1 or more ATPEA beneficiary countries, if such fabrics (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in 1 or more ATPEA beneficiary countries) or components are in chief weight of llama, alpaca, or vicuna.

''(IV) Fabrics or yarns that are not formed in the United States or in 1 or more ATPEA beneficiary countries, to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 of the NAFTA.

''(ii) KNIT-TO-SHAPE APPAREL ARTICLES.—Apparel articles knit-to-shape (other than socks provided for in heading 6115 of the HTS) in 1 or more ATPEA beneficiary countries from yarns wholly formed in the United States.

''(iii) REGIONAL FABRIC.—

''(I) GENERAL RULE.—Knit apparel articles wholly assembled in 1 or more ATPEA beneficiary countries exclusively from fabric formed, or fabric components formed, or components knit-to-shape, or any combination thereof, in 1 or more ATPEA beneficiary countries from yarns wholly formed in the United States, in an amount not exceeding the amount set forth in subclause (II).

''(II) LIMITATION.—The amount referred to in subclause (I) is 70,000,000 square meter equivalents during the 1-year period beginning on March 1, 2002, increased by 16 percent, compounded annually, in each succeeding 1-year period through February 28, 2006.

''(iv) CERTAIN OTHER APPAREL ARTICLES.—

''(I) GENERAL RULE.—Subject to subclause (II), any apparel article classifiable under subheading 6212.10 of the HTS, if the article is both cut and sewn or otherwise assembled in the United States, or one or more of the ATPEA beneficiary countries, or both.

''(II) LIMITATION.—During the 1-year period beginning on March 1, 2003, and during each of the 2 succeeding 1-year periods, apparel articles described in subclause (I) of a producer or an entity controlling production shall be eligible for preferential treatment under subparagraph (B) only if the aggregate cost of fabric components formed in the United States that are used in the production of all such articles of that producer or entity that are entered during the preceding 1-year period is at least 75 percent of the aggregate declared customs value of the fabric contained in all such articles of that producer or entity that are entered during the preceding 1-year period.

''(III) DEVELOPMENT OF PROCEDURE TO ENSURE COMPLIANCE.—The United States Customs Service shall develop and implement methods and procedures to ensure ongoing compliance with the requirement set forth in subclause (II). If the Customs Service finds that a producer or an entity controlling production has not satisfied such requirement in a 1-year period, then apparel articles described in subclause (I) of that producer or entity shall be ineligible for preferential treatment under subparagraph (B) during any succeeding 1-year period until the aggregate cost of fabric components formed in the United States used in the production of such articles of that producer or entity that are entered during the preceding 1-year period is at least 85 percent of the aggregate declared customs value of the fabric contained in all such articles of that producer or entity that are entered during the preceding 1-year period.

''(v) APPAREL ARTICLES ASSEMBLED FROM FABRICS OR YARN NOT WIDELY AVAILABLE IN COMMERCIAL QUANTITIES.—At the request of any interested party, the President is authorized to proclaim additional fabrics and yarn as eligible for preferential treatment under clause (i)(IV) if—

''(I) the President determines that such fabrics or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner;

''(II) the President has obtained advice regarding the proposed action from the appropriate advisory committee established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) and the United States International Trade Commission;

''(III) within 60 days after the request, the President has submitted a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth the action proposed to be proclaimed and the reasons for such actions, and the advice obtained under subclause (II);

''(IV) a period of 60 calendar days, beginning with the first day on which the President has met the requirements of subclause (III), has expired; and

''(V) the President has consulted with such committees regarding the proposed action during the period referred to in subclause (III).

''(vi) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—A handloomed, handmade, or folklore article of an ATPEA beneficiary country identified under subparagraph (C) that is certified as such by the competent authority of such beneficiary country.

''(vii) SPECIAL RULES.—

''(I) EXCEPTION FOR FINDINGS AND TRIMMINGS.—(aa) An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the article contains findings or trimmings of foreign origin, if such findings and trimmings do not exceed 25 percent of the cost of the components of the assembled product. Examples of findings and trimmings are sewing thread, hooks and eyes, snaps, buttons, 'bow buds', decorative lace, trim, elastic strips, zippers, including zipper tapes and labels, and other similar products. Elastic strips are considered findings or trimmings only if they are each less than 1 inch in width and are used in the production of brassieres.

''(bb) In the case of an article described in clause (i)(I) of this subparagraph, sewing thread shall not be treated as findings or trimmings under this subclause.

''(II) CERTAIN INTERLININGS.—(aa) An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the article contains certain interlinings of foreign origin, if the value of

such interlinings (and any findings and trimmings) does not exceed 25 percent of the cost of the components of the assembled article.

''(bb) Interlinings eligible for the treatment described in division (aa) include only a chest type plate, 'hymo' piece, or 'sleeve header', of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments.

''(cc) The treatment described in this subclause shall terminate if the President makes a determination that United States manufacturers are producing such interlinings in the United States in commercial quantities.

''(III) DE MINIMIS RULE.—An article that would otherwise be ineligible for preferential treatment under this paragraph because the article contains yarns not wholly formed in the United States or in 1 or more ATPEA beneficiary countries shall not be ineligible for such treatment if the total weight of all such yarns is not more than 7 percent of the total weight of the good. Notwithstanding the preceding sentence, an apparel article containing elastomeric yarns shall be eligible for preferential treatment under this paragraph only if such yarns are wholly formed in the United States.

''(IV) SPECIAL ORIGIN RULE.—An article otherwise eligible for preferential treatment under clause (i) of this subparagraph shall not be ineligible for such treatment because the article contains nylon filament yarn (other than elastomeric yarn) that is classifiable under subheading 5402.10.30, 5402.10.60, 5402.31.30, 5402.31.60, 5402.32.30, 5402.32.60, 5402.41.10, 5402.41.90, 5402.51.00, or 5402.61.00 of the HTS duty-free from a country that is a party to an agreement with the United States establishing a free trade area, which entered into force before January 1, 1995.

''(V) CLARIFICATION OF CERTAIN KNIT APPAREL ARTICLES.—Notwithstanding any other provision of law, an article otherwise eligible for preferential treatment under clause (iii)(I) of this subparagraph, shall not be ineligible for such treatment because the article, or a component thereof, contains fabric formed in the United States from yarns wholly formed in the United States.

''(viii) TEXTILE LUGGAGE.—Textile luggage—

''(I) assembled in an ATPEA beneficiary country from fabric wholly formed and cut in the United States, from yarns wholly formed in the United States, that is entered under subheading 9802.00.80 of the HTS; or

''(II) assembled from fabric cut in an ATPEA beneficiary country from fabric wholly formed in the United States from yarns wholly formed in the United States.

''(B) PREFERENTIAL TREATMENT.—Except as provided in subparagraph (E), during the transition period, the articles to which subparagraph (A) applies shall enter the United States free of duty and free of any quantitative restrictions, limitations, or consultation levels.

''(C) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—For purposes of subparagraph (A)(vi), the President shall consult with representatives of the ATPEA beneficiary countries concerned for the purpose of identifying particular textile and apparel goods that are mutually agreed upon as being handloomed, handmade, or folklore goods of a kind described in section 2.3(a), (b), or (c) of the Annex or Appendix 3.1.B.11 of the Annex.

''(D) PENALTIES FOR TRANSSHIPMENTS.—

''(i) PENALTIES FOR EXPORTERS.—If the President determines, based on sufficient evidence, that an exporter has engaged in transshipment with respect to textile or apparel articles from an ATPEA beneficiary country, then the President shall deny all benefits under this title to such exporter, and any successor of such exporter, for a period of 2 years.

''(ii) PENALTIES FOR COUNTRIES.—Whenever the President finds, based on sufficient evidence, that transshipment has occurred, the President shall request that the ATPEA beneficiary country or countries through whose territory the transshipment has occurred take all necessary and appropriate actions to prevent such transshipment. If the President determines that a country is not taking such actions, the President shall reduce the quantities of textile and apparel articles that may be imported into the United States from such country by the quantity of the transshipped articles multiplied by 3, to the extent consistent with the obligations of the United States under the WTO.

''(iii) TRANSSHIPMENT DESCRIBED.—Transshipment within the meaning of this subparagraph has occurred when preferential treatment under subparagraph (B) has been claimed for a textile or apparel article on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of this clause, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential treatment under subparagraph (B).

''(E) BILATERAL EMERGENCY ACTIONS.—

''(i) IN GENERAL.—The President may take bilateral emergency tariff actions of a kind described in section 4 of the Annex with respect to any apparel article imported from an ATPEA beneficiary country if the application of tariff treatment under subparagraph (B) to such article results in conditions that would be cause for the taking of such actions under such section 4 with respect to a like article described in the same 8-digit subheading of the HTS that is imported from Mexico.

''(ii) RULES RELATING TO BILATERAL EMERGENCY ACTION.—For purposes of applying bilateral emergency action under this subparagraph—

''(I) the requirements of paragraph (5) of section 4 of the Annex (relating to providing compensation) shall not apply;

''(II) the term 'transition period' in section 4 of the Annex shall have the meaning given that term in paragraph (5)(D) of this subsection; and

''(III) the requirements to consult specified in section 4 of the Annex shall be treated as satisfied if the President requests consultations with the ATPEA beneficiary country in question and the country does not agree to consult within the time period specified under section 4.

''(3) TRANSITION PERIOD TREATMENT OF CERTAIN OTHER ARTICLES ORIGINATING IN BENEFICIARY COUNTRIES.—

''(A) EQUIVALENT TARIFF TREATMENT.—

''(i) IN GENERAL.—Subject to clause (ii), the tariff treatment accorded at any time during the transition period to any article referred to in any of subparagraphs (B), (D) through (F), or (H) of paragraph (1) that is an ATPEA originating good shall be identical to the tariff treatment that is accorded at such time under Annex 302.2 of the NAFTA to an article described in the same 8-digit subheading of the HTS that is a good of Mexico and is imported into the United States.

''(ii) EXCEPTION.—Clause (i) does not apply to any article accorded duty-free treatment under U.S. Note 2(b) to subchapter II of chapter 98 of the HTS.

''(B) RELATIONSHIP TO SUBSECTION (C) DUTY REDUCTIONS.—If at any time during the transition period the rate of duty that would (but for action taken under subparagraph (A)(i) in regard to such period) apply with respect to any article under subsection (c) is a rate of duty that is lower than the rate of duty resulting from such action, then such lower rate of duty shall be applied for the purposes of implementing such action.

''(C) SPECIAL RULE FOR SUGARS, SYRUPS, AND SUGAR CONTAINING PRODUCTS.—Duty-free treatment under this Act shall not be extended to sugars, syrups, and sugar-containing products subject to over-quota duty rates under applicable tariff-rate quotas.

''(D) SPECIAL RULE FOR CERTAIN TUNA PRODUCTS.—

''(i) IN GENERAL.—The President may proclaim duty-free treatment under this Act for tuna that is harvested by United States vessels or ATPEA beneficiary country vessels, and is prepared or preserved in any manner, in airtight containers in an ATPEA beneficiary country. Such duty-free treatment may be proclaimed in any calendar year for a quantity of such tuna that does not exceed 20 percent of the domestic United States tuna pack in the preceding calendar year. As used in the preceding sentence, the term 'tuna pack' means tuna pack as defined by the National Marine Fisheries Service of the United States Department of Commerce for purposes of subheading 1604.14.20 of the HTS as in effect on the date of enactment of the Andean Trade Preference Expansion Act.

''(ii) UNITED STATES VESSEL.—For purposes of this subparagraph, a 'United States vessel' is a vessel having a certificate of documentation with a fishery endorsement under chapter 121 of title 46, United States Code.

''(iii) ATPEA VESSEL.—For purposes of this subparagraph, an 'ATPEA vessel' is a vessel—

''(I) which is registered or recorded in an ATPEA beneficiary country;

''(II) which sails under the flag of an ATPEA beneficiary country;

''(III) which is at least 75 percent owned by nationals of an ATPEA beneficiary country or by a company having its principal place of business in an ATPEA beneficiary country, of which the manager or managers, chairman of the board of directors or of the supervisory board, and the majority of the members of such boards are nationals of an ATPEA beneficiary country and of which, in the case of a company, at least 50 percent of the capital is owned by an ATPEA beneficiary country or by public bodies or nationals of an ATPEA beneficiary country;

''(IV) of which the master and officers are nationals of an ATPEA beneficiary country; and

''(V) of which at least 75 percent of the crew are nationals of an ATPEA beneficiary country.

''(4) CUSTOMS PROCEDURES.—

''(A) IN GENERAL.—

''(i) REGULATIONS.—Any importer that claims preferential treatment under paragraph (2) or (3) shall comply with customs procedures similar in all material respects to the requirements of Article 502(1) of the NAFTA as implemented pursuant to United States law, in accordance with regulations promulgated by the Secretary of the Treasury.

''(ii) DETERMINATION.—

''(I) IN GENERAL.—In order to qualify for the preferential treatment under paragraph (2) or (3) and for a Certificate of Origin to be valid with respect to any article for which such treatment is claimed, there shall be in effect a determination by the President that each country described in subclause (II)—

''(aa) has implemented and follows; or

''(bb) is making substantial progress toward implementing and following, procedures and requirements similar in all material respects to the relevant procedures and requirements under chapter 5 of the NAFTA.

''(II) COUNTRY DESCRIBED.—A country is described in this subclause if it is an ATPEA beneficiary country—

''(aa) from which the article is exported; or

''(bb) in which materials used in the production of the article originate or in which the article or such materials undergo production that contributes to a claim that the article is eligible for preferential treatment under paragraph (2) or (3).

''(B) CERTIFICATE OF ORIGIN.—The Certificate of Origin that otherwise would be required pursuant to the provisions of subparagraph (A) shall not be required in the case of an article imported under paragraph (2) or (3) if such Certificate of Origin would not be required under Article 503 of the NAFTA (as implemented pursuant to United States law), if the article were imported from Mexico.

''(C) REPORT BY USTR ON COOPERATION OF OTHER COUNTRIES CONCERNING CIRCUMVENTION.—The United States Commissioner of Customs shall conduct a study analyzing the extent to which each ATPEA beneficiary country—

''(i) has cooperated fully with the United States, consistent with its domestic laws and procedures, in instances of circumvention or alleged circumvention of existing quotas on imports of textile and apparel goods, to establish necessary relevant facts in the places of import, export, and, where applicable, transshipment, including investigation of circumvention practices, exchanges of documents, correspondence, reports, and other relevant information, to the extent such information is available;

''(ii) has taken appropriate measures, consistent with its domestic laws and procedures, against exporters and importers involved in instances of false declaration concerning fiber content, quantities, description, classification, or origin of textile and apparel goods; and

''(iii) has penalized the individuals and entities involved in any such circumvention, consistent with its domestic laws and procedures, and has worked closely to seek the cooperation of any third country to prevent such circumvention from taking place in that third country.

The Trade Representative shall submit to Congress, not later than October 1, 2002, a report on the study conducted under this subparagraph.

''(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ANNEX.—The term 'the Annex' means Annex 300–B of the NAFTA.

''(B) ATPEA BENEFICIARY COUNTRY.—The term 'ATPEA beneficiary country' means any 'beneficiary country', as defined in section 203(a)(1) of this title, which the President designates as an ATPEA beneficiary country, taking into account the criteria contained in subsections (c) and (d) of section 203 and other appropriate criteria, including the following:

''(i) Whether the beneficiary country has demonstrated a commitment to—

''(I) undertake its obligations under the WTO, including those agreements listed in section 101(d) of the Uruguay Round Agreements Act, on or ahead of schedule; and

''(II) participate in negotiations toward the completion of the FTAA or another free trade agreement.

''(ii) The extent to which the country provides protection of intellectual property rights consistent with or greater than the protection afforded under the Agreement on Trade-Related Aspects of Intellectual Property Rights described in section 101(d)(15) of the Uruguay Round Agreements Act.

''(iii) The extent to which the country provides internationally recognized worker rights, including—

''(I) the right of association;

''(II) the right to organize and bargain collectively;

''(III) a prohibition on the use of any form of forced or compulsory labor;

''(IV) a minimum age for the employment of children; and

''(V) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health;

''(iv) Whether the country has implemented its commitments to eliminate the worst forms of child labor, as defined in section 507(6) of the Trade Act of 1974.

''(v) The extent to which the country has met the counter-narcotics certification criteria set forth in section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j) for eligibility for United States assistance.

''(vi) The extent to which the country has taken steps to become a party to and implements the Inter-American Convention Against Corruption.

''(vii) The extent to which the country—

''(I) applies transparent, nondiscriminatory, and competitive procedures in government procurement equivalent to those contained in the Agreement on Government Procurement described in section 101(d)(17) of the Uruguay Round Agreements Act; and

''(II) contributes to efforts in international fora to develop and implement international rules in transparency in government procurement.

''(C) ATPEA ORIGINATING GOOD.—

''(i) IN GENERAL.—The term 'ATPEA originating good' means a good that meets the rules of origin for a good set forth in chapter 4 of the NAFTA as implemented pursuant to United States law.

''(ii) APPLICATION OF CHAPTER 4.—In applying chapter 4 of the NAFTA with respect to an ATPEA beneficiary country for purposes of this subsection—

''(I) no country other than the United States and an ATPEA beneficiary country may be treated as being a party to the NAFTA;

''(II) any reference to trade between the United States and Mexico shall be deemed to refer to trade between the United States and an ATPEA beneficiary country;

''(III) any reference to a party shall be deemed to refer to an ATPEA beneficiary country or the United States; and

''(IV) any reference to parties shall be deemed to refer to any combination of ATPEA beneficiary countries or to the United States and one or more ATPEA beneficiary countries (or any combination thereof).

''(D) TRANSITION PERIOD.—The term 'transition period' means, with respect to an ATPEA beneficiary country, the period that begins on the date of enactment, and ends on the earlier of—

''(i) February 28, 2006; or

''(ii) the date on which the FTAA or another free trade agreement that makes substantial progress in achieving the negotiating objectives set forth in section 108(b)(5) of Public Law 103–182 (19 U.S.C. 3317(b)(5)) enters into force with respect to the United States and the ATPEA beneficiary country.

''(E) ATPEA.—The term 'ATPEA' means the Andean Trade Preference Expansion Act.

''(F) FTAA.—The term 'FTAA' means the Free Trade Area of the Americas.''.

(b) DETERMINATION REGARDING RETENTION OF DESIGNATION.—Section 203(e) of the Andean Trade Preference Act (19 U.S.C. 3202(e)) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting ''(A)'' after ''(1)''; and

(C) by adding at the end the following:

''(B) The President may, after the requirements of paragraph (2) have been met—

''(i) withdraw or suspend the designation of any country as an ATPEA beneficiary country; or

''(ii) withdraw, suspend, or limit the application of preferential treatment under section 204(b) (2) and (3) to any article of any country, if, after such designation, the President determines that, as a result of changed circumstances, the performance of such country is not satisfactory under the criteria set forth in section 204(b)(5)(B).''; and

(2) by adding after paragraph (2) the following new paragraph:

''(3) If preferential treatment under section 204(b) (2) and (3) is withdrawn, suspended, or limited with respect to an ATPEA beneficiary country, such country shall not be deemed to be a 'party' for the purposes of applying section 204(b)(5)(C) to imports of articles for which preferential treatment has been withdrawn, suspended, or limited with respect to such country.''.

(c) REPORTING REQUIREMENTS.—Section 203(f) of the Andean Trade Preference Act (19 U.S.C. 3202(f)) is amended to read as follows:

''(f) REPORTING REQUIREMENTS.—

''(1) IN GENERAL.—Not later than December 31, 2002, and every 2 years thereafter during the period this title is in effect, the United States Trade Representative shall submit to Congress a report regarding the operation of this title, including—

''(A) with respect to subsections (c) and (d), the results of a general review of beneficiary countries based on the considerations described in such subsections; and

''(B) the performance of each beneficiary country or ATPEA beneficiary country, as the case may be, under the criteria set forth in section 204(b)(5)(B).

''(2) PUBLIC COMMENT.—Before submitting the report described in paragraph (1), the United States Trade Representative shall publish a notice in the Federal Register requesting public comments on whether beneficiary countries are meeting the criteria listed in section 204(b)(5)(B).''.

(d) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—

(A) Section 202 of the Andean Trade Preference Act (19 U.S.C. 3201) is amended by inserting ''(or other preferential treatment)'' after ''treatment''.

(B) Section 204(a)(1) of the Andean Trade Preference Act (19 U.S.C. 3203(a)(1)) is amended by inserting ''(or otherwise provided for)'' after ''eligibility''.

(C) Section 204(a)(1) of the Andean Trade Preference Act (19 U.S.C. 3203(a)(1)) is amended by inserting ''(or preferential treatment)'' after ''duty-free treatment''.

(2) DEFINITIONS.—Section 203(a) of the Andean Trade Preference Act (19 U.S.C. 3202(a)) is amended by adding at the end the following new paragraphs:

''(4) The term ''NAFTA'' means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

''(5) The terms 'WTO' and 'WTO member' have the meanings given those terms in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).''.

SEC. 103. TERMINATION.

Section 208(b) of the Andean Trade Preference Act (19 U.S.C. 3206(b)) is amended to read as follows:

''(b) TERMINATION OF PREFERENTIAL TREATMENT.—No preferential duty treatment extended to beneficiary countries under this Act shall remain in effect after February 28, 2006.''.

TITLE II—MISCELLANEOUS TRADE PROVISIONS

SEC. 201. WOOL PROVISIONS.

(a) SHORT TITLE.—This section may be cited as the ''Wool Manufacturer Payment Clarification and Technical Corrections Act''.

(b) CLARIFICATION OF TEMPORARY DUTY SUSPENSION.—Heading 9902.51.13 of the Harmonized Tariff Schedule of the United States is amended by inserting ''average'' before ''diameters''.

(c) PAYMENTS TO MANUFACTURERS OF CERTAIN WOOL PRODUCTS.—

(1) PAYMENTS.—Section 505 of the Trade and Development Act of 2000 (Public Law 106–200; 114 Stat. 303) is amended as follows:

(A) Subsection (a) is amended—

(i) by striking ''In each of the calendar years'' and inserting ''For each of the calendar years''; and

(ii) by striking ''for a refund of duties'' and all that follows through the end of the subsection and inserting ''for a payment equal to an amount determined pursuant to subsection (d)(1).''.

(B) Subsection (b) is amended to read as follows:

''(b) WOOL YARN.—

''(1) IMPORTING MANUFACTURERS.—For each of the calendar years 2000, 2001, and 2002, a manufacturer of worsted wool fabrics who imports wool yarn of the kind described in heading 9902.51.13 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(2).

''(2) NONIMPORTING MANUFACTURERS.—For each of the calendar years 2001 and 2002, any other manufacturer of worsted wool fabrics of imported wool yarn of the kind described in heading 9902.51.13 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(2).''.

(C) Subsection (c) is amended to read as follows:

''(c) WOOL FIBER AND WOOL TOP.—

''(1) IMPORTING MANUFACTURERS.—For each of the calendar years 2000, 2001, and 2002, a manufacturer of wool yarn or wool fabric who imports wool fiber or wool top of the kind described in heading 9902.51.14 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(3).

''(2) NONIMPORTING MANUFACTURERS.—For each of the calendar years 2001 and 2002, any other manufacturer of wool yarn or wool fabric of imported wool fiber or wool top of the kind described in heading 9902.51.14 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(3).''.

(D) Section 505 is further amended by striking subsection (d) and inserting the following new subsections:

''(d) AMOUNT OF ANNUAL PAYMENTS TO MANUFACTURERS.—

''(1) MANUFACTURERS OF MEN'S SUITS, ETC. OF IMPORTED WORSTED WOOL FABRICS.—

''(A) ELIGIBLE TO RECEIVE MORE THAN $5,000.—Each annual payment to manufacturers described in subsection (a) who, according to the records of the Customs Service as of September 11, 2001, are eligible to receive more than $5,000 for each of the calendar years 2000, 2001, and 2002, shall be in an amount equal to one-third of the amount determined by multiplying $30,124,000 by a fraction—

''(i) the numerator of which is the amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by the manufacturer making the claim, and

''(ii) the denominator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the manufacturers described in subsection (a) who, according to the records of the Customs Service as of September 11, 2001, are eligible to receive more than $5,000 for each such calendar year under this section as it was in effect on that date.

''(B) ELIGIBLE WOOL PRODUCTS.—For purposes of subparagraph (A), the term 'eligible wool products' refers to imported worsted wool fabrics described in subsection (a).

''(C) OTHERS.—All manufacturers described in subsection (a), other than the manufacturer's to which subparagraph (A) applies, shall each receive an annual payment in an amount equal to one-third of the amount determined by dividing $1,665,000 by the number of all such other manufacturers.

''(2) MANUFACTURERS OF WORSTED WOOL FABRICS OF IMPORTED WOOL YARN.—

''(A) IMPORTING MANUFACTURERS.—Each annual payment to an importing manufacturer described in subsection (b)(1) shall be in an amount equal to one-third of the amount determined by multiplying $2,202,000 by a fraction—

''(i) the numerator of which is the amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by the importing manufacturer making the claim, and

''(ii) the denominator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the importing manufacturers described in subsection (b)(1).

''(B) ELIGIBLE WOOL PRODUCTS.—For purposes of subparagraph (A), the term 'eligible wool products' refers to imported wool yarn described in subsection (b)(1).

''(C) NONIMPORTING MANUFACTURERS.—Each annual payment to a nonimporting manufacturer described in subsection (b)(2) shall be in an amount equal to one-half of the amount determined by multiplying $141,000 by a fraction—

''(i) the numerator of which is the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by the nonimporting manufacturer making the claim, and

''(ii) the denominator of which is the total amount attributable to the purchases of imported eligible wool products in calendar year 1999 by all the nonimporting manufacturers described in subsection (b)(2).

''(3) MANUFACTURERS OF WOOL YARN OR WOOL FABRIC OF IMPORTED WOOL FIBER OR WOOL TOP.—

''(A) IMPORTING MANUFACTURERS.—Each annual payment to an importing manufacturer described in subsection (c)(1) shall be in an amount equal to one-third of the amount determined by multiplying $1,522,000 by a fraction—

''(i) the numerator of which is the amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by the importing manufacturer making the claim, and

''(ii) the denominator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the importing manufacturers described in subsection (c)(1).

''(B) ELIGIBLE WOOL PRODUCTS.—For purposes of subparagraph (A), the term 'eligible wool products' refers to imported wool fiber or wool top described in subsection (c)(1).

''(C) NONIMPORTING MANUFACTURERS.—Each annual payment to a nonimporting manufacturer described in subsection (c)(2) shall be in an amount equal to one-half of the amount determined by multiplying $597,000 by a fraction—

''(i) the numerator of which is the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by the nonimporting manufacturer making the claim, and

''(ii) the denominator of which is the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by all the nonimporting manufacturers described in subsection (c)(2).

''(4) LETTERS OF INTENT.—Except for the nonimporting manufacturers described in subsections (b)(2) and (c)(2) who may make claims under this section by virtue of the enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, only manufacturers who, according to the records of the Customs Service, filed with the Customs Service before September 11, 2001, letters of intent to establish eligibility to be claimants are eligible to make a claim for a payment under this section.

''(5) AMOUNT ATTRIBUTABLE TO PURCHASES BY NONIMPORTING MANUFACTURERS.—

''(A) AMOUNT ATTRIBUTABLE.—For purposes of paragraphs (2)(C) and (3)(C), the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by a nonimporting manufacturer shall be the amount the nonimporting manufacturer paid for eligible wool products in calendar year 1999, as evidenced by invoices. The nonimporting manufacturer shall make such calculation and submit the resulting amount to the Customs Service, within 45 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, in a signed affidavit that attests that the information contained therein is true and accurate to the best of the affiant's belief and knowledge. The nonimporting manufacturer shall retain the records upon which the calculation is based for a period of five years beginning on the date the affidavit is submitted to the Customs Service.

''(B) ELIGIBLE WOOL PRODUCT.—For purposes of subparagraph (A)—

''(i) the eligible wool product for nonimporting manufacturers of worsted wool fabrics is wool yarn of the kind described in heading 9902.51.13 of the Harmonized Tariff Schedule of the United States purchased in calendar year 1999; and

''(ii) the eligible wool products for nonimporting manufacturers of wool yarn or wool fabric are wool fiber or wool top of the kind described in heading 9902.51.14 of such Schedule purchased in calendar year 1999.

''(6) AMOUNT ATTRIBUTABLE TO DUTIES PAID.—For purposes of paragraphs (1), (2)(A), and (3)(A), the amount attributable to the duties paid by a manufacturer shall be the amount shown on the records of the Customs Service as of September 11, 2001, under this section as then in effect.

''(7) SCHEDULE OF PAYMENTS; REALLOCATIONS.—

''(A) SCHEDULE.—Of the payments described in paragraphs (1), (2)(A), and (3)(A), the Customs Service shall make the first installment on or before December 31, 2001, the second installment on or before April 15, 2002, and the third installment on or before April 15, 2003. Of the payments described in paragraphs (2)(C) and (3)(C), the Customs Service shall make the first installment on or before April 15, 2002, and the second installment on or before April 15, 2003.

''(B) REALLOCATIONS.—In the event that a manufacturer that would have received payment under subparagraph (A) or (C) of paragraph (1), (2), or (3) ceases to be qualified for such payment as such a manufacturer, the amounts otherwise payable to the remaining manufacturers under such subparagraph shall be increased on a pro rata basis by the amount of the payment such manufacturer would have received.

''(8) REFERENCE.—For purposes of paragraphs (1)(A) and (6), the 'records of the Customs Service as of September 11, 2001' are the records of the Wool Duty Unit of the Customs Service on September 11, 2001, as adjusted by the Customs Service to the extent necessary to carry out this section. The amounts so adjusted are not subject to administrative or judicial review.

''(e) AFFIDAVITS BY MANUFACTURERS.—

''(1) AFFIDAVIT REQUIRED.—A manufacturer may not receive a payment under this section for calendar year 2000, 2001, or 2002, as the case may be, unless that manufacturer has submitted to the Customs Service for that calendar year a signed affidavit that attests that, during that calendar year, the affiant was a manufacturer in the United States described in subsection (a), (b), or (c).

''(2) TIMING.—An affidavit under paragraph (1) shall be valid—

''(A) in the case of a manufacturer described in paragraph (1), (2)(A), or (3)(A) of subsection (d) filing a claim for a payment for calendar year 2000, only if the affidavit is postmarked no later than 15 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act; and

''(B) in the case of a claim for a payment for calendar year 2001 or 2002, only if the affidavit is postmarked no later than March 1, 2002, or March 1, 2003, respectively.

''(f) OFFSETS.—Notwithstanding any other provision of this section, any amount otherwise payable under subsection (d) to a manufacturer in calendar year 2001 and, where applicable, in calendar years 2002 and 2003, shall be reduced by the amount of any payment received by that manufacturer under this section before the enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act.

''(g) DEFINITION.—For purposes of this section, the manufacturer is the party that owns—

''(1) imported worsted wool fabric, of the kind described in heading 9902.51.11 or 9902.51.12 of the Harmonized Tariff Schedule of the United States, at the time the fabric is cut and sewn in the United States into men's or boys' suits, suit-type jackets, or trousers;

''(2) imported wool yarn, of the kind described in heading 9902.51.13 of such Schedule, at the time the yarn is processed in the United States into worsted wool fabric; or

''(3) imported wool fiber or wool top, of the kind described in heading 9902.51.14 of such

Schedule, at the time the wool fiber or wool top is processed in the United States into wool yarn.''.

(2) FUNDING.—There is authorized to be appropriated and is appropriated, out of amounts in the General Fund of the Treasury not otherwise appropriated, $36,251,000 to carry out the amendments made by paragraph (1).

SEC. 202. CEILING FANS.

(a) IN GENERAL.—Notwithstanding any other provision of law, ceiling fans classified under subheading 8414.51.00 of the Harmonized Tariff Schedule of the United States imported from Thailand shall enter duty-free and without any quantitative limitations, if duty-free treatment under title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.) would have applied to such entry had the competitive need limitation been waived under section 503(d) of such Act.

(b) APPLICABILITY.—The provisions of this section shall apply to ceiling fans described in subsection (a) that are entered, or withdrawn from warehouse for consumption—

(1) on or after the date that is 15 days after the date of enactment of this Act; and

(2) before July 30, 2002.

SEC. 203. CERTAIN STEAM OR OTHER VAPOR GENERATING BOILERS USED IN NUCLEAR FACILITIES.

(a) IN GENERAL.—Subheading 9902.84.02 of the Harmonized Tariff Schedule of the United States is amended—

(1) by striking ''4.9%'' and inserting ''Free''; and

(2) by striking ''12/31/2003'' and inserting ''12/31/2006''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2002.

AMENDMENT NO. 3386

Mr. DASCHLE. Madam President, with the authority of the Finance Committee, I withdraw the committee amendment and send an amendment to the desk.

The PRESIDING OFFICER. The committee amendment is withdrawn.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 3386.

Mr. DASCHLE. I ask unanimous consent that further reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. DASCHLE. Madam President, we have just sent to the desk legislation that includes three components: First, the trade promotion authority; second, trade adjustment assistance; and third, the Andean Trade Preference Expansion Act.

The trade adjustment assistance measures are particularly crucial because they will provide help to dislocated workers. This package includes job search assistance, unemployment insurance, and, for the first time, much needed health benefits. We are now ready to begin the debate on this important trade legislation and, as we have noted for some time, this bill is open to amendment and we encourage Senators to come forth with their amendments soon.

I look forward to a full and spirited debate. I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. Madam President, sometime when the Senate is doing its best work, it is not always visible. Throughout the day, we have been having discussions that involved the managers of this legislation. They have been talking to members of the Finance Committee and communicating with the administration. It is very important that we have the straight legislation. There are a lot of different views on both sides of the aisle about exactly how this should proceed, or whether it is a good idea.

There are those who say, yes, we would like to have trade promotion authority, but there must be trade adjustment assistance to go with it for those who might be displaced from jobs so they can get assistance with training and get into the next job.

It is important we move forward. Everybody's options are still preserved. Senator DASCHLE and I have indicated to each other that there is not going to be any precipitous move. We want to take a look at the actual language. Sometimes it is hard to negotiate a moving target or when there is not a clear understanding of what is involved.

We now have a document. We are going to take a look at it tonight. I hope we can begin to move forward, perhaps even with amendments tomorrow. We will go over the language, and we will be talking further with the managers of the legislation and make sure the administration has a chance to review it.

I look forward to a full debate and amendment process. I do wish to add—and I know Senator DASCHLE is thinking it right now—this should not take place over weeks, as we experienced with the energy bill. We have some important issues, some tough issues, but once we see if we can come to agreement on two or three of these issues or get votes on a couple of these issues, we should be able to move it forward in an expeditious way.

It did not work on the energy bill, but I do think this week, and hopefully by the end of next week, we will have an agreement on which we can vote. It is worth the effort, and I am prepared to put a lot of time into it.

I thank Senator DASCHLE for agreeing to lay this legislation down so we can take a look at it. We will continue working together tomorrow.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Madam President, first, I compliment and thank the distinguished Republican leader for the cooperative effort he has put forth to get to this point. We have talked on many occasions over the last several days, and the spirit with which he has discussed the importance of this legislation, as well as the importance of a good debate, is exactly the one I hold as well.

I encourage Senators to offer amendments, but let me also say, as the Senator alluded, we will be able to determine whether this is good faith or not, whether we are just delaying for the sake of delaying; that will not be something we can tolerate. But we certainly encourage a good and vigorous debate with ample opportunity to offer amendments. There is a difference between simply delaying for delaying sake and amendments for the sake of changing, improving, or in some way altering the legislation as it has been introduced.

Again, we will work with all of our colleagues to accommodate that and look forward to the debate beginning tonight and again tomorrow morning. I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 3387 TO AMENDMENT NO. 3386

Mr. DORGAN. Madam President, I rise to offer an amendment. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself and Mr. CRAIG, proposes an amendment numbered 3387 to amendment No. 3386.

Mr. DORGAN. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ___. SECRET TRIBUNALS.

(a) FINDINGS.—Congress makes the following findings:

(1) Chapter Eleven of the North American Free Trade Agreement (''NAFTA'') allows foreign investors to file claims against signatory countries that directly or indirectly nationalize or expropriate an investment, or take measures ''tantamount to nationalization or expropriation'' of such an investment.

(2) Foreign investors have filed several claims against the United States, arguing that regulatory activity has been ''tantamount to nationalization or expropriation''. Most notably, a Canadian chemical company claimed $970,000,000 in damages allegedly resulting from a California State regulation banning the use of a gasoline additive produced by that company.

(3) A claim under Chapter Eleven of the NAFTA is adjudicated by a three-member panel, whose deliberations are largely secret.

(4) While it may be necessary to protect the confidentiality of business sensitive information, the general lack of transparency of these proceedings has been excessive.

(b) PURPOSE.—The purpose of this amendment is to ensure that the proceedings of the NAFTA investor protection tribunals are as transparent as possible, consistent with the need to protect the confidentiality of business sensitive information.

(c) CHAPTER 11 OF NAFTA.—The President shall negotiate with Canada and Mexico an amendment to Chapter Eleven of the NAFTA to ensure the fullest transparency possible with respect to the dispute settlement mechanism in that Chapter, consistent with the need to protect information that is classified or confidential, by—

(1) ensuring that all requests for dispute settlement under Chapter Eleven are promptly made public;

(2) ensuring that with respect to Chapter Eleven—

(A) all proceedings, submissions, findings, and decisions are promptly made public; and

(B) all hearings are open to the public; and

(3) establishing a mechanism under that Chapter for acceptance of amicus curiae submissions from businesses, unions, and nongovernmental organizations.

(d) CERTIFICATION REQUIREMENTS.—Within one year of the enactment of this Act, the U.S. Trade Representative shall certify to Congress that the President has fulfilled the requirements set forth in subsection (c).

Mr. DORGAN. Madam President, I understand the rather lengthy managers' amendment has just been offered. I do not know how many pages it is, but obviously we will have to study it. It is a substantial amendment.

I offer my amendment in the first degree to the managers' amendment that was just offered. I will describe it briefly. I understand there are no further votes today, and perhaps I will discuss it briefly and then discuss it some in the morning. I hope perhaps tomorrow we may have a vote on it. I offer this amendment on behalf of myself and Senator CRAIG from Idaho.

The amendment is relatively simple. This amendment deals with Chapter 11 of the North American Free Trade Agreement. Under Chapter 11 of NAFTA, secret multinational tribunals consider claims by private investors against member countries, including claims by foreign investors against the U.S. Government. This amendment would end the undemocratic and unfair secrecy in these tribunals.

My amendment directs the President to negotiate with Canada and Mexico an amendment to NAFTA that would require transparency in these tribunals. The U.S. Trade Representative under this amendment is to certify to Congress that this has been done within 12 months of the enactment.

Even the supporters of fast track have recognized that secrecy is not appropriate, and yet we have these tribunals that are secret. No one is allowed to understand their work; no one can be a part of their discussions; no one understands the deliberations. The door is locked. Three members are appointed to a tribunal. They meet in secret, make judgments in secret, make decisions in secret, and then we are told the result. That is not the way for this country to proceed with respect to dispute resolutions to trade agreements.

U.S. Trade Representative Zoellick has recognized this secrecy is a problem, and he met with his counterparts from Mexico and Canada on this issue. In fact, they agreed there needed to be more openness, and they announced that July 31 of last year. They said that these tribunals will operate as openly as possible.

But just last month, a NAFTA tribunal refused to open their proceedings once again and rejected the guidelines by Ambassador Zoellick and his counterparts.

This amendment will fix a problem that everyone, including the administration, acknowledges. It will require transparency. It will require an end to the secrecy, an opening up of the process so the American people can understand how this democratic process must work.

We cannot and should not be a party to secret tribunals. We have been, but we should not be, and my amendment will remedy that.

I understand that in the negotiating objectives described in the managers' amendment, there is language that would address the secrecy of the tribunals going forward for future agreements. I do not know that for certain. I am told that is part of the managers' amendment.

If it is the case, it seems logical to me that we would want to extend that to other agreements with which we are now engaged, including the North American Free Trade Agreement.

I might mention again—I do not have all the details—but we have a situation in California where California understood that an additive to gasoline called MTBE was showing up in drinking water and ground water. They discovered that is dangerous to people, and California banned MTBE from being added to gasoline in California. A couple of other States have taken the same action.

A Canadian company that manufactures MTBE has filed an action under NAFTA and is asking for hundreds of millions of dollars against California and our country because we are taking action to protect our citizens. They say they have been injured by this and have a right under NAFTA to make the claim; then, a tribunal is developed and begins to meet and it is totally secret. Its proceedings are totally, completely secret. The American public is told: You are not involved; you cannot see, you cannot be a part of this; it is none of your business.

Talk about a bizarre set of circumstances for a democracy to enter into trade agreements by which we allow someone from another country to challenge a State government in our country, just because it is trying to protect their citizens from poisons in the drinking water, chemicals that are harmful to human health. We end up being sued under a trade agreement for damages totaling hundreds of millions of dollars, just for protecting our people; and we are told that this suit will be determined by a tribunal that will meet in secret. What is that about? Does anybody really think this makes any sense? Can anybody really support this? We will have a vote on this and see whether people will.

This amendment, which is bipartisan—Senator CRAIG and I are offering it—is a simple one. It says we are a party to trade agreements—we understand that—but we cannot and should not be a party to a trade agreement by which investor dispute tribunals will be conducted in secret. They have been in the past, they should not ever be again, and our amendment says, stop it, this country cannot be a part of that.

I will speak at greater length about the amendment and describe in some more detail the MTBE saga, which I think is symbolic of the egregious actions of tribunals meeting in secrecy. I will not do that this evening. I will do that in the morning.

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

Mr. DORGAN. I will be happy to yield.

Mr. REID. I appreciate the Senator offering this amendment at this time. Based on what the majority leader just said, that he wanted, in effect, quality amendments, I think he has one here. This is the type of amendment people should look forward to, I hope.

Of what I know about the Senator's amendment—and I have spoken with him off the floor—it is going to be a tough amendment to vote against. How can anybody be in favor of secret meetings when they deal with some of the most important issues in this country and, in fact, our relations with other countries? I do not think we should be doing that in secret. That is what the Senator is saying; is that not true?

Mr. DORGAN. That is the case. This is an amendment I am offering, along with my colleague Senator CRAIG from Idaho. It is bipartisan. And whether you are in favor of fast track or opposed to it, you should be opposed to tribunals meeting in secret.

I think we will find agreement between both supporters and opponents of fast track that we ought not be a party to tribunals that are secret, that are shielded from the view of the American people. I am going to use the MTBE case tomorrow morning to graphically demonstrate how absurd it is that we could be sued under a trade law for taking action, or we can have action taken against us for our deciding we want to protect the health of the American people and that the dispute will be resolved behind a cloak of secrecy. That is not what this country should be involved in.

It is at this point because that is the way NAFTA works, but we can change it. This Congress can change it, and I hope tomorrow by voting for this amendment this Congress will change it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, I will speak on the bill, but I first want to make a comment not for or against the amendment of the Senator from North Dakota but to put it in context. The reason I cannot make a comment for or against the amendment of the Senator from North Dakota is at this point I have not read it or studied it. I do think he has brought up an issue of transparency, and it deals with NAFTA. On all agreements, particularly WTO agreements, there has been

a big concern about the process not being transparent enough.

Senator BAUCUS and I, in the Finance Committee, have spoken about the necessity for doing this in several different venues. We have spoken with people from the European Community about it. We believe the process of the WTO, for instance, should be very much more transparent than it has been in the past. So the issue of transparency is one that does fall on acceptable ears in a very general sense, not necessarily related to the amendment of the Senator from North Dakota but in a very general sense with most of us in the Congress of the United States. Where we have run into most of the opposition is from the European Community.

We have also had a lot of the developing nations of the world that are members of the World Trade Organization be highly in favor of more transparency.

The issue of transparency was the basis for a lot of the protests in Seattle, and since then there has been a real determined look at the process. A lot of us have come to the conclusion that whatever we can do to promote more transparency we should.

Speaking now on the bill and where we are at this point, particularly now that we do have a substitute amendment before us laid down by the Senate majority leader, I am encouraged on the one hand, dismayed on the other, by the action taken today in the laying down of this amendment.

I am encouraged because, after months of delays, we are moving forward on trade promotion authority. The House passed TPA last year. Unfortunately, TPA has languished much too long in the Senate. So I definitely am glad we are moving forward. In a minute I will talk about being dismayed.

In regard to moving forward, the fact is, while we were sitting on the sidelines for the last 5 or 6 years that our President has not had trade promotion authority, the United States is a party to only 3 agreements out of some 130 free trade agreements negotiated worldwide. That means other countries get better access to foreign markets than we do. That is unfair.

Let me give some examples. Today, the average U.S. tariff is 4.8 percent. In contrast, Brazil's tariff averages 14.6 percent; Thailand, 45.6 percent. That is much too high. We need to correct the imbalance, and the best way to do that is by providing our President with the tools he needs to tear down these barriers to our exports. The most important tool we have to accomplish that is through trade promotion authority.

Let me go through those figures once more to emphasize the point. The United States has an average tariff of 4.8 percent. We have Brazil much higher at 14.6 percent and Thailand at 45.6 percent. So if anybody in this body ever wonders whether it is a benefit to the United States to be involved in regimes of negotiating down barriers to trade, and particularly tariffs, they ought to understand that for the United States, at 4.8 percent compared to 14.6 percent, and 45 percent for Thailand, they must be brought down, even if they are not brought down to where we are. That is a win-win situation for the American worker, as jobs that are created in international trade are good jobs that pay 15 percent above the national average. So the President then needs trade promotion authority to represent the interests of American workers in international trade negotiations.

He has not been there for 127 of the agreements reached in the last few years. He has not been there because Congress has not given him the authority to be there. So I am committed to helping the President get these tools.

Without trade agreements, the United States will lose its role as world leader in setting global trade policies and standards. That means other nations, in no way committed to U.S. interests, will set the world's future trading rules. They will do it, and it is going to affect us. I can guarantee those nations are not looking out for the best interests of our workers.

TPA will help us and our President get back into the game where we were practically full time from 1947 to 1994. It has only been since 1994 that the President has not had this authority. This is why I am glad we have this bill before us.

Now I wish to state why I am dismayed about the process thus far, and that is the insistence on linking trade promotion authority, which has strong bipartisan support as per the 18-to-3 vote out of the Senate Finance Committee, but they want to link it to the controversial expansion of trade adjustment assistance. I am dismayed not because there is a linkage between trade promotion authority and trade adjustment assistance because these two bills have often been linked in the past; I am dismayed that trade adjustment assistance is being brought up in a partisan way.

Ever since President Kennedy first designed the Trade Adjustment Assistance Program in the early 1960s, the program has garnered strong bipartisan support. That is the way it has been. That is the way it should be this year. Unfortunately, the way in which this bill is being brought forward falls far short of that bipartisanship.

As the ranking member of the Senate Finance Committee, which is the committee responsible for drafting both trade promotion authority legislation and trade adjustment assistance, perhaps I can shed some light on how we got to where we are today.

First, Chairman Max Baucus and I worked for months crafting a bipartisan trade promotion bill, and we did it in a very good way or it would not have gotten a 18-to-3 vote. The end result was supported by the White House, by Majority Leader TOM DASCHLE because he is a member of the committee, by Republican Minority Leader TRENT LOTT because he is also a member of the committee, and it sailed through the Finance Committee.

In contrast to trade promotion authority, we have this other bill, S. 1209, the trade adjustment assistance bill, that I talked about. It was not a product of the committee process or bipartisan compromise. In fact, days before the bill was brought before the Finance Committee, Democrats inserted a provision and legislation requiring large Government subsidies for company-based health care coverage for the first time in the history of trade adjustment assistance. This new and unprecedented provision shattered what would otherwise have been strong bipartisan support for trade adjustment assistance.

At the time, the chairman of the Finance Committee assured Members that the health care provision was simply a place hold that would be replaced by whatever bipartisan approach results from the debate over providing health care to uninsured workers which was then taking place in the economic stimulus package.

As we all know now, a bipartisan consensus could not be achieved and ultimately the stimulus bill passed Congress without a health care provision. Now the health care fight has moved from stimulus to trade promotion authority. Still, no bipartisan consensus. I hope by tomorrow morning I can say that there is such a bipartisan consensus. It is a shame that to this point there is not. We should be able to do better.

The trade adjustment assistance bill currently before the Senate also risks jeopardizing strong public support that trade adjustment assistance has always had because it expands the program too far, opening the program to possible abuse. In my view, we need to be sure that the scope of the program—and I am talking beyond the health provisions suggested—is limited to those people who are truly impacted by negative aspects of international trade, we also need to be sure the program is fiscally prudent, and we need to be sure the administration can actually administer the program we might outline in the bill. If the administration cannot so administer, we will only have more worker frustration as they try to use the Trade Adjustment Assistance Program.

American workers are too important to be reckless. We need to maintain confidence in the Trade Adjustment Assistance Program. We need to do that through this legislation, getting this legislation just exactly right. This may take a little longer, but it is the right thing to do. We can provide expanded and improved trade adjustment assistance to America's workers with strong bipartisan support. We can also devise ways to provide temporary health insurance assistance for trade adjustment assistance workers, even

though doing so would constitute a fundamental unfairness to the 39 million other Americans living without health insurance.

So all my colleagues can hear me, I know we are going to end up with health insurance provisions in the Trade Adjustment Assistance Act. As long as that doesn't become a pattern for what this Congress has not responsibly done up to this point—and maybe we all share in that problem; we have not tackled the problem of all the millions—it is probably 39 to 40 million Americans—who do not have health insurance—it is my view we should tackle the health provision vis-a-vis trade adjustment assistance workers with a pool of uninsured workers in America and not do it piecemeal. I am not going to prevail in that point of view. Or if I prevail in that point of view, we will not have trade promotion authority. So I am giving on it.

But I think it is wrong because it detracts, that we don't think 40 million uninsured Americans is a problem. We have to deal with that. The President of the United States recognizes that. He has $81 billion in his budget for programs for the 42 million uninsured Americans.

How we achieve these goals is a debate I and my Republican colleagues are ready and willing to undertake. We are starting now with the Senate majority leader laying down this trade adjustment assistance bill and other items related to trade promotion authority.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from South Carolina.

Mr. HOLLINGS. Madam President, with respect to the amendment of the distinguished Senator from North Dakota, I have an important article I will include in the RECORD. However, I respond to the distinguished Senator from Iowa, pointing out the trade adjustment assistance and the emphasis on it. At least we now are admitting that in this proceeding we are not going to win jobs, we are going to lose jobs. In every one of these trade debates, that is the first thing they say: This is so fine, it will create jobs—NAFTA was to create 200,000 jobs; we have lost some 670,000 textile jobs alone since that time.

The appeal now for this fast track and this trade agreement is: We will put you on welfare reform. We will let you have health costs. We will have certain benefits.

I am looking for jobs for my people. I am not looking for welfare reform. At least they acknowledge that. That is the big debate going on for the past week. We were ready this morning, and they were not. After we had lost that motion to proceed, they had won, so we were ready to proceed. However, they had not gotten together the welfare reform clause for lost jobs.

Having observed that, Madam President, let me refer to Senator DORGAN's amendment with respect to an article that appeared in Business Week, dated April 1, on page 76. It is entitled ''The Highest Court You've Never Heard Of.'' I ask unanimous consent this article be printed in the RECORD.

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

[From Business Week, Apr. 1, 2002]

THE HIGHEST COURT YOU'VE NEVER HEARD OF

(By Paul Magnussun)

When a Mississippi jury slapped a $500 million judgment on Loewen Group, a Canadian funeral-home chain, in 1995 for breaching a contract with a hometown rival, the company quickly settled the case for $129 million but then decided to appeal. But instead of going to a U.S. court, the Canadians took their case to an obscure three-judge panel that stands distinctly apart from the U.S. legal system. And that panel's decision cannot be appealed.

Thanks to some fine print in the 1994 North American Free Trade Agreement, the case of Loewen Group vs. the U.S. is just one of two dozen wending their way through a little-known and highly secretive process. The panels, using arbitration procedures established by the World Bank, were supposed to ensure that governments in the U.S., Mexico, and Canada would pay compensation to any foreign investor whose property they might seize. U.S. business groups originally demanded the investor-protection mechanism, noting that the Mexican government had a history of nationalizing its oil, electricity, and banking industries, including many U.S. assets.

But even some of NAFTA's strongest supporters say that clever and creative lawyers in all three countries and rapidly expanding the anti-expropriation clause in unanticipated ways. ''The question in a lot of these pending cases is, will the panels produce a pattern of decisions that the negotiators never envisioned?'' says Charles E. Roh Jr., deputy chief U.S. negotiator for NAFTA, now a partner at Weil, Gotshal & Manges LLC. Some of the early indications, he says, ''are troubling.''

In one case, a NAFTA panel issued an interpretation of the Mexican Constitution, an authority the NAFTA negotiators hadn't intended to give the panel. In the dispute, a California waste disposal company, Metalclad Corp., was awarded $16.7 million by a NAFTA tribunal after the governor of the state of San Luis Potosi and a town council refused the company a permit to open a toxic waste site. The company had asked for $90 million in damages, insisting that the state and local governments had overstepped their authority.

The majority of the cases are yet to be decided, but the NAFTA panels are controversial nonetheless. For one thing, they are already pitting environmentalists and federal, state, and local government regulators in all three countries against multinationals. The basic disagreement: Business groups want to include NAFTA's strongest investor-protection provisions in all future free-trade agreements, while many environmentalists would like to scrap the entire procedure as an impediment to government regulatory action. The cases are also complicating efforts to negotiate free-trade agreements with Chile and the hemispheric, 34-nation Free Trade Area of the Americas.

Washington's problem: While such panels may favor U.S. businesses abroad, foreign plaintiffs would enjoy the same such privileges in the U.S. And that could end up giving them protections against regulations far beyond those domestic companies enjoy in their own courts. What's more, states and municipalities have also warned that their ability to govern is being compromised by ''a new set of foreign investor rights.''

In some cases, the NAFTA suits seek damages for government decisions that are clearly legal but can be questioned under vague notions of international law. For example, a Canadian chemical company, Methanex Corp., bypassed U.S. courts to challenge California's ban on a health-threatening gasoline additive, MTBE, that has been polluting municipal wells and reservoirs. In its $970 million claim, the Canadian company said California Governor Gray Davis had been influenced in his decision by a $150,000 campaign contribution from U.S.-based Archer Daniels Midland Co., the maker of a rival gasoline additive. The campaign contribution was legal, but Methanex' lawyers argued that the Davis decision was ''palpably unfair and inequitable'' because of ADM's influence. Such an argument wouldn't likely work in a U.S. court.

No laws can be overturned by the panel, but the cost of defending against a NAFTA lawsuit may run so high that it could still deter agencies from imposing strict regulations on foreign companies, critics charge. They point to a decision by Canada not to restrict cigarette marketing after Ottawa was threatened with a NAFTA case by U.S. tobacco companies. In another potentially intimidating move, United Parcel Service Inc. is seeking $160 million in damages from Canada, arguing that the state-owned Canadian postal system, Canada Post, maintains a monopoly on first-class mail and delivers parcels with private Canadian partners.

But right now, the Loewen case is the one in the spotlight. The Mississippi trial was so theatrical that Warner Bros. Inc. and film director Ron Howard have acquired the movie rights, according to attorneys in the case. Canadian funeral chain founder Ray Loewen was vilified as a foreigner, a ''gouger of grieving families,'' an owner of a large yacht, a racist, a customer of foreign banks, and greedy besides, according to the transcript. Yet the State Supreme Court refused to waive the appeal bond, which had been set at $625 million—to be posted in 10 days. (The largest previous verdict in the state had been $18 million.) Loewen filed for bankruptcy protection in 1999 but is hopeful that the imminent NAFTA ruling will revive the company.

Although many of the current cases raise questions, business groups insist that NAFTA-like panels are needed in all trade deals because so many developing nations have poor judicial systems. But they allow that the process may still need some tweaking. ''Of course, if I look at the filed cases so far, I could write a pretty scary story,'' says Scott Miller, a Washington lobbyist for Procter & Gamble Co. And Eric Biehl, a former top Commerce Dept. official, who supports NAFTA, wonders, ''how does some mechanism on a trade agreement that no one ever thought much about suddenly get used to open up a whole new appellate process around the U.S. judicial system?'' That's a question a lot more people may soon be asking.

Mr. HOLLINGS. It reads: Do NAFTA judges have too much authority?

Let me read:

When a Mississippi jury slapped a $500 million judgment on Loewen Group, a Canadian funeral-home chain, in 1995 for breaching a contract with a hometown rival, the company quickly settled a case for $129 million but then decided to appeal. But instead of going to a U.S. court, the Canadians took their case to an obscure three-judge panel that stands distinctly apart from the U.S. legal system. And that panel's decision cannot be appealed.

Thanks to some fine print in the 1994 North American Free Trade Agreement, the case of Loewen Group vs. U.S. is just one of two dozen wending their way through a little-known and highly secretive process.

Let me read that sentence one more time. That is the reason we opposed fast track. We will have a time agreement, 2 hours a side, or 4 hours, or debate it this afternoon. You never get the obscure addendum and other things agreed to. They don't tell you about them.

Thanks to some fine print in the 1994 North American Free Trade Agreement, the case of Loewen Group vs. U.S. is just one of two dozen winding their way through a little-known highly secretive process. The panels, using arbitration procedures established by the World Bank, were supposed to ensure the governments in the U.S., Mexico, and Canada would pay compensation to any foreign investor whose property they might seize. U.S. business groups originally demanded the investor-protection mechanism, noting that the Mexican government had a history of nationalizing its oil, electricity, and banking industries, including many U.S. assets.

But even some of NAFTA's strongest supporters say the clever and creative lawyers in all 3 countries are rapidly expanding the anti-expropriation clause in unanticipated ways. ''The question in a lot of these pending cases is, will the panels produce a pattern of decisions that the negotiators never envisioned?'' says Charles E. Roh Jr, deputy chief U.S. negotiator for NAFTA, now a partner at Weil, Gotshal & Manges, LLC. Some of the early indications, he says, ''are troubling.''

But there are some examples here. There is not only the particular funeral home case, but:

UPS claims that the Canadian post, the state-owned postal system, uses its monopoly on letter mail to gain unfair advantages in parcel deliveries.

In the matter of the Canadian manufacturer, Methanex, versus the United States:

The Canadian manufacturer of a gasoline additive sued after California found the health-threatening chemical had contaminated water, and banned its use.

So after the California authorities have the hearings and everything else, they find out it is contaminative. As a result, they ban the use. No, you take that up to the secret panel of NAFTA judges, who meet in secret, decide in secret, and if you can get a fix—like you can get the fix of the vote around here—what happens is the California proceeding, totally in the open, is overturned. The legal process is totally frustrated.

I will read one more example. Those who are interested can follow the particular article, Metalclad v. Mexico:

U.S. company sued after it obtains permits from the Mexican federal government for a waste disposal site. Then localities denied a permit to operate.

They said that was taking away their particular business. You can go on and on, but it is a two-way street. Lawyers on both sides of the border are using this particular secretive measure.

Although many of the current cases raise questions, business groups insist that NAFTA-like panels are needed in all trade deals because so many developing nations have poor judicial systems. But they allow that the process may still need some tweaking. ''Of course, if I look at the filed cases so far, I could write a pretty scary story,'' says Scott Miller, a Washington lobbyist for Procter & Gamble Co. and Eric Biehl, a former top Commerce Dept. official, wonders ''how does some mechanism on a trade agreement that no one ever thought much about suddenly get used to open up a whole new appellate process around the U.S. judicial system?'' That's a question a lot more people may soon be asking.

The distinguished Senator from North Dakota asked the question. That is what this amendment does. It goes to the heart of that secretive process, trying to get transparency. I think there should be a greater enforcement provision in this particular amendment. Maybe we can have the amendment itself amended.

Be that as it may, this ought to receive 100 bipartisan votes in the Senate against the secret process of the NAFTA panels that no one ever heard of. ''The Highest Court You've Never Heard Of,'' says Business Week.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

(The remarks of Mr. SPECTER pertaining to the introduction of S. 2439 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BIDEN. Madam President, I ask unanimous consent to be able to proceed as if in morning business for up to 15 minutes.

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

THE JENIN INVESTIGATION

Mr. BIDEN. Madam President, for the past few weeks we have been hearing sensationalist claims of a massacre in the Jenin refugee camp. In recent days, hundreds of reporters and international relief workers have descended on the camp, and not one has verified these claims.

In fact, the Washington Times today quotes the senior official in Yasser Arafat's Fatah movement in Jenin as saying that the death toll stands at fifty six. Other reports place the number around fifty one.

Even one death is one too many, and there is still considerable excavation work to do in the camp. But it seems apparent that there was no massacre in Jenin.

Let me say that again. It seems apparent that there was no massacre in Jenin.

There are not 500 civilian dead, as the Palestinians initially claimed. What happened in Jenin was an intense battle fought at close quarters in which 23 Israeli soldiers also lost their lives in Jenin. And the leader of Fatah said today, trying to make the case that they ''won'' the battle, that ''although we lost 56, they lost 23.''

The relatively high number of Israeli casualties is in itself an indicator of what went on in the camp. Had the Israelis chosen, they could have easily sat back and pummeled the camp from afar, and starved the terrorists. Instead, they chose to do things the hard way. They went house to house to house, from booby-trapped house to booby-trapped house to booby-trapped house. In doing so to avoid civilian casualties, they inflicted casualties upon themselves. That is why they went house to house—not to inflict civilian casualties.

Were there civilian casualties? Almost certainly there were. But there is a world of difference between the deliberate targeting of civilians and the unintentional and inevitable casualties that were bound to occur in a place such as Jenin where terrorists deliberately hid themselves among civilians.

Remember we got a dose of that ourselves during the gulf war. As you recall, Saddam Hussein hid himself and others in the midst of civilian populations in civilian centers. That is the picture I believe will emerge as the facts are examined in the cold light of day—that there was no massacre, and that, although there were civilians killed, the number was relatively small, more in line with the number of Israelis killed—that is, proportionately. And I think the world should understand that.

There has been considerable discussion in recent days about a United Nations' factfinding panel assembled by Secretary General Kofi Annan. As of a couple of hours ago, the U.N. officially decided not to send the factfinding mission. But the impression we have heard in the world is that the reason the factfinding mission was not sent is because of Israeli intransigence.

U.N. leadership, I believe under Kofi Annan, had the best intentions. But Israel has voiced what I believe to be legitimate concerns about the composition, the procedures, and terms of reference this team was supposed to operate under. Reports indicate that the team is now disbanding.

Unfortunately, in my view, the United Nations should have met the legitimate concerns and proceeded with the mission. It is hard to blame Israel for having doubts about the objectivity of a factfinding team.

Israel has also voiced concerns over the lack of adequate representation on