

BUSINESS MEETING

Wednesday, January 15, 2020

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
WASHINGTON, DC.

The committee met, pursuant to notice, at 9:42 a.m., in Room S-116, The Capitol, Hon. James Risch, chairman of the committee, presiding.

Present: Senators Risch [presiding], Johnson, Gardner, Romney, Graham, Barrasso, Portman, Young, Menendez, Cardin, Shaheen, Coons, Murphy, Kaine, and Merkley.

OPENING STATEMENT OF HON. JAMES RISCH, U.S. SENATOR FROM IDAHO

THE CHAIRMAN. The Senate Foreign Relations Committee will come to order. Thank you for all coming, at least the 12 of you who did.

We have on the agenda today one piece of legislation, and then we have four nominees that are hopefully non-controversial and are already Foreign Service Officers or close thereto. I am pleased today that we are taking up H.R. 5430, the U.S.-Mexico-Canada Agreement Implementation Act. After months of discussion between members of Congress and the Administration, this bill was finally implemented, the USMCA.

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This bill was referred to 7 committees in the Senate, and it is now time for our part to advance this important piece of legislation. Frankly, I do not know how this works. It is unamendable, and it is supposed to be a markup, but you cannot mark it up.

[Laughter.]

THE CHAIRMAN. So I guess we could hold it or not, but in any event, we are where we are.

Free and fair trade is vital for every State in the country. Idaho's agricultural economy obviously is one of those that benefits from it. We have got a \$2 billion food and ag export industry. Canada and Mexico account for about 50 percent of that. USMCA will provide our farmers and ranchers with a trade agreement that opens markets and will provide a much-needed certainty. While opening new pathways for commodities, like dairy products, it also maintains important relationships and channels that many of our commodities have already built.

Before I turn to Senator Menendez, I want to say just a word about the classified briefing we were supposed to have this morning. No one is more disappointed than I am that we cannot have it. We had an Intelligence Committee meeting yesterday. Senator Rubio and I sit on that and are conduits

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between this committee and that committee, and obviously I cannot go into detail there. But I am anxious to have it because I think after sitting through that, there are details that are important obviously that, it appears to me, have downgraded from compartmented to merely top secret, which means you will have access to that top secret information. The compartmented stuff obviously stays such.

But there are important factors there, and this whole incident was such that the oversight of this committee on that incident is important. The oversight of the Intelligence Committee is really important. Both obviously are important for our input into the construction and the execution of foreign policy. And so I am as anxious as you are to have all of you hear that, and I commit to you I will continue to press that, to get that.

SENATOR CARDIN. Mr. Chairman, could I -- could I just ask you to yield for one moment on that point?

THE CHAIRMAN. Senator Cardin? You may.

SENATOR CARDIN. And Senator Kaine has been really a champion on this issue for our congressional responsibility. We miss Senator Flake and his role that he played in the last Congress. I am very disappointed that the briefing has been postponed because the urgency of this issue is now. We have a privileged

resolution that will be on the floor shortly, and it would have been extremely helpful to have this discussion in a classified or a closed setting before that debate takes place. We are going to move forward. I hope Senator Kaine will move forward on his resolution as soon as he is able to do that. But I think it is disappointing that the committee of jurisdiction is not having the opportunity to hear directly from the individuals who have the -- can answer some of our questions on authorization before we take a vote on that.

You know, yesterday at our Democratic caucus, we heard from our historian, and the analogies between Vietnam and the use by President Johnson of force is so relevant to our discussions here. And it is just -- this is the committee of jurisdiction. The Foreign Relations Committee was misled in the 1970s. I think it is important that we have those opportunities to talk to members of the Administration. This is so fundamental, we are going to act whether we hear from them or not, and it would be better if we had that opportunity before the debate. And I am extremely disappointed that we are not moving forward.

THE CHAIRMAN. I share your disappointment.

SENATOR YOUNG. Mr. Chairman?

THE CHAIRMAN. Yeah, Senator Young?

SENATOR YOUNG. Could I be recognized just briefly?

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THE CHAIRMAN. Yeah, Senator Menendez has got the next --

SENATOR YOUNG. Oh, I am sorry. I did not expect to say anything. You just mentioned top secret SCI, and this may be a question for the counsel. But, look, I mean, I was -- I was a low-level Marine Corps officer, and I had a top secret compartmented information clearance for information that I needed to know about. And I understand the sensitivity of this information. But hypothetically, sometime at some point, our Article I powers will be broadly recognized by the executive and legislative branch in a particular scenario. At that point, would the Foreign Relations Committee have our intel status upgraded to SCI, because otherwise, we never have access to the goods that are necessary in order to make an informed decision about whether or not to declare war or to authorize force ever.

THE CHAIRMAN. Mm-hmm. Just so you know, this is beyond my pay grade. I do not make the rules on this. These have -- these have been around long before I have. We have access to top secret SCI information, which --

SENATOR YOUNG. Well, and I am not -- we need to change the law then if that is not the case. We need to change the law and make sure there is certitude that we will all have our clearances upgraded, top secret/SCI, so that we can make informed decisions.

THE CHAIRMAN. And I think you have that. The problem is the compartmented information.

SENATOR YOUNG. Right.

THE CHAIRMAN. The compartmented information --

SENATOR YOUNG. But you have access to it.

THE CHAIRMAN. The Gang of Eight has access to it. The committee -- the Intelligence Committee has access to it eventually. They do not get it at -- it is a matter of timing between the Gang of Eight and the -- and the Intelligence Committee. But that is un-compartmented information, which is -- which is -- first of all, it is minimal stuff, except that it is very sensitive.

SENATOR YOUNG. Sources and methods, very simple, yes.

THE CHAIRMAN. Anyway, again, I don't -- I am not going to debate it with you because I do not --

SENATOR YOUNG. Oh, I am not debating it. It is a question for the counsel. Evidently, we do not know in this room.

THE CHAIRMAN. All right. It is Senator Menendez's turn.

**STATEMENT OF HON. BOB MENENDEZ,
U.S. SENATOR FROM NEW JERSEY**

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SENATOR MENENDEZ. Yeah, thank you, Mr. Chairman. First of all, on this point, let me just say that I join Senator Cardin in saying we are deeply disappointed, as I expressed to you when you called me. I appreciate the courtesy of getting the heads up. But we are deeply disappointed that this briefing is not taking place because sometimes the question of urgency and timeliness is critical. It is not just a question of information, but also information in a timely fashion.

Not only do we have Senator Kaine's pending resolution on the floor, which I think is incredibly important, but we have unfolding events as it relates to Iran. And the one committee in the entire U.S. Senate that has jurisdiction over the authorization of the use of military force is the Senate Foreign Relations Committee. And I have been both the chairman when we passed an AUMF, and I have opposed others at different times. So with regards to the timing, I would just urge the chair, and he told me that he was going to argue for it to be done as quickly as possible. I would just urge the chair that we get the briefing as soon as possible, number one.

THE CHAIRMAN. Yes.

SENATOR MENENDEZ. Number two is I share the concerns that Senator Young and others have said. This is a longstanding issue. I have been an

advocate of upgrading the access for members across the board, at least when there are issues of war and peace that are pending, the potential threats, because the most important vote that any member of Congress will ever make, which is about war and peace and life and death, be fully informed. And it is a problem.

It is a problem that the ranking members of this committee, unlike Armed Services, does not have a role on the Intelligence Committee, which Armed Services does. So my dear friend and colleague, Jack Reed, gets to sit ex officio on Intelligence.

THE CHAIRMAN. Yes.

SENATOR MENENDEZ. But we who have to cast votes on AUMFs do not, and that does not matter who it is at any given time. If the roles changed, I would make the same argument. So I hope we can speak to our respective leaderships. I have spoken to mine and made the case very strongly that we need to upgrade members' intelligence access, particularly -- even if it is not all the time, but when there are moments of national urgency. And secondly, I think the ranking member, whoever it is at any given time, should be on this committee.

The chairman happens to be there only because he happens to be a member of the Intelligence Committee, but not because he is ex officio as a result

of this committee. I would argue that the chair and ranking member need to be ex officio so that, therefore, at least we could have access to it on behalf of each side. And then to the extent that we could synthesize appropriately for members if they cannot get access, that would be helpful. So I would just urge that we have the meeting as soon as possible.

Let me just go to the agenda for a moment. I support all the items on the agenda. I offered significant remarks in the Finance Committee on the trade bill. I just want to abbreviate them very briefly, and then I look forward to casting votes.

When I was back in the House of Representatives, I took a strong stand against NAFTA because it lacked robust enforceable rules to protect workers and ensure that American families actually benefit from trade. And for most of the last year, I thought that USMCA would repeat those mistakes. But thanks to the work of congressional Democrats, USMCA includes upgraded rules to protect workers across the continent.

The Brown-Wyden labor enforcement framework provides, for the first time in any trade agreement, a mechanism to quickly address labor violations at specific factories where workers' rights are infringed. Because of these improvements, I will support the agreement. However, I am disappointed that

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USMCA lacks strong intellectual property protections that promote innovative jobs in New Jersey and across the country. Future trade agreements must do more to protect American innovation.

I also know that this bill gives the Administration significant new authority with little oversight or direction from Congress. That is why I plan to introduce a bill in the coming weeks to establish an inspector general for the U.S. Trade Representative. Nearly every other Cabinet-level agency has a statutory inspector general to increase transparency, make government more accountable, and crack down on waste, fraud, and abuse. It is time USTR had one as well.

Let me recognize three key elements of H.R. 5430 relevant to this committee. First, the bill includes the appointment of five new labor attachés to our embassy and consulates in Mexico. These attachés will help the U.S. monitor Mexico's compliance with USMCA's labor obligations. The bill also includes the creation of a new U.S. labor board comprised of independent experts that will monitor labor conditions in Mexico, and a new forced labor task force that will strengthen U.S. cooperation with Mexico to address the continued challenges posed by human trafficking, an issue that our committee has prioritized in recent years.

And finally, this act includes a \$1.5 billion general capital increase for the North America Development Bank. As we all know, the NAD Bank is a unique development agency that supports infrastructure and environmental progress along the U.S.-Mexico border. I am pleased to see this capital increase was included.

With reference to the nominees, I support all 4 ambassadorial nominees on the agenda – three are experienced career Foreign Service officers -- as well as Dr. Donald Wright, a physician and member of the Senior Executive Service at the Department of Health and Human Services. And with that, I ask that my entire statement be included in the record.

THE CHAIRMAN. It will be.

[The information referred to follows:]

*SFRC Business Meeting on USMCA
Remarks by Senator Bob Menendez
January 16, 2020*

Introduction

Mr. Chairman, I support all of the items on the agenda. In particular, I am pleased that we are marking up H.R.5430, the United States-Mexico-Canada Agreement Implementation Act. Given that free trade deals like USMCA are, in fact, international agreements and several of the provisions of USMCA and the implementation act impact our jurisdiction, it is important that our committee has an opportunity to consider this bill.

I have already offered remarks in the Finance Committee and I will not repeat them in their entirety, but I would just note the following:

Back when I served in the House of Representatives, I took a strong stand against NAFTA because it lacked robust, enforceable rules to protect workers and ensure that American families actually benefit from trade.

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And for most of last year it seemed that USMCA would repeat these same mistakes. But now, thanks to the work of Congressional Democrats, USMCA includes upgraded rules to protect workers across the continent. The Brown-Wyden labor enforcement framework provides—for the first time in any trade agreement—a mechanism to quickly address labor violations at specific factories where workers’ rights are infringed. Because of these improvements, I am supporting this agreement.

However, I am disappointed that USMCA lacks strong intellectual property protections that promote innovative jobs in New Jersey and across the country. Future trade agreements must do more to promote American innovation.

I also note that this bill gives the Administration significant new authority with little oversight or direction from Congress. That’s why I plan to introduce a bill in the coming weeks to establish an inspector general for the U.S. Trade Representative (USTR). Nearly every other cabinet-level agency has a statutory inspector general to increase transparency, make government more accountable, and crack down on waste, fraud, and abuse. It’s time USTR had one as well.

I now want to recognize three key elements of H.R. 5430 relevant to this committee. First, the bill includes the appointment of 5 new labor attachés to our Embassy and Consulates in Mexico. These attachés will help the U.S. monitor Mexico’s compliance with USMCA’s labor obligations.

The bill also includes the creation of a new U.S Labor Board comprised of independent experts that will monitor labor conditions in Mexico and a new Forced Labor Task Force that will strengthen U.S. cooperation with Mexico to address the continued challenges posed by human trafficking—an issue that our committee has prioritized in recent years.

Additionally, this act includes a \$1.5 billion general capital increase for the North American Development Bank. As we all know, the NAD Bank is a unique development agency that supports infrastructure and environmental projects along the U.S.-Mexico border. I’m pleased to see this capital increase was included.

Finally, though trade negotiations always require the United States to be aggressive and unwavering in the defense of our national interests and the interests of our citizens, we should not normalize the manner in which the USMCA negotiations occurred. Labeling our neighbors as national security threats, insulting their leaders, and imposing tariffs against our closest economic partners is neither normal nor acceptable.

This agreement comes in spite of such grandstanding, not because of it. The manner in which the Administration carried out these negotiations injured our standing in Canada and Mexico, and it will take years to repair the damage.

With that, Mr. Chairman, I want to thank you again for exercising our committee’s leadership on this legislation.

There are, in addition, four ambassadorial nominees on the agenda today – three experienced career Foreign Service Officers, as well as Dr. Donald Wright, a physician and a member of the Senior Executive Service at the Department of Health and Human

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Services. I support advancing all four nominations, and hope that this year we can expect more nominees of this caliber.

THE CHAIRMAN. Thank you very much. And with that, Senator Shaheen?

SENATOR SHAHEEN. I would like --

THE CHAIRMAN. We have got other committees meeting at 10:00, so I do not, you know --

SENATOR SHAHEEN. Right. I will be very brief. I just want to be clear. I want to go back to the briefing conversation because I did not initially understand that what you were saying is that the briefing was canceled because there was information that --

THE CHAIRMAN. No.

SENATOR SHAHEEN. -- people did not want us to have access to?

THE CHAIRMAN. No, that has nothing to do with it.

SENATOR SHAHEEN. Okay.

THE CHAIRMAN. It was just strictly a scheduling problem --

SENATOR SHAHEEN. Okay.

THE CHAIRMAN. -- which was a legitimate assertion. Okay. With that, I will -- let us take up the four foreign nominees first before we lose anybody. I would -- the four foreign nominees have been identified by the ranking member. Is there a motion to --

SENATOR KAINE. Motion to consider en bloc.

THE CHAIRMAN. It has been moved to be considered en bloc and passed.

SENATOR MENENDEZ. Second.

THE CHAIRMAN. It has been moved and seconded.

All those that -- any debate?

[No response.]

THE CHAIRMAN. There being none, all those in favor, signify by saying aye.

[Chorus of ayes.]

THE CHAIRMAN. Opposed, nay.

[No response.]

THE CHAIRMAN. The ayes have it.

With that, we will move to the piece of legislation that we have, H.R. 5430.

I would entertain a motion to adopt.

SENATOR MENENDEZ. So moved.

THE CHAIRMAN. Is there a second?

VOICE. Second.

THE CHAIRMAN. It has been moved and seconded that we adopt. Is there debate?

[No response.]

THE CHAIRMAN. Hearing none, it is so ordered.

All those in favor, signify by saying aye.

[Chorus of ayes.]

THE CHAIRMAN. Opposed, nay.

[No response.]

THE CHAIRMAN. The ayes have it, and it has been adopted.

I would ask unanimous consent staff be authorized to make technical and conforming changes.

Without objection, it is so ordered.

With that, the meeting --

SENATOR COONS. Mr. Chairman?

THE CHAIRMAN. I am sorry.

SENATOR COONS. I just briefly want to say thank you for holding this. I hope we will continue to meet and move legislation in the coming weeks.

THE CHAIRMAN. We have got a little thing that is going to distract for a bit.

SENATOR COONS. I know.

THE CHAIRMAN. -- but I am going to do my best to do what we can.

The committee is adjourned.

[Whereupon, at 9:56 a.m., the committee was adjourned.]

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