

February 9, 2004

The Honorable Robert Zoellick
United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

Dear Ambassador Zoellick:

With the recent completion of negotiations of the United States-Central American Free Trade Agreement (CAFTA), the focus of attention on this issue will now be shifting to the Congress.

I understand that the formal notification to Congress of the President's intent to sign the CAFTA, as required by section 2105(a)(1) of the Trade Act of 2002, is imminent. It is also my understanding that the Administration intends to include the Dominican Republic in that notification, even though negotiations to "dock" the Dominican Republic into CAFTA are not complete.

All trade agreements raise challenging issues for Congress, and I do not expect CAFTA to be an exception. In order to assure that Congress can focus on the substance of the agreement, it is critical that applicable procedures be strictly observed.

I am concerned that the procedural short cuts being taken with respect to the Dominican Republic could set the wrong tone for Congress's consideration of CAFTA. The 90-day layover period that follows the President's notification of intent to sign a trade agreement exists in order to allow Congress to consider the agreement, in its entirety, before the President takes the step of formally signing the agreement. Although the Dominican Republic is expected to accept the "rules" text of CAFTA in its entirety, negotiations on market access provisions will not conclude until at least March, and further delay can be anticipated prior to public release of the full text. Congress will therefore not have access to a significant portion of the anticipated agreement with the Dominican Republic until most of the 90-day review period has passed. Certainly, outside the "docking" scenario presented by the Dominican Republic, this approach would be unacceptable. In this instance, it raises serious questions about the Administration's commitment to a fully consultative process with Congress.

As you know, the Congressional process for reviewing and voting on trade agreements includes both statutory elements and elements of traditional practice. The statutory elements include the notification, consultation, and "fast-track" procedures set out in the Trade Act of 2002. The traditional procedures include the so-called "non-process" through which Congressional committees of jurisdiction collaborate with the Administration to develop appropriate implementing legislation for trade agreements.

Congress takes its Constitutional responsibility for trade very seriously. These statutory and traditional procedures have been developed and improved upon over a period of 30 years to assure that Congress has adequate time and information to fulfill its responsibilities. Further attempts to shorten or avoid either statutory or traditional steps in the process for considering the CAFTA could jeopardize this time-tested working partnership.

I look forward to working with you to assure that trade agreements receive timely and thorough Congressional consideration consistent with these principles.

Sincerely,

Max Baucus

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