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**FAST TRACK AND THE INVESTOR ISSUE:
FREQUENTLY ASKED QUESTIONS**

Question: Is it true that NAFTA's Chapter 11 grants foreign investors greater rights than exist for U.S. citizens and companies under U.S. law?


Answer: YES! NAFTA's investment rules provide new rights and privileges for foreign investors that go significantly beyond the rights available to U.S. citizens or businesses under domestic law.

Over the past century, there have been a number of pertinent cases decided in the U.S. Supreme Court. Justice Souter summarized these cases in the 1993 *Concrete Pipe* decision by stating, "our cases have long established that the mere diminution in the value of property, however serious, is insufficient to demonstrate a taking." (Source: *Concrete Pipe and Products vs. Construction Laborers Pension Trust* 508 U.S. 602).

Foreign investors have determined how to get around the U.S. law. The attorney for the Canadian Methanex corporation (which has sued the United States for almost \$1 billion for the diminution of the value of its potential profit in MTBE, a gasoline additive with carcinogenic hazard potential for humans) has stated, "If you look at it, foreign investors do have a substantial reason to avoid the U.S. judicial process. NAFTA clearly creates some rights for foreign investors that local citizens and companies don't have, but that is the whole purpose of it." (Source: William Greider, *The Nation*, October 15, 2001).

Chapter 11, which vitiates American laws in deference to foreign corporations, is embraced in the Thomas Fast Track.

Sincerely,


SHERROD BROWN
Member of Congress