APPENDIX C

FIRST MENTION OF THE CONCEPT OF
FAST TRACK

June 5, 1974

MEMORANDUM

TO: The Honorable Herman E. Talmadge

FROM: Finance Committee Staff

SUBJECT: Alternative Approaches to Preserving the Constitutional Roles of the Executive and Legislative Branches in the Negotiation and Implementation of Trade Agreements Affecting "Nontariff Barriers"

This memorandum describes briefly several alternatives to amending the section of the House bill (Section 102), which deals with nontariff barriers, along the lines you suggested in the Executive Session of June 4.

Description of House Bill:

Section 102 of the House-passed bill would authorize the President, for a period of five years, to negotiate trade agreements with other countries providing for a reduction or elimination of nontariff trade barriers and other distortions of international trade. No specific limits will be placed upon the President's authority to negotiate modifications in nontariff barriers and, in fact, no such barriers are delineated or defined anywhere in the bill. In general parlance, "nontariff barriers" include anything other than a tariff which inhibits or otherwise acts as a barrier to international trade. These could include domestic laws, regulations, or even governmental practices. A change in our tax laws (wine-gallon proof-gallon), our laws dealing with unfair trade practices (dumping or countervailing duties) health and sanitation laws, import quotas on agricultural products, could, under the House-passed bill, be negotiated and changed by the Executive subject only to a veto by either body of the Congress.
**Veto Procedure:**

For those agreements which he (the President) determines would change U.S. law, the President would be required to submit not less than 90 days before the day in which he enters into such trade agreement, notification to the Senate and the House of his intention to enter into the agreement. The agreement would enter into full effect with respect to U.S. domestic law (as well as internationally) 90 days after submission to Congress, unless either House adopts by an affirmative vote a resolution of disapproval of the agreement. A procedure would be created whereby a Congressional committee could be discharged of the resolution of disapproval within 7 calendar days.

**Alternatives:**

There are several alternatives to Section 102 which, I believe, would preserve the traditional, constitutional roles of the Congress and the Executive Branches, two of which are briefly outlined below. Under either alternative, the decision of whether an agreement changes domestic law should be based on formal consultation with the Congressional Committees having jurisdiction over the matter at least 90 days prior to its signing.

*Alternative A.* - *Submission of Implementing Legislation to Both Houses - No Time Frame*

The President could be urged to enter into trade agreements for the purpose of reducing or eliminating nontariff barriers. Before such agreements could enter into effect with respect to the United States, implementing legislation would have to be adopted by the Congress pursuant to the conventional legislative process. It is understood that the President could propose to the Congress suggested implementing language in connection with the negotiation of each particular agreement. The Congress could act or not act, or could amend the legislation, as is the case with any legislative proposal.

*Alternative B.* - *Submission of Implementing Legislation to Both Houses Within a Time Frame*

An alternative approach would couple the submission of implementing legislation to the Congress (described above) with a discharge procedure to insure timely consideration of the proposed legislation. In other words, the implementing legislation would be submitted to the Congress for consideration. Each body could give its Committee with jurisdiction over the legislation, 6 months within which to act on the proposal. If the