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"Protecting the Global Commons: The Nexus Between Trade and Environmental Policy"

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STATEMENT OF SENATOR MAX BAUCUS ON
PROTECTING THE GLOBAL COMMONS:
THE NEXUS BETWEEN TRADE AND ENVIRONMENTAL POLICY

Delivered before the Institute for International Economics

The world faces two great challenges in the next decade: first, protecting the environment and, second, and forging a freer global trading system.

But these challenges are not separate. The linkage between the environment and trade policy has become very apparent in recent months.

One of the most powerful images in the recent debate over extension of fast track trade negotiating authority was that of the environmental standards at some of the Maquiladora plants on the U.S.-Mexican border. Pictures of waste water being dumped directly into rivers and fields of poorly buried drums of hazard waste made a deep impression on me and other Senators.

I was also struck by the images of dolphins being killed by the hundreds in Taiwanese driftnets and endangered sea turtles in Japan being seared to death so that their shell could be made into eyeglass frames.

These images drive home the point that protecting the environment is a global responsibility. All nations must work together to protect the global commons. Environmental matters can no longer be seen as domestic issues to be addressed by each nation within its own borders.

Pollution produced in one country doesn't stop at its borders. And it does little good for the U.S. to protect endangered species if other nations continue to slaughter them. The more we learn about environmental pollution the more it becomes apparent that virtually all types of environmental pollution have global impacts.

Unfortunately, our unilateral efforts to protect the environment -- both through higher domestic standards and through unilateral trade trade sanctions -- have serious costs.
We have long realized that environmental protection may have economic impacts. But we have only recently realized that those impacts don't stop at our borders.

As became clear in the recent debate over the U.S.-Mexico FTA, differing levels of environmental protection around the world have a significant impact on America's economic competitiveness in world markets.

Trade policy is a valuable tool for stimulating an environmental awareness abroad. But trade sanctions can prompt resentment toward the U.S. -- especially in developing countries -- and spark serious trade disputes.

One of the central challenges we face in upcoming international trade negotiations is forging environmentally sound trade agreements -- agreements that protect the environment while protecting U.S. commercial interests.

ENVIRONMENTAL ISSUES IN TRADE NEGOTIATIONS

Including environmental issues in trade negotiations is only the latest stage in a natural progression. As the economies of the world grow more and more interdependent, the scope of trade negotiations must expand.

Originally, trade negotiations focused only upon tariffs, but gradually we came to realize that non-tariff barriers -- like quotas and import licenses -- were just as important. Later, we came to realize that other issues, such as subsidies and pricing, also needed to be addressed to ensure a level playing field. Now, we have begun to address still other issues in trade negotiations, such as protection of intellectual property and anti-trust policy. Including these new issues has helped to open markets around the world and expand trade.

Now, it is time to add environmental protection to the growing list of issues to be addressed in trade negotiations.

If one nation chooses not to impose adequate environmental protection requirements, it artificially lowers the cost of doing business in that nation at the expense of the environment. In addition to harming the environment, this creates a competitive advantage vis-a-vis nations that do protect the environment. The advantage can translate into trade gains and attract additional investment.

Trade policy is one of the few levers that the U.S. can use to push other nations to protect the environment. There is great pressure to employ trade sanctions to achieve environmental objectives.
In light of this trend, environmental issues can no longer be neatly separated from trade issues.

A GATT ENVIRONMENTAL CODE

After much pressure from Congress, environment is now firmly on the agenda for the free trade negotiations between the U.S., Mexico, and Canada. And I am quite confident that the Congress will not approve a North American Free Trade Agreement that does not include strong and enforceable environmental protection provisions either in the trade agreement or in a parallel agreement.

But the same logic that led us to include environmental issues in this negotiation applies worldwide.

It is time for the world's trading compact -- the General Agreement on Tariffs and Trade or GATT -- to be expanded to address environmental concerns. Ideally, an international agreement could be negotiated to set adequate environmental standards worldwide. But such an agreement is likely to be decades away. In the interim, I believe a GATT Environmental Code largely modeled on the current Subsidies Code should be negotiated.

Many specific details of such a code must be left to the negotiations, but it should include the following major elements:

- Each nation should be allowed to set its own environmental protection standards.

- Nations would be allowed to ban or otherwise restrict imports of goods produced in a manner that violates internationally recognized norms, such as tuna taken by driftnet fishing, and impose trade sanctions to enforce international environmental agreements.

- If imported products or the process used to produce those products doesn't meet the importing nation's environmental standards, duties can be applied to the imported product. Provided that two criteria are met:

  First, the environmental protection standards applied must have a sound scientific basis.

  Second, the same standards must be applied to all competitive domestic production.

- The offsetting duties should be set at a level sufficient to offset any economic advantage gained by producing the product under less stringent environmental protection regulations.
A GATT dispute settlement body similar to that established under the Subsidies Code should settle disputes regarding the operation of the Environmental Code.

Such a code would have three compelling advantages.

First, the Code would correct an obvious deficiency in the GATT demonstrated by the recent dispute settlement panel ruling in the Mexican tuna case. In this case, the dispute settlement panel ruled that restrictions the U.S. imposed on imports of tuna from Mexico because Mexican tuna fishermen continue to slaughter dolphins violated the GATT. The dispute settlement panel's decision may accurately reflect the current provisions of the GATT. But this is an argument for changing the GATT, not for ending our efforts to protect dolphins.

We cannot allow the GATT to become a shield to hide behind for nations that shun internationally recognized norms for environmental protection. The GATT must recognize environmental protection as a legitimate objective of trade policy just as it now recognizes national security and conservation of natural resources.

Second, it would help to level the playing field for U.S. businesses that are forced to meet higher environmental standards than their foreign competitors. Environmental protection would no longer necessarily have a negative impact on the competitiveness of U.S. business.

Finally, the Code would encourage nations to adopt sound environmental protection. Much of the economic advantage to maintaining lax environmental standards would be gone. And the incentive of avoiding duties would prod nations toward adopting better environmental protection regimes.

The new GATT Code I have outlined would set a reasonable standard that allows nations to promote legitimate environmental objectives without coming into conflict with their GATT obligations. Obviously, such a Code must be carefully drafted to ensure that it distinguishes legitimate environmental measures from disguised protectionism.

NEGOTIATING AN ENVIRONMENTAL CODE

Obviously, the concept of an Environmental Code is at a very early stage of development. The concept is not sufficiently refined to be included in the Uruguay Round of GATT negotiations. Instead, it should be the central topic of the next Round of GATT negotiations -- a round that I hope becomes known as the Green Round for its environmental focus.
Before the Uruguay Round is concluded and sent to Congress for approval, however, the Administration should obtain an understanding that negotiations to address environmental questions will begin immediately after the Uruguay Round is concluded. In addition, the U.S. should work through the Organization for Economic Cooperation and Development -- the OECD -- to complete conceptual work on an international agreement on trade and the environment. This is also a topic that should be put at the top of agenda for the next major powers economic summit.

One of the central problems we will face in negotiating such an environmental code will be convincing developing nations to participate. In some developing countries, there is great skepticism about environmental protection. It is argued that developed countries grew by exploiting the environment; therefore, developing countries should be allowed to follow the same path.

I understand this position. But the earth cannot sustain further pollution and environmental degradation. Past harm done to the environment does not justify further harm by the developing world.

The developed nations must work together to develop a package of carrots and sticks sufficient to convince the developing countries to join such a code. In addition, to trade sanctions the U.S. could work together with other developed nations, most notably Japan, to address the critical issue of transferring pollution control technology to the developing world.

I am encouraged by the recent decision by the GATT Council to revive the GATT working group on trade and the environment. I take it as a sign that all GATT Members, including many developing nations, recognize the common problem of ensuring that future growth takes place in an environmentally sound manner. I hope the developed world and the developing world can work together cooperatively to solve this common problem.

We do not now have all the answers on the specifics of an Environmental Code. But it is time to begin discussion. Toward that end, I invite further comments on the concept of an Environmental Code from business, labor, the environmental community, and academia. I hope that this concept will soon be sufficiently refined to begin international negotiations.

Unfortunately, if our trading partners are unwilling to negotiate, it may at some point be necessary for the U.S. to explore unilateral changes in its countervailing duty law to establish a system of environmental duties.
But I hope that we can avoid going down this road. The nations of the world have a common problem. They should forge a common solution.

CONDITIONING GSP AND CBI

But not all changes in U.S. trade policy to reflect environmental awareness require international negotiations. The U.S. should consider placing environmental conditions on the trade benefits that it voluntarily extends to other nations under the Caribbean Basin Initiative -- CBI -- and the Generalized System of Preferences -- GSP. The conditions might include requiring that products imported into the U.S. under CBI and GSP be produced in an environmentally sound manner.

So as not to undermine the programs' economic development goals, these environmental conditions should be phased in. The most highly developed recipients should be required to meet the conditions first. The least developed should be allowed substantially more time or exempted entirely.

Both CBI and GSP have successfully promoted economic development in the developing world. Now it is time to see that they promote ecologically sound economic development.

CONCLUSION

As the world grows more and more interdependent, we cannot afford to limit our thinking and place issues in boxes. As a nation, we are just beginning to realize that national security policy must have an economic as well as a military dimension. Similarly, we must recognize that trade policy has an environmental as well as an economic dimension. In future trade negotiations, we must address this environmental dimension forthrightly.

Protecting the global commons from the ravages of pollution is a challenge that the entire world must address.

I believe that the concepts I have outlined will move us in the right direction.

We must continue to use trade policy to promote growth in the U.S. and the world. But we should also ensure that the growth -- both here and abroad -- takes place in an environmentally sensitive manner. This should be the central goal of the Green Round.