

FOIA MARKER

This is not a textual record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

Collection/Record Group: Clinton Presidential Records

Subgroup/Office of Origin: Policy Development

Series/Staff Member: Eric Biel

Subseries:

OA/ID Number: 10601

FolderID:

Folder Title:
Questions and Answers [Fast Track]

Stack:
S

Row:
100

Section:
1

Shelf:
5

Position:
3

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
--------------------------	---------------	------	-------------

001. memo	Visa for Lael Brainard; RE: Personally Identifiable Information [partial] (1 page)	09/25/1997	b(6)
-----------	---	------------	------

COLLECTION:

Clinton Presidential Records
Policy Development
Eric Biel
OA/Box Number: 10601

FOLDER TITLE:

Questions and Answers [Fast Track]

2017-0401-F

db4723

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Kadi- this is "hot off the press"
from Dave Johnson at NEC Press
office, who I just spoke with
EB

FAST TRACK
September 25, 1997

Q: What's the status of the President's Fast Track Legislation? Will you get a vote before the year's out? Did you wait too late? Did you kill it by making the wrong call on labor and the environment? What about Arney's call to delay Fast Track until census-sampling and school vouchers are addressed?

A:

- President is committed to securing authority he needs to negotiate agreements that open markets, provide job opportunities for American workers. **Made that case clearly to AFL-CIO in Pittsburgh September 24.**
- Continue to believe legislative sequencing is on target: securing balanced budget agreement, extensive consultations with Congress have set the stage for legislative process that will result in bill that commands bipartisan support from majority of both houses.
- We share goal expressed by Senator Lott, House Leadership to have floor votes in both houses before Congress adjourns this fall; believe they're committed to that goal. Leadership will set schedule of when those votes take place.
- **Ambassador Barshefsky met with Congressmen Archer, Dreyer, and Crane September 24 to discuss legislative process; agreed to hold Ways and Means hearing next week, mark-up bill the following week. Process clearly on track.**
- Cong. Arney's an economist – he knows how important this legislation is for opening markets and providing opportunities for America's workers and businesses. Expect he, rest of House leadership, will press forward on their goal of voting on Fast Track during the fall session.

Senate Finance Committee
Fast Track
Wednesday, September 17

TABLE OF CONTENTS

Testimony	1
Member Profiles	2
Political Issues - Election, Census, etc	
<u>Bill and Related Materials</u>	
Section-by-Section	3
Fact Sheet	4
Transmittal Letter	5
Section 108 Report	6
Written Questions from 6/97 Finance Fast Track Hearing	7

General Fast Track Issues

Cost of Inaction	8
Need for Fast Track <i>Ken Freiberg</i>	9
Timeframe for Passage <i>Ken Freiberg</i>	10
Why Need if can Negotiate Without?	11

Specifics of President's Proposal

Overall Negotiating Objectives	12
Administration Commitment to Labor & Environment	13
Duration of Fast Track Authority	14
"Guidance for Negotiators"	15
"Necessary & Appropriate" <i>Ken Freiberg</i>	16
Notice/Consultation Provisions	17
Notifications -- WTO, Chile	18
PAYGO	19
Proclamation Authority	20
"Trade-Related"	21
Uses of Fast Track	22

Principal Negotiating Objectives

1: Trade Barriers & Other Distortions	23
2: Services	24
3: Investment	25
4: IPR	26
5: Transparency	27
6: Agriculture	28
7: Worker Rights & Environment (WTO)	29

Kari -
This is what
US is prepared.
If you see
anything
in particular
you'd like,
let me
know.
Σ

* = Being
sent May
from 2nd
notebook
(More &
one later -
I have
meetings
(-2:30)

★ - Being sent
in 2nd batch
(3 PM)

Fast Track Proposals from Others

Business Proposals	30
Daschle Fast Track Requests <i>Sean Darragh/Jennifer Haverkamp</i>	31
Daschle Agriculture 301 Legislation	32
Environmental NGO Proposals <i>Jennifer Haverkamp</i>	33
Graham Brazil Citrus Proposal	34
Graham/Mack Seasonal Agriculture Products Proposal	35
Gramm Legislation	36
Lugar Legislation	37
Other Members -- Requests for Fast Track Provisions	38

NAFTA

Agriculture -- Issues with Canada	39	★
Agriculture -- Issues with Mexico	40	
Agriculture Export Expansion	41	
CEC Regional Action Plans on DDT & Chlordane	42	
Environment -- Border Conditions	43	
Environment -- Cooperation with Canada & Mexico	44	
Environment -- Mexico Enforcement	45	
Environment -- Ethyl Case	46	
Food Safety	47	★
Impact on Mexican Economy	48	
Impact on U.S. Economy	49	
Imports from Mexico	50	
Job Creation	51	
Job Losses	52	
Labor -- Mexico Labor Laws	53	
Labor -- Impact on U.S. Collective Bargaining	54	
NADBank/BECC	55	
Sectoral Data	56	
Side Agreements -- Accomplishments	57	
Side Agreements -- Enforcement Provisions	58	
Side Agreements -- Applicability to future FTAs	59	
TAA	60	
Trade Deficit	61	
U.S. Competitiveness	62	

to be updated asap

Chile

Why Chile?	63	★
Agriculture	64	
Bilateral vs. NAFTA Accession	65	
Canada-Chile Agreement	66	
Chile in the FTAA	67	

Distilled Spirits/Wine	68
Economic Background	69
Environment	70
EU-Chile Agreement	71
IPR	72
Investment	73
Labor	74
MERCOSUR-Chile Agreement	75
SPS	76
Timing	77
Value of FTA to US	78

Sectoral Initiatives

Why need Fast Track? (APEC)	79
Likelihood of Success	80
Proposals -- US	81
Proposals -- Other APEC Members	82
Value of Sectors to U.S.	83

FTAA

FTAA Process	84
FTAA and Latin America Q's & A's	85
Latin America Trade Statistic	86
Core Labor Standards & Environment Objectives	87

WTO and Built-In Agenda

WTO Agenda	88
50th Anniversary/May 1998 Ministerial	89
WTO Working Groups	90
WTO Accessions	91

WTO Q's & A's

Goods Agreements (Industrial)	92
Agriculture	93
Services and Investment	94
IPR	95
Dispute Settlement	96
Environment <i>Jennifer Haverkamp</i>	97

Labor

Child Labor	98
Export Processing Zones	99
Gephardt Concerns	100

IFIs and Core Labor Standards	A
ILO	B
Low-Wage Workers	C
Upgrade Status of Secretariat?	D

Environment

BECC for Inter-American Development Bank? <i>Jennifer Haverkamp</i>	E
Environmental Impact Assessments <i>Jennifer Haverkamp</i>	F

Economic Background

Data on Countries identified in Sec. 108 Report	G
Data on Upper & Middle Income Countries (Including Wage Levels)	H
Pre and Post UR Tariff Levels	I
Export Performance Data	J
Labor Compensation Disparities	K
Low-Wage Countries	L
Trade Deficit	M
Trade Deficit -- Impact on Jobs	N
Trade Deficit & US Competitiveness	O
Trade & Exchange Rates	P
U.S. Economy	Q

Other Related Issues

APEC	R
APEC -- Labor & Environment Goals/Initiatives	S
Possible Future FTA Prospects	T
Regional Agreements	U
Shipbuilding Agreement	V
SPS as Trade Barrier	W

Multilateral Agreement on Investment

Why Not use Fast Track?	X
Questions about Specific Issues	Y

Other North Related Questions Z

Canada, Mexico generally
 Effect on Immigration, Sanctions etc.

Increasingly concerned - Mexico

AA

Q: Why does the Administration need fast track authority when it has been able to negotiate more than 200 trade agreements so far without it?

- Fast track is needed for trade agreements that call for a change in U.S. legislation. Of the more than 200 trade agreements and declarations negotiated by this Administration, very few have required implementing legislation.
 - Many were agreements under which foreign governments, not the United States, have agreed to market-opening measures -- often in response to action threatened by the United States under our trade laws or dispute settlement procedures.
 - Others were agreements ensuring that certain foreign-made products, such as textiles and apparel, enter the U.S. market in only limited quantities.
- But some of them, like the OECD Agreement on Shipbuilding (which requires implementing legislation), and certain bilateral investment treaties (which require Senate advice and consent) have not yet entered into force -- years after the negotiations concluded -- because they have been held up in Congress and are not eligible for fast-track treatment.
- More importantly, none of those agreements were comprehensive trade agreements covering a wide range of goods, services, investment and intellectual property protection issues -- like the NAFTA and WTO Agreement -- under which all negotiating parties have to give concessions to get concessions.
 - Such agreements, which necessarily involve advantages in one area offsetting concessions in another, are particularly vulnerable to multiple amendments once they reach the Congress -- amendments which, while possibly small in themselves, could unravel entire agreements.
 - Through the fast track, Congress gave the President the same bargaining power possessed by his counterparts: the ability to ensure that the agreement reached internationally would be the agreement voted on at home. In return, fast track integrates the Congress into the negotiation process, with Congress setting negotiating objectives, providing advice on specific aspects of the the negotiations, and reviewing agreements before they are signed.
 - Without fast track, the President cannot assure our negotiating partners that the deal they strike is the deal that will be voted on by Congress.
 - Without that assurance, foreign governments are reluctant even to negotiate with the United States -- Chile is a recent example -- and will not make the tough concessions necessary to reach agreements the United States would be willing to sign. No trading partner will give its bottom line knowing that the bargain struck could be re-opened.

GUIDANCE FOR NEGOTIATORS

(c) GUIDANCE FOR NEGOTIATORS. -

(1) In pursuing the negotiating objectives described in subsection (b), United States negotiators shall take into account legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity interests and the law and regulations related thereto.

(2) In the course of negotiations conducted under this act, the United States Trade Representative shall --

(A) consult closely and on a timely basis with, and make every effort to keep fully apprised of the negotiations, the congressional advisers on trade policy and negotiations appointed under section 161 of the Trade Act of 1974; and

(B) take into account the need for the United States to retain the ability to enforce rigorously its trade laws in order to ensure that United States workers, farmers and firms can compete on fair terms and enjoy the benefits of reciprocal trade concessions.

Benefits of this Approach

- This portion of the bill is new. U.S. negotiators were not given such universal guidance under previous Fast Track legislation. In the 1988 Act, only the foreign investment objective included this provision. I believe that, as we look outward toward foreign markets, it is important to keep in mind more generally our priorities for our domestic community, for our home environment.
- We should reaffirm our responsibility to ensure that our trade liberalization efforts take into account domestic policy objectives. We must balance our zest for opening markets overseas with a clear understanding of the impact at home.
- In addition, times have changed. As I have explained before, we are not just negotiating tariffs -- those days are over. Negotiating agreements that address the needs of U.S. industries and their workers today are complex.
 - U.S. negotiators must deal with, for example, standards, patents, barriers to investment, satellite transmissions, the Internet, government procurement practices, licensing requirements of professional service providers, and more complicated rules of origin for goods.
- In these changed times, the agreements we negotiate must strike the right balance between restraining protectionist foreign regulatory practices and preserving our right to protect health, safety, and the environment here at home.
- Because of the intricacy, complexity and breadth of issues that are found in trade agreements today, consulting frequently with our congressionally mandated advisors is ever more important.
- U.S. negotiators are active around the world, in Asia, Latin America, and Geneva. Under these conditions, I feel strongly that we must reaffirm our commitment to consult broadly and often.

- Our negotiators must always keep in mind this general guidance, even with the new and more stringent consultation provisions that are specifically required under this bill.
- At the same time, we need to defend what is ours. U.S. trade laws are in place to ensure fair treatment for our workers, farmers and firms.
- Once we have negotiated concessions from our trading partners, we need to make sure they live up to those concessions. The United States clearly does and we expect nothing less from our trading partners.
- I want all U.S. negotiators to keep this in mind as they negotiate the complex new trade agreements for the next century.

Drafted by: M Ryckman

Cleared by: J Haverkamp/J Huenemann

NAFTA: SOLVING U.S. AGRICULTURAL TRADE CONCERNS WITH CANADA

Issue:

Some within Congress and the agricultural community continue to attack NAFTA and express hesitance to support the renewal of fast track because of their concerns with Canada. The principle complaints are from the dairy industry and northern tier wheat states.

Talking Points:

General Points on Unfair Canadian Agricultural Trade Policies

- There are a number of agricultural sectors in which, even after the CFTA and NAFTA, Canada and the U.S. continue to have bilateral trade conflicts. The Administration is committed to addressing the disputes which remain unresolved.
- Where Canada appears to have acted outside of its NAFTA or WTO obligations, we have, and will continue to, press Canada to live up to its obligations.
- While committed to addressing the unresolved issues, it is important not to let a handful of disputes overshadow the fact that the US has benefited greatly from increased access to the Canadian agricultural market under the CFTA and the NAFTA.
- It is also important to bear in mind that the U.S. - Canada FTA is the agricultural market framework for what is contained in the NAFTA re Canada (i.e., the exceptions to tariff elimination). The agricultural market access obligations with Mexico eliminate all tariffs.

Dairy (see also detailed briefing paper on dairy)

- The United States and New Zealand have raised questions about Canada's Special Milk Pooling Class System in the WTO Agriculture Committee, most recently at the June 25-26 meeting. Canada's defense that the new system is no longer an export subsidy is not compelling.
- The U.S. dairy industry is developing information on the operational aspects of the new system. Ambassador Barshefsky has told the industry if USTR attorneys believe we have a reasonable case she will proceed with a WTO dispute settlement case.

Canadian Wheat (see also detailed briefing paper on wheat)

- We have been, and continue to be, engaged in a series of consultations with Canada about U.S.-Canada wheat trade issues. These discussions have focused on addressing the problems

raised by North Dakota farmers.

- We have pressed the Canadians very hard to eliminate the barriers on the Canadian side that prevent our farmers from selling into the Canadian market and will not rest until the playing field is leveled.
- The Commerce Department is also planning to meet soon with wheat farmers from North Dakota to discuss options available to the industry.

BACKGROUND

See individual briefing papers on dairy and wheat.

Drafted: SDarragh/MWaters

Reviewed: JHuenemann 8/22

NAFTA/FASTRACK and Food Safety

ISSUE:

Recent Congressional attacks on the NAFTA and Fast Track authority have been fueled by press reports on the hepatitis A outbreak in Michigan attributed to Mexican strawberries, a cyclospora infection traced to imported Guatemalan raspberries and Hudson Foods' E. Coli hamburger recall.

POINTS TO MAKE:

- Foreign trade improves the variety and nutritional quality of foods available to consumers.
- Trade agreements do not compromise food safety. We apply the same standards to imports as we do to domestic agricultural products and FDA figures show that agricultural imports in general are no more likely to present health risks than domestic agricultural products.
- Specifically, recent data from the Food and Drug Administration does not substantiate the charge that food-borne illness has increased because of expanded trade through NAFTA.
- In fact, the FDA reported a 12% decrease in the detention rate of Canadian origin food products and a 30% drop in the detention rate for Mexican-origin products compared with 1995. Indeed, it should be further emphasized that fully 70% of the products that were detained were not found to be in violation of US standards but were only held up until they could be verified as safe.
- The Center for Disease Control reports that while types of food-borne illness associated with foreign foods may be different than those carried by domestic products, the overall level of risks to consumers in general from both is similar and extremely low.
- During 1995 and 1996, the total number of pest detections by APHIS at the US points of entry dropped by almost 10,000. This drop clearly shows that increased trade in agricultural goods has not increased the risks to US animal and plant health.

What is the Administration doing to reduce the incidence of food borne illness?

- In May, Vice President Gore announced a five point plan to increase the safety of the nations food supply. The plan, "Food Safety From Farm to Table", was developed by the Departments of Agriculture, HHS, and FDA. Working with state and local officials, the food industry, scientists, consumer and producer groups, these federal agencies will build on previous Administration steps to modernize the nation's food safety programs. Specifically, this initiative will:

- Enhance coverage of imported foods and evaluate new methods for testing imports.
- Ensure compliance with the seafood, meat and poultry Hazard Analysis and Critical Control Points (HACCP pronounced Hasip) regulations, which include specific provisions related to imported foods, to prevent food safety hazards before the product enters the marketplace. USDA, FDA and EPA are conducting research to find more efficient ways of testing for food borne hazards like Campylobacter, Salmonella, E. Coli, hepatitis A, mycotoxins and marine toxins in food.
- Federal, state and local governments will build a new national early-warning system to help detect outbreaks of food borne illness earlier, so the food safety regulatory network can quickly respond to contain any future problems, including stopping shipments at the border and increasing testing.

If asked about Guatemalan raspberries only:

- The outbreak of cyclospora due to Guatemalan raspberries would not have been avoided even with 100% inspection. Phytosanitary and food safety health inspection procedures cannot detect cyclospora. In fact, cyclospora outbreaks occur in domestic produce as well.

If asked about the frozen strawberries only:

- The source of contamination for the frozen strawberries originally imported from Mexico is unknown. The Centers for Disease Control and Prevention, the US Food and Drug Administration, the California Department of Health, and the California Department of Food and Agriculture are still conducting an investigation to determine whether the strawberries were contaminated in Mexico, the US processing plant or some other location. (Still fact checking this bullet).

BACKGROUND:

Recent Congressional attacks on the NAFTA and Fast Track have been fueled by press reports on the Hepatitis A outbreak in Michigan attributed to Mexican strawberries and a subsequent cyclospora infection traced to imported Guatemalan raspberries. NAFTA critics argue that free trade allows agricultural imports unhindered entry into the US thereby weakening phytosanitary and food safety inspection procedures and endangering the health and safety of the nation. In fact, the US food supply has never been safer. Several government agencies inspect and control agricultural products and consumables. Furthermore, in May, VP Gore announced a 5 point plan to increase the safety of the nation's food supply, bolstering the effective measures already in place.

Q. What are you doing to ensure that the WTO doesn't force America to lower its food safety standards?

- During the Uruguay Round, we made absolutely certain that America's right to maintain our high food safety standards would not be compromised.
- Both the WTO and the NAFTA agreements protect each member's rights to establish and maintain the public health and safety standards that it feels is appropriate.
- America continues to apply the same strict food safety standards to imported products as we do to domestic products. FDA figures show that, in general, agricultural imports are no more likely to present health risks than the same domestic products.
- In May, Vice President Gore announced the Administration's "Food Safety from Farm to Table" initiative. As part of this initiative, we are enhancing surveillance of potential food safety hazards both domestically and at the border.

Why is Chile our Next FTA Candidate

Question

Why is Chile our next FTA candidate? There are other democratic countries that have larger economies that are stable in Latin America.

Answer

- Two Presidents (Bush and Clinton) have committed to a free trade agreement (FTA) with Chile. Given this, concluding an FTA with Chile is viewed as the litmus test of the U.S. commitment to Latin America.
- Chile is the recognized leader of economic reform in Latin America and its most successful economy over the last decade and the most prepared of any country in the region for an FTA with the U.S.
- By concluding a free trade agreement with Chile the U.S. will be supporting market based economic reform in Latin America and will be taking its first concrete step in building the Free Trade Area of the Americas (FTAA) in a manner that advances U.S. interests.
- Chile's economic achievements are impressive by any comparison:
 - an economic growth rate that has averaged over 6 percent for 12 years;
 - growth, combined with increased social spending since the return to democracy, that has lifted over 1.3 million above the official poverty line in the last 5 years out of a total population of nearly 14 million (i.e., an equivalent ratio applied in the U.S. would mean 20 million being lifted above the poverty line);
 - the highest domestic savings and investment rate of any country in Latin America;
 - a consistent monetary policy run by an independent Central Bank and single digit inflation that continues to trend downward;
 - a pension system that serves as a model for many countries around the world and which contributes significantly to Chile's high savings rate;
 - an open and competitive economy and the leader of privatization reform in Latin America; and
 - a market opening trade policy that has negotiated 6 FTAs since 1992 and is active in APEC, the FTAA, and the WTO.
- Chile is indicative of the potential of our trade ties with Latin America - its economy of

nearly 14 million people and GDP of just over \$70 billion absorbed U.S. exports in 1996 in excess of what we exported to Russia, India or Indonesia.

Question

General Pinochet is still the army commander in Chile. Why are we interested in an FTA with a country that has a former dictator in a high level position in its government? Furthermore, some of Pinochet's anti-democratic provisions of governance still exist, such as the 8 appointed Senators which on occasion block certain proposed reforms supported by the Frei government.

Answer

- General Pinochet is an operative in the military which is now under civilian rule. We have no reason to believe that Chile's democratic institutions are in question.
- It is a tribute to the success of Chile's dignified return to democracy that the military structure in Chile is functioning under civilian democratic rule.
- As to the elements of the governing structure in Chile that continue to reflect certain remnants of the previous military period, the democratically elected Aylwin and Frei administrations have systematically proposed reforms that have progressively scaled back their scope and influence.
- This effort continues in the few areas where this continues to be an issue of concern in Chile, including with respect to the role of appointed Senators whose terms expire in 1998.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Visa for Lael Brainard; RE: Personally Identifiable Information [partial] (1 page)	09/25/1997	b(6)

COLLECTION:

Clinton Presidential Records
Policy Development
Eric Biel
OA/Box Number: 10601

FOLDER TITLE:

Questions and Answers [Fast Track]

2017-0401-F
db4723

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or
financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President
and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of
personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed
of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C.
2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of
an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial
information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of
personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement
purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of
financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information
concerning wells [(b)(9) of the FOIA]

THE WHITE HOUSE
WASHINGTON

September 25, 1997

MEMORANDUM FOR THE VENEZUELA DESK, STATE DEPARTMENT

FROM: Gay Joshlyn
National Economic Council

SUBJECT: Visa for Lael Brainard

Lael Brainard, Special Assistant to the President, National Economic Council, will be traveling to Venezuela on October 4, 1997 to attend official meetings in advance of the President's trip to South America. She requires a visa from the Embassy of Venezuela. In order to process the visa, we need to have a letter from the State Department to give to the Embassy. The information on Lael's trip is as follows:

Name:	S. Lael Brainard
Arrival Date:	October 4, 1997
Departure Date:	October 5, 1997
Reason for Trip:	To attend official meetings in advance of the President's trip to South America
Passport Type:	Official
Passport Number:	(b)(6) [001]
Passport Issue Date:	February 22, 1996
Passport Expiration:	February 21, 2001
Date of Birth:	(b)(6)

Due to time constraints, please call me at 456-2801 as soon as the letter is done so I can pick it up and take it to the Embassy. Thank you for your help in this matter.

APEC SECTORAL LIBERALIZATION: NEED FOR FAST TRACK

Q: Why is the tariff proclamation authority in the fast track bill needed for the APEC Sectoral Liberalization initiative? Don't you already have residual tariff-cutting authority?

A: It is true that we have some residual tariff cutting authority for sectors that were the subject of zero/zero or harmonization initiatives in the Uruguay Round. Section 111 of the URAA enables us to make further reductions in duties in such sectors as part of a multilateral sectoral agreement under the auspices of the WTO-- subject to provisions for "consultation and layover" with Congress and advice from the appropriate private sector advisory committees and the United States International Trade Commission.

However, there are other sectors -- of major importance to us -- where we lack residual tariff-cutting authority, at least for many items in those sectors. This is the case, for example, with respect to environmental technologies and services and energy-related equipment and services. Without the new tariff proclamation authority contained in the FT legislation, we would be unable to implement negotiations in these important sectors and that puts our ability to pursue negotiations in these sectors in jeopardy.

I also would point out that in evaluating the prospects for success of this sectoral liberalization exercise, we cannot just look at each sector -- and the requirements for negotiation in that sector -- individually. The prospects for moving this initiative forward are much greater if it is perceived that it will result in a balanced package of trade-opening agreements. And our ability to shape such a balanced package depends very much on whether we have fast-track authority. Our trading partners view Fast Track as a signal of U.S. leadership in the world economy.

The President should be in the strongest position possible to show leadership in November when APEC Leaders will endorse the pursuit of certain sectoral initiatives -- much as he did last year in persuading other Leaders to endorse the ITA as a "deliverable" for Singapore. Work on the details of the initiatives selected will carry into next year. Much as was done in the ITA, we'll also need to bring other trading partners outside APEC "on board". Our credibility to push these initiatives multilaterally will suffer without new Fast Track legislation.

Fast Track Qs and As: FTAA and Latin America

Q: Why do you need fast track now for the FTAA that has a deadline of 2005?

A: Currently all of the other countries in the Hemisphere are negotiating bilateral and sub-regional free trade arrangements. Most of them already have negotiated the tariff elements of those arrangements (e.g., MERCOSUR, Andean Community, Central American Common Market, CARICOM). Now they are turning to the other elements, including services, investment, government procurement, IPR, etc. Through these negotiations they are de facto establishing the rules of trade within the Hemisphere. In the absence of fast track, of course, we are not included in any of those negotiations. Unless we initiate Hemisphere-wide FTAA negotiations immediately, the rules will be established without our input, and U.S. commercial interests will be placed at a disadvantage to the degree that the rules elsewhere in the Hemisphere differ from ours.

Q: Wouldn't an FTAA with all of Latin America be even worse than the NAFTA with Mexico?

A: The NAFTA enabled us to eliminate Mexican import barriers that typically were several times more restrictive than the import duties and other barriers that we placed on Mexican exports to the U.S. For example, Mexican tariffs on U.S. products averaged 10% on U.S. products, whereas our tariffs on Mexican products averaged 2%. In the case of most other Latin American countries, the imbalance in access is even greater. For example, according to the World Bank, post-Uruguay Round bound tariffs averaged 29% in Brasil, 40% in Colombia, 31% in Argentina, and 32% in Venezuela. While the currently applied rates in these countries generally are substantially lower than these bound rates (average 12-15%), the countries would be within their WTO rights to raise their tariffs to the bound rates. Clearly, it is in the U.S. interest to eliminate the vast differences between the openness of the U.S. market and the barriers we face elsewhere in the hemisphere. Moreover, the process of sub-regional economic integration has proceeded very rapidly elsewhere in the Hemisphere, putting U.S. products at a growing competitive disadvantage vis-a-vis goods sourced from within the sub-regional agreements. For example, Canadian wheat and telecommunications equipment have a competitive advantage in Chile now that Canada and Chile have negotiated an FTA. Likewise, construction equipment and auto parts manufactured in Brasil have a growing preference over U.S.-manufactured products in Chile and Argentina, and soon in Venezuela. Chilean fruits and wines have a preference in their favor over U.S. products in all of the Andean countries. We badly need to stop this erosion of U.S. competitiveness in the Hemisphere. Finally, the FTAA is not an extension of NAFTA. It will be negotiated from scratch, and we look forward to

advice from Congress on how to make it a "state of the art" agreement in promoting and defending U.S. interests.

Q: Shouldn't the FTAA include provisions for countervailing duties in cases of massive devaluations which generate sudden trade deficits for the United States (e.g., 1994 devaluation of the Mexican peso)?

A: I would be reluctant to institute such a mechanism in a free trade agreement. In the first place, it may be entirely appropriate for a country to devalue its currency (e.g., when the currency clearly has become significantly overvalued); we would not want to impede sound macroeconomic and monetary policy changes by the threat of trade-reducing import surcharges. Second, introducing a mechanism of fluctuating tariffs responding to fluctuating exchange rates could increase uncertainty substantially, thereby reducing trade for all parties. Finally, the best way to deal with injury or the threat of injury from an import surge (including one caused by an a devaluation of a trading partner's currency) is through general safeguard mechanisms, such as we already have in our domestic law (section 201) and in the WTO (Article XIX). These safeguards can be applied to the affected industry or industries, thereby avoiding a larger inflationary effect on our own economy that could be caused by an across-the-board surcharge on all of a trading partner's goods, including non-competing goods (e.g., petroleum, coffee).

Q: Why should we reward major narcotics trafficking countries with a free trade area? Can we exclude such countries from the FTAA?

A: Certainly in considering any bilateral free trade area, we should assess the degree of cooperation that we receive in fighting narcotics trafficking. We would not enter into bilateral FTA negotiations with a country that was being uncooperative in the fight against narco-trafficking. Moreover, I feel confident that our trading partners in the hemisphere understand so clearly the damage that narco-trafficking does to societies in the supplying and transit countries, as well as in the consuming countries, that we will see intensified efforts within the overall Miami Summit process to fight drug-trafficking in our region. If a country were truly an outlaw country in providing safe haven for drug trafficking, I am confident that all the countries in the hemisphere would put pressure on such a country to clean up its practices as the price for remaining in good standing among the Summit of the America (and FTAA) countries.

Q: Will you suspend FTAA negotiations with any country that returns to dictatorship?

A: The Summit of the Americas was open to all democratically elected leaders in the

Gephardt's Labor Concerns

Question

Why doesn't the Administration adopt the view that core labor standards should be incorporated into the body of comprehensive trade agreements and be subjected to the same dispute settlement provisions (i.e., trade sanctions), just as is the case with IPR, tariffs and other measures already addressed in this manner?

Answer

- This Administration is strongly committed to the adoption of core labor standards on a global scale. In fact, we have spearheaded the effort internationally and done more than any Administration in history on this front.
- Our focus is on pursuing an approach that both advances core labor standards and ensures we are opening foreign markets. We believe that respect for core labor standards and market opening trade agreements are mutually supportive.
- In short, reciprocal trade agreements are in the interests of U.S. workers as is the adoption of core labor standards globally.
- We also believe that agreements regarding core labor standards should contain obligations and have mechanisms to encourage compliance, and we are committed to pursuing this approach. In this context, however, we believe it prudent to remain flexible in how you address compliance and enforcement in each case.
- At the same time, we are interested less in where these provisions are located in agreements, and more interested in advancing on this issue with our trading partners both in multilateral fora and in regional or bilateral contexts where appropriate.
- We believe it is also important to bear in mind that a comprehensive free trade agreement, for example, is a two way street where obligations are adopted on a reciprocal basis.
- There is no domestic consensus, nor will one be secured in the foreseeable future, to adopt in trade agreements provisions that would allow for trade sanctions to be imposed in regards industrial relations (i.e, right to associate, organize and bargain collectively).
 - The NAFTA's labor accord does allow for the imposition of monetary fines/trade sanctions vis-a-vis Mexico in regards certain labor law areas germane to core labor standards and other labor standards (i.e, child labor, but also occupational safety and health and technical minimum wage standards), but not in regards industrial relations (although rigorous investigations, public hearings and Ministerial consultations can be held on these topics).

- Similarly, there is no consensus within the international community at this time to incorporate such an approach either in the WTO or in regional or bilateral agreements.
- We believe we can progress on core labor standards through a variety of means in the global economy, and are committed to pursuing every means that is feasible. At the same time, we must also advance our interests in opening foreign markets and providing new high paying job opportunities for U.S. workers.
- We believe we have already made tangible progress in this regard and are committed to making yet more progress.

Drafted: USTR/Huenemann

Cleared: DOL/Samet/Perez-Lopez 9/15

TRADE AND INCREASED DISPARITIES IN LABOR COMPENSATION

Question: Trade agreements are pretty good for higher skilled workers with jobs supported by exports. But, what about lower skilled workers competing against imports? Don't market opening agreements suppress their wages and contribute to growing income disparities in the U.S.?

Answer:

- Your question is a legitimate one. It has been addressed a number of times in highly technical economic analysis. The OECD has also recently studied extensively the linkages between trade, employment and real compensation. The results of these studies vary considerably in their conclusions. **Let me, however, tell you in a nutshell what I believe is the closest we have to a consensus view on this issue, based on such work.**
- **The literature tends to suggest that the principal source of increased disparity in labor compensation is technological change.** New technologies in communications, information, manufacturing, transportation and number of other areas have increased the economy's needed for higher skilled workers while limiting the growth in demand for lower skilled workers. New technology, of course, creates new products, increases labor productivity and real income for the country as a whole, but possibly at some expense in demand for and remuneration of lower skilled workers.
- **Trade may act in a similar manner to technology, though its effects are usually considered to be considerably less.** The U.S. has on average the world's highest labor productivity and most creative and skilled labor force. Our exports embody, the work of skilled U.S. workers. Productivity is higher in exporting industries and the wages of export supported jobs are 13% to 16% higher than the U.S. national average. **Trade liberalization, by removing impediments to U.S. exports, therefore tends to shift job growth over time somewhat toward higher skilled jobs rather than lower skilled jobs and, at least theoretically, may contribute to changes in wage distribution.**
- **We are careful with regard to trade agreements about the interests of import impacted workers.**
 - **First**, the reduction in any U.S. barriers is phased in gradually, with the longest phase in provided for the most sensitive industries to ease any burden of adjustment.
 - **Second**, trade-related adjustment assistance such as for NAFTA provides more favorable support for trade impacted workers than for U.S. workers who face job displacement for purely domestic reasons.
 - **Third**, we always reserve our rights and have in fact used provisions for temporary safeguard import relief to assist worker adjustment.
 - **And, fourth**, of course, as the world's most open major market, our barriers are already very low, and U.S. workers do not face the type of substantial adjustments to trade agreements that elsewhere in smaller, currently more protected markets.

- **Whatever the impact of trade on wage disparity, import protection is a no more advisable policy to address it than a policy that would take punitive measures to persuade our scientists, researchers and high-tech companies to cease innovating.** Both would slow the rate of growth and real labor compensation. The economic costs of trade protections would certainly outweigh the benefits.
- **Ultimately, the best and most lasting solution to any increase in wage inequality growing out of properly functioning markets is better education and increased training.** The enhancement of job skills allow more lower wage workers to take greater of advantage of technological changes and more open markets to raise their productivity and incomes. The upgrading of the skill level of labor force should also contribute to bringing better balance between supply and demand for lower-skilled workers as well as between the supply and demand for higher skilled workers, thus helping to offset tendencies toward greater wage inequality.

[Americans as individuals and families have always valued the sense of having an opportunity to get ahead. Education and training, on the one hand, job-enhancing technology and market-opening agreements, on the other, are among our principal means for expanding economic opportunity for U.S. workers.]

COMPETING AGAINST COUNTRIES WITH LOW WAGES

Issues: How can U.S. workers compete in trade against workers in developing countries earning of small fraction of U.S. wages?

- Because American workers are highly productive, trading with low wage countries does not, as a general matter, depress wages in the U.S. The labor cost of producing a product is a function of both wages and worker time spent producing the product. U.S. workers total compensation is \$17 to \$18 an hour, while wages are \$7 or \$5 or eve \$2 an hour in foreign competitors. American workers, however, are highly productive spending far less time to produce most anything than is required of workers in low wage countries. As a result, in many areas the United States has both higher wages and lower unit labor costs than our low wage trade partners.
 - A recent study published by the Federal Reserve Bank of San Francisco examining several Asian developing countries illustrates this point. According to its estimates, workers in the Philippines and Malaysia earned less than 20% of the compensation of their U.S. counterparts in 1990, yet unit labor costs in those countries were much higher than in the United States because of productivity differentials. In Korea and Thailand, the study showed that productivity differentials significantly, though not completely, offset wage differentials in 1990. Perhaps even more significantly, the study showed that unit labor cost differentials favoring the four Asian countries examined had shrunk significantly, or turned into disadvantages between 1970 and 1990.
 - The authors concluded, “Contrary to the sweatshop labor argument, low wages are a symptom of low productivity, not an independent source of international competitiveness ... This analysis indicates that fears about unfair competition from low-wage NICs are greatly exaggerated and should not stand in the way of free international trade, which benefits both the U.S. and developing countries.”
 - The fact is that workers can and do compete successfully with low wage countries. In the last 10 years U.S. exports to low-wage countries have rise 240%, while exports to high wage countries are up just 140%. Exports to low wage countries now account for 42% of total U.S. exports.
- U.S. companies compete successfully with state of the art manufacturing facilities in low wage countries.
 - The competitiveness of output from such facilities is influenced significantly by the quality, cost and availability of inputs into its production -- everything ranging from telecommunication, transportation, financial services to purchased parts and components. Thus even state of the art facilities in developing countries are in

fact far from operating as efficiently as in countries like the United States because of low productivity and frequent quality and availability problems in the domestic goods and service supplying sectors upon which the manufacturing facility depends. The role of these purchased inputs can be large. For example, only one-quarter of the factory price of a new U.S. auto actually pays for work done by U.S. auto companies.

- o **The U.S. has competed successfully in the industrial sector.** U.S. industrial output is up 20% in real terms since 1992 (compared to an 7% rise for Japan and a 2% decline for Germany). Manufacturing employment since 1992 is up roughly one-quarter million due largely to strong U.S. productivity growth in the manufacturing sector (3% to 4% a year).
- **Imports from low wage countries are relatively minor.** Imports from non-oil developing countries account for only 4% of U.S. spending, and spending of such imports has grown only 1.5% during the past decade.
- **Real U.S. wages have started to increase again: up nearly 2% in the last 2 years. To the extent inflation is overstated, as many believe, real earnings growth may be understated.**
- Reducing barriers and expanding trade with low wage countries is more of an opportunity than a threat for most U.S. workers and the chance to help achieve basic domestic economic aspirations. Trade expansion with such countries increases the production of what we do best and the higher wage jobs supported by such exports. Average U.S. labor productivity and real labor compensation rise as result. And when we workers enjoy the fruits of our labor in the market place, we find that imports further raise the real purchasing power of our wages and salaries.
- **Expanded education opportunities and worker training.** Competitive pressure from low wage countries is greatest in industries where labor skills and productivity are relatively low. The answer for U.S. workers, however, is not to cut off imports, but rather to improve the quality and availability of educational and worker retraining opportunities.

DOES THE TRADE DEFICIT COST JOBS?

Question: The Administration argues that exports support around 15,000 jobs per billion dollars. If imports cost us jobs in similar proportions, isn't the trade deficit overall costing us a couple of million jobs/

Answer:

- **The Commerce Department does a careful study each year of the total U.S. labor content required to produce U.S. exports. They do not do a study of jobs displaced by imports**, in large part because that is a much more difficult question to answer. We produce exports and can measure the U.S. labor content. We do not produce imports and know that imports vary greatly in their effect on U.S. jobs. Some imports of inputs into U.S. production may complement U.S. production and enhance U.S. jobs. Some may be non-competing with U.S. production -- tea would be an obvious example. Others clearly compete against U.S. production and have a job displacing effect. **However, there is no justification for taking a ratio of jobs-to-exports and applying it to jobs to imports.**
- **Aside from this measurement question, the broader issue remains: would we have more jobs if trade were in balance? Answering this question depends in part on understanding the underlying causes of the U.S. movement to trade deficit beginning in the early 1980s.** In a nut shell, under the impact of large increases in the federal budget deficit and reductions in private sector savings, the overall U.S. saving rates fell in the early 1980s. The underlying attractiveness of our economy, however, put us in a position where foreign savers and investors were quite willing lend to and invest in the United States. **In fact, since 1982, the U.S. has experienced net cumulative inflows of foreign capital totaling roughly \$1.3 trillion. These funds supplemented U.S. saving and financed a healthy investment rate in the U.S. economy. But, net capital inflows necessarily correspond to trade deficit -- actually deficits on the current account, the broadest measure of trade -- of like amount.** This is true for any country. Capital account surpluses correspond to current account deficits of like amount and vice versa.
- **The trade deficit is a problem.** The President and Congress working together over the last 4 years have made substantial progress in reducing the federal budget deficit and strengthening national saving rate. In fact, although the trade deficit has increased in dollar terms during this recovery, **substantial progress has been made in that trade deficit has been brought down substantially relative to the size of the overall economy -- down from 3.3% of GDP in 1987 to approximately 1.5% today.**
- **Has our deficit experience of the last cost U.S. jobs? My first observation is that in light of our saving problem since the 1980s, the interests of U.S. labor have probably been helped by in the inflow of supplementary saving from abroad.** Without the ability to attract foreign capital, investment would have been lower in the United States, on average every worker would have had fewer or less effective tools to work with.

Productivity, average real labor compensation and living standards probably would have been lower.

- **My second observation is that if you look at the pattern of our trade deficits over the last 15 years, they show that jobs have been scarcest when the trade deficit was at its lowest, and growing the most rapidly when the trade deficit was rising.** For example, in the recession of the early 1990, the current account came close to overall balance at a time when the unemployment rate reached close to 8%. Conversely since 1992, net employment in the United States has grown by nearly 13 million -- in stark contrast to the near zero (400,000) growth in jobs in the other high-income countries of the G-7 -- even as the current account deficit expanded from \$56 billion to \$148 billion. The point is that, in fact, the trade deficit has grown when strong growth of the U.S. economy has:

-- 1) caused strong job growth at home as well as imports growing faster than exports; and

-- 2) when the net capital inflows corresponding to the expansion of the trade deficit were needed to support strong growth of investment in the United States.

Also, despite the rise in the trade deficit, the increase in U.S. exports since 1992 has accounted for over one-third of real GDP growth, and the 1.7 million increase in export supported jobs has accounted for one out of seven jobs in U.S. overall employment expansion.

Looking at the facts, therefore -- that large trade deficits have occurred at times of high demand for U.S. labor and reduced trade deficits at times slack in U.S. labor markets -- I find the argument that trade deficits is costing millions of U.S. jobs implausible.

- **You are concerned about the trade deficit, I am concerned and so is the President. Our approach, I believe is right one: first, to focus on the trade policy side in eliminating foreign barriers in priority areas that will expand U.S. exports and support the expansion of higher wage U.S. jobs; second, to continue strengthening national saving through eliminating the federal budget deficit and measures to encourage stronger private sector saving.**

Trade Balance Not the Measure of Our Trade Competitiveness or Economic Success

The President's trade policy has been criticized in some quarters because the trade deficit has increased during the Administration. Some have argued that the increase reflects an underlying lack of competitiveness in the U.S. economy and has been responsible for a loss of jobs overall and of economic growth. Nothing, however, could be further from the truth.

For the past four years the United States has been ranked as the world's most competitive major economy by the World Economic Forum. (For the past five years, the United States has been ranked as the world's most competitive country by the International Institute for Management Development). The United States has the highest per capita income in the world (\$26,781). [World Bank] The U.S. figure is 22% higher than for Japan (\$21,140 at purchasing power parity exchange rates), 33% higher than for Germany (\$19,480), and 267% higher than for Mexico (\$7,040).

In industry after industry -- in agricultural, manufacturing and service sectors -- the U.S. produces some the world's best products and some of the best value for the price. Our exports, as noted earlier, have accordingly grown rapidly. Since the beginning of the Administration the expansion of exports has accounted for one third of the increase in our GDP.

Relative to the size of the U.S. economy, however, the goods and services deficit is nearly half (1.5 percent) as large as it was at its peak (3.3 percent) during the last decade (attained in 1987). For goods alone, the deficit accounts for 2.5 percent of the U.S. economy as compared to 3.4 percent during its peak in 1987.

United States has enjoyed a sustained period of healthy growth, rising employment, falling unemployment and moderate inflation. The rise in our trade deficit during the Administration is, in fact, related to the favorable performance of the U.S. economy. **The U.S. economy began to recover earlier than other countries from the global recession of the early 1990s and to grow faster than the markets of many of major trade partners. As a result our demand for imports rose at a time when foreign demand for U.S. exports was dampened by lack of growth in foreign purchasing power.** The U.S. economy has grown almost twice as fast as the major economies of the G-7 (Germany, U.K., France, Italy, Japan, Canada) over the last four years.

No previous Administration has made a greater effort, nor had more success, in reducing barriers to U.S. trade. Foreign trade barriers do have some influence on the trade balance, and we address these barriers vigorously. However, more recent increases in the deficit largely reflect superior performance of the U.S. economy. The figures tell the story. Even as our trade deficit has risen, **U.S. industrial production has grown nearly 20 percent** in real terms over the last four years. In contrast, the level of industrial production in **Japan** -- a country with which we still have a large deficit -- is just 7.4% above where it was in 1992. In Germany, another country with which we run a significant deficit, industrial production is currently 1.7 percent below 1992 levels.

Similarly for **employment**. The nearly 13.0 million job increase since the President took office stands in sharp contrast to near zero job growth in the other high-income, large industrial economies of the G-7 combined. In the United States, the **unemployment** rate is currently below 5.0 percent compared to an average rate over 12 percent for France, 10 percent for Germany, and 11 percent for the European Union. The point is made not to criticize our foreign trade partners, but only to provide some context for the rise in the U.S. trade deficit, a context that is reassuring with regard to the relative U.S. economic performance over the last four years.

It is true that in the last two decades the U.S. trade balance has fluctuated with business cycles between smaller versus larger deficits, whereas a country like Japan has experienced fluctuating trade surpluses. This structural tendency toward trade deficits, in part, reflects the weakening of U.S. saving rates in the early 1980s. Given the inherent -- and growing -- strength of the U.S. economy -- reduced national saving has been offset by greater foreign capital inflows. These in turn have both supported U.S. domestic investment and, of necessity, created corresponding deficits on the U.S. current account. In fact, **the U.S. has experienced net cumulative inflows of foreign capital, and cumulative current account deficits of roughly \$1.3 trillion since 1982** (adjustments made for statistical discrepancies).

In recent years a good deal of progress has been made in lowering the trade deficit relative to the U.S. economy. The goods and services deficit has fallen from a peak of 3.3% of GDP in 1987 to about 1.5% currently. The President and Congress working have set the country on a course to eliminate the federal budget deficit. That together with some expected enhancement of household saving rates, due to the aging of the baby boom generation, should contribute to high national saving and further progress on the trade deficit.

TREATY VS. EXECUTIVE AGREEMENT

Q: Why aren't the trade agreements you expect to negotiate subject to Senate approval as treaties under Article II of the Constitution? Isn't the fast track process directly at odds with this constitutional requirement?

- This issue was thoroughly reviewed during consideration of the Uruguay Round agreements in 1994. The vast majority of constitutional scholars expressly rejected the argument that trade agreements must be submitted to the Senate as treaties, affirming that the House and Senate have the authority under Article I of the Constitution to pass legislation to approve a wide range of international agreements.
- Among the agreements submitted over the past half century by Presidents to both Houses of Congress for their approval by majority votes have been the Bretton Woods Agreements establishing the postwar international financial institutions; the SALT I accord; and every reciprocal trade agreement that has required changes in U.S. law -- most recently the NAFTA and Uruguay Round agreements.
- Use of the Treaty Clause would completely exclude the House of Representatives from a role in considering whether to approve a trade agreement. This would be a radical departure from past practice, and hardly would be consistent with the objective of maximizing democratic consideration of trade agreements that involve "foreign commerce" under Article I and have an impact on Federal revenues as well.

NECESSITY OF FAST TRACK APPROVAL PROCESS

Q: What is the basis for your assertion that fast track procedures are essential for trade agreements, when a range of other international agreements are finalized and submitted to the Congress without fast track?

- Trade agreements typically involve changes to hundreds, if not thousands, of individual tariff lines, as well as a wide range of other changes to U.S. laws and regulations. They also necessarily involve a number of important "tradeoffs" among different U.S. interests. It would not be at all practical to first spend months negotiating such agreements and then submit them to the Congress with the opportunity that individual provisions could be changed. And our trading partners have made clear that they are not prepared to begin negotiations if that opportunity existed.
- The fast track process actually ensures a much *greater* role for the Congress before, during, and after the actual trade negotiations than normally occurs with respect to other international agreements. Few, if any, other procedures include the scope of consultation and advance notification requirements that are built into the fast track rules.

GUIDANCE ON U.S. TRADE LAWS

Q: Your proposed legislation contains a “guidance for negotiators” provision calling on our trade negotiators to take into account the need for rigorous enforcement of U.S. trade laws. At the same time, you no longer include a principal negotiating objective addressing unfair trade practices. Why?

- The “guidance” provision indeed is new, and it is intended to provide our negotiators with clear instructions on our objectives -- both in the negotiations themselves and in terms of protecting our own domestic laws and policy goals.
- The clear instruction on our trade laws -- including the antidumping and countervailing duty laws administered by the Department of Commerce -- ensures that enforcement of these laws is of paramount importance as we proceed with future trade negotiations.
- At the same time, our proposed legislation describes at length -- in the very first principal negotiating objective -- our plan to address “trade barriers and other trade distortions” and a wide range of unfair foreign trade practices.
- It is true that our legislation does not repeat the 1988 Trade Act’s provision on GATT rules covering unfair foreign trade practices, such as dumping and subsidies. We believe that this Administration already has made good on that front by successfully concluding tough agreements on dumping and subsidies in the Uruguay Round. Having said that, we certainly are prepared to discuss the advisability of including similar language in the fast track legislation with interested Members of Congress.

REPORTED COMMITMENTS ON LABOR AND ENVIRONMENTAL ISSUES

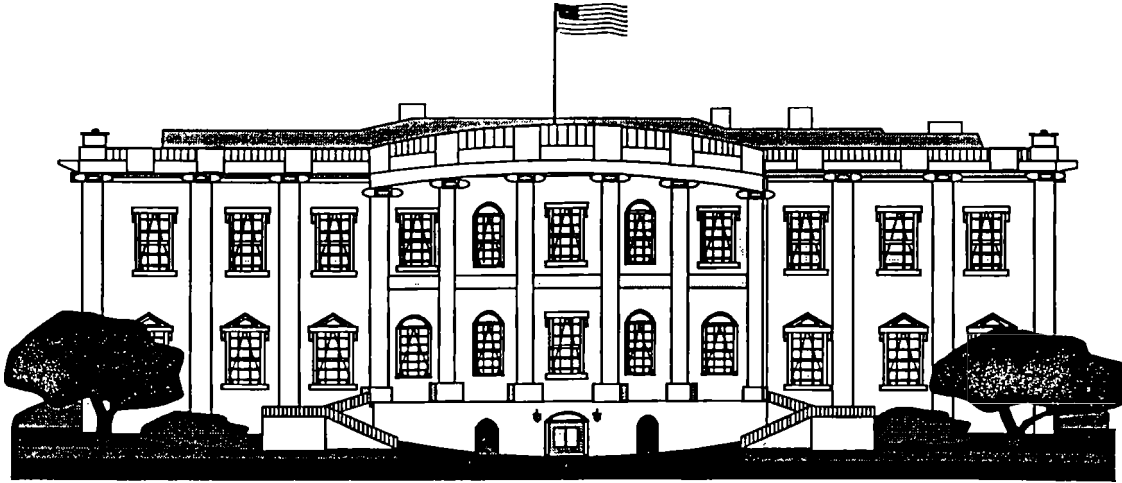
Q: There have been press reports in the past few days that the Administration is developing a series of commitments on labor and environmental initiatives in response to a request from Senator Daschle. Is that true and, if so, what do the commitments involve?

- I have not been actively involved in any such discussions, and cannot comment on any particulars, but I can say that we are exploring different ways to advance our objectives on the labor and environmental fronts -- all in line with the goals outlined by President Clinton in transmitting our proposed legislation to the Congress.
- Any such initiatives would be fully consistent with our core goal in the proposed fast track legislation of expanding trade by negotiating new agreements that open markets to our exports. We believe that there is a great deal that can be accomplished on labor and the environment outside the scope of the fast track legislation itself, but which nevertheless complements our trade liberalization objectives.
- For example, the Treasury Department already has taken several steps to promote greater attention to environmental and labor matters by the international financial institutions, including the World Bank and regional development banks. We believe that we can build on those steps in the future -- simultaneously promoting greater economic cooperation and greater concern for environmental protection and worker rights.

REPORTED COMMITMENTS ON TRADE ADJUSTMENT ASSISTANCE

Q: I understand that the Administration is preparing a series of commitments to expand the existence Trade Adjustment Assistance program. Is that true and, if so, how do you intend to pay for an expanded program?

- We certainly are looking into ways to improve the performance of existing programs to aid dislocated workers, including the Trade Adjustment Assistance program administered by the Labor Department -- as well as, I should mention, the much smaller but highly effective program helping trade-impacted companies that is administered by the Commerce Department's Economic Development Administration.
- For example, we want to ensure that those who need our assistance are not stymied by long waiting times, rigid eligibility criteria that exclude deserving beneficiaries, and other administrative barriers. At the same time, we want to ensure that the programs themselves are being run in as efficient and cost-effective a manner as possible.
- We believe that these efforts deserve bipartisan support. All of us should recognize that the global economy presents challenges as well as opportunities. We need to help those workers, businesses, and communities that do not always share in the benefits of expanded trade.
- Toward that end, we look forward to working with Members of Congress on both sides of the aisle in determining how best to enhance existing programs and how to pay for any needed improvements consistent with budget rules.



The White House

National Economic Council

To: fare

Phone: 482-6062 Fax: 482-4636

From: ERIC

Phone: (202) 456-6630 Fax: (202) 456-2223

Pages including cover sheet: 2

Comments:

Toby vs
Agat A quick put at Q & A
- on what we discussed.
SP



TREATY VS. EXECUTIVE AGREEMENT

Q: Why aren't the trade agreements you expect to negotiate subject to Senate approval as treaties under Article II of the Constitution? Isn't the fast track process directly at odds with this constitutional requirement?

- This issue was thoroughly reviewed during consideration of the Uruguay Round agreements in 1994. The vast majority of constitutional scholars expressly rejected the argument that trade agreements must be submitted to the Senate as treaties, affirming that the House and Senate have the authority under Article I of the Constitution to pass legislation to approve a wide range of international agreements.
- Among the agreements submitted over the past half century by Presidents to both Houses of Congress for their approval by majority votes have been the Bretton Woods Agreements establishing the postwar international financial institutions; the SALT I accord; and every reciprocal trade agreement that has required changes in U.S. law -- most recently the NAFTA and Uruguay Round agreements.
- Use of the Treaty Clause would completely exclude the House of Representatives from a role in considering whether to approve a trade agreement. This would be a radical departure from past practice, and hardly would be consistent with the objective of maximizing democratic consideration of trade agreements that involve "foreign commerce" under Article I and have an impact on Federal revenues as well.

NECESSITY OF FAST TRACK APPROVAL PROCESS

Q: What is the basis for your assertion that fast track procedures are essential for trade agreements, when a range of other international agreements are finalized and submitted to the Congress without fast track?

- Trade agreements typically involve changes to hundreds, if not thousands, of individual tariff lines, as well as a wide range of other changes to U.S. laws and regulations. They also necessarily involve a number of important "tradeoffs" among different U.S. interests. It would not be at all practical to first spend months negotiating such agreements and then submit them to the Congress with the opportunity that individual provisions could be changed. And our trading partners have made clear that they are not prepared to begin negotiations if that opportunity existed.
- The fast track process actually ensures a much *greater* role for the Congress before, during, and after the actual trade negotiations than normally occurs with respect to other international agreements. Few, if any, other procedures include the scope of consultation and advance notification requirements that are built into the fast track rules.

09/26/97

17:03

2024562223

WHITE HOUSE/NEC

001

*** ACTIVITY REPORT ***

TRANSMISSION OK

TX/RX NO. 6790

CONNECTION TEL 94820512

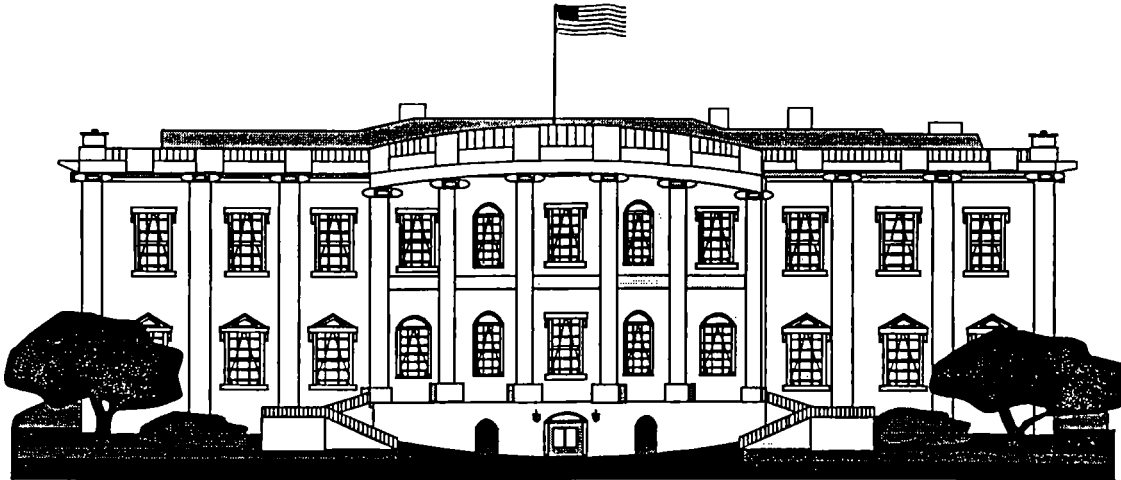
CONNECTION ID

START TIME 09/26 17:02

USAGE TIME 00'58

PAGES 2

RESULT OK



The White House

National Economic Council

To: Mike Leavitt

Phone: 482-3151

Fax: 482-0512

From: Eric Bel

Phone: (202) 456-⁵²⁷⁰~~6630~~ Fax: (202) 456-2223

3rd & Final
Pages including cover sheet: 2

Comments: for my discussion with
Kari. 1-2 was 1-6/94
skating. ER



QUESTIONS AND ANSWERS

A. GENERAL OVERVIEW

Why We Need Fast Track	1
Importance of Fast Track	2
Urgency in Passing Legislation	3
Scope of the Bill's Provisions	4
Duration of Fast Track	5
Purpose (Intended Uses) of Fast Track	6
Congressional Consultations	7
Congress' Role in Trade	8

B. LABOR AND THE ENVIRONMENT

Should Labor and Environment Be Addressed?	1
Meaning and Use of "Directly Related to Trade"	2
International Labor Organization Declaration	3
Trade Adjustment Assistance -- EDA Programs	4
Competing Against Low Wages	5
Labor, Safety and the Environment in Chile and FTAA	6
Side Agreements	7
Trade Sanctions	8

C. NAFTA ISSUES AND FAST TRACK

Lessons Learned	1
NAFTA and Investment Diversion	2
NAFTA: A Success?	3
NAFTA and the Peso Crisis	4
NAFTA and the U.S.-Mexican Border	5
NAFTA and Jobs	6
Trucking	7
Textiles - NAFTA and Fast Track	8
NAFTA and Agriculture	9

D. ENFORCEMENT AND COMPLIANCE

U.S. - Canada Wheat Trade	1
U.S. - Canada Potato Trade	3
U.S. - Canada Softwood Lumber Agreement - Status	4
U.S. - Canada Softwood Lumber Agreement - U.S. Manufacturers	5
U.S. - Canada Softwood Lumber Agreement - Drilled Lumber	6
U.S. - Canada Softwood Lumber Agreement - Timber Pricing	7
Mexican Tomatoes	8

Atlantic Salmon	10
Compliance Center	12
Compliance Center - USTR's Enforcement Unit	13

E. MISCELLANEOUS

Honoring Trade Commitments	1
Possible Exemptions from Trade Agreements (Florida Citrus & California Wine)	2
Drugs and Free Trade	3
Chilean Free Trade Agreements	4
U.S. Anti-Dumping and Countervailing Duty Laws	5
Trade Deficits	6
Japan Trade Deficit	7
Mexico Trade Deficit	8
Canada Trade Deficit	9
OECD Shipbuilding	10
Chapter 19 and Fast Track	11
Beef from Canada	12
Incentive for the Chileans	13
Consumer Safety	14

Why We Need Fast Track

Question: The Clinton Administration often brags about the 200-plus trade agreements finished in the first term. These didn't need fast track. Why is it so important now? Isn't this push a little disingenuous?

Answer: No, not at all. Constitutionally, the President has the executive authority to negotiate certain agreements with foreign parties. However, comprehensive agreements that involve changes to U.S. law and involve more than just simply lowering tariffs, like those agreements and changes to law required by the Uruguay Round and the NAFTA, require legislative action. The WTO agenda, such as upcoming negotiations on agriculture and services, is going to require legislative action. Similarly, the second round of the Information Technology Agreement is going to require legislative changes. For these, fast track is essential. It ensures the congressional-executive partnership from the beginning and all through the negotiating process.

Importance of Fast Track Authority

Question: Why is it so important to provide fast track authority? What happens if the United States doesn't have it?

Answer: America's future prosperity is increasingly tied to the expansion of the global economy. In a world where over 96% of the world's consumers live outside the U.S. and the global economy is expected to grow at three times the rate of the U.S. economy, we must continue to export to be able to create more high skilled American jobs. Without fast track, America's hands will be tied in its ability to negotiate these critical agreements and drastically slow down our job creating potential.

Over the past four years, one-quarter of our economic growth came from trade. To take advantage of these opportunities, we must continue to open export markets for America's companies and workers. If we don't move forward, US workers and companies from telecommunications firms to agricultural producers will lose out in foreign markets. Fast track authority gives the President the tools to move America ahead to the 21st century.

Urgency in Passing Legislation

Question: What's so urgent in getting fast track now? Why can't this just wait?

Answer: We do need it now for several negotiations slated to start in the near future. In the WTO, we have government procurement negotiations starting later this year, intellectual property negotiations starting in 1998, and agriculture in 1999. With the budget agreement in place, now is the time to move forward on the Hill and get fast track. In fact, the timing couldn't be better.

Scope of Provisions in Implementing Bill

Question: I understand some want to limit the provisions of any trade agreement implementing bill only to those provisions absolutely necessary to implement the agreement. What does the Administration's legislation provide?

Answer: The President's proposal would authorize the President to include in implementing bills subject to fast track procedures provisions that are "necessary or appropriate" and "trade related." This language is a compromise which retains sufficient flexibility for the President while addressing the concerns of some about the possibility of extraneous provisions being added to future implementing bills.

Background: Past fast track statutes allowed the President to include in implementing bills provisions that were "necessary or appropriate." The new restriction that the provisions also are "trade-related" is intended to address Republican criticism. Some Republicans objected that the NAFTA and Uruguay Round implementing bills included too many extraneous provisions (e.g., North American Development Bank) that were not necessary to implement these agreements and they seek to limit the ability to include such provisions in future implementing bills. However, limiting future bills only to "necessary" provisions would straightjacket efforts by the Administration and its Congressional supporters to secure the votes for passage and to add other appropriate provisions. Other Congressional Members also favor broad flexibility to incorporate provisions they favor (e.g., dumping law amendments) in future implementing legislation. Discussions continue with Congressional leaders as to the extent of flexibility to be provided.

Duration of Fast Track Authority

Question: What is the duration of the fast track authority the Administration is seeking?

Answer: The Administration has sought fast track authority lasting until October 1, 2001. The President can request an extension until October 1, 2005, and it will be granted unless neither House of Congress adopts a resolution of disapproval. This duration is consistent with some past grants of authority by Congress. This duration gives our trading partners confidence that the U.S. will be able to continue market opening initiatives that may take years to complete (e.g. FTAA, APEC). Without longer-term authority, countries may not be willing to start a longer-term process, crippling our ability to reduce foreign trade barriers.

Background: This extended duration corresponds to the deadline set for the completion date of the Free Trade of the Americas process in 2005. Although it extends beyond President Clinton's tenure (through the next President's first term), this is necessary to give us credibility in long-term negotiations. The October 1, 2005 date puts the President newly elected in 2004 in the strongest position to secure an extension of authority in 2005.

Purpose of Fast Track Authority

Question: Some say fast track is just about expanding NAFTA to include Chile. Are they correct? What will the President do with fast track?

Answer: Fast track is about giving the United States the ability to open markets, create jobs and improve the standard of living of American companies and workers. Fast track will be used to negotiate sectoral agreements in key industries where the US is most competitive, like agriculture, medical equipment and environmental technologies. It will be used to continue opening markets of Latin America and Asia, the fastest growing markets in the world, and it will be used to reach global agreements in the World Trade Organization to reduce barriers in key areas such as agriculture and services. The Administration is asking for authority simply to negotiate these agreements. Congress would then have the right to approve or disapprove any fast track agreement once it is negotiated.

These agreements can provide enormous benefits for American companies and workers. For example, the Information Technology Agreement, concluded last year, eliminated tariffs and unshackled \$500 billion of trade in semiconductors, computers, telecommunications equipment and software, amounting to a \$5 billion tax cut in tariffs on American exports. With fast track authority, we can tear down more barriers to America's exports and create more high skilled jobs.

More fundamentally, fast track is about maintaining America's competitive position and global leadership. If America does not break down foreign trade barriers, our competitors will - to their advantage, not ours. Since 1992, in Latin America and Asia alone, other countries reached more than 20 preferential trade agreements excluding the United States. These countries are busy leveling the playing field for their exports. Without fast track, America will lose its global leadership and risk being relegated to the sidelines.

Congressional Consultations

Question: The Administration has not consulted adequately with Congress on these trade agreements. What will your proposal provide to remedy that?

Answer: We take the need to consult with Congress very seriously. In the President's first term, USTR officials alone consulted with members of Congress and their staffs literally thousands of times.

The fast track legislation envisions substantial consultations with Congress at every step along the way - before, during and after trade agreement negotiations. In fact, there is a provision permitting Congress to withdraw fast track authority from the Administration if it fails or refuses to consult. We take consultations seriously. If at any time you feel we are not doing enough, please tell us.

Background:

The Administration's bill contains various provisions regarding consultation:

- President must provide notice before initiating negotiations and consult during negotiations.
- Members of Congress and staff serve as advisors to U.S. negotiating delegations.
- President must notify Congress before signing an agreement
- Once signed, President must provide Congress with details of how he intends to implement the agreement.
- Under well established procedures, the President works with Congress to draft the implementing bill through informal hearings and "markups."
- A provision permitting Congress to repeal fast track authority if the Administration fails to consult adequately prior to signing agreements

Fast Track and Congress's Role in Trade

Question: Doesn't the fast track process deprive Congress its rightful role in trade matters?

Answer: The fast track process actually ensures Congress a central role in trade negotiations. For over twenty years, Congress has used fast track to set negotiating objectives, to oversee the conduct of negotiations, to establish by statute procedures for advising the President, and to ensure Congress is apprised of how the agreements will be implemented. Fast track implementing bills are written jointly with each Congressional committee of jurisdiction. All five of the fast track trade agreements submitted to the Congress since 1979 have been approved, most by overwhelming majorities. This would not have happened if those procedures did not produce agreements in America's interests and if they did not respect Congressional prerogatives and democratic traditions.

Labor and Environmental Issues

Question: Should labor and environment issues be addressed within our trade agreements?

Answer: We believe labor and environmental issues are an important part of the trade agenda and we are committed to progress in these areas. The Administration's record demonstrates that we have negotiated agreements related to labor and the environment at every opportunity. Our strategy maximizes our ability to open markets for US workers and companies and improve international environmental and labor standards. In fact, the Administration has made unprecedented progress in defining and advancing core labor standards- - the right to organize and bargain collectively, freedom of association, a prohibition on exploitative child labor, a prohibition on forced labor, and a commitment to non-discrimination in employment- - in such international arenas as the World Trade Organization, the International Labor Organization, and in the OECD.

The recent "sweatshop" initiative is an example of the Administration's efforts to improve working conditions by establishing an industry-wide partnership with labor organizations and consumer interests on wage and workplace conditions for apparel industry manufactures. The NAFTA side agreements represented the first initiative to address labor and environmental issues simultaneously with trade concerns. And, in the Free Trade Area of the Americas, the United States is pushing for a commitment across the Hemisphere to sustainable development practices.

Background

The President's legislation contains a number of provisions relating to labor and the environment:

- An "overall objective" is to address aspects of foreign government policies and practices regarding labor and the environment that are directly related to trade and decrease market opportunities or distort U.S. trade.
- A "principal objective" is to promote workers rights and environmental protections through the World Trade Organization and the International Labor Organization.
- In pursuing objectives, negotiators are instructed to take into account domestic objectives including health or safety, essential security, environmental, consumer or employment issues.

Meaning and Use of “Directly Related to Trade”

Question: Under the President’s proposal, one of the overall objectives is to address issues regarding labor and environment... that are “directly related to trade.” What does “directly related to trade” mean? What provisions could be included in a trade agreement under that definition?

Answer: We believe it would cover types of labor/environmental provisions that have been included in past trade agreements. Regardless how it is defined, we want to emphasize that trade agreements are only one way to promote labor and environmental progress in other countries. The Administration will use a variety of tools to advance its labor/environment agenda. In addition to trade agreements, these will include:

- o **Side Agreements:** When appropriate, the Administration would negotiate labor/environment side agreements under which countries would make commitments relating to labor/environment standards and enforcement. For example, Chile has already committed to negotiate such agreements in the context of free trade negotiations with the United States.
- o **Other Initiatives:** The Administration has been aggressively promoting core labor standards and environmental protection abroad through initiatives not necessarily related to trade negotiations. Examples include:
 - o The Administration’s Sweatshop Eradication initiative brings together labor unions, businesses and others to end exploitable labor practices and improve working conditions, both here and abroad. Companies have already pledged to accept external monitoring of their labor practices.
 - o The Administration has led the world in promoting adherence to core labor standards in the ILO, the WTO and other fora.
 - o The Administration established the Committee on Trade and Environment in the WTO, for the first time ensuring a permanent forum for addressing these issues.
 - o In the President’s first term, Secretary of State Warren Christopher directed the entire State Department to incorporate environmental concerns into its diplomacy. He took the unprecedented step of establishing State Department environmental offices in targeted regions having special environmental problems.

We are confident that the combination of these tools will permit us to effectively advance our labor/environment agenda.

Draft response by DOL
Not for further distribution
Last revised 9/23/97

International Labor Organization Declaration

Question: Would U.S. adherence to the proposed ILO Declaration mean that our right-to-work laws will be compromised?

A. Not at all. By accepting the ILO Declaration, the United States would be reaffirming its longstanding belief in and adherence to the principles relating to the fundamental rights of all working people, regardless of their countries' level of economic development. These principles are known as core labor standards. This is not the same as ratifying the specific ILO conventions dealing with freedom of association, the right to organize and collective bargaining, forced labor, child labor and non-discrimination.

In any event, ILO Convention No. 87, concerning Freedom of Association and the Right to Organize, would not preclude any of our States from enacting right-to-work laws. According to the ILO Committee of Experts, the body which has developed the jurisprudence regarding the meaning and scope of Convention 87 since its adoption in 1948, the Convention leaves it to the practice and regulations of each member state to decide whether it is appropriate to guarantee the right of workers not to join a labor organization, and systems which prohibit union security practices in order to guarantee the right not to join are compatible with Convention 87.

Question: Is it true that the ILO has tried to stop Chile from privatizing its pension system?

A. Social security, including old-age insurance, is not among the ILO's core labor standards and would not be covered by the proposed Declaration and new supervisory mechanism.

For several years, most recently in 1995, the ILO Committee of Experts pointed out to the Chilean government that its new pension system was not in conformity with Convention No. 35 concerning Old-Age Insurance, which Chile ratified in 1935. The Experts' observations were not designed to undo privatization of Chile's pension system, but rather to assure that workers' benefits were sufficiently protected, as provided in the Convention. In 1996, the ILO decided that this convention should be set aside and that Member States should be encouraged to ratify the more up-to-date convention concerning old-age insurance. The Committee of Experts' next review of Chile's application of Convention 35 in November will no doubt reflect this decision.

Trade Adjustment Assistance - EDA Programs

Question: What resources does the Economic Development Administration currently have at its disposal to assist communities, firms and industries injured by changing trade patterns resulting from trade agreements?

Answer: The Economic Development Administration has a multitude of program tools available to assist communities, firms and industries injured by changing trade patterns resulting from market opening trade agreements. While program resources are limited, among these tools and the roles they can play in supporting efforts to adjust to trade impacts are:

- o Title IX/Economic Adjustment Program which provides planning, technical assistance, revolving loan fund and infrastructure grants to help communities undertake comprehensive, coordinated approaches to economic restructuring when they lose part of their economic base due to shifting trade patterns. Assistance provided can include:
 - developing a comprehensive adjustment strategy;
 - technical assistance to determine the feasibility of proposed actions;
 - revolving loan funds for business growth and development; and
 - grants for construction of infrastructure needed to support economic restructuring and industrial development.
- o EDA's traditional planning, technical assistance and public works programs that can be used in the same manner as the Title IX tools; and
- o Trade Adjustment Assistance (TAA) Program which provides turn-around consulting assistance to manufacturing firms losing sales and employment due to increased imports of like or directly competitive products through a nation-wide network of 12 Trade Adjustment Assistance Centers (TAACs). TAACs help firms:
 - prepare necessary documentation to determine eligibility;
 - develop an adjustment proposal (business plan) for restoring the ability to compete in the global marketplace; and
 - implement the elements of the adjustment proposal through cost-shared hiring of consultants with expertise in the needed business disciplines.

[The Department of Commerce and EDA are currently working with National Economic Council, OMB and other Agency representatives on the development of a separately funded program to provide targeted, comprehensive assistance to trade impacted communities.]

Competing Against Low Wage Countries

Question: Some say US workers can't compete against workers from low wage countries. What are the facts?

Answer: The fact is the U.S. economy is the strongest in the world and American workers are the best trained, most highly educated and productive work force in the world- - they can certainly compete with workers from low wage countries.

In the last 10 years, U.S. exports to low-wage countries have risen 240%, while exports to high wage countries are up just 140% and domestic sales by 75%. Exports to low wage countries now account for 42% of total U.S. exports. And these are high skilled, high paying jobs. Wages for export- related jobs pay 13-16% more than the national average.

Competition from low wage countries does create competitive pressures in industries where skills and productivity are lower, but most such jobs don't compete with imports. In fact, imports from non-oil developing countries account for only 4% of U.S. spending and has grown only 1.5% during the past decade. For those workers who are affected, we need to maintain our commitment to education and worker retraining. That's why the President is committed to making sure no American is left out of the global economy. Trade expansion must be part of a complete strategy to prepare the U.S. for global competition.

Labor, Safety and the Environment

Question: What will be the role of labor, safety and the environment in the negotiation of the FTAA and a comprehensive agreement with Chile?

Answer: The Administration is committed to ensuring that all workers benefit from the reduction of trade barriers. In international fora, such as the OAS, the WTO and the ILO, the Administration has promoted and gained international commitments on core labor standards. The North American Agreement on Labor Cooperation has enhanced oversight and enforcement of national labor laws.

The Administration recognizes that some workers may experience job dislocation as a result of trade. That is why the Administration has expanded worker training and transitional adjustment assistance programs and streamlined the job training process.

It is also committed to assuring that the expansion of trade does not hurt the environment, by advancing environmental protections in the WTO. We are also advancing, in APEC, liberalization of trade in environmental technologies which will not only create export opportunities, but also lower the cost of keeping the environment clean.

Side Agreements

Question: Does that mean that the Administration will continue to pursue side agreements on labor and the environment?

Answer: We will be taking each negotiation on a case by case basis to best evaluate how to open trade while continuing to raise standards for labor and the environment. As you know, there is more than one way to skin a cat. We have many different forums for pursuing these issues. We will be pressing ahead to achieve progress in the area of labor and the environment, obviously working in close partnership with the Congress, the business community and the American people. How we will do so will be based on the particular facts at hand.

Trade Sanctions

Question: Does that mean the Administration favors trade sanctions in conjunction with these agreements?

Answer: This is an issue very much under consultation right now and it would be premature for me to speak on this while high level negotiations are still going on. We are in the process of reaching a bipartisan approach that will allow the U.S. to pursue market access for U.S. products and services abroad, while raising standards in the area of labor and environment. Exactly the precise parameters of this approach is under negotiation.

Lessons Learned

Question: What lessons have been learned from the NAFTA negotiations?

Answer: The key lesson we learned was that fast-track was critical to the success of the NAFTA negotiations. Fast-track enabled us to negotiate with credibility as our partners knew that our negotiators spoke with authority and the ability to make commitments.

We also learned that regional agreements can spur multilateral trade negotiations to higher levels, as the NAFTA chapter on intellectual property rights and services helped with the Uruguay Round negotiations. Comprehensiveness in scope, covering all aspects of trade is also critical. Because it contains so many state of the art trade provisions, Canada used the NAFTA as a model for its FTA talks with Chile.

Also, we learned the importance of moving quickly, when opportunities to open markets arise. Countries are negotiating agreements without us -- they will not stand still while we decide what course of action to take. Mexico has signed agreements with several South American and Central American countries; Chile has an agreement with MERCOSUR. Mexico and MERCOSUR are in discussions with the EU. There is a great dynamism occurring in the Hemisphere -- and it is proceeding without the United States.

NAFTA and Investment Diversion

Question: Some say NAFTA has diverted considerable investment from the U.S. to Mexico. Is that true?

Answer: No. U.S. foreign direct investment in Mexico averaged \$3.1 billion in 1994-96, little changed from the average \$2.8 billion the three years before NAFTA took effect. The \$3.1 billion was less than 0.3% of gross private fixed investment in the U.S. in 1996. The Big 3 invested \$39 billion in the U.S. economy in the last three years, only \$3 billion in Mexico.

Success of NAFTA

Question: Has NAFTA been a success? What's the record?

Answer: The record is good. NAFTA has provided many benefits, including expanded exports, creation of high wage jobs and protection of those exports and jobs during Mexico's recession and peso crisis. With the phasing in of NAFTA, U.S. goods exports have risen to historic levels in the last 3 years (1993 to 1996), up 33% to Canada, up 37% to Mexico. Goods exports to Mexico and Canada supported 2.3 million U.S. jobs last year. Such U.S. jobs supported by exports pay 13% to 16% more than the U.S. national average.

The best information available indicates that NAFTA has had a positive effect on jobs, creating 90,000 to 160,000 jobs in trade with Mexico alone. A study by DRI estimates NAFTA boosted real exports to Mexico by \$12 billion in 1996, compared to a smaller increase in imports of \$5 billion, which contributed to controlling Mexico's financial crisis. The agreement has also leveled our playing field with Mexico. Mexico's tariff cuts have been 5 times greater than ours. The agreement has helped American suppliers in key industries capture additional shares of Mexico's import markets, strengthening our position. Since NAFTA went into effect, our share of Mexico's import market has grown from 69.3% to 75.5%.

NAFTA and the Peso Crisis

Question: Did NAFTA cause the peso crisis and the resulting recession?

Answer: No. In fact, the effects of the peso crisis would have been worse for the United States if it were not for NAFTA. When Mexico had its last financial crisis in 1981-82, it imposed 100% duties on American products, U.S. exports fell in half and it took 7 years for US exports to recover to 1981 levels. This time, Mexico continued to reduce its tariffs as required by NAFTA (even though it raised on them on our competitors). U.S. exports recovered to pre-recession levels in 18 months, protecting the 750,000 jobs dependent on those exports. A Federal Reserve of Dallas study concluded U.S. export growth was 7% higher than it would have been absent NAFTA.

NAFTA and U.S.-Mexican Border

Question: What is the record on NAFTA labor and environmental conditions along the U.S.-Mexican border?

Answer: NAFTA has given us better progress and cooperation with Mexico on labor and environmental concerns than we would have had without it. The problems along the border are longstanding and will not be solved overnight. But there are clear signs of improvement.

- From 1993 to 1996, Mexico's Secretariat of Labor and Social Welfare enforcement budget increased in real terms by nearly 250%.
- The overall rate of occupational injuries and illnesses fell from 47 per thousand in 1994 to 33 per thousand in 1996.
- Mexico has seen the number of environmental violations dropping, with a 72% reduction in serious violations in the maquiladora industry from 1993 to 1996, and a 43% increase in the number of maquiladora facilities in complete compliance.
- The NAFTA institutions financing border cleanup projects have certified 16 projects, including infrastructure projects costing nearly \$230 million.
- We need to continue labor and environmental efforts with Mexico. But it's important to remember that the agreements to be reached under new fast track authority will not raise the kind of border concerns present with Mexico, a country sharing a 2000-mile border with the United States.

NAFTA AND JOBS

Question: What has been the impact of NAFTA on jobs?

Answer:

- o The NAFTA plays a vital role in helping trade expansion strengthen the U.S. economy. It has created opportunity and higher wage jobs for American workers by expanding access for U.S. goods and services in the markets of two of our top three trading partners.
- o Over two million jobs in the United States are supported by exports to Canada and Mexico. About 300,000 additional jobs are supported by exports to our NAFTA partners since the Agreement was implemented.
- o (If asked about the Department of Labor NAFTA Trade Adjustment program). The Administration recognizes that there are employment dislocations associated with adjustment to free trade. While approximately 100,000 workers have been certified by the Department of Labor to participate in this program over the past three years, I note that workers need not have been affected by NAFTA to participate in this program. For example, workers displaced by imports that were already duty-free before NAFTA have been certified (e.g. toys from Mexico (Mattell), electricity from Canada).

NAFTA - TRUCKING

Question: What is the status of our dispute with Mexico over trucking?

Answer:

- o We fully intend to honor our NAFTA commitments, including allowing safe Mexican motor carriers and drivers to operate in the United States.
- o We believe that there are a number of steps that the United States and Mexico can take together that will benefit our motor carriers and their customers while enhancing public safety and security in both countries. Our implementation efforts are focused on this goal.
- o The Administration's discussions with Mexico are ongoing. There is no time frame for resolving our safety concerns, but we are hopeful that we can resolve our NAFTA implementation and all other related issues in the very near future.

TEXTILES - NAFTA AND FAST TRACK

Question: How can NAFTA be helpful when U.S. plants (such as the Lee and Stride-rite plants in Ohio) have closed down and moved to Mexico? Won't Fast Track just make matters worse?

Answer:

- o No economic or trade arrangement is cost-free. Benefits must be weighed against costs in evaluating any such arrangement. It is the Administration's view that for industry generally, and for textiles and apparel in particular, the benefits of NAFTA significantly outweigh its costs.
- o In point of fact, on balance, NAFTA has played an important role in retaining overall employment in these industries. Under NAFTA, apparel manufactured in Mexico from fabric cut and formed in the United States may enter this country both quota and duty free. This has played a significant role in maintaining jobs in this country which would otherwise have migrated overseas, particularly to the Far East.
- o For example, from 1994 to 1996 our imports from Mexico of textiles and apparel more than doubled in quantity terms. However, nearly two-thirds of this increase was offset by a drop in imports from the five major Far Eastern suppliers (China, Taiwan, Hong Kong, Korea, and Japan). The great majority of Mexican exports of apparel to our country is made from U.S. components. Virtually none of the apparel from the Far East involves U.S. input. This means a substantial saving of U.S. jobs.
- o Our industry itself has recognized the importance of NAFTA to its continued health and vitality. Our leading industry trade associations, the American Textile Manufacturers Institute and the American Apparel Manufacturers Association, came out in strong support of the agreement and have continued to support it since its inception.
- o Any trade agreement which we might negotiate under Fast Track authority would contain similar incentives for the use of U.S. componentry, including strict rules of origin. In addition, countries with which we enter into agreements would be required to completely open their markets to U.S. products.

NAFTA AND AGRICULTURE

Question: How has the NAFTA benefitted U.S. agriculture?

Answer:

- o NAFTA has clearly benefitted U.S. agriculture. While there has been volatility in agricultural trade with Mexico, due to the peso crisis in 1995, we had a \$1.1 billion agricultural trade surplus with our NAFTA partners in 1996.
- o The beginning of economic recovery in Mexico in 1996 led to a 54 percent increase in U.S. agriculture exports to Mexico, to a record \$5.4 billion. Although drought conditions in Mexico did contribute to increased demand for U.S. products, the return of economic growth stimulated Mexican demand for U.S. agriculture products, as it did for industrial goods.
- o U.S. exports of agricultural products to Canada have benefitted from the U.S.-Canada FTA and the NAFTA. U.S. exports of agricultural products to Canada are now running 85 percent above the pre-FTA five year average, reaching a record \$6.1 billion in 1996. Export growth has been particularly strong for consumer-oriented and processed food products, especially fruit and vegetable exports.
- o Agricultural imports from Canada have also grown, reaching \$6.7 billion in FY1996. During 1996 we had a agricultural trade deficit with Canada, the first one in several years. This was mainly due to the weakness of the Canadian dollar. *(Note: there is Congressional concern regarding imports of potatoes and durham wheat from Canada. USTR is in consultation with the Government of Canada on wheat; the ITC has undertaken an investigation on potatoes.)*

U.S.-CANADA WHEAT TRADE

Question: What is the Administration doing about increasing imports of wheat from Canada?

Answer: The Administration understands the concerns of the wheat producers about Canadian wheat imports. The USTR has had ongoing consultations with Canada regarding grain trade.

One very positive step that has recently occurred is Canada's withdrawal of its Tariff-Rate Quota (TRQ) on barley -- this is a benefit to North Dakota grain producers. The Administration will continue to work very hard to ensure that our grain farmers face a level playing field.

Question: What is the Commerce Department going to do about Canadian wheat?

Answer: I am aware that you have raised the issue of a possible antidumping case. Department of Commerce officials sat down with your [Sen. Dorgan's] staff to explain how the antidumping law is administered and learned about the concerns of your constituents. Commerce Department officials are available to meet with domestic producers to discuss their concerns and to explain the process of bringing a case.

Question: After hearing those concerns, is the DOC going to self-initiate an antidumping investigation on wheat from Canada?

Answer: Whether an investigation is "self initiated" or initiated by the filing of a petition, the remedy available to the domestic industry is the same. By statute, the Department is prohibited from publicly disclosing any discussions with a domestic industry that may seek the imposition of antidumping duties.

BACKGROUND

Commerce Committee member Sen. Dorgan and other members of the North Dakota, South Dakota, and Montana delegations have been pressing the Administration to take action to curb Canadian wheat imports. The region is well represented on the committees, with Sen. Dorgan and Sen. Conrad Burns (R) of Montana on the Commerce Committee; Max Baucus (D) of Montana and Kent Conrad (D) of North Dakota on the Finance; and Sen. Rod Grams (R) MN and Tim Johnson (D) of South Dakota on the Banking Committee. On September 2, Sen. Dorgan wrote to President Clinton stating he would oppose fast-track legislation due in part to increasing imports of Canadian wheat.

In response to the concerns that Sen. Dorgan and his colleagues have been raising, USTR has stressed that it is actively pursuing greater market access for U.S. exports in order to level the playing field for U.S. exporters. Canada has imposed a variety of barriers to grain imports including a tariff-rate-quota (TRQ) on barley products. USTR announced on Sept. 8 that Canada was suspending the TRQ with respect to U.S. barley. (Note: U.S. produces much less barley than wheat).

Some domestic wheat growers feel that Canadian wheat is being "dumped" in the U.S. by the Canadian Wheat Board, which has a government-authorized monopoly on all sales of Canadian wheat. On July 28, 1997, Sen. Dorgan wrote to Sec. Daley and Amb. Barshefsky requesting the Department of Commerce to self-initiate an antidumping investigation with respect to these imports. (An antidumping investigation is "self-initiated" when Commerce begins an investigation without a petition being filed on behalf of the domestic industry. Self-initiation by Commerce is extremely rare). Sec. Daley's letter in response to Sen. Dorgan indicated that, regarding the issue of self-initiation, all antidumping and countervailing duty cases are quasi-judicial proceedings conducted within the strict confines of the law. As a legal matter, there must be special circumstances that would justify a government's initiation of an investigation without a petition by the affected industry. Moreover, self-initiation, or initiation by industry petition, must be supported with satisfactory evidence of dumping and of material injury, or threat of material injury, to the domestic industry by reason of the imports in question.

On July 31, 1997, Amb. Barshefsky, Sec. Glickman, and AS LaRussa met with Sen. Dorgan, Sen. Conrad (D-ND) and Rep. Pomeroy (D-ND) to discuss Canadian wheat. During the meeting, AS LaRussa agreed to meet with wheat producers in order to explain generally the antidumping investigation process. A statement by Sen. Dorgan after the meeting implied that Commerce had agreed to take "the first step in a 'self-initiated' antidumping investigation."

On August 5, 1997, AS LaRussa met with Sen. Dorgan's staff to hear the concerns of the North Dakota wheat growers and to explain the antidumping process. While the Statute and Commerce policy prohibits the public discussion of potential dumping cases, we can say that we are ready to talk to a domestic industry who requests information.

U.S. Canada Potato Trade

Question: How do Canada's domestic policies affect U.S.-Canada trade?

Answer: The United States has taken action that has improved market access for Canadian potatoes destined for processing in the United States regardless of container size and conformity with grade standards.

Canada continues to refuse reciprocal market access for U.S. potatoes. Considering these changes, the United States seeks removal of Canadian restrictions on U.S. bulk shipments of potatoes.

U.S. potato producers are concerned about increased exports of raw and processed potatoes into the United States.

The U.S. International Trade Commission has undertaken an investigation on the U.S. and Canadian potato situation. I wanted to bring this issue to your attention, as it is our desire to avoid an unnecessary trade dispute in this area.

BACKGROUND

Under the fresh fruit and vegetable regulations of the Canadian Agriculture Products (CAP) Act, (Section 37(1), revised October and December 1992), Canada prohibits imports of potatoes in containers weighing over 50 kilograms. The prohibition applies to intraprovincial and international trade, but not to intraprovincial trade. Canadian importers may request waivers of the CAP bulk restrictions, but requests are denied if equivalent products are deemed to be available from Canadian producers. Any bulk waivers granted are strictly limited to specified quantities and shipment periods. The United States has revised several key provisions of "Section 8e" regulations, which have improved access for Canadian potatoes entering the U.S. market for further processing.

On January 29, 1997, at the request of the Office of the U.S. Trade Representative (USTR), the U.S. International Trade Commission (ITC) launched a section 332 investigation on the competitive conditions affecting U.S. and Canadian potato industries. The ITC's report will provide information on factors affecting bilateral trade in fresh tablestock potatoes, seed potatoes, raw potatoes for processing and frozen processed potatoes. Although the study is only fact-finding in nature, it will provide USDA with the necessary background to evaluate any further action regarding Canada's potato policy. The ITC is expected to issue a final report by July 15, 1997. [checking status]

U.S. - CANADA SOFTWOOD LUMBER AGREEMENT

Question: What is the status of the U.S. - Canada Softwood Lumber Agreement?

Answer: We are now in the second year of the five-year Agreement signed by the United States and Canada on May 29, 1996 which covers the export of Canadian softwood lumber to the United States. The Agreement covers about \$8 billion worth of trade. It is structured as a tariff-rate quota with various market responsive elements. At no point does the Agreement prevent the importation of Canadian lumber.

This Agreement settled fifteen years of contentious and expensive litigation. Since Canadian government-owned timber is provided at administratively set prices, the U.S. lumber industry believes a substantial subsidy is provided to Canadian lumber producers.

The Agreement was drafted with both U.S. lumber producing and consuming interests in mind and we believe that we have struck a good balance. It provides the U.S. lumber industry with some relief while still allowing Canadian exports to increase in response to market demands.

Background:

On May 29, 1996, the United States and Canada signed the five-year U.S. - Canada Softwood Lumber Agreement that was effective retroactively to April 1. The Agreement settled a longstanding trade dispute that included three countervailing duty investigations, a section 301 case, a Memorandum of Understanding and various other litigation. The dispute centers on the Canadian producers' ability to purchase the timber used to produce lumber from the government at unfairly low, administratively-set prices.

While the U.S. objective during the negotiations was to get the Canadian provinces to adopt a more market-oriented timber pricing system, Canada ultimately decided such changes were unattainable and proposed a voluntary export restraint agreement. The final Agreement is more market responsive and establishes a two-tiered tariff rate quota. Up to 14.7 billion board feet of Canadian lumber can be shipped without an export fee. In periods of strong demand, additional quantities above that threshold can be shipped by paying an export fee (\$50 or \$100 per thousand board feet, dependent on quantity already shipped). Additional quantities of lumber are authorized without an additional fee if the lumber price in a quarter exceeds a certain level set forth in the Agreement. At no point are shipments from Canada prohibited outright.

The Agreement is jointly administered by the Department of Commerce, the United States Trade Representative and U.S. Customs.

U.S. - CANADA SOFTWOOD LUMBER AGREEMENT

U.S. REMANUFACTURERS

Question: What is Commerce's position in response to reports that the U.S.-Canada Softwood Lumber Agreement has caused supply problems for U.S. lumber remanufacturers?

Answer: We understand that some U.S. companies which remanufacture low-grade lumber into products such as trusses, pallets, and bed frames have been having difficulty obtaining supply from Canada. Some of the Canadian suppliers have been less willing to ship low-grade lumber under the quota system, resulting in supply problems for some U.S. remanufacturers, particularly those located along the Canadian border in the Northern tier states.

We have heard from about two dozen companies in this situation. We referred many of these companies to the U.S. industry to find alternative sources of supply. The U.S. industry has been able to help some of them, but due to location, other companies are difficult to help.

We continue to monitor the situation of the lumber remanufacturers, by investigating individual reports and collecting data on the price and supply of lower grade lumber.

Background:

Lumber remanufacturers purchase lumber and further process or assemble it to make products such as trusses, pallets and bed frames. Most often they use lower quality wood. The industry is made up of a number of smaller, specialized companies.

Some U.S. remanufacturers located near the Canadian border have traditionally depended upon low-grade lumber from Canada. These companies in particular have been expressing concern about the Agreement's impact on the supply of low-grade lumber. Each Canadian lumber exporter is allocated a quota of wood which can be exported to the United States without an export fee, and under this system, some Canadian companies have been less willing to ship low-grade, i.e., low-priced, lumber to the United States.

U.S. - CANADA SOFTWOOD LUMBER AGREEMENT

DRILLED LUMBER

Question: We understand that a recent U.S. Customs' ruling has removed drilled lumber from the Softwood Lumber Agreement. How does this affect the ability of the U.S. Government to enforce the Agreement?

Answer: We are concerned about that ruling's potential impact on the Softwood Lumber Agreement, in particular, that the classification of drilled lumber in 4418 may lead to circumvention of the Agreement.

The ruling has been appealed and it is our understanding that Customs intends to publish a *Federal Register* notice soon which will request public comments on this issue.

As one of the three agencies responsible for implementing the Agreement, we will continue to work with Customs to ensure that the Agreement is properly enforced.

Background:

In February 1997, Customs issued a ruling placing drilled lumber in an HTS number outside of the scope of the Agreement. Customs' ruling that drilled lumber belongs in 4418 is based on three points: (1) drilling is a further level of manufacturing (beyond sanding and planing); (2) drilling dedicates lumber to construction use; and, (3) prior rulings support this finding. The industry claims there is no market for drilled lumber, however, many customers will accept the product as it may be used for exactly the same purposes as non-drilled lumber. Evidence is mounting that the ruling is being used to circumvent the Agreement; since the capital investment to put a drill press on a production line is minimal, Canadian lumber producers can easily drill holes into studs to avoid paying export fees.

The Coalition appealed the classification, but did not get Customs to overturn its decision. Instead, Customs promised the Coalition months ago that it would publish a request for comments in the *Federal Register* on the ruling. Customs still has not published this document, but Commerce and USTR have been pushing to have it published soon.

If Customs does not change the classification of drilled lumber, the Coalition will insist we renegotiate coverage with the Canadians. The Agreement was intended to capture all products covered by the 1991 countervailing duty order on softwood lumber and the 1986 Memorandum of Understanding; drilled lumber fell within the scope of both. While we agree with the Coalition, we don't want to put Customs in an awkward position.

U.S. - CANADA SOFTWOOD LUMBER AGREEMENT

CHANGES IN B.C. TIMBER PRICING PRACTICES

Question: We understand that British Columbia is contemplating changes in its timber pricing practices that would lower the price of timber. Wouldn't such changes violate the Softwood Lumber Agreement.?

Answer: We are very concerned about the possibility of a timber price reduction in British Columbia. USTR has communicated this concern to British Columbia and made clear to them that changes in its timber pricing system that lower the price of timber would create problems within the context of the Agreement.

We understand that B.C. has delayed the decision and it will be almost impossible for them to implement any change before January 1, 1998. If we have an indication that B.C. is closer to making a decision, we will contemplate more formal action.

Background:

We understand that the B.C. Government is seriously considering proposals which would lower stumpage. Although this program appears to be aimed at the pulp and paper industry, it would be difficult for B.C. to provide relief to the pulp and paper sector without also benefitting lumber interests. The USG has made clear to the Canadians that any stumpage reduction could be interpreted as circumvention of the Agreement, under which Canada agreed not implement policies which have the effect of offsetting export fees collected. B.C. also announced several jobs initiatives and changes to its forest management system which could provide additional benefits to its lumber producers.

The B.C. industry continues to lobby its government for a stumpage reduction. We understand that no decision has been made yet, so the earliest that changes can now become effective is January 1, 1998.

The Coalition wants formal government action to dissuade the Government of B.C. from taking any action on a stumpage reduction; Commerce and USTR have said that until we are aware that changes are imminent, we will not send a formal letter, although Peter Scher has made phone calls to B.C. and Canada on behalf of the interagency team.

MEXICAN TOMATOES

Question: Former Secretary Kantor concluded a Suspension Agreement on tomatoes from Mexico which protects the Florida tomato industry but harms U.S. consumers, as well as the U.S. businesses and workers who supply goods and services to Mexican growers. How do you intend to correct this situation?

Answer: The Suspension Agreement on tomatoes from Mexico was concluded with the support of Mexican exporters and U.S. growers. Both sides have found this to be a positive resolution to the ongoing antidumping case. The Department believes that the Agreement is in the best interests of all Americans because it ensures that Mexican growers will have continuing access to the U.S. market while providing relief to U.S. tomato growers from unfairly traded imports.

Question: How can the Department of Commerce justify imposing managed trade on a competitive marketplace, such as with the Suspension Agreement on Mexican tomatoes.

Answer: The Suspension Agreement on tomatoes was concluded as a result of an investigation initiated based on complaints by U.S. growers about Mexican exporters violating the U.S. unfair trade laws. The antidumping law allows for Suspension Agreements, and this Agreement provides a very positive resolution to the antidumping case by ensuring that Mexican growers will have continuing access to the U.S. market while providing relief to U.S. tomato growers.

BACKGROUND

On October 28, 1996, we entered into a suspension agreement with Mexican growers/exporters of fresh tomatoes. The Agreement is meant to prevent injury to U.S. producers of tomatoes and price suppression in the U.S. market. The key provision of the Agreement was the establishment of a minimum price below which the Mexican tomatoes could not be sold (*i.e.*, the reference price). The Department continues to focus on a number of issues, the most important of which are enforcement, generally and "seasonality".

- (1) **Enforcement.** There has been sporadic criticism from the Florida growers, some California interests, other U.S. sellers, and Mexican signatory growers that the Department is not ensuring adequate enforcement of the agreement at the border. To address these concerns, the Department, working together with Customs, is taking a much more aggressive position with respect to early intervention on border issues and adherence

to the reference price. In addition, the Department is in the process of discussing with Customs other and more effective ways to enforce the agreement at the border and after importation.

- (2) **Seasonality.** The reference price now in effect is applicable to all signatory exports from Mexico regardless of the time of year. However, there are two basic growing seasons for tomatoes. The December - May Winter season, when Florida and the Sinaloa region of Mexico are the principal producers for the U.S. market, and the June - November Summer season, when California, the entire eastern United States and the Baja region of Mexico are the primary producers. Recognizing that there are significantly different (1) prices for tomatoes in the Winter and Summer and (2) production costs in Florida and the rest of the Eastern United States and California, and in the Sinaloa and Baja regions of Mexico, some parties have suggested that the reference price be adjusted to allow for separate reference prices during the two growing seasons. This recommendation is quite sensitive and we have taken no action to put it into place.

FRESH ATLANTIC SALMON FROM CHILE
ANTIDUMPING AND COUNTERVAILING DUTY INVESTIGATION

Question: Why did the Government of Chile request WTO consultations regarding the countervailing duty investigation?

Answer: The Government of Chile requested consultations with the WTO regarding the countervailing duty investigation to address two issues: 1) initiation of the countervailing duty investigation was taken in the absence of sufficient evidence and 2) initiation of the countervailing duty investigation contravened the Subsidies and Countervailing Duty Measures Agreement regarding the representative status of producers of salmon fillets.

Question: How is the United States responding to the claims of the Government of Chile?

Answer: The United States has agreed to enter into consultations with the Government of Chile on September 26, 1997, in Geneva.

The United States believes that it was improper for the Government of Chile to initiate a dispute settlement proceeding at this time because the Department of Commerce has neither issued a provisional measure or final measure nor has it accepted an undertaking in this proceeding.

If a WTO panel determines that it may consider the Government of Chile's claims, the United States will assert that the initiation of the CVD investigation was based on sufficient evidence and that the initiation of the CVD investigation properly evaluated the representative status of producers of salmon fillets.

Question: Would the Department be willing to enter into a suspension agreement (settlement) on these cases?

Answer: It is rare for the Department to negotiate a suspension agreement. The Commerce Department has conducted in the neighborhood of a thousand antidumping and countervailing duty investigations since the responsibility was transferred here in 1980 from the Treasury Department, and only about 30 cases have resulted in suspension agreements. We would, however, seriously consider any proposal presented to us.

BACKGROUND

On June 12, 1997, a coalition of Maine and Washington state salmon producers filed antidumping (AD) and countervailing duty (CVD) petitions against imports of fresh Atlantic salmon, a species

of salmon, from Chile. Chilean salmon producers challenged the petitions on the grounds that whole salmon and salmon fillets are distinct products, and that the petitioners did not represent the majority of U.S. salmon fillet producers. Under the law, Commerce accepts petitioners' definition of the product unless there is clear evidence that such definition is inaccurate. In this case, Commerce accepted petitioners' claim of a single "like product" and U.S. industry as accurate because the Chilean producers did not provide evidence that proved otherwise. Commerce subsequently determined that petitioners represented a majority of that single U.S. salmon industry.

Commerce initiated the investigations on July 2, 1997. The U.S. International Trade Commission (ITC) must now issue a preliminary injury determination on July 28, 1997. Commerce's preliminary CVD determination is due no later than November 10, 1997, and the preliminary AD determination is due no later than November 19, 1997.

In the AD petition, petitioners alleged that Chilean fresh Atlantic salmon is being sold in the United States at less than fair value. The estimated weighted-average dumping margin alleged in the petition is 41.78 percent.

In the CVD petition, petitioners alleged that a variety of subsidies have been provided to the Chilean fresh Atlantic salmon industry, including technology support, Chilean central bank export incentives, preferential tax programs, regional incentives, and import substitution of capital goods. We initiated on 20 of the 28 programs alleged by petitioners.

On June 27 and July 1, 1997, in accordance with statutory and WTO obligations, Commerce held consultations with representatives from the Chilean government to discuss the CVD filing.

On September 18, 1996, Secretary Daley met with Chilean Minister of Foreign Affairs Jose Miguel Insulza. In that meeting, Minister Insulza inquired about the timing and possibility of entering into a suspension agreement on both the AD and CVD investigations. Secretary Daley explained that we would consider any proposal presented.

TIMELINE

DOC initiation	July 2, 1997
ITC preliminary injury determination	July 28, 1997
DOC preliminary CVD determination	November 10, 1997
DOC preliminary AD determination	November 19, 1997 (unless extended)
DOC final CVD determination	January 24, 1998 (unless extended)
DOC final AD determination	February 2, 1998 (unless extended)

Compliance Center

Question: How specifically will you pursue cases brought to the Compliance Center?

Answer:

- ▶ The TCC has already conducted some thirty investigations and analyses covering a multitude of trade issues, over a wide-variety of industry sectors and involving a host of different countries.
- ▶ Its normal policy is not to discuss the details of specific investigations in order to protect the confidentiality of the businesses involved.
- ▶ A high priority for the Compliance Center is investigations and analyses related to intellectual property protection and the special needs of high technology businesses.
- ▶ And while not all of these investigations led to recommendations for USTR to pursue WTO panels or 301 actions, at least one has resulted a new WTO panel and we expect more similar outcomes in the future.
- ▶ For example, in a case involving Argentine increases in tariff rates on textiles, apparel and footwear, the TCC took an early, active role, serving at USTR's request as coordinator of the Department's role in this dispute.
- ▶ The TCC worked closely as part of an interagency team to establish that the Argentine action was inconsistent with its WTO obligations. This led to a series of bilateral negotiations with Argentine officials aimed at reaching a negotiated resolution of the issue.
- ▶ As negotiations wound on, we requested a WTO panel both to preserve U.S. rights and serve as an inducement to achieve a negotiated conclusion.
- ▶ Unfortunately, Argentina decided that it preferred a two-track approach to achieve resolution. For textiles and apparel, it has chosen to stake its case on the WTO's dispute settlement process. For footwear, it instituted a WTO Article XIX safeguard action, on grounds that surging imports threatened harm to its domestic injury.
- ▶ The dispute settlement case is presently in train. In the interim, the TCC has been working closely with USTR to analyze the safeguard action on footwear with the aim of determining if it might be successfully challenged by the Administration as being inconsistent with Argentina's multilateral obligations. The process is presently ongoing.
- ▶ This is but one example of how the TCC is interacting with U.S. companies, intra- and interagency trade officials and foreign governments in an effort to ensure that U.S. companies achieve all the benefits expected as a result of negotiated trade agreements.

USTR's Enforcement Unit

Question: How does the Compliance Center work with USTR's Enforcement Unit?

Answer:

- ▶ The Center is working hand-in-glove with the new Enforcement Unit at USTR.
- ▶ The TCC will play a vital role in assisting USTR by its ability to draw upon the Department's broad legal authority and relatively wider range of information gathering and analytic resources to approach the issue of market access for U.S. companies.
- ▶ Already the TCC has worked closely with USTR on several World Trade Organization (WTO) Dispute Settlement Cases, ranging from film exports into Japan to bananas into the European Union, to distilled spirits in both Japan and Korea.
- ▶ In April of this year the prototype TCC database achieved a successful debut. TCC staff were part of the USTR led-team as U.S. and Japanese delegations presented oral arguments before the World Trade Organization's Dispute Settlement Body on the case involving *Japanese Measures Affecting Consumer Photographic Film and Paper* (i.e., Kodak film).
 - The U.S. presentation was heavily influenced by "real time" analyses made possible as a result of ready access to the TCC's prototype database via a laptop computer and a fully-supported text-based search capability.
 - The database, which contains complete copies of all GATT and WTO dispute settlement cases, the GATT analytical index and other supporting GATT/WTO documentation, permitted the U.S. team to quickly review, analyze and rebut arguments presented by Japanese representatives.
- ▶ The Department's endeavors with regard to the National Trade Estimates (NTE) report, the 301 Committee, Special 301, and Super 301 activities have already been consolidated under this new Center. By working closely with the Enforcement Unit on the NTE report, the TCC, serving as the Department's coordinator, played an important role in prioritizing agreement compliance issues for the coming year.

Trade Commitments

Question: What assurances do we have that our trading partners in the hemisphere will fully implement any trade agreement we negotiate with them?

Answer:: As with any agreement we negotiate, we would look for undertakings which are within a country's ability to implement, and which would be verifiable. The legislative process whereby a trade agreement comes into force differs from country to country. However, in many Latin American nations, a trade agreement has the status of a treaty that, once ratified by the legislative body, becomes law.

In addition, to ensure that each party meets its obligations, trade agreements such as the NAFTA and the WTO build in a dispute settlement mechanism that can be evoked if there is disagreement as to how an agreement is being implemented. We reserve our rights to take those measures necessary to protect our interests should another country fail to fully implement any agreement.

Possible Exemptions from Future Trade Agreement (e.g. Citrus, Wine)

Question: I understand the Florida citrus growers are asking for the bill to explicitly excluded orange juice from the FTAA because they claim Brazilian imports could wipe them out. And the wine growers in California want a commitment that the Administration won't reduce U.S. tariffs further until other countries' tariffs come down to our level. With the vote so close, what conditions are you going to have to accede to up front in order to get fast track authority?

Answer: I don't think these are fast track issues. Fast track doesn't approve any particular trade agreement, it merely provides a mechanism for the President to bring agreements back to the Congress for their consideration on an up-or-down vote. Exactly what the terms of those agreements are is the stuff of negotiation, which includes not only what we agree to with our trading partners, but the extensive consultations we hold with interested U.S. parties so that we can understand the impact of any provisions we seek or agree to. Granting the President fast track only gives him the same authority every other U.S. President has had since 1974 to conduct trade negotiations to lower foreign barriers to U.S. products.

Drugs and Free Trade

Question: Won't a free trade area of the Americas make it easier to bring drugs into the United States? Doesn't fast track increase the risk to our kids?

Answer: Trade agreements do not in any way reduce our ability to enforce our border against drugs. With the growth in illegal drug traffic, the Administration has beefed up our drug control budget to \$15 billion last year. And as more cartel activity have moved from Colombia to Mexico, we have significantly stepped up our resources along Southwest Border, adding almost 2,000 border personnel this fiscal year.

While trade agreements don't dictate how drugs try to enter this country, they can elicit more cooperation to address the problem. Mexico's 1996 results were impressive: drug seizures, arrests, crop eradication, and lab destructions were all up; new laws were passed to confront organized crime, money laundering, and chemical diversions; six criminals were extradited to the United States, and over 1,000 officials were fired for corruption.

Trade agreements open our borders to legitimate trade, but they don't reduce our vigilance.

ITA/WH/9-11-97

Chilean Free Trade Agreements

Question: How do the Mexico-Chile and Canada-Chile Free Trade Agreements differ from the NAFTA? How will they impact on U.S. negotiations with Chile?

Answer: Chile has had a free trade agreement with Mexico since 1992. This agreement is narrow in scope, basically only covering trade in goods. Early this year, both countries announced that they would begin work to expand the agreement and make it more NAFTA-like and cover services, government procurement and intellectual property. Negotiations are ongoing.

Chile's agreement with Canada is based on the NAFTA, but contains notable differences. It does **not** contain provisions on government procurement or intellectual property. The agreement phases out the use of antidumping and countervailing duty measures in five years. Under the agreement, Chile may retain foreign currency reserve requirements on some foreign investment in securities. Importantly, the agreement immediately eliminated Chilean duties on the vast majority of Canadian industrial products. The agreement also contains environmental and labor agreements patterned after those found in the NAFTA.

We cannot say at this point how these agreements will shape the negotiation of a U.S. agreement with Chile. However, it is clear that the Chileans recognize the importance of, and have been willing to accept, NAFTA-like commitments.

September 15, 1997

Dumping

Question: How will dumping and subsidies be dealt with in the FTAA?

Answer: I cannot predict the outcome of the FTAA negotiations. However, the Department of Commerce stands firmly behind the enforcement of our antidumping and countervailing duty laws. Our laws are enforced in conformity with our international obligations, including the WTO and NAFTA, and will continue to be so.

(If asked) In the Canada-Chile FTA, the Parties agreed to eliminate the use of antidumping and countervailing duty laws against imports from each other. This has been the objective of Canada for a number of years; Canada would prefer the use of competition law as a means to address issues such as predatory pricing.

TRADE DEFICITS AND THE ECONOMY

Question: The Administration used to implicitly ask the Congress to share the blame for the trade deficit, because we couldn't balance the budget deficit. Well, we've made great strides to reduce the budget deficit, but the trade deficit keeps growing. Do you still maintain they are linked, or have you changed your tune?

Answer:

First, let me say that the reduction of the budget deficit is remarkable and shows that, when the executive and legislative branches of government work together, great progress can be made on critical issues.

The trade deficit is a function of many things; our fiscal policy, our international competitiveness; our trading partners' economies and foreign-government policies which restrict U.S. exports. We have made great strides to discipline government spending. Our economy is strong, and our industries are internationally competitive. In comparison to the size of our economy (which indicates the strain on the economy of servicing the deficit), the trade deficit as a percent of GDP has dropped dramatically from 3.0 percent in 1987 to just 1.2 percent in 1996.

In fact, it is the sustained growth of the U.S. economy that has produced uninterrupted import growth, sustaining the trade deficit while helping restrain inflationary pressures and satisfying the demands of U.S. consumers and producers alike. In addition, the economies of many of our trading partners remain relatively weak, a continuing drag on foreign demand for U.S. goods and services. (The ongoing resurgence of the economies of our NAFTA partners, Canada and Mexico, and the resultant decline in our 1997 trade deficits with these countries are noteworthy exceptions to this trend.) Finally, significant remaining trade barriers in many major U.S. markets continue to impede U.S. export growth.

While there is little we can do to affect directly foreign economic growth trends, we can do much to negotiate the dismantling of foreign trade barriers. Renewed fast track authority will assist in the initiation and successful completion of trade liberalization negotiations. And in turn, the elimination of trade barriers will promote more dynamic economic growth abroad and consequently expanded U.S. exports.

Japan Trade Deficit

Question:

Our bilateral trade deficit with Japan has been growing rapidly over the past several months. What does the Administration intend to do about this deteriorating situation?

Answer:

- o I am very concerned about the trend of our trade with Japan and with economic developments in Japan, which are a major cause of the problem. Our bilateral trade deficit with Japan has risen about 16% this year through July. Our imports from Japan were up nearly 5%--not too surprising given the robust health of our economy--but exports to Japan were down 2.5%. This latter development is especially ominous given the fact that U.S. exporters had been doing increasingly well in Japan for the past few years. We are seeing the erosion of the hard won gains which resulted from our Framework and other market access negotiations.
- o There is significant weakness in domestic demand in Japan at present, and that economy remains grossly over regulated. Japanese efforts to date to deregulate have been ineffective. Many structural barriers to imports remain, and some sectors still remain largely closed to significant import penetration. The yen has depreciated significantly vis-a-vis the dollar over the past couple of years or so. This combination of factors has led Japanese firms to look increasingly to export markets for sales and profits, while it also creates an environment unfavorable for imports. This is not acceptable and must change. We can not go back to the export-driven Japan of the 1970's and 1980's.
- o I have taken many opportunities recently--as have other cabinet members--to tell Japan this. We have made clear it must deregulate in a meaningful way and must strengthen its domestic growth. We are now discussing deregulation in trade talks, and it is an integral part of our negotiating objectives. We are negotiating on sectors which remain closed. Elsewhere, I intend to press especially hard for further liberalization on autos, medical/pharmaceutical sector, and access to major projects, sectors on which Commerce has or shares the interagency lead.

Mexico Trade Deficit

Question: We have an enormous trade deficit with Mexico. Is that what we can look forward to with future free trade agreements?

Answer:

The merchandise trade deficit with Mexico was caused by the devaluation of the peso in late 1994 and the subsequent economic recession which gripped the country. Demand for all products, foreign and domestic, was down sharply as the economy shrank by nearly 7 percent. I think we can, however, agree that the deficit would have been much worse without NAFTA. Mexico could have raised its tariffs on U.S. goods from an average of ten percent, to 35 percent, without violating its international agreements. Instead, Mexico lowered its tariffs on U.S. products. NAFTA kept the Mexican market open.

The Mexican economy is recovering, and our exports are growing. They were at record levels last year, and will reach another record this year. Our exports to Mexico are growing faster than our imports from Mexico. As a result, the merchandise trade deficit in the first seven months of the year was \$1 billion lower than last year's.

Canada Trade Deficit

Question: We have a large trade deficit with Canada, despite having had a free trade agreement for nearly ten years. Why?

Answer

Our merchandise trade deficit with Canada has been caused by the country's slow economic growth and a weak Canadian dollar that has made U.S. products more expensive. However, the Canadian economy is now one of the fastest growing in the developed world -- its GDP this year may grow nearly 4 percent. As a result, our export growth is outpacing the growth of imports from Canada, and our trade deficit is shrinking. In the first seven months of the year, it was down by \$1.6 billion.

As of January 1 next year, trade between the U.S. and Canada will be duty-free. Over \$300 billion of goods will cross our borders free of duty. This is quite an accomplishment.

Legislation to Implement OECD Shipbuilding Agreement

Question: Do you continue to support legislation to implement the OECD Shipbuilding Agreement?

Answer:

- o I am strongly in favor of early action by the Congress which would permit the United States to implement that Agreement and thus allow it to go into effect. I remain convinced that the agreement will be of great benefit to the U.S. shipbuilding industry.
- o I am encouraged by the recent action of the Senate Finance Committee to act favorably on legislation which will accomplish this.
- o I also am optimistic that the changes made in the bill by the Finance Committee will meet with approval from those in the Senate and the House who had problems with earlier legislation to implement the agreement.
- o We remain committed to working with the Congress to secure early passage of this legislation.

TO BE REVISED

Chapter 19 and Fast Track

Question: Why do we continue to have trade disputes with Canada and Mexico, if we have a free trade agreement?

Answer:

- o Considering the huge volume of trade (over \$400 billion) between the U.S. and its NAFTA partners, the number of disputes we have is small, and in discrete areas.
- o Where we have had disputes, we have generally been able to solve them through consultations or negotiations. When those avenues haven't worked, the formal NAFTA dispute settlement process has been used.
- o Without NAFTA, we would not have these mechanisms -- we would have to go through the WTO process. Further, NAFTA's provisions often go beyond those of the WTO, which has given us greater market access to Canada and Mexico than accorded by the multilateral agreement.
- o There have been 34 panel reviews conducted under the NAFTA over the last 4 years, 32 involving antidumping and countervailing duty matters under Chapter 19. Two panels under Chapter 20 have reviewed the tariff treatment of Canadian agricultural quotas and a U.S. safeguard action taken on broomcorn brooms from Mexico. The system is operating efficiently and the 20 panel decisions have been followed by the three governments, as required by the agreement.

Cattle Imports from Canada (Sen. Burns)

Q: Last time you testified I spoke to you about my concern regarding the huge amount of cattle coming in from Canada into Montana, while at the same time, we Montanans can't sell our cattle in Canada. Since then, the numbers haven't gotten any better. What are we going to do about this? How can we support fast track for an extension of NAFTA with such an abysmal situation and strong example of how NAFTA is failing?

A: First of all, I want to share my support for your concerns regarding the trade disparity in cattle with Canada. I have been given the most recent statistics and see that the number has not improved. I understand that the State of Montana and USDA and Canadian authorities have entered into a pilot project to try to resolve at least some of the health and safety concerns that are keeping our cattle out of the market. I think that this is a very positive move and I will continue to express my support for the pilot project with the USDA and the Canadians.

Obviously, if there is any evidence that Canada is not applying its health and safety laws in a fair manner, or if they are not based on strong science, the U.S. needs to do something about that. Or, if Canada is engaging in some other anticompetitive behavior in the area of cattle, we need to talk about that.

Regarding NAFTA, I believe I must make clear that the NAFTA did not place any kind of "cap" on Montana or U.S. cattle. (Burns has said at your confirmation hearing that there was a "cap" on U.S. exports of Cattle into Canada. This is totally incorrect). NAFTA also did not affect the health requirements countries place on various imports, except for requiring that these standards be based on sound science are be applied fairly. With or without NAFTA, countries have always had the right to set scientifically sound health and safety standards at the border. These standards have served our country well.

Incentive for the Chileans

Question: Why does Chile want an FTA with the United States, if our duties and barriers are so low?

Answer:

I cannot answer for Chile, but most countries would like to enjoy the secure access to the U.S. market that an FTA would provide. That is why Chile has successfully pursued agreements with Mercosur and Canada, and is expanding its agreement with Mexico. For many commodities, even a fractional tariff cut could make them more competitive in a particular market.

Consumer Safety

Question: Don't recent incidents involving imported food show that free trade is dangerous to our health?

Answer

Food safety is a primary concern to the Administration and, of course, the Congress. That is why our trade agreements allow us to maintain our stringent health and safety standards. We can, and do, inspect foodstuffs from abroad and can deny their entry into this country if they do not meet our standards. FDA data does not substantiate the charge that food-borne illness has increased because of expanded trade through NAFTA.

IF ASKED: With regard to the case involving strawberries originally imported from Mexico, the source of contamination is unknown. The Centers for Disease Control and Prevention the FDA and the California state government offices are still conducting an investigation to determine whether the strawberries were contaminated in Mexico, the U.S. processing plant or elsewhere.

IF ASKED: With regard to cyclospora due to Guatemalan raspberries, existing inspection procedures cannot detect this contaminant. Unfortunately, cyclospora outbreaks occur in domestic produce also.

FAST TRACK Q&A'S

“DIRECTLY RELATED TO TRADE”

Q: What does it mean to say that any labor/environment provisions brought back on fast track must be “directly related to trade”?

- It means that labor and environmental provisions having a direct relationship to trade can be included in fast track legislation.
- It is one part of our overall commitment to labor and the environment. As the President has stated, he is committed to pursuing three objectives as we move forward: 1) to open foreign markets and create good U.S. jobs; 2) to promote labor rights; and 3) to promote responsible environmental development. Throughout this debate, our goal has been to ensure the President has the capacity to pursue all three objectives effectively.
- The Administration's bill gives the President ample latitude to accomplish his labor/environment objectives. He has many tools at his disposal:
 - Trade Agreements. As we said, the bill permits labor/environmental provisions “directly related to trade” to be brought back to Congress under fast track authority. This is only one tool he can use.
 - Global Negotiations: This Administration has done more than any other to press countries to improve labor rights and environmental protection – and we will continue to do so. The bill itself contains a negotiating objective encouraging us to make progress in these areas in the WTO and the ILO. In addition, we will continue to press in other for a, like the World Bank, IMF, other international financial institutions and the UN. We should be concerned about improving the conditions in all countries, not just in free trade partners.
 - Side Agreements: The President has extensive executive authority to reach labor/environment agreements with countries. These agreements do not require Congressional approval. In the context of future free trade agreements, we have committed to conclude companion labor/environment agreements, when appropriate. Chile has already agreed to enter such agreements.
- The important point is to secure fast track authority. If we pursue trade negotiations, we have a much better chance of engaging these countries on labor and environmental issues. Rejecting fast track will not advance our interests on labor/environment.

Q: But what does the term “directly related to trade” mean?

- It means that a discrete set of provisions directly related to trade could be included in the fast track legislation. We are still discussing the precise definition with Congress, but examples include establishing the principle that countries should not lower their environmental or health and safety standards to attract foreign investment or provisions relating to the ability of a country to use sanitary/phytosanitary measures as a disguised form of trade protection.
- Remember that this is only one tool we have to pursue our labor and environmental objectives. We believe the combination of side agreements and other measures already give us much latitude to pursue our objectives.

Q: Suppose a country lowers its child labor standards to attract foreign investment or to export cheaper products to the U.S. Could this be included in the trade agreement?

- Obviously, we are not going to negotiate a free trade agreement with a country that has a heinous labor rights or environmental record, so the issue of what can be contained in an agreement would not arise.
- As to the precise definition of “directly related to trade”, we are still working that out with Congress. We would favor a broader definition, but we also need to achieve a bipartisan consensus.

CONTENT OF SIDE AGREEMENTS

Q: What provisions will be contained in any side agreements you reach?

A: That could vary among countries. Different countries would have different conditions and different needs. As a general matter, agreements could include provisions to:

- Promote better enforcement of a country’s labor and environmental laws and regulations.
- Encourage greater transparency and public disclosure about a country’s labor and environmental standards and performance.
- Provide greater technical assistance to countries to improve their labor rights and environmental protection.

We would consult extensively with Congress about our approach in any individual case.

LINKAGE BETWEEN TRADE AGREEMENT/SIDE AGREEMENTS

Q: Do you commit to reach side agreements with all future free trade agreement partners?

- We reached side agreements with Mexico and Canada during those free trade negotiations. We have already said we will negotiate side agreements in the context of free trade talks with Chile – and Chile has agreed to do it.
- There may be instances when side agreements wouldn't be necessary (England, Sweden) but we would negotiate them when they are appropriate. In any case, we will move forward in full consultation with Congress.

SANCTIONS AND SIDE AGREEMENTS

[dropped]

Q: Would you make any future labor/environmental side agreements enforceable through trade sanctions?

- We will ensure that any side agreements we reach are enforceable through sanctions (whether monetary fines or other methods).

Q: Yes, but would you entertain the use of trade sanctions to enforce the agreements, as you did in NAFTA?

- At this time, the only bilateral free trade agreement we envision negotiating is with Chile. Chile has agreed to enter labor/environment side agreements enforceable by monetary fines. We think that will provide sufficient enforcement. Therefore, the question of other bilateral free trade agreements – let alone how they would be enforced – at this point is pretty theoretical.
- We would need to consult with Congress extensively before we pursue another bilateral free trade negotiations. If that situation arises, we will consult on this question as well.

Q: But at the end of the day, would you consider using trade sanctions?

- In most cases, we believe enforcement through monetary fines or similar methods could be effective. If they cannot, we would consider using trade sanctions to collect monetary fines, as we have done in past agreements. We would pursue this approach only after extensive consultation with Congress.

INTELLECTUAL PROPERTY VERSUS LABOR/ENVIRONMENT

Q: Critics charge that you incorporate intellectual property provisions in free trade agreements, but fail to give the same treatment to labor/environmental provisions? Aren't they correct that you care more about American corporations than about American workers?

- First, no Administration in history has been more aggressive in pressing to improve international labor rights or environmental protection. We have:
 - Continued to press this agenda in international institutions, like the ILO and WTO. In fact, our fast track bill contains a negotiating objective directing us to continue this effort.
 - Made a commitment to negotiate labor/environment side agreements in the context of future free trade agreements, when appropriate. We will negotiate such agreements in the context of the Chilean free trade talks. Those agreements can make a difference: there have 7 cases brought involving labor violations under the NAFTA side agreement, none brought for IPR violations under the NAFTA itself.
 - Other initiatives, like the President's 1996 Apparel Industry Partnership ("No Sweat Initiative"), a collaboration between labor, business and NGO's to encourage adoption of a code of conduct prohibiting exploitative child labor and encouraging humane working conditions.
- As to the critics' charge, there is a fundamental difference between intellectual property rights and labor/environment. Violations of intellectual property rights relate to the product itself, which is being exported to the United States. The issue of labor/environment involves more broadly the entire social and legal structure of the foreign country, which goes beyond trade concerns. That's an important difference.

“DIRECTLY RELATED TO TRADE”

disk from BGR
to Mike 9:15 am

Q: What does it mean to say that any labor/environment provisions brought back on fast track must be “directly related to trade”?

- It means that labor and environmental provisions having a direct relationship to trade can be included in fast track legislation.
- It is one part of our overall commitment to labor and the environment. As the President has stated, he is committed to pursuing three objectives as we move forward: 1) to open foreign markets and create good U.S. jobs; 2) to promote labor rights; and 3) to promote responsible environmental development. Throughout this debate, our goal has been to ensure the President has the capacity to pursue all three objectives effectively.
- The Administration’s bill gives the President ample latitude to accomplish his labor/environment objectives. He has many tools at his disposal:
 - Trade Agreements. As we said, the bill permits labor/environmental provisions “directly related to trade” to be brought back to Congress under fast track authority. This is only one tool he can use.
 - Global Negotiations: This Administration has done more than any other to press countries to improve labor rights and environmental protection – and we will continue to do so. The bill itself contains a negotiating objective encouraging us to make progress in these areas in the WTO and the ILO. In addition, we will continue to press in other for a, like the World Bank, IMF, other international financial institutions and the UN. We should be concerned about improving the conditions in all countries, not just in free trade partners.
 - Side Agreements: The President has extensive executive authority to reach labor/environment agreements with countries. These agreements do not require Congressional approval. In the context of future free trade agreements, we have committed to conclude companion labor/environment agreements, when appropriate. Chile has already agreed to enter such agreements.
- The important point is to secure fast track authority. If we pursue trade negotiations, we have a much better chance of engaging these countries on labor and environmental issues. Rejecting fast track will not advance our interests on labor/environment.

Q: But what does the term “directly related to trade” mean?

- It means that a discrete set of provisions directly related to trade could be included in the fast track legislation. We are still discussing the precise definition with Congress, but examples include establishing the principle that countries should not lower their environmental or

BE adding
here 9/15

QUESTIONS AND ANSWERS
"DIRECTLY RELATED TO TRADE"
(For Cabinet meetings with Democratic Members)

Q: What will the Administration's fast track legislation propose regarding labor and the environment?

A: As the President has said repeatedly, and most recently in his radio address two weeks ago, he has three primary objectives that fast track authority must allow him to pursue: 1) to negotiate new trade agreements to break down foreign barriers, expand exports, and continue an unprecedented economic expansion; 2) to promote worker rights and; 3) to promote responsible environmental development. Our proposal will permit the President to continue to pursue all three objectives.

One possible formulation we are considering is a concept we advanced in 1995, namely that fast track procedures would apply to labor and environmental issues directly related to trade. This formulation would allow the President to use fast track authority in the same manner as past Democratic and Republican Presidents, and to address the full range of labor and environmental issues using his executive authority. This approach emerges out of significant consultations between the Administration and members of both House and both parties; the labor and environmental communities, and the business community, including agriculture. We believe it fulfills the President's key objectives, which are to ensure he has the necessary flexibility to address trade, labor and environmental issues in an effective manner.

Q: What does "directly related to trade" mean? What provisions could be included in a trade agreement under that definition?

A: We are still discussing the precise formulation of the term and its meaning. It would cover types of labor/environmental provisions that have been included in past trade agreements. — such as —
Regardless how it is defined, we want to emphasize that trade agreements are only one way to promote labor and environmental progress in other countries. The Administration will use a variety of tools to advance its labor/environment agenda. In addition to trade agreements, these will include: (SPT, TET, etc)

Side Agreements: When appropriate, the Administration would negotiate labor/environment side agreements under which countries would make commitments relating to labor/environment standards and enforcement. For example, Chile has already committed to negotiate such agreements in the context of free trade negotiations with the U.S.

Other Initiatives: The Administration has been aggressively promoting core labor standards and environmental protection abroad through initiatives not necessarily related to trade negotiations. Examples include:

- The Administration's Sweatshop Eradication initiative brings together labor unions, businesses and others to end exploitable labor practices and improve working conditions, both here and abroad. Companies have already pledged to accept external monitoring of their labor practices.
- The Administration has led the world in promoting adherence to core labor standards in the ILO, the WTO and other fora.
- The Administration established the Committee on Trade and Environment in the WTO, for the first time ensuring a permanent forum for addressing these issues.
- In the President's first term, Secretary of State Warren Christopher directed the entire State Department to incorporate environmental concerns into its diplomacy. He took the unprecedented step of establishing State Department environmental offices in targeted regions having special environmental problems.

We are confident that the combination of these tools will permit us to effectively advance our labor/environment agenda.

Q: Can you give me an example of a labor/environmental provision that is "directly related to trade"?

A: This formulation would allow us to incorporate in future trade agreements the principle that countries should not lower their environmental standards to attract foreign investment.

labor example?

Q: Cong. Gephardt would insist that the Administration include all labor or environmental provisions in future free trade agreements? Would you have preferred to include a broader range of these provisions in trade agreements?

A: We would have preferred to have more flexibility regarding the breadth of the term "directly related to trade", but that is not achievable. Nevertheless, our proposed approach will permit us to achieve all of the President's three objectives.

Q: Will the Administration insist that any labor/environmental side agreements be enforceable through trade sanctions?

A: We are in the process of reaching bipartisan agreement with Congressional leaders over the approach that should be taken in the labor/environmental area. That approach will consist of a package of steps we would take to promote labor rights and the environment. Whether sanctions are envisioned will depend on the content of the entire package. In any case, we will insist that the President be able to pursue his three objectives effectively.

**NON-LABOR/ENVIRONMENT
TERMS OF THE FAST TRACK LEGISLATION
QUESTIONS & ANSWERS
(For Cabinet meetings with Democratic Members)**

Duration

Q: What is the duration of the fast track authority the Administration is seeking?

A: The Administration is likely to seek fast track authority lasting until October 1, 2005. This duration is consistent with some past grants of authority by Congress. This duration gives our trading partners confidence that the U.S. will be able to continue market opening initiatives that may take years to complete (e.g., FTAA, APEC). Without longer-term authority, countries may not be willing to start a longer-term process, crippling our ability to reduce foreign trade barriers.

Background: This duration corresponds to the deadline set for the completion date of the Free Trade Area of the Americas process in 2005. Although it extends beyond President Clinton's tenure (through the next President's first term), this is necessary to give us credibility in long-term negotiations. The October 1, 2005 date puts the President newly elected in 2004 in the strongest position to secure an extension of authority in 2005.

Scope of Provisions in Implementing Bill

Q: I understand some want to limit the provisions of any trade agreement implementing bill only to those provisions absolutely necessary to implement the agreement. What will the Administration's legislation provide?

A: We favor retaining the authority given to past Administrations to include in such legislation provisions that are "necessary or appropriate" to implement the trade agreement. This would permit provisions that are not absolutely necessary to implement the agreement, but are ancillary to implementation (e.g., authority to monitor the results of the agreement) or necessary to secure the required votes for passage. We believe the Administration needs that flexibility. Negotiations on this matter continue.

Background: This issue relates to what provisions may be included in future legislation implementing free trade agreements (not in the fast track legislation currently being considered). Some Republicans objected that the NAFTA and Uruguay Round implementing bills included too many extraneous provisions (e.g., North American Development Bank) that were not necessary to implement these agreements and they seek to limit the ability to include such provisions in future implementing bills. However, limiting future bills only to "necessary" provisions would straightjacket efforts by the Administration and its Congressional supporters to secure the votes for passage and to add other appropriate provisions. Other Congressional Members also favor broad flexibility to incorporate provisions they favor (e.g., dumping law amendments) in future implementing legislation. Discussions continue with Congressional leaders as to the extent of flexibility to be provided.

Other Free Trade Agreements

Q: What other bilateral free trade agreements do you envision negotiating?

A: The Administration would use this authority to break down foreign barriers in a number of ways, not just through free trade agreements. These include:

- **Multilateral:** Negotiations are scheduled in the WTO to break down global barriers in key areas, like agriculture and services, in which the U.S. has substantial trade surpluses already.
- **Sectoral:** We would pursue negotiations to open markets in sectors in which the U.S. is highly competitive, such as information technology products, medical equipment and environmental technology.
- **Regional:** We would also continue our efforts to open the markets of Latin America and Asia, the two fastest growing regions of the world. We need fast track authority to continue these broad and long-term processes. At this point, the only bilateral free trade agreement we envision completing is with Chile, but we would welcome your views on what other countries we might consider.

Fast Track Generally

Q: Doesn't the fast track process deprive Congress its rightful role in trade matters?

A: The fast track process actually ensure Congress a central role in trade negotiations. For over twenty years, Congress has used fast track to set negotiating objectives, to oversee the conduct of negotiations, to establish by statute procedures for advising the President, and to ensure Congress is apprised of how the agreements will be implemented. Fast track implementing bills are written jointly with each Congressional committee of jurisdiction. All five of the fast track trade agreements submitted to the Congress since 1979 have been approved, most by overwhelming majorities. This would not have happened if those procedures did not produce agreements in America's interests and if they did not respect Congressional prerogatives and democratic traditions.

call
Do/stop
this
further
strongest
role over

Congressional Consultations

Q: The Administration has not consulted adequately with Congress on these trade agreements. What will your proposal provide to remedy that?

A: We take the need to consult with Congress very seriously. In the President's first term, USTR officials alone consulted with members of Congress and their staffs literally thousands of times.

The legislation we will submit envisions substantial consultations with Congress at every step along the way - before, during and after trade agreement negotiations. In fact, there will even be a provision permitting Congress to withdraw fast track authority from the Administration if it

fails or refuses to consult. We take consultations seriously. If at any time you feel we are not doing enough, please tell us.

Background: The Administration's bill will contain various provisions regarding consultation. These include notice and consultations with the Ways & Means and Finance Committees and other appropriate committees to the start of negotiations; notification to Congress before signing an agreement, plus Federal Register notice and consultations with all committees of jurisdiction; and a provision permitting Congress to repeal fast track authority if the Administration fails to consult adequately prior to signing agreements.

NORTH AMERICAN AGREEMENT ON ENVIRONMENTAL COOPERATION: A PRIMER

HISTORICAL UNDERTAKING: The North American Agreement on Environmental Cooperation (NAAEC) is the first environmental agreement specifically associated with a trade agreement. It is designed to ensure that expanded trade contributes to strong environmental protection in North America.

SCOPE: Any environmental or natural resource issue may be addressed through a work program under the Agreement, and any environmental concern or obligation of the agreement may be the subject of consultations between parties.

ENVIRONMENTAL OBLIGATIONS: The NAAEC requires NAFTA partners to undertake specific obligations regarding the development, implementation, and enforcement of their environmental laws:

- Guarantee citizens access to national courts to petition governments to undertake enforcement actions and to seek redress of harm.
- Ensure the openness of judicial and administrative proceedings and transparent procedures for the creation of environmental laws and regulations.
- Pledge that national laws and standards will continue to provide high levels of environmental protection and to work cooperatively in enhancing protections.
- Effectively enforce national environmental laws and submit this commitment to a dispute settlement process.
- Commit to report on the state of the domestic environment and to promote environmental education, scientific research, and technological development.
- Work toward limiting trade in toxic substances that they have banned domestically.

The Agreement does not affect the rights of states and provinces under the NAFTA to maintain standards at levels higher than the Federal Governments.

COOPERATION AGENDA: A major goal of the Agreement is to broaden cooperative activities among the NAFTA partners designed to:

- Consider the environmental implications of process and production methods.
- Promote greater public access to information about hazardous substances ("community right-to-know").
- Consider ways to promote the assessment and mitigation of transboundary environmental

problems.

INDEPENDENT ORGANIZATION: The Agreement is administered by the Commission on Environmental Cooperation (CEC), which was created specifically for that purpose.

- The top environmental official in each country (the EPA Administrator for the United States) comprises the Commission's Council.
- The heart of the Commission is the Secretariat. The Executive Director of the Secretariat takes broad direction from the Council, but maintain a high degree of independence.
- A Joint Advisory Committee made up of nongovernmental organizations from all three countries advises the Council in its deliberations.
- The Commission will serve as a point of enquiry for public concerns about NAFTA's effect on the environment, and be an avenue for NAFTA dispute settlement panels to obtain environmental expertise when faced with environmental issues.

OVERSIGHT OF NATIONAL ENFORCEMENT: Transparency is the hallmark of the agreement. Citizens of member countries are entitled to make submissions related to the full range of environmental issues.

- The Commission's Secretariat must act on submissions appropriately to develop fact-finding reports. The reports must be made public if any two of the three NAFTA countries concur.
- The agreement creates a consultative process for the Council to discuss issues, including those brought to light through the public submission process and the Secretariat's fact-finding activities.
- In the event that one Party considers that another Party has persistently failed to effectively enforce its environmental laws (affecting a sector involving traded goods or services), the matter may be referred to a dispute settlement panel when consultations fail to resolve the matter.
- The dispute settlement process provides for sanctions in the form of monetary compensation or withdrawal of trade privileges if members fail to correct problems of nonenforcement.

NORTH AMERICAN AGREEMENT ON LABOR COOPERATION: A PRIMER

HISTORIC UNDERTAKING: The North American Agreement on Labor Cooperation (NAALC) is the first labor agreement specifically associated with a trade agreement. It is designed to promote improved labor conditions and enforcement of national labor laws throughout North America.

OBJECTIVES: The Agreement provides for promotion of improved labor laws and standards, effective enforcement of these laws, and the promotion of key labor protections, including:

- Freedom of association and protection of the right to organize
- Right to bargain collectively
- Right to strike
- Prohibition of forced labor
- Labor protections for children
- Minimum employment standards, such as minimum wages and overtime
- Elimination of employment discrimination
- Equal pay for men and women
- Promotion of occupational health and safety
- Compensation for occupational illnesses and injuries
- Protection of migrant workers.

INDEPENDENT ORGANIZATION: The Agreement is administered by the Commission on Labor Cooperation, which was created specifically for that purpose.

- The top labor official in each country (the Secretary of Labor) for the United States) comprises the Commission's Council, which has a mandate to work cooperatively on a broad range of labor issues.
- An independent International Coordinating Secretariat provides technical support to the Council, and reports periodically to the Council on labor issues, including labor laws and their enforcement, labor market conditions, and training and adjustment programs in the three countries. The Secretariat is headed by an Executive Director appointed by consensus for a fixed term.
- Each national government appoints a National Administrative Office (NAO) as the point of contact between itself and Commission entities.

LABOR OBLIGATIONS: The NAALC requires NAFTA partners to undertake specific obligations regarding the development, administration, enforcement, and review of their labor laws, including to:

- Publish laws, regulations and procedures and promote public awareness of these laws and regulations, so that workers and employers will know their rights and responsibilities;
- Promote compliance with laws and enforcement through appropriate tools, including:

- appointment and training of inspectors,
 - monitoring and on-site inspections,
 - encouragement of voluntary compliance,
 - Mandatory reporting; and
 - enforcement actions.
- Provide effective means for binding domestic enforcement of rights granted under its labor laws (including collective bargaining rights) for all groups with a legally recognized interest under that country's laws;
 - Maintain domestic administrative and judicial processes that are independent and impartial, comply with due process, allow parties to be heard and present evidence, and normally are open to the public.
 - Provide for a right to independent review of administrative determinations, as appropriate.
 - Provide for a right for parties to a proceeding to seek remedies for failure to enforce labor rights, including, as appropriate, compliance agreements, penalties, fines or injunctions.

OVERSIGHT OF NATIONAL ENFORCEMENT: The Agreement has several avenues to encourage effective national enforcement of labor laws:

- The Secretariat reports periodically on labor laws and their enforcement in each country;
- The NAO's consult and exchange information on enforcement, and provide information to the Council and the ICS;
- The Council can consult on any labor matter, including enforcement questions on any labor law;
- An Evaluation Committee of Experts (ECE), composed of independent experts, may be convened at the request of any party to examine and make recommendations on matters involving a pattern of practice.
- Dispute Settlement Panels can be invoked if a party believes that another is demonstrating a persistent pattern of failure to effectively enforce labor laws (affecting a sector involving traded goods or services), when consultations fail to resolve the matter.
- The dispute settlement process provides for sanctions in the form of monetary compensation or withdrawal of trade privileges if members fail to correct problems of nonenforcement of certain labor principles. (Specifically, damages can be imposed for violations of occupational safety and health, child labor or minimum wage technical labor standards).

Programs for Dislocated and Low Wage Workers -- The Facts

Working for Dislocated and Other Workers in Transition

- ✓ **Dislocated Worker Training.** In 1993, the Dislocated Worker assistance program received \$651 million and served 306,000 dislocated workers. By 1997, funding had grown to \$1.29 billion, an increase of 98 percent, to serve 580,000 laid-off workers. For next year, the President has proposed \$1.35 billion for Dislocated Worker assistance, or \$64 million (5 percent) above 1997, to serve 605,200 laid-off workers. To ensure an overall investment increase in training, Administration negotiators secured bipartisan agreement to include training on the list of protected Presidential priorities. *Overall Combined*
- ✓ **NAFTA Transitional Adjustment Assistance (NAFTA TAA).** Recognizing that some workers require assistance in adjusting to new patterns of trade and production, NAFTA-TAA contains several innovative features to provide expanded retraining and income support benefits. For the first time, NAFTA-TAA provides retraining and reemployment assistance and income support to workers displaced by production shifts as well as trade, and provides income support for "secondary" workers. *to highlight*
- ✓ **A \$1,500 HOPE Scholarship and a 20% Tuition Tax Credit for working Americans pursuing lifelong learning to upgrade their skills.** Because of the President's insistence, the balanced budget includes a both a \$1,500 two-year HOPE Scholarship and a 20% tuition tax credit that workers can use to help pay for training to upgrade their skills. The President has long understood that the economy is changing and that people need the opportunity to enhance their skills throughout their working lives.
- ✓ **More Secure Health Benefits - the 1996 "Kassebaum-Kennedy" law** means that as many as 25 million Americans have health benefit portability they did not have before. No longer will people who have been sick have to fear that they will lose their access to health insurance if they lose their job or change jobs. Nor can they be denied coverage because they have a preexisting medical condition.
- ✓ **Improved Pension Portability - the minimum wage law** included provisions to improve pension portability and coverage. The vesting period for multi-employer plans was reduced from 10 years to five years, meaning that more people will be covered more quickly. Additionally, the law encourages employers to allow employees to start saving for retirement from the first day on the job by changing the law that encouraged waiting periods. Moreover, through administrative action taken by the Treasury Department, employers that make a broad range of investment choices available to active employees may not limit former employees to investment in a money market fund.
- ✓ **One-Stop Career Centers - this Administration initiative** is designed to transform a fragmented array of employment and training programs into a coordinated information and delivery system for job-seekers and employers. To date, 24 states have received grants to implement One-Stop systems and nine more will receive grants in 1997. The President's FY 98 budget proposed \$150 million in funding to expand One-Stop Career Centers to all states in 1998.

Working for Low-Wage Workers

- ✓ **A higher minimum wage** -- On Labor Day, 10 million workers received a raise with the increase in the minimum wage the President fought so hard to deliver. In two steps of 45 cents each, one last October and the one on Labor Day of this year, the hourly minimum wage was increased 90 cents or 21 percent from \$4.25 to \$5.15. For an average full-time minimum wage worker this amounts to a raise of \$1,800.
- ✓ **President Clinton insisted child tax credit include low wage workers** -- the balanced budget includes a \$500 per-child tax credit for approximately 27 million working families with 45 million children. A typical family with two children will see their after tax paychecks rise \$1,000 annually. The President insisted that the final child tax credit include hard working families making less than \$30,000 -- 13 million children from families with incomes below \$30,000 will receive the child tax credit.
- ✓ **EITC Expansion** - the new child tax credit builds on the President's major expansion of the Earned Income Tax Credit in 1993 that delivered a raise to 15 million hard working families.

NAFTA ENVIRONMENTAL AGREEMENT: THE FACTS

NAFTA is the first trade agreement to include mechanisms to address the unique environmental problems that have long challenged communities along the 2000-mile shared border with Mexico. The North American Agreement on Environmental Cooperation (NAAEC) has led to unprecedented regional environmental cooperation and improved enforcement of Mexico's environmental laws.

CLAIM: IMPLEMENTATION OF NAFTA'S ENVIRONMENTAL OPERATIONS HAS BEEN FLAWED, AND PROMISED IMPROVEMENTS TO THE HEALTH AND SAFETY OF WORKING FAMILIES ALONG THE BORDER HAVE NOT MATERIALIZED.

The Facts: NAFTA's environmental activities, combined with extensive U.S.-Mexico environmental cooperation, are making concrete progress. For instance, we can already point to a border community in Texas that has indoor plumbing and clean drinking water for the first time.

- **NAFTA's environmental institutions are addressing critical environmental infrastructure needs.** To date, 16 projects have been certified with a combined cost of nearly \$230 million, and construction has already begun on seven projects. Over time, the North American Development Bank (NADBank) will be able to leverage its capital into \$2 to \$3 billion in lending.
- **30 Environmental Projects Along the Border.** The NADBank, together with the NAFTA Border Environment Cooperation Commission (BECC) and federal and state officials on both sides of the border, have identified more than 30 environmental projects along the border with a total cost of about \$500 million for their 1997-99 work plan.
- **NADBank is establishing co-financing mechanisms with U.S. and Mexican grant programs to provide affordable financing for poor border communities.** A recent agreement will enable NADBank to combine its loans with up to \$170 million in grants from the Environmental Protection Agency for border water and wastewater projects.
- **The United States and Mexico have launched a Border XXI program establishing five-year objectives for achieving a clean border environment and a blueprint for meeting them.** U.S. and Mexican officials are now working to abate emissions from vehicles at border crossings, tracking transboundary shipments of hazardous wastes, and operating a U.S.-Mexico Joint Response Team to minimize the risk of chemical accidents, to name just a few activities.

NAFTA LABOR AGREEMENT: THE FACTS

NAFTA is the first trade agreement to include protections for workers. The North American Agreement on Labor Cooperation (NAALC) established by the NAFTA has enhanced oversight and enforcement of national labor laws and created North American cooperation on fundamental labor issues. Since the NAALC has been in effect, there is evidence that Mexico has strengthened enforcement of its labor laws.

CLAIM: THE LABOR SIDE AGREEMENT HAS NO TEETH BECAUSE IT IS NOT A CORE PART OF THE NAFTA. THE SUBMISSION PROCESS HAS NOT RESULTED IN A SINGLE CASE OF ENFORCEMENT ACTIONS OR SANCTIONS.

THE FACTS: The international public scrutiny associated with the NAFTA submission process has been an important impetus for change in Mexico.

- **Legal and Economic Sanctions.** The NAALC submission process subjects member governments to public and international scrutiny for alleged violations of labor laws; it can also lead to economic sanctions for violations of certain types of labor rights.
- To date, the United States has received seven submissions against Mexico, while Mexico has reviewed one submission against the United States. We have achieved a high measure of success in the review of these submissions, both in affording remedies to affected workers and in influencing policy changes. In one case, a Mexican labor tribunal granted recognition to the petitioning union, reversing an earlier decision, and afforded a new hearing for workers dismissed for union activity. In other cases, workers were permitted secret ballot elections, a practice not common in Mexico. In addition, there are indications that a number of Mexican labor disputes have been settled by companies wishing to avoid the negative publicity associated with the NAFTA review process.
- Important legal advancements on labor rights have taken place in Mexico since NAFTA was signed. In 1996, the Supreme Court of Mexico issued two decisions finding state statutes restricting freedom of association unconstitutional. Mexico's Department of Labor has issued recommendations providing for greater autonomy and professionalism of tripartite labor tribunals and making the union registration process a purely administrative decision.
- Under the NAALC, the Canadian, Mexican, and U.S. governments have initiated cooperative efforts on a variety of labor issues, including occupational safety and health, employment and training, industrial relations, worker rights and child labor and gender issues.
- Mexican enforcement of labor laws has improved since NAFTA was signed. Mexico's Secretariat of Labor and Social Welfare reports a nearly 250 percent increase in funding for enforcement and a 30 percent reduction in the number of workplace injuries and illnesses.

NAFTA/FAST TRACK and Food Safety

ISSUE:

Recent Congressional attacks on the NAFTA and Fast Track authority have been fueled by press reports on the hepatitis A outbreak in Michigan attributed to Mexican strawberries, a cyclospora infection traced to imported Guatemalan raspberries. As Hudson Foods' E. Coli hamburger recall and the Sutton Place Gourmet pesto contamination demonstrate, food safety is a domestic issue, not a trade issue.

POINTS TO MAKE:

- Recent data from the Food and Drug Administration do not substantiate the charge that food-borne illness has increased because of expanded trade through NAFTA. ?
 I see
 more
 than this
- In fact, the FDA reported a 12% decrease in the detention rate of Canadian origin food products and a 30% drop in the detention rate for Mexican-origin products compared with 1995. Indeed, it should be further emphasized that the majority of the products that were detained were found not to be in violation of US standards and were held up temporarily because of very stringent US entry procedures. FDA
 FDA?
- During 1995 and 1996, the total number of pest detections by APHIS at US points of entry dropped by almost 10,000. This drop clearly shows that increased trade in agricultural goods has not increased the risks to US animal and plant health.] for that
 less
 inspection!
 (but see
 next bullet)
- In order to protect U.S. animal and plant health from imported pests and disease, APHIS has increased funding for inspections 78% and added 44% more personnel since 1990.
- On August 29, Secretary Glickman announced he would seek enhanced powers to require recall of food and agricultural products which could pose a danger to public health.
- The Department of Health and Human Services and the FDA are proposing legislation (The Food Safety Enforcement and Enhancement Act(s)) to strengthen food safety enforcement within the United States.

What is the Administration doing to reduce the incidence of food borne illness?

- In May, Vice President Gore announced a five point plan to increase the safety of the nations food supply. The \$43.2 million plan, "Food Safety From Farm to Table", was developed by the Departments of Agriculture, HHS, and FDA. Working with state and local officials, the food industry, scientists, consumer and producer groups, these federal agencies will build on previous Administration steps to modernize the nation's food safety programs. Among the plan's provisions:
 - Build an "Early Warning System" to detect and respond to outbreaks of food-borne illnesses earlier and collect data to help prevent future outbreaks.
 - The Administration requested \$ 8.5 million to hire new inspectors to bolster monitoring of seafood, fruits and vegetables, and egg products.
 - Ensure compliance with the seafood, meat and poultry Hazard Analysis and Critical Control Points (HACCP pronounced "Hasip") regulations. These regulations include specific provisions related to imported foods, to prevent food safety hazards before the product enters the marketplace.
 - USDA, FDA and EPA are conducting research to find more efficient ways of testing for food borne hazards like Campylobacter, Salmonella, E. Coli, hepatitis A, mycotoxins and marine toxins in food. \$16.5 million has been targeted to these critical research needs.
 - An unprecedented public education campaign was launched by Industry, consumer groups and the Vice President in May.

If asked about Guatemalan raspberries only:

- The outbreak of cyclospora due to Guatemalan raspberries would not have been avoided even with 100% inspection. Phytosanitary and food safety health inspection procedures cannot detect cyclospora. In fact, cyclospora outbreaks occur in domestic produce as well.

If asked about the frozen strawberries only:

- The source of contamination for the frozen strawberries originally imported from Mexico is unknown. The Centers for Disease Control and Prevention, the US Food and Drug Administration, the California Department of Health, and the California Department of Food and Agriculture are still conducting an investigation to determine whether the strawberries were contaminated in Mexico, the US processing plant or some other location. (Still fact checking this bullet).

BACKGROUND:

NAFTA Study Related Questions and Answers

Index

<u>1. General Questions</u>	2
<u>2. Key Economic Issues</u>	3
<u>3. Industrial and Service Sectoral Issues</u>	8
<u>4. Mexico Specific Issues</u>	11
<u>5. Labor Rights and Labor Transition Issues</u>	12
<u>6. Environment Issues</u>	13

General Issues

Q: Why was the Study late?

A: Study is a serious effort to respond to Congressional request. Took longer to prepare given complexities, and Congress was on recess last week when due.

Q: What are the conclusions of the President's NAFTA Study?

A: NAFTA has made a modest positive contribution to economic expansion.

DRI estimates exports increased by \$12 billion, imports increased by \$5 billion, and GDP increased by \$13 billion in 1996 (real terms).

NAFTA generating exports, trade and higher paying U.S. jobs; NAFTA specifically generated 90,000 to 160,000 (est) export supported jobs re Mexico; better positioned competitively; protected exports from 80s peso crisis scenario.

U.S. exports 1997 near equal exports to Japan even though Mexico's economy is 1/12th size.

U.S. gained market share in Mexico at over twice the rate Mexican gained share in U.S.

Labor and environmental agreements set in motion cooperative activities; encouraged effective labor/environmental enforcement- both starting to produce.

Q: What about the problems the NAFTA has caused that are addressed in the Study?

A: Cannot attribute any significant problems to NAFTA; provides a venue for U.S. to build on its competitive strength; NAFTA may lead to some shifts in productive resources.

Q: The NAFTA critics claim the President's Study is a whitewash and overlooks the problems. How do you respond?

A: Study is considered view of the Administration, drawing on the expertise that resides in Executive Branch, and spectrum of views outside the government.

Q: The legislation includes a provision requesting "any appropriate" recommendations by the President with respect to the operation and effects of the NAFTA. Does the report contain any recommendations? If not, why not?

A: No need for recommendations. NAFTA is working.

Q: Given that the Study concludes the NAFTA is a good agreement for the United States, does the Administration still plan to negotiate Chile's accession to the NAFTA?

A: President committed to comprehensive FTA with Chile; NAFTA is a good FTA; however key issue is obtaining enactment of fast track legislation; Administration focused on that; consider exact form of the agreement with Chile once fast track is in place.

Q: Do you think this Study will give a boost to fast track prospects in the fall?

A: If Study persuades Members to think favorably about trade agreements, or maintain an open mind, that is helpful; however, fast track is about the global trade agenda, not Mexico.

Q: The North American Free Trade Agreement is an agreement between Canada, Mexico, and the United States. Why does the report focus primarily on Mexico and less on Canada?

A: Congressional reporting requirement geared towards Mexico.

Q: How will Mexico and Canada react to this Study?

A: Ask the governments of Canada and Mexico, but expect to be fine.

KEY ECONOMIC ISSUES

Q: What were the results of the economic analysis in the NAFTA Report?

A: Studies found modest positive effect on economy.

Direct effects:

- DRI/McGraw Hill showed 96 exports to Mexico \$12 billion higher/imports \$5 billion higher than without NAFTA; NAFTA added \$13 billion to GDP in 1996.
- Federal Reserve Bank of Dallas, NAFTA increased U.S. exports by \$7 billion in 1994-95, added \$3 billion to imports.
- \$7-12 billion in additional exports due to NAFTA (Dallas Fed and DRI results) supports 90,000-160,000 U.S. jobs; wages 13-16% above the average wage.

Indirect effects:

- Indirect impact may have been even more important: Mexico respected NAFTA obligations; helped solidify support for reform; restore confidence; contributed to Mexico's rapid recovery, and recovery of U.S. exports.

Direct and indirect effects boosted U.S. exports to Mexico to record in 1996; and to increase in U.S. market share of Mexico's imports - 69 percent 1993 to 75.5 percent 1996.

Q: What does the NAFTA Study conclude regarding the effects of NAFTA on U.S. jobs?

A: Increased exports to Mexico in 1996 were \$7-12 billion higher due to NAFTA; exports supported 90,000-160,000 jobs, at wages higher than average.

Difficult to say how much NAFTA increased overall U.S. employment; can say that NAFTA led to an increase in higher-paying jobs.

Q. What about earlier Administration estimates of 310,000 jobs supported by exports to Canada and Mexico?

A; Still accurate. That is estimate based on total exports to Canada and Mexico. It is consistent with 90,000 to 160,000 estimate which is isolating the NAFTA effect with Mexico only.

Q. How do you respond to the critics charge that the NAFTA has caused over 400,000 jobs to be lost?

A: It is not based on the facts.

U.S. net employment increased by 8.6 million jobs from 1993 to 1996. Unemployment rate dropped from 6.9 percent in 1993 to 5 percent in June 1997. The U.S. economy cannot be losing jobs overall as the unemployment rate has declined to this degree.

President's Study estimates that the NAFTA has contributed to an increase in jobs supported by exports to Mexico alone of between 90,000 to 160,000.

Based on Department of Commerce, the Administration estimates total exports to Canada and Mexico support 2.3 million jobs.

The 400,000 job loss figure is premised on the view that trade deficits automatically result in job losses. Last 40 years proves this assertion incorrect: U.S. employment generally grew more and the unemployment rate was lower when the U.S. trade balance was worsening.

Wrong to assume imports displace jobs, for instance many imports provide critical inputs that are in short supply (i.e., petroleum, etc) or

Q: What does the NAFTA Study conclude regarding the causes of the U.S. trade deficits with Mexico and Canada since NAFTA was implemented?

A: Outside studies show that deterioration of our trade imbalance with Mexico/Canada not attributable to NAFTA, but function of exchange rate values and other macroeconomic forces, notably the 1995 economic contraction in Mexico and contrasting strong U.S. economy.

Study notes that some analysis concludes our bilateral trade deficit with Mexico was \$4-7 billion lower in 1996 than it would have been without NAFTA.

Q: We understand the ITC's analysis presents a mildly positive outcome, but there are elements you find problematic. What does the ITC analysis indicate and what are your views on their study?

A: Commission study represents an exceptional effort to come to grips with difficult economic question.

Commission recognized many of the NAFTA's important effects not easily quantified or observed, and the full effects of the Agreement will take years to be known.

They were trying to sort out NAFTA from other effects on trade and investment during extreme volatility in Mexico among numerous factors.

ITC concluded NAFTA "has had, on balance, positive, although modest, effects on the U.S. economy and individual industry sectors."

ITC considered both quantitative and qualitative work with respect to aggregate and sectoral trade.

Certain aspects of the ITC analysis suffered from some data insufficiencies:

- ITC was only able to use data back to 1989, because at disaggregated sectoral level, whereas other existing studies, DRI and the Dallas Fed, were able to use earlier data, permitting them to capture, the historical experience of the previous peso crisis in Mexico in 1982.

Q: Why don't you rely on the ITC's finding that in the aggregate the NAFTA had positive effect in 1994, but negative effect in 1995 and 1996?

A: ITC recognized the difficulty in trying to isolate the effects of NAFTA.

Commission refers to difficulties in questions by twice alluding to results of the formal quantitative analysis and the effects of NAFTA on aggregate trade flows in 1995 and 1996 as being “confounded” by the peso crisis

Actually , ITC concludes that 1994 was the only year in which the results were not confounded by the peso crisis.

They used too short a time series, 89-96, which does not allow them to adequately isolate NAFTA, which took place from 94-96, from peso crisis 95-96.

Q: Critics say the NAFTA is driving down American wages. Does the Study address that?

A: No reason to believe NAFTA is depressing wages.

- America has a \$7 trillion economy, and imports from Mexico amount to just 1% of that figure.
- Half of Mexican imports entered the U.S. duty free before NAFTA, NAFTA lowered U.S. tariffs on Mexican goods less than two percentage points, which would not be expected to have any discernible impact on wages.
- DRI estimated NAFTA contributed \$13 billion in real GDP in 96. Hard to believe this would depress wages.

Q: Did the NAFTA Study find that NAFTA diverted investment from the United States to Mexico?

A: No. U.S. foreign direct investment (FDI) in Mexico averaged \$3.1 billion in 1994-96, little changed from the \$2.5 billion in the year before NAFTA took effect.

The magnitude of U.S. FDI in Mexico is tiny when compared to overall U.S. investment:

- \$3.1 billion average annual U.S. FDI in Mexico during the NAFTA period less than 0.3% of gross private fixed investment in the United States in 1996.
- DRI estimated NAFTA contributed \$5 billion to U.S. business investment in 96.

Q. I gather the Study concludes that the NAFTA has helped generate higher wage jobs in the U.S. and Mexico, but it also says the peso crisis forced a decline in real wages in Mexico. Explain the contradiction?

- A: No contradiction. Although peso devaluation and contraction brought decline in real wages of 23 percent (1994 - early 1997), export supported jobs in Mexico pay more than other jobs in Mexico.

Manufacturing firms in Mexico with 40 percent or more of their total sales going to exports paid wages at minimum 11 percent more than non-export oriented firms.

- Q: The critics say that Maquiladora operations are synonymous with wage repression for the purpose of attracting investment, making victims of workers in Mexico and in the U.S. How does the Study address this?**

- A: We do not condone practices designed to repress wages.

Re maquiladora industry wages, the average monthly real wage in 1993 was lower than the non-Maquiladora manufacturing wage.

However, during 93-96, maquiladora average monthly real wages surpassed non-export oriented manufacturing real wages by as much as 17 percent by 1996

- Q: Many said that the NAFTA would scale back Maquiladoras, yet they still exist. How do you respond?**

- A: Lets get facts straight; NAFTA requires that the trade distorting elements of Mexico's Maquiladora policy be eliminated, and that is occurring. Specifically, by January 1, 2001.

- Q: Why are there more Maquiladora operations now than before the NAFTA, particularly when the NAFTA is dismantling the trade distorting elements of Mexico's Maquiladora policy?**

- A: Major reason is export orientation and exports have driven the growth of Mexico's economy (i.e., logical since domestic consumption fell by 17 percent in 1995).

- Q: While total U.S. exports to Mexico might be at an all-time high of \$57 billion in 1996, aren't we just re-importing those products from Maquiladoras?**

- A: No. Maquiladoras providing a decreasing share of U.S. imports from Mexico, down from 49% in 1993 to 38% in 1996; amount of U.S. goods returned from Maquiladoras also decreasing in total U.S. imports, accounting for 25% in 1993 and 20% in 1996.

INDUSTRIAL AND AGRICULTURAL SECTOR ISSUES

Q: Why did you chose these sectors to analyze in detail?

A: Sectors represent about half of two way merchandise trade; almost two thirds of manufactured trade - agriculture, automotives and parts, chemicals, computers and software, electronic components, selected consumer goods, printed products, processed foods, telecommunications equipment and textiles and apparel.

Sectors also witnessed major increases in one way or two-way trade 1994-96 and were subject of appreciable Mexican or U.S. tariff reductions on average.

Q: Are there any general conclusions that can be drawn regarding the sector analysis?

A: NAFTA's market opening requirements generating new gains for U.S. industry and agriculture; building powerful North American synergies translates into global competitiveness.

U.S. share of the import market in Mexico is expanding at more than double the rate of the Mexican share of U.S. imports.

Synergies are not contributing to overall increase in imports in the U.S., but Mexico taking greater share of global U.S. imports, and Mexican imports have higher U.S. content.

Q: Does the Study indicate which sectors are the winners and which are the losers as a result of the NAFTA? If so, what are they?

A: No sector harmed by NAFTA. Re winners - U.S. production up virtually across the board in the sectors we examined; even with productivity gains, employment is generally steady or up, and where it has declined consistent with a decades old trend (i.e., apparel).

NAFTA serving to protect and build jobs.

AUTOMOTIVES

Q: The U.S. trade deficit with Mexico in the Auto sector has grown by 305 percent. Hasn't this had a huge negative impact on the United States?

A: No. Look at industry indicators:

- Employment up 141,000 jobs; Mexican employment down 8.3 percent.

- The Big 3 invested \$39 billion in the U.S. since NAFTA and \$3 billion in Mexico.
- Big 3 production capacity up 490,000 units in U.S. and 241,000 in Mexico; and
- U.S. retail sales are up 8.9 percent; Mexican sales declined 70 percent 1995 and not recovered.

U.S. exports of autos up five fold to Mexico 1993-96, and overall automotive sector exports up 11 percent. Previous to NAFTA could not export to Mexico due to the auto decree, except under specified circumstances.

TEXTILES AND APPAREL

Q: Does the Study indicate that the NAFTA has led to decreased employment in the U.S. textile and apparel sector?

A: Employment in the U.S. industry been on long-term downtrend for three decades. The NAFTA has protected certain textile and apparel jobs in the United States through co-production arrangements with Mexico.

Q: Isn't it true that the elimination of import quotas and tariff reductions for textiles and apparel has resulted in huge growth in imports of these products from Mexico?

A: In 1996 imports of textiles and apparel from Canada and Mexico increased 137 percent over their 1993 level. However, this reflects a shift in the growth in imports away from the Far East (China, Hong Kong, Taiwan and Korea), whose exports to the United States in 1996 were 6 percent below their 1993 level.

Rather than importing Asian garments, firms are now assembling garments in Mexico with U.S.-cut fabric.

U.S. exports of textiles rose 79 percent 1993-96.

TELECOMMUNICATIONS

Q: The United States has experienced a trade deficit in the telecom sector with Mexico in 1995 and 1996. Given this trade deficit is in a sector that has had a surplus globally, can NAFTA be termed a success for the telecom sector?

A: Telecom trade deficit with Mexico suffered 1995 and 1996 due to factors external to the NAFTA, primarily Mexico's peso devaluation and economic downturn.

Yet, U.S. telecom companies saw their share of the Mexican import market rise while other countries fell, such as Japan.

Q: Since NAFTA there has been a rise in production of telecom equipment in Maquiladoras in Mexico. Has NAFTA contributed to the “export” of U.S. jobs and production?

A: Telecom employment levels have remained at very stable levels throughout the 1990s.

Increase in Maquiladora production of telecom equipment reflects increased production of “low-end” telecom equipment. U.S. telecom industry has virtually stopped making these products over the past two decades

COMPUTERS

Q: Why did the United States develop a trade deficit in computer equipment with Mexico after NAFTA was signed?

A: U.S. did record \$1.1 billion trade deficit with Mexico 1996. Due to economic conditions in Mexico in 1994-95.

Clear that NAFTA had virtually no impact on imports because U.S. tariffs were extremely low, or were zero. In fact, almost two-thirds of imports entered duty-free prior to the NAFTA.

AGRICULTURAL ISSUES

Q: Does the Study conclude that the NAFTA helps or hinders agricultural exports to Mexico?

A: Clearly helped U.S. exports and two-way trade. U.S. exports to Mexico since the NAFTA increased faster than imports from Mexico, and up 51 percent.

U.S. agricultural trade surplus with Mexico was \$1.3 billion in FY 1996, 37% higher than the FY 1993 surplus.

U.S. exports of corn, soybeans, wheat, cotton, and rice all set new records.

Prior to the NAFTA, the U.S. losing export market share in Mexico; NAFTA reversed trend - U.S. supplies about 75 percent of Mexico’s agricultural imports.

Q: Does the Study address the issue of tomato imports from Mexico and their impact on the Florida growers?

A: NAFTA tariff cuts have been minor factor with respect to Mexico; far bigger factor is the peso devaluation, the contraction in Mexico's economy and other factors.

In any case, Commerce negotiated a price floor agreement in response to the Florida grower concerns - agreement remains in force.

Q: What are you doing to protect against health hazards such as the hepatitis outbreak in Michigan resulting from fresh strawberries, imported from Mexico, and processed in California. Does the Study address this issue?

A: Study does not address this issue. U.S. Government has not identified source of the Hepatitis A outbreak. Furthermore, the FDA found no evidence of contamination in Mexico after visiting the fields.

Q: When is USDA going to issue its Congressionally required report on the NAFTA and agricultural trade? It was due in March.

A: Expect the USDA report to be out within the next few weeks. The President's report took precedence over the USDA report.

MEXICO SPECIFIC ISSUES

Q: The NAFTA has opened our borders and invited a flood of illegal drugs. How can we square free trade with our security interests? Does the Study offer any recommendations on this front?

A: The Study does not address the drugs issue. NAFTA has not "opened our borders." We have stepped up border enforcement and bilateral cooperation with respect to illegal drugs.

Q: Isn't this election a referendum on the NAFTA and the harsh economic realities in Mexico?

A: NAFTA was not a major issue in Mexico's mid-term elections.

Q: There are about 5 million illegal immigrants in the United States, most of whom are from Mexico. What is the government doing about securing our borders. Doesn't the NAFTA make this more difficult?

A: NAFTA not weakened our ability to enforce our immigration policies. On the contrary, last year the President signed into law the "Illegal Immigration Reform and Immigrant Responsibility Act of 1996."

Q: The United states unilaterally refused to implement its NAFTA obligations on cross-border trucking more than 18 months ago. With no resolution in sight, doesn't this show that the NAFTA has not been effective in resolving disputes?

A: No. We have resolved a number of differences with Mexico and Canada. In this instance, the United States delayed implementation of the cross-border trucking provisions because of our concerns over truck and driver safety.

Have made substantial progress with the Government of Mexico since then. Remain committed to the implementation of the cross border transportation provisions, and expect Mexico to address our specific and related concerns in this regard.

LABOR RIGHTS AND LABOR TRANSITION ISSUES

Q: Isn't the NAALC really just an agreement to talk that has had no impact?

A: No. NAALC is having an impact, unprecedented trilateral program of cooperation.

The bottom line - the NAALC obligates each Party to provide for high labor standards, to strive to improve those standards, and governments effectively enforce labor laws.

There have been important developments on the enforcement of labor laws in Mexico from 1994 to early 1997. For example:

- From 1993 to 1996, Mexico's Secretariat of Labor and Social Welfare (STPS) enforcement budget increased by nearly 250 percent (in real terms), from 4.7 million pesos to 16.2 million pesos.
- STPS reports inspectors conducted over 48,000 inspections in 1996, of which 9,609 were conducted to verify compliance with child labor laws.
- The overall rate of occupational injuries and illnesses fell from 47.0 per 1000 workers in 1994 to 39.9 in 1995 and to an estimated 32.6 in 1996.

The NAALC public submission process has resulted in recognition of a union previously denied recognition and has led to secret union ballots where union votes had previously been monitored.

Q: The critics charge that the NAALC has no specific enforcement value, or teeth, with respect to the right to organize and bargain collectively, or to strike, and the agreement is a sham. How do you respond?

A: First, the NAALC obligates the governments to provide for high labor standards and to strive to improve those standards.

Second, critics ignore the value of unprecedented public scrutiny and high level government to government consultations.

Q: NAFTA Transition Adjustment Assistance (TAA): This program proves the NAFTA has caused at least 100,000 jobs have been lost due to the NAFTA. How do you respond?

A: NAFTA-TAA is not a valid measure of the job displacement impact of the NAFTA.

First, NAFTA TAA certification does not require that a worker has lost his or her job. The Department of Labor indicates that many of those certified under NAFTA TAA are either not laid off, or may remain certified even though they are recalled back to work.

This helps explain to a significant degree why only a small portion of those certified under the NAFTA TAA (12,193 of the 99,497) have actually applied for benefits.

Second, certification under NAFTA-TAA does not require any connection to NAFTA per se. Could be associated with non-NAFTA trends involving Mexico or Canada.

ENVIRONMENT ISSUES

Q: What are the Study's findings/conclusions regarding NAFTA's effect on the environment?

A: NAFTA a positive force for environmental protection; improving enforcement and cleaning up the border.

NAFTA institutions financing infrastructure projects to clean up border. To date, 16 projects certified -- including infrastructure projects costing nearly \$230 million.

Mexico increasing enforcement actions nationwide.

- 1992 through 1996, Mexico conducted 12,347 inspection and compliance verification visits in border, partially or totally closing 548 facilities, fining 9,844 facilities.
- 1992 through 1996, 712 companies signed up to participate in Mexico's Environmental Audit Program. Of those, 404 companies have completed the audit and developed implementation Action Plans, committing at least \$800 million to environmental improvements.

As a result of these and other efforts, Mexico says number of serious violations dropping; e.g.:

- a 72 percent reduction in serious violations in the maquiladora industry from 1993 to 1996, and
- a 43 percent increase in the number of maquiladora facilities in complete compliance.

Mexico has agreed to join the U.S. and Canada in banning the pesticides DDT and chlordane, ensuring these long lived toxic substances will no longer cross borders.

Q: What has been done to address the water and wastewater treatment problems of the border region?

A: Since NAFTA, significant progress in addressing the water and wastewater treatment problems. For example:

- new large wastewater plants completed to service Tijuana and Nuevo Laredo; Nuevo Laredo plant is effectively removing 18 million gallons per day of raw sewage which went into Rio Grande;
- by 1999, full operation of partly-operational international treatment plant between San Diego and Tijuana will protect city beaches from raw sewage - for the first time in decades.

The BECC and the NADBank already having concrete impact on the border region, with seven projects under construction and additional priority projects (with an estimated cost of \$500 million) targeted for the next two years.

Q: Critics argue that the investment chapter under NAFTA undermines our sovereignty, allowing the weakening of a country's environmental laws, as demonstrated by the Ethyl Corporation's investment dispute with Canada. Is that true?

A: NAFTA investment chapter does not overrule or weaken individual countries' national, state or local laws; environmental or otherwise.

NAFTA does seek to eliminate discrimination based on an investor's nationality. Thus, NAFTA does not prohibit governments from regulating foreign investors as they do domestic investors in order to protect consumers or the environment.

The fact NAFTA has provided system for resolving disputes does not guarantee that all claims filed will have equal merit. NAFTA's dispute mechanism should be judged according to how cases are decided, not by what gets filed, just as the United States' domestic legal system isn't judged by whether every complaint filed is meritorious.

As for the Ethyl Corporation's Chapter 11 dispute with Canada, this case has only recently been initiated by Ethyl, and the arbitrators have not yet met with the parties nor made any decision. The USG is not a party to the case and thus is not in a position to comment on it in detail, nor has the U.S. endorsed the arguments that have been made.

The NAFTA: Assertions and Responses

Provided below are responses to a number of assertions regarding the NAFTA.

1. Assertion

In the United States, the NAFTA has put downward pressure on wages and living standards.

Response

The NAFTA is helping to generate higher than average wage jobs in the United States by providing competitive enterprises and workers new opportunities in North America. In fact, the President's Study, which draws on extensive analysis from sources both within and outside the Administration, confirms that the NAFTA has had a positive impact on U.S. GDP, employment, income, investment and wages.

More generally, virtually all real income measures are up since 1993: real hourly earnings - 1.4 percent, real weekly earnings - 1.7 percent and real compensation per hour - 1.3 percent. The real incomes of every quintile of the workforce increased between 1993 and 1996, with the largest percentage increase for those in the lowest quintile. Furthermore, average hourly and weekly earnings in the manufacturing sector grew significantly since 1993, particularly in 1994 and 1996. In the most recent year, real average weekly earnings rose 1.8 percent (December 1995 to December 1996).

A CEA/Department of Labor study found that during the February 1994 to February 1996 period more than 68 percent of the new jobs created paid above the median wage. Furthermore, jobs supported by exports pay 13-16 higher than do other jobs. In general, increased exports and trade leads to greater productivity, and greater productivity is the key step to higher incomes.

2. Assertion

The NAFTA has resulted in the loss of more than 400,000 jobs.

Response

This job loss estimate has no factual basis and is premised on flawed methodologies. The NAFTA is opening the Mexican economy to U.S. goods and services whereas the U.S. economy was already generally open to Mexican commerce prior to the NAFTA. In general, the opening of markets tends to stimulate new opportunities, particularly for competitive enterprises and their workers. Within open markets, economic resources tend to be allocated in the most productive sectors. Given the longstanding openness of the U.S. economy prior to the NAFTA, and that we are only 3 years into a 15 year NAFTA implementation process, and the fact that the United States is the most competitive large

economy in the world, it is not surprising that we find no evidence of measurable disinvestment or job loss in any major U.S. sector due to the NAFTA. On the contrary, we do see evidence that the NAFTA is facilitating investment and the creation of higher than average paying jobs in the U.S.

More generally, U.S. net employment increased by nearly 8.6 million jobs from 1993 to 1996. The U.S. unemployment rate dropped from 6.9 percent in 1993 to 5 percent in May 1997. The U.S. economy simply cannot be losing jobs overall as the unemployment rate has declined to this degree.

The President's Study estimates that the NAFTA has contributed to an increase in jobs supported by exports to Mexico alone of between 90,000 to 160,000. In addition, based on methodology from the Department of Commerce, the Administration estimates that since 1993 the increase in exports (whether attributable to the NAFTA or not) to Canada and Mexico have respectively supported 189,000 and 122,000 additional jobs, for a total of 311,000 higher than average paying jobs.¹ The Administration also estimates that exports to Canada and Mexico support 2.3 million jobs.

The more than 400,000 job loss figure sometimes used is a misapplication of the Administration's export/jobs methodology. The methodology is not applicable to estimating job losses due to imports. There are compositional differences in the variables to assess the displacement impact of imports versus the job generating impact of exports. In fact, there is no general methodology to estimate the job displacement impact of imports. Furthermore, imports can have the effect of generating employment in certain circumstances (i.e., in transportation, retail trades, inputs into production processes, etc.).

The over 400,000 job loss figure is also premised in part on the view that trade deficits automatically result in job losses. The last 40 years proves this assertion incorrect: although imports can have a job displacing impact in certain circumstances, U.S. employment generally grew more and the unemployment rate was lower when the U.S. trade balance was worsening. For example, the current account (the broadest measure of trade) was nearly in balance in 1991, during the last major U.S. recession, yet the unemployment rate peaked at well over 7 percent that year. Since 1992, the U.S. economy has grown faster than virtually all of our major trading partners, the U.S. current account deficit expanded to \$148.2 billion in 1996, and by the end of 1996 the unemployment rate was down to 5.3 percent and roughly 11.4 million net new jobs had been created in just four years.

The NAFTA-Transition Adjustment Assistance (NAFTA-TAA) numbers are also used by some to assess the impact of the NAFTA on job losses in the U.S. However, the NAFTA-

¹ Based on Department of Commerce methodology.

TAA certification number, which from 1993 to 1996 totaled 99,497, is not a valid measure of job displacement due to the NAFTA. NAFTA-TAA does not require that a worker has lost a job, either due to the NAFTA or due to imports from Mexico or Canada, or a shift in production to Mexico or Canada. In fact, the Department of Labor reports that most of those certified under the NAFTA-TAA are either not laid off, or may remain certified even though they are recalled back to work. The Department only requires of those seeking NAFTA-TAA that there has been a decline in production or sales in the relevant company, that there has been a threat of job loss or actual job loss, and that imports or a production shift play a significant role in the threat of job loss or job loss, but not necessarily a more important role than any other cause.

3. Assertion

The NAFTA is responsible for 38 percent of the 1.1 million decline in manufacturing jobs since 1989.

Response

In the three years following the NAFTA's enactment (December 1993 to December 1996), manufacturing jobs grew by 156,000. Furthermore, in the first six months of 1997, manufacturing jobs increased another 244,000, bringing the total increase in the first three and one half years since the NAFTA was first enacted to 400,000 additional manufacturing jobs. Prior to the NAFTA, U.S. manufacturing jobs declined 1.3 million, or 6.8 percent, between 1989 and 1993.

Within this broader context, the President's Study does not claim that all these additional jobs in the manufacturing sector are due to the NAFTA. However, by opening Mexico's market to U.S. exports and providing more trade opportunities within North America, the NAFTA is generating new higher paying job opportunities and helping to ensure a more globally competitive U.S. manufacturing sector.

The 38 percent and the 1.1 million figures utilize false assumptions: 1) that NAFTA-TAA certifications are an accurate depiction of the import displacing impact of the NAFTA; and 2) that the a figure of 420,000 jobs lost is an accurate indicator of the job loss due to the NAFTA.

4. Assertion

The NAFTA weakened U.S. workers' rights and reduced employee bargaining power.

Response

The NAFTA did not change, or weaken, U.S. labor legislation, or the ability of U.S.

workers to pursue their rights. In fact, the North American Agreement on Labor Cooperation (NAALC), the supplemental agreement to the NAFTA, for the first time ensures that labor rights and the enforcement of those rights is an international obligation of the three Parties and a high priority on the North American inter-governmental agenda. Indicative of this, President Clinton in his visit to Mexico raised the importance of worker rights with President Zedillo and both agreed to redouble efforts on the issue.

Furthermore, the NAFTA has not contributed to illegal plant closings, or threats thereof, based on a study released on June 9 and commissioned by the NAALC Secretariat. The Secretariat study found that U.S. labor law is effectively enforced against employers who illegally close plants or threaten to close plants to thwart organizing efforts. In fact, fewer workers were displaced from 1993 to 1995 than from 1991 to 1993 by such closings, fewer remained unemployed following such closings in the 1993 to 1995 period, and generally more notice was provided workers². The Secretariat commissioned report considered a dozen studies in preparing its report.

5. Assertion

The NAFTA in effect weakened labor standards and has failed to address violations of worker rights.

Response

The NAALC obligates the governments to provide for high labor standards and to strive to improve those standards. The standards include eleven fundamental labor principles, including the right to associate, to organize, to bargain collectively, to strike, to the elimination of employment discrimination, to equal pay for men and women and to the prevention of occupational injuries and illnesses.

With respect to Mexico, a number of steps have been taken which can only be characterized as indications that labor law enforcement and labor cooperation are higher priorities. For example, enforcement resources have increased significantly³. The Secretariat of Labor and Social Welfare (STPS) General Inspection Directorate budget was increased from 4.7 million pesos to 16.2 million pesos, or nearly 250 percent (real terms), from 1993 to 1996. The STPS further reports that inspectors conducted over 48,000 inspections throughout the country in 1996, of which 9,609 were conducted to verify compliance with child labor laws. Occupational safety and health indicators provided by the Government of Mexico show improvement. The overall rate of occupational injuries and illnesses reportedly fell

²Bureau of Labor Statistics, Current Population Survey, 1996

³Data from the Secretariat of Labor and Social Welfare, Mexico.

by 30 percent from 1994 to 1996, from 47.0 per 1000 workers to an estimated 32.6.

The NAALC submission process has led to results in several cases. For example, the submission process and resulting heightened attention stemming from public hearings and the prospect of consultations contributed to a decision in Mexico to recognize an independent union in an electronic assembly plant, and to an order for new hearings for four union activists who had been dismissed from employment.

In two other cases brought before the U.S. alleging the failure to recognize labor organizations, secret ballot representation elections were eventually held. This is in contrast to the historically open ballot election process, whereby workers had to reveal their vote in the presence of the government, the employer and the union.

The NAALC has also initiated a new cooperative program. The three Parties are together addressing:

- industrial relations and worker rights;
- occupational safety and health;
- employment and training initiatives; and
- child labor and gender issues.

In addition, noteworthy initiatives have been taken in Mexico during the 1994 through early 1997 period:

- The Mexican Supreme Court found two state laws that restrict union organization by state government employees to be unconstitutional. The statutory restrictions reviewed in those cases are similar to statutes in the federal government and practice in the private sector. These restrictions had been addressed in the NAALC public submission process;
- STPS in 1996 set out a policy program for employment, training, and the defense of worker rights. The document spells out five priority action areas for STPS through the year 2000, among them fostering preventative safety and health programs, modernizing administrative procedures regarding labor justice, and improving the quality and availability of legal services for workers; and
- STPS issued revised occupational and safety and health regulations. The regulations, which entered into force on April 21, 1997, for the first time cover workers in forestry, agriculture and sawmills, workers that use agricultural equipment, chemical products; they require that employers train workers re safety and health; and they strengthen protections for pregnant women and children.

6. Assertion

The NAFTA created “deep and probably chronic” trade deficits with its neighbors.

Response

The President’s Study indicates that the shift in the U.S.-Mexico trade balance from a small surplus in 1994 to a deficit in 1995 was driven by factors unrelated to the provisions of the NAFTA. During the first three years of NAFTA, the average Mexican applied tariff on U.S. imports dropped 7 percentage points, from 10 to 2.9 percent, as compared to a 1.5 percentage U.S. tariff drop, from 2.07 to 0.65 percent. The low tariffs on goods entering from Mexico, and the even smaller U.S. tariff reductions on imports from Mexico could not have conceivably been a major cause of the growth in imports from Mexico during NAFTA’s first three years. Rather, the strong U.S. economy, the steep decline in the relative value of the peso and the contraction in Mexican demand primarily explain the import growth from Mexico.

The President’s Study generally confirmed that the NAFTA has worked to raise exports to Mexico more than imports from Mexico. That is the only logical conclusion given the initial disparity in the market access barriers, including non-tariff measures, in Mexico and the U.S. Further, Mexico’s trade surplus has declined each month in 1997 and U.S. export growth to Mexico is out pacing U.S. import growth from Mexico in 1997. If the current trend continues, Mexico will exceed Japan as the number two export market for U.S. exports within a year.

7. Assertion

The NAFTA has weakened U.S. food safety inspections and standards.

Response

The U.S. food supply has never been safer and U.S. standards are more comprehensive than ever. Immediately after implementation of the NAFTA, the U.S. conducted increased food safety inspections of produce entering from Mexico. The result was that the Food and Drug Administration found that Mexican produce was no less safe than imports from other trading partners, and in fact had rejection rates only slightly higher than for U.S. produce. Furthermore, the NAFTA did not require the U.S., Mexico or Canada to reduce their standards, and allows for even stronger food safety laws to be implemented. The U.S. has continued to enforce its high and comprehensive standards and maintain effective inspections procedures.

8. Assertion

The NAFTA precipitated the 1994 Mexican peso collapse, which led to the 1995 economic

depression. Furthermore, there is every reason to believe Mexico is headed for another NAFTA driven peso crisis.

Response

Decisions in the 1980s unrelated to the NAFTA laid the foundation for the exchange rate regime that existed in Mexico in the early 1990s. Those decisions, combined with a series of unforeseen tragic political shocks, including the assassination of a major Presidential candidate, rattled investor confidence and resulted in a cessation of capital inflows and downward pressure on the peso. By December 1994, foreign currency reserves had fallen to what were intolerably low levels and Mexico was forced to devalue and move to a floating exchange rate. The precipitous decline in the peso's value triggered Mexico's deepest recession in more than sixty years with Mexico's GDP falling six percent and domestic consumption dropping 17 percent.

However, because of its commitments under the NAFTA, Mexico did not impose heavy restrictions on imports from the U.S. in 1995 like it did following the 1982 crisis. Such a measure would have hurt subsequent Mexican economic output by shielding inefficiencies in industry and by limiting access to imported materials and capital goods.

Secondly, and more broadly, the NAFTA supported the Mexican government's resolve to stay the course of market-based economic reforms, the kinds of reforms the U.S. had supported for decades, and gave investors confidence that Mexico was committed to market based economics. Mexico returned to international capital markets within seven months, compared to seven years after the 1982 crisis. Mexico's economy, which had fallen even further in terms of output in 1995 than it did in 1982, rebounded to its pre-crisis level in 1996 and is expected to grow at rates of 4.5 to 5 percent over the next two years according to private forecasters. However, following the 1982 crisis, Mexico's output drifted down for nearly two years before starting to rise, and nine quarters after the 1982 crisis was still about 4 percent below its pre crisis level. Furthermore, the Mexican economy registered no growth from 1982 to 1988.

9. Assertion

The NAFTA eliminated more than 2 million Mexican jobs and reduced real hourly wages by 27 percent from 1994 levels.

Response

The peso devaluation and ensuing 1995 economic contraction was the cause of the loss of 1.6 million jobs. Real wages in Mexico declined by 23 percent from 1994 to early 1997 due to these macroeconomic factors.

However, in one of its most important indirect benefits, the NAFTA is helping Mexico to recover more quickly from the 1995 economic downturn. The NAFTA has given both domestic and international investors the confidence that Mexico will stay the course of market based reforms and it has generated additional awareness within Mexico of the importance of trade to Mexico's economic growth. In fact, the numbers show how exports are important to building a higher wage economy in Mexico.

For example, Mexican manufacturing jobs associated with exports pay more than other jobs in Mexico⁴. Manufacturing firms with a significant percentage (i.e., 40 percent or more) of their total sales going to exports during the 1994 -96 period paid wages that were at least 11 percent higher than non-export oriented manufacturing firms in Mexico. For firms with an even greater export orientation (i.e, up to 80 percent of sales to exports) during the 1994 - 96 period, they paid wages that were as much as 67 percent above firms focused on the domestic market.

Maquiladora firms, which did pay less than both domestically oriented and export oriented firms in 1993, are contributing to a greater degree than in the past to increasing wages in Mexico. During the 1993-96 period, Maquiladora average monthly real wages surpassed non-export oriented manufacturing real wages (i.e, by as much as 17 percent in 1996), pulled nearly even or above certain categories of export oriented manufacturing firms (i.e., those with 40-50 percent of their sales being exports) and narrowed the wage differential with others (i.e., those with 60-80 percent of their sales being exports). Maquiladora wages also suffered less of a decline during the 1994-96 period than did the wages of manufacturing firms focused on selling domestically and abroad (i.e., a 12 percent decline in real wages versus a 23 to 28 percent decline).⁵

Furthermore, manufacturing firms in Mexico that are export oriented (i.e., 40 percent or more of their total sales went to exports) have increased employment during the 1993-96 period by up to 39 percent (in spite the 1995 contraction), with employment among manufacturing firms that exported 60 percent or more of their sales up from 581,063 in 1993 to 784,642 in 1996⁶. In contrast, employment growth in manufacturing firms in which less than 40 percent of their sales went to exports saw essentially flat employment, or slight declines.

10. Assertion

The NAFTA caused the failure of more than 28,000 small Mexican businesses.

⁴SECOFI/INEGI data.

⁵SECOFI/INEGI data.

⁶SECOFI/INEGI data, including data on Maquiladora operations.

Response

Mexico's domestic market, and those firms selling primarily in the domestic market, suffered the brunt of the peso collapse and subsequent economic contraction in 1995. The President's Study points out that the NAFTA did not cause either the peso devaluation or the ensuing economic downturn. However, a key indirect benefit of the NAFTA is that it is proving to be a key component in Mexico's economic reform program and recovery. Indicative of this, from 1993 to 1996, the number of exporting firms in Mexico grew from 21,477 to 31,855, an increase of 48 percent. In addition, 94 percent of the new exporters had export sales of less than \$5 million, demonstrating the benefits that trade is bringing to small often first time exporters in Mexico.⁷ Further, firms that export from Mexico, just like firms that export from the United States, tend to pay higher wages.

11. Assertion

Mexico is becoming nothing more than an export platform for the United States, with an ever increasing number of Maquiladora operations exclusively focused on selling to the United States with no real benefit for either Mexican workers or U.S. workers.

Response

Since the NAFTA went into effect, Maquiladoras have been providing a decreasing share of U.S. imports from Mexico, down from 49% in 1993 to 38% in 1996⁸. Furthermore, the amount of U.S. goods returned from Maquiladoras is also decreasing in total U.S. imports from Mexico, accounting for 25% in 1993 and 20% in 1996. More generally, over the past two years, Maquiladora exports have increased by an annual average of 18 percent while non-Maquiladora exports have grown by an annual average of 34 percent.

Furthermore, Maquiladoras are not what they once were. The NAFTA requires the trade restrictive and distorting elements of Mexico's Maquiladora policy to be eliminated, and the phase out of these elements has begun. Specifically, by January 1, 2001:

- Maquiladoras will be required to pay full Mexican duties on parts and components imported from outside North America.
- All export incentives and restrictions on domestic sales are being eliminated (i.e., as of January 1, 1997, the equivalent of 70 percent of the value of a Maquiladora's exports in the previous year could be sold into the Mexican domestic market, and this

⁷SECOFI data.

⁸Bank of Mexico

percentage will increase by 5 percentage points per year until it reaches 100 by 2001).

- Maquiladoras will operate under tax obligations comparable to those for all other plants.

In addition, exports from Maquiladora operations must meet the NAFTA rules of origin in order to qualify for preferential duty rates.

12. Assertion

The NAFTA opened U.S. borders to trucks that do not meet U.S. safety standards.

Response

On the contrary, the Administration has been stepping up the enforcement of safety standards from 1993 to 1996 with respect to the entry of Mexican trucks into the border states. With regard to the immediate border zone, for example, the Department of Transportation (DOT) has for the first time established a permanent enforcement presence at the border with Federal inspectors working in U.S. Customs import lots. The four border states received increased Federal funding for FY 1995, 1996 and 1997 totaling over \$3 million for enforcement, inspection and tracking purposes. DOT's new budget reauthorization proposal includes an additional \$3 million to support border state safety and enforcement programs, and \$40.6 million each year for border infrastructure, including inspection facilities.

The states are also increasing their own resources dedicated to trucking safety. California has opened new inspection facilities at Otay Mesa and Calexico. New Mexico has installed new inspection facilities. Arizona has begun a training program for Mexican drivers, while Texas has hired additional enforcement personnel and is adding 150 new officers, and plans to construct new facilities at entry ports.

Furthermore, the Administration has delayed implementation of the cross border transportation provisions regarding access beyond the immediate border zone pending a satisfactory resolution of outstanding safety and related issues with Mexico. In this regard, significant progress has been made on a safety program that would include the following when agreement on all outstanding issues is reached:

- drivers in international commerce must be 21 years and have a basic understanding of the language of each country (Mexico now allows 18 year olds to obtain licenses);
- hazardous materials training;

- hours of service and driver logs;
- drug and alcohol testing;
- enhanced Federal enforcement, including hiring new inspectors, intensified roadside inspection and a public information campaign; and
- enhanced State enforcement, including additional Federal funding, increased training, equipment purchases and personnel.

More generally, Mexican trucks would be required to meet all the standards that apply to U.S. trucks in the United States.

13. Assertion

The NAFTA has weakened the ability of the U.S. to enforce its borders, particularly with respect to the entry of illegal drugs.

Response

NAFTA eliminated trade barriers. The NAFTA does nothing to reduce border enforcement. On the contrary, U.S. enforcement efforts have been stepped up significantly during the 1993 to 1996 period. The overall Federal drug control budget increased from \$12.3 billion to \$15.1 billion over the period, or 14 percent. In addition, new enforcement programs have been undertaken, such as Operation Hardline by the Customs Service, which have resulted in increased seizures. For example, last year, narcotics seizures at the southwest border increased 29 percent by total number of incidents, and 24 percent by total weight, as compared to 1995 totals. This translates into 6,956 seizures, and 545,922 pounds of marijuana, 33,308 pounds of cocaine, and 459 pounds of heroin. The total weight of narcotics seized in commercial cargo on the U.S.-Mexican border increased 153 percent over 1995 totals. In FY 1997, estimated funding for South-West Border-related activities for federal drug program agencies was approximately \$1.7 billion. One thousand Border Patrol agents, 150 INS inspectors, 625 Customs Service agents and inspectors, 50 DEA agents, 70 FBI agents, and additional deputy U.S. marshals will be added to the Southwest border this fiscal year.

Furthermore, the Administration has undertaken efforts with Mexico to address illegal narcotics which are generating action. Mexico's 1996 results were impressive: drug seizures, arrests, crop eradication, and destruction of labs and runways all increased over 1995; new laws were passed to confront organized crime, money laundering, and chemical diversions; 1,200 officials were fired for corruption; through March 1997, six criminals have been extradited to the U.S.

14. Assertion:

NAFTA's institutions are fatally flawed. The Border Environmental Cooperation Commission (BECC) and North American Development Bank (NADBank) have been slow to approve and fund projects, and the Council for Environmental Cooperation (CEC) has been ineffective in its response to Article 14 submissions.

Response

In its first three years of operation, the CEC has begun work on an array of environmental projects, encompassing such diverse objectives as tracking hazardous wastes to ensure they are disposed of properly, identifying sources of pollution, and protecting habitat for migratory birds. Through the CEC, Mexico has now joined the United States and Canada in banning the toxic pesticides DDT and chlordane, thus helping to ensure they no longer cross our borders. In real ways, the CEC has improved the NAFTA governments' ability to address North American environmental issues, for instance, by ensuring that common environmental priorities are set yearly, and dedicating resources to those priorities on a daily basis, through the work of the CEC Secretariat.

The Article 14 process for citizen submissions on enforcement matters is working as intended. The CEC Secretariat has evaluated all of the submissions it has received in a fair and objective manner and pursued issues further where warranted. Furthermore, it had valid reasons for how it handled the submissions it declined to pursue -- concluding, for instance, that the NAFTA signatories did not intend for the CEC to second-guess decisions of national legislatures, and that the CEC should not be investigating a matter that was currently under review in a national court.

The BECC and NADBank are also operating as intended. Given the magnitude of the environmental infrastructure needed along the U.S.-Mexico border (which has been estimated in the range of \$6-8 billion for the next decade), it is unrealistic to expect that the three governments could fund this infrastructure through grants. Thus, the BECC and NADBank were tasked with identifying projects that would be self-sustaining. Because there has been little experience with self-funding projects in many areas of the border region, the BECC and NADBank are currently working with those communities to assist them in designing such projects. Nevertheless, in less than two and a half years of operation, the BECC and NADBank have made impressive progress -- seven projects under construction now, and up to four more beginning construction in July 1997.

15. Assertion:

Even though the NAFTA has been in effect for over three years, the environmental situation -- particularly in the U.S.-Mexico border region -- has not improved, and may even have deteriorated.

Response

The environmental problems that currently exist in the U.S.-Mexico border region were decades in the making, and cannot realistically be corrected within two or three years. However, the three environmental institutions created by NAFTA are providing valuable tools to begin to address these problems (i.e., CEC, NADBank, BECC, etc.).

At the same time, Mexico has made progress with respect to enforcing its environmental laws, especially along the border. From 1992 through 1996, Mexico conducted 12,347 inspection and compliance verification visits in the border area, partially or totally closing 548 facilities, and fining 9,844 facilities. This represents a significant improvement over the number of visits conducted annually prior to NAFTA. In addition, between 1992 and 1996, 699 companies have signed up to participate in Mexico's Environmental Audit Program. Of those companies, 600 have completed the audit and developed implementation Action Plans, committing at least \$800 million to environmental improvements. As a result of these and other efforts, Mexico reports the number of serious violations dropping, with a 72 percent reduction in serious violations in the maquiladora industry from 1993 to 1996, and a 43 percent increase in the number of maquiladora facilities in complete compliance.

Also off target is the assertion that NAFTA bears the blame for the environmental consequences of any increase in the number of maquiladoras along the border. The NAFTA's purpose is to eliminate the trade distorting elements of the maquiladora program by 2001. At the same time, the growth of maquiladoras has actually been faster in the non-border states of Mexico (maquiladora employment is up 28 percent in interior states versus 13 percent along the border in 1996). Recent growth in the absolute number of maquiladoras along the border, while potentially placing certain stresses on the region's environmental infrastructure (as is the case in many regions of the world with a heavy concentration of industry), is not the NAFTA's fault. But, the CEC, BECC and NADBank are providing for the first time important tools, coupled with increased Mexican enforcement of environmental laws and actions in some cases by companies, to address the related environmental problems.

The more pertinent question is what condition the border's environment would be in without NAFTA and its sister NAAEC. The NAFTA/NAAEC environmental institutions, and their reinvigoration of U.S.-Mexico border cooperation activities through the Border XXI program, have created a solid framework for tackling the region's longstanding problems.

16. Assertion

NAFTA's investor protections can be used to prevent signatory countries from even establishing their own environmental protection and public health laws, as evidenced by the

suit the Ethyl Corporation filed against the Canadian government for its ban on the fuel additive MMT.

Response

The NAFTA investment chapter does not overrule or weaken individual countries' national, state or local laws, environmental or otherwise. The NAFTA does seek to eliminate discrimination based on an investor's nationality. Thus, the NAFTA does not prohibit governments from regulating foreign investors as they do domestic investors in order to protect consumers or the environment.

The fact that NAFTA has provided a system for resolving disputes between private foreign investors and host governments does not guarantee that all claims filed in that forum will have equal merit. NAFTA's dispute mechanism should be judged according to how cases are decided, not by what gets filed.

As for the Ethyl Corporation's Chapter 11 dispute with Canada, this case has only recently been initiated by Ethyl, and the arbitrators have not yet met with the parties nor made any decision. The United States Government is not a party to this case and thus is not in a position to comment on it nor has the United States endorsed the arguments that have been made.

17. Assertion

Some Hispanic Groups recently criticized the NAFTA on a number of grounds, including jobs losses and the implementation of NAFTA-TAA and the NADBank.

Response

With respect to the job loss assertions, their analysis makes no attempt to isolate effects associated with the NAFTA from other factors driving trade flows, such as the Mexican financial crisis, economic contraction and the U.S. economic expansion. Studies that have isolated the NAFTA's effects, such as the one done by DRI/McGraw Hill, find a positive effect on U.S. net exports, income and jobs.

In a particularly surprising result, the Hispanic Group review finds that all of the negative net trade impacts on employment are associated with Canadian trade (-39,117), while Mexican trade has had a modest positive impact on employment (+8,854). But the NAFTA could not have caused any significant job losses associated with Canadian trade, since U.S. reductions in trade barriers to Canada have been negligible (0.15 percent average tariff reduction) since NAFTA was signed and would have taken place even in the absence of the NAFTA.

Their analysis nowhere reflects the fact that Mexico has cut its tariffs five times as much as the United States since the NAFTA was signed, and the fact that the American market was already substantially open before NAFTA was signed. This leads to the spurious conclusion that the NAFTA has led to net U.S. employment losses in sectors where U.S. tariff reductions were close to zero and Mexican tariff reductions were many times larger.

Their analysis also assumes NAFTA-TAA certifications accurately measure job displacement caused by the NAFTA. As explained previously, certifications do not necessarily reflect either the impact of the NAFTA or actual job losses.

Their analysis also simply has the facts wrong. It claims that 50 percent of the total NAFTA-certified workers chose regular TAA, 15 percent opted for dual enrollment, and 10 percent entered NAFTA-TAA. In fact, only 33 percent of the NAFTA certified workers have entered training under NAFTA-TAA or regular TAA or both. This suggests that the large majority of certified workers do not lose their jobs, find new employment, or do not avail themselves of program benefits for other reasons.

Furthermore, their analysis states that new jobs and adequate training area not available to Hispanic workers due to language barriers or poorly targeted training under NAFTA-TAA. In fact, NAFTA-TAA provides for individualized programs, including training both in new occupational skills and in any language skills that may be required to secure new jobs.

In addition, their analysis claims that NAFTA-TAA leaves an entire class of eligible workers unserved because the application form fails to mention or include secondary workers. In fact, the NAFTA-TAA petition form specifically addresses workers at secondary firms whose jobs may be put at risk by a loss of business (as a supplier or assembler/finisher) with a firm associated with production or trade shifts to Mexico or Canada.

As to the NADBank, the Community Adjustment and Investment Program (CAIP), which was the focus of the criticism, is currently fully operational and considering applications from a number of areas throughout the country. Developing the CAIP took longer than expected, but there is the full commitment of the Administration to implement it expeditiously and correctly.