FOIA Number: 2017-0401-F

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OA/ID Number: 10601

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Folder Title:
Senate Finance Committee Fast Track [2]

Stack:	Row:	Section:	Shelf:	Position:
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Divider Title: 27

PRINCIPAL NEGOTIATING OBJECTIVE #5: TRANSPARENCY

(5) TRANSPARENCY. - The principal negotiating objective of the United States with respect to transparency is to obtain broader application of the principle of transparency through -

(A) increased and more timely public access to information regarding trade issues and the activities of international trade institutions; and

(B) increased openness of dispute settlement proceedings, including under the World Trade Organization.

I. What are the domestic needs? How does this objective meet those needs? Why is this a good way to approach these problems? List specific negotiations planned relating to this objective.

Domestic Needs: Advocacy groups such as Public Citizen and environmental NGOs, as well as the private international trade bar, follow WTO dispute settlement proceedings with keen interest, in order to stay abreast of developments in WTO jurisprudence. Environmental groups, in particular, have long pressed for the ability to participate in the defense of U.S. environmental and health regulations when they are challenged by other governments as inconsistent with U.S. WTO obligations. They also want to participate in meetings of the WTO Committee on Trade and Environment as members of the U.S. delegation.

Objective Meets Needs: The United States already makes most dispute settlement documents available to the public during dispute settlement proceedings, but other countries have been reluctant to relax the confidentiality rules that date back to the beginnings of GATT dispute settlement. Therefore, negotiations are required to amend the Dispute Settlement Understanding to afford more openness and transparency. This objective also directs the United States to seek transparent dispute settlement proceedings in other trade agreements that we negotiate.

In seeking to fulfill the objective of increased public access to information regarding the activities of international trade institutions, we will continue to develop ways to improve public understanding of the day-to-day activities of the WTO. For example, we will continue to press for greater interaction between the WTO Committee on Trade and Environment and those inter-governmental and non-governmental organizations that follow its work.

Benefits of this Approach: Since a fundamental element of U.S. trade policy is to build confidence among U.S. firms and workers in the multilateral trading system, we benefit from opening the activities of the WTO to public scrutiny, to dispel the myth that decisions are made by "faceless international bureaucrats" that have no accountability to stakeholders.

Related Negotiations: At Marrakesh, Ministers invited the WTO Ministerial Conference to complete a full review of WTO dispute settlement rules and procedures within four years of entry into force (i.e., *by the end of 1998*) and to decide, at its first meeting after the completion of the review, whether to continue, modify or terminate those rules and procedures. This review provides an opportunity for the United States to seek its objectives with respect to transparency.

II. Who may criticize the objective and what will they say about the objective? Provide appropriate responses, including any specific rationale on why we did not accept some of the proposals made by Members of Congress or interested groups.

- Criticism: Environmental NGOs, Public Citizen, etc. may claim that we have not tried hard enough so far to amend the confidentiality rules and that our pledge to do so lacks credibility.

- Response: The 1998 review of the DSU really provides the first opportunity we have had, since the new procedures went into effect, to reopen the issue of transparency. We fully intend to do so, as well as to continue our own practice of openness here at home. (See attachment.)

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Divider Title: **28**

PRINCIPLE NEGOTIATING OBJECTIVE #6: AGRICULTURE

Objective: (6) AGRICULTURE. -The principal negotiating objective of the United States with respect to agriculture is to achieve fairer and more open conditions of trade in agricultural commodities by -

(A) reducing or eliminating tariffs or other charges which decrease market opportunities for United States exports;

(B) reducing or eliminating subsidies that decrease market opportunities for United States exports or distort agricultural markets to the detriment of United States agriculture;

(C) developing, strengthening, and clarifying rules which address practices that unfairly decrease United States market access opportunities or distort agricultural markets to the detriment of United States agriculture, including -

(i) unfair or trade-distorting activities of state trading enterprises and other administrative mechanisms;

(ii) unjustified restrictions or commercial requirements affecting new technologies , including genetically modified organisms; (iii) unjustified sanitary or phytosanitary restrictions;

(iv)other unjustified technical barriers; and

(v) restrictive rules in the administration of tariff rate quotas.

I. What are the domestic needs? How does this objective meet those needs? Why is this a good way to approach these problems? List of specific negotiations planned relating to this objective.

<u>Domestic Needs:</u>

Where our economy was once largely self-contained, we are now increasingly interdependent with the rest of the world. Exports are critical to the vitality of American business, particularly agribusiness, because 96% of potential consumer market lies outside our borders.

US Agriculture today faces this same dilemma: Each year, American farmers and agribusiness enterprises are significantly more productive due to a combination of hard work and technological innovation. At the same time, the U.S. population is growing slowly. Unless we find new markets for American Agriculture -- prices at home will fall precipitously over time.

Fast Track will enable US negotiators to engage their counterparts in the upcoming agriculture negotiations that are to begin in 1999. Without this authority, the US side will be impotent to make changes in tariffs and other barriers that limit US exports. Fast Track will also allow the Clinton administration to follow through on sectoral initiatives in our own hemisphere, and in Asia if good opportunities present themselves. Without this authority, the US could lose valuable opportunities to advance the interest of US agriculture.

How We Crafted Agriculture Objectives: When we crafted the agriculture language for the Fast Track bill, we wanted to make sure that it would address all of agriculture's concerns, not just those of a select few. We also needed to ensure that the language did not step on the interests of one agriculture constituency at the expense of another. As you all know, this can be a challenge.

Although we don't want to get into the specific language of the bill, we can tell you that our bill does accomplish our goal. It addresses unfair and trade-distorting activities of state trading enterprises and other administrative mechanisms, direct and indirect subsidies, tariff- reduction, new technologies (like GMOs), sanitary and phytosanitary barriers, tariff rate quotas and other technical barriers.

Our bill differs from the 1998 bill in that it adds specific language to address the changing agricultural world. For example, we all know that sanitary and phytosanitary impediments are becoming the non-tariff barrier of choice throughout the world. Our bill addresses these concerns head on.

Our bill also adds language on new technologies, like genetically modified organisms. This is an area in which US companies have a major advantage over their agricultural competitors. Many countries will try to thwart our advantage in this area. We therefore need to remain vigilant to ensure that other countries do not use "phony science" to impede our exports. This bill will help us do just that.

I feel very confident in saying that our bill - as drafted - provides our negotiators with sufficient authority and the precise guidance needed to succeed in the upcoming agricultural negotiations in 1999, any potential free trade agreements we might seek, or any other market-opening opportunity that might arise.

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Divider Title: **29**

Principal Negotiating Objective on Worker Rights & Environment

Section 2(b) . . .

(7) WORKER RIGHTS AND ENVIRONMENTAL PROTECTION.-- The principal negotiating objectives of the United States regarding worker rights and protection of the environment are, through the World Trade Organization, -

* * *

(D) to promote sustainable development; and

(E) seek to ensure that trade and environmental protection are mutually supportive, including through further clarification of the relationship between them.

I. What are the domestic needs? How does this objective meet those needs? Why is this a good way to approach these problems?

Domestic needs: To have environment considered on a par with economic objectives in the negotiation of trade agreements; to ensure that trade liberalization not lead to environmental degradation; to protect from trade challenge the United States' ability to regulate domestically; etc.

Objective Meets Needs: The objective continues the delicate balance that was established in the WTO on how work should proceed on the question of trade and environment. It commits the United States to continue efforts, initiated in 1994 when we succeeded in creating the Committee on Trade and Environment, to build consensus on these extremely complex and controversial issues (both among US domestic constituencies and internationally).

This particular objective must be considered in combination with other provisions of the bill to understand how environmental issues may be addressed in future trade agreements subject to fast track. In addition to this specific negotiating objective, which directs the United States to work through the WTO to promote sustainable development and seek to ensure that trade and environmental protection are mutually supportive, the bill:

- contains a **general negotiating objective** directing the President to address trade-related foreign government policies and practices regarding labor and the environment, and
- contains **"guidance for negotiators"** that clearly spells out the importance of ensuring that the United States does not bind itself to trade obligations that impair or are inconsistent with **our ability to regulate health, safety, and environmental protection** here at home.

The overall effect of this legislation is to highlight certain priorities while retaining the President's ability to address the full range of environmental concerns included in the Uruguay Round Agreements and in the NAFTA itself. It also preserves his full constitutional prerogatives to negotiate environmental cooperation agreements with regional and bilateral trading partners, as we did when negotiating the NAFTA side agreements.

II. Who may criticize the objective and what will they say about the objective? Provide appropriate responses, including any specific rationale on why we did not accept some of the proposals made by Members of Congress or interested groups.

Criticisms & Questions:

Q: Why have you **limited this objective to the WTO**? What does that mean for furthering environmental concerns in the FTAA and APEC? How does this objective have any relevance to fast track?

A: We have focused this negotiating objective on the WTO because we believe that is the international forum with the greatest potential to make progress on these issues in a trade context. In agreeing in 1994 to the creation of the WTO Committee on Trade and Environment, our trading partners have agreed to address these issues. This is not the case in other fora, such as the FTAA, where we face stiff opposition to our efforts to explore the relationships between trade and environment.

Focusing this objective on the WTO does not preclude us from addressing environmental concerns in the FTAA and APEC fora as well -- e.g., where such issues are directly related to trade, or where our goal is to protect our domestic regulatory prerogatives in the area of environment, health and safety.

Q: "**Sustainable development**" seems like a terribly vague concept. Just what does it mean?

A: The concept of "sustainable development" is a broad one, and does not imply any specific policy commitments, but rather a particular approach to policymaking. It has been described as development which "meets the needs of the present without compromising the ability of future generations to meet their own needs." This concept has been incorporated into several international agreements to which the United States is a party, including the 1992 Rio Declaration (negotiated under the Bush Administration) and the preamble to the WTO Agreement (in which parties commit to "allowing for optimal use of the world's resources in accordance with the objective of sustainable development.)"

Q: What does it mean to make trade and environment "**mutually supportive**"?

A: As a general matter, this Administration seeks to ensure that U.S. trade and environmental policies are consistent. For instance, we have been careful to negotiate trade agreements that preserve our ability to adopt and maintain laws and regulations to protect health, safety and environment in the United States. Beyond this, however, we believe that appropriate.trade policies can advance our environmental objectives, and vice versa. For example, lower trade barriers reduce market inefficiencies and generally increase income levels, thereby generating resources which can be used to fund environmental protection efforts.

Other Proposals Not Accepted:

Mandatory Environmental Impact Assessment

Q: Why doesn't this legislation include a requirement to do environmental impact assessments, as called for by the environmentalists and as this Administration has done for the NAFTA and the Uruguay Round Agreements?

A: This Administration is committed both to ensuring that the trade agreements we negotiate are consistent with our environmental objectives, and to ensuring that the public is informed about the impact of such agreements on the environment. The Clinton Administration conducted environmental reviews of both the NAFTA and the Uruguay Round Agreements despite the absence of a statutory requirement to do so. Moreover, in international fora such as the WTO and the OECD, we have advocated that other countries conduct similar environmental reviews of trade agreements.

In negotiating future trade agreements, we fully intend to consult with the Congress and interested members of the public regarding the potential environmental implications of such agreements. These consultations will include discussions with our cleared advisors on the Trade and Environment Policy Advisory Committee, as well as other advisory committees. We also intend to keep the public informed, whether through formal reports or other means, regarding the potential environmental impacts of such trade agreements. We believe that imposing additional statutory requirements is not only unnecessary, but would impose additional resource requirements without adding substantive benefits.

Principle Negotiating Objective #7
Labor Element

Objective [I am sorry but I don't have the most recent version of the bill!]

I. What are the domestic needs? How does this objective meet those needs? Why is this a good way to approach these problems? List of specific negotiations planned relating to this objective.

Domestic Needs: Since 1984, every piece of trade legislation has focused in one way or another on promoting and enforcing core labor standards, including in particular the 1988 Act which outlined objectives to be pursued in the Uruguay Round which was launched in 1986. In the past these provisions were critical to securing the support of members concerned about trade and labor issues. The current objectives focuses on pursuit of WTO work on the relationship of WTO rules to the promotion of labor standards. Taken with the requirements of Section 131 of the URAA, it continues the efforts of successive Administrations from both parties to build a consensus in the WTO on this issue but makes clear that the objective is not to pursue trade sanctions as an end result. Most importantly, the provisions are strengthened in terms of attention to the ILO and efforts to create a stronger mechanism within the ILO to pursue promotion of labor standards.

Objective Meets Needs: The objective continues the delicate balance that was established in the WTO on how work should proceed on the question of trade and labor. It provides the opportunity to build consensus but does not establish that the outcome will result in any particular new rules or disciplines.

Benefits of This Approach: This language, which is similar to the 1988 objectives, will allow the Administration to continue to pursue a dialogue in the WTO on trade and labor by building on the progress reached at Singapore. The Declaration secured at Singapore was significant because WTO Ministers, for the first time ever, acknowledged in a trade declaration their commitment to the observance of internationally recognized core labor standards. It also acknowledged the ILO's role in setting standards (a point that the AFL-CIO did not like) but continued on to give the WTO and ILO encouragement to continue their existing collaboration.

Related Negotiations: The work on core labor standards in the WTO is related to the important work now underway in the ILO, and in pursuing other voluntary agendas aimed at better enforcement of labor standards (for example, the work of the Apparel Industry Partnership and the workplace code of conduct.

Specific Criticism

Criticism: This language is just lip service to appease labor's concerns and the Administration has no intention of actually pursuing labor as an agenda item in either the WTO or the ILO.

You haven't been successful so far, what makes you think that you can get any place with these objectives?

Response: The facts are to the contrary. Admittedly, this is a difficult issue for our trading partners who fear that the real reason for focusing on worker rights is just an excuse for more protectionism. We worked closely with the AFL-CIO in pursuing our strategy for Singapore and obtained the commitment of Trade Ministers to enforce internationally recognized labor standards. We changed the parameters of the debate at Singapore and more and more countries are realizing that support for an open trading system must reflect the concerns and interests of workers and producers. With the help of labor, we have been working to pursue various approaches in the WTO, including raising our concerns in the Trade Policy Review Body, and working informally in Geneva to build support for WTO work and better collaboration with the ILO.

Criticism: The Administration made too much of this issue at Singapore to the detriment of real trade policy objectives. If your real agenda isn't about trade sanctions, why continue to pursue this in the WTO. The WTO doesn't deal with labor standards and you really want to have an international agreement on wage rates.

Response: The preamble to the WTO recognizes that relations in the field of trade and economic endeavor among other things should be "conducted with a view to raising standards of living, and in ensuring full employment." There are already provisions in the WTO that allow countries to discriminate against products of prison labor. We continue to believe that a collaborative effort between the WTO and ILO would be beneficial to our overall efforts at promoting democracy and good governance in newly emerging economies. We have made it clear that we don't believe the WTO should get involved in setting international rules regarding wages -- but we have made it clear that the workers need to see how their concerns are taken into account in trade matters.

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Divider Title: **30**

CHRONOLOGICAL OF SPECIFIC PROPOSALS/CONCEPT SUGGESTIONS

TAB	REC'D	GROUP	PROPOSAL	STATUS	ACTION	MEETINGS
1	6/15/97	Florida Citrus Mutual	SPECIFIC LANGUAGE: 1) re: duties; an amendment prohibiting the POTUS from making tariff cuts without further authorization for products like citrus			
2	8/97	American Forest & Paper Assoc.	SPECIFIC LANGUAGE: 1) overall and principal negotiating objectives re: tariff anf non-tariff barriers 2) reciprocal duty elimination agreements CONCEPTS: 1) elimination of tariff barriers to US wood & paper exports; completion of zero-for zero initiatives			met with Parker and Freiberg 8/28
3	8/29/97	Committee to Support US TradeLaws (CSUSTL)	SPECIFIC LANGUAGE: 1) eliminate unfair trade practices 2) prevent weakening of disciplines against these practices 3) obtain WTO enforcement against unreasonable requirments of direct investment & to protect IP			met with Novick 8/28/97
4	8/29/97	Southern Tier Cement Committee (rep. by King & Spalding)	CONCEPTS: no extention of Chapter 19 binational panel review of antidumping/ countervailing duty orders to Chile/others			met with Novick week of Aug. 29

5	9/5/97	American Sugarbeet Growers Association	SPECIFIC LANGUAGE: 1) eliminate trade distorting subsidies 2) strengthen rules for agric. trade 3) eliminate barriers to trade 4)market liberalization prerequisite to WTO accession 5) integrating bilat/regional trade agmts. Into fulfillment of WTO obligations 6) need trade remedies to compensate for harm caused by national prohibition of chemicals used by foreign producers			
6	9/8/97	American Farm Bureau Federation	CONCEPTS: 1) eliminate all trade barriers w/in specific time frames (tariff & market access equalization) 2) resolve sanitary and phytosanitary disputes 3) shorten dispute settlement process involving perishable products			

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Divider Title: **31**

Daschle/Samans Labor Concerns

Question

Is the Administration willing to conduct a survey of every prospective FTA partner in regards its relevant labor laws and enforcement practices?

Answer

- The Administration does annually report on worker rights conditions in virtually all countries around the world in the State Department's annual Human Rights Report.

- Furthermore, we are committed to encouraging respect for core labor standards as we proceed with our trade agreement agenda.

- At the same time, we do not believe that our negotiating interests on these issues would be advanced by providing before each and every potential FTA negotiation a status report on worker rights, or for that matter the full range of issues that are germane to an FTA (i.e., IPR, service access, tariff rates, etc.).

- A public status report of this type may intensify opposition within the prospective FTA partner to any changes in its policies or practices thus undermining our ability to achieve constructive change.

- As a general matter, however, we will continue to take into account a variety of factors in considering potential FTA partners, including the full range of our trade, economic and foreign policy concerns, which include respect for core labor standards.

Drafted: USTR/Huenemann
Cleared: DOL/Samet/Perez-Lopez 9/15

GOVERNMENT PROCUREMENT AND LABOR STANDARDS

Senator Daschle's letter raised the idea of linking compliance with core labor standards to U.S. government procurement. Requiring U.S. federal agencies to procure only goods that are produced in accordance with core labor standards would raise the following issues:

(1) it would be impossible to administer such a requirement, given the lack of existing mechanisms for certification and enforcement in the United States (even with respect to U.S. producers) and would raise questions about U.S. practices;

(2) unless applied on an extremely limited basis, it could subject the United States to a WTO challenge;

(3) if administered in a WTO-consistent manner, such an initiative would not result in significant benefits because the scope of the initiative would be severely limited with respect to the number and value of procurement contracts that could be covered by the requirements;

(4) it would likely undermine support for U.S. objectives in the WTO Working Group on Transparency in Government Procurement; and

(5) it would not provide a meaningful incentive to encourage countries to adhere to core labor standards because the U.S. Government does not purchase significant amounts of goods or services from countries that would be likely targets in the area of labor standards.

DISCUSSION

1. It would be impossible to administer a requirement that U.S. government agencies only procure goods and services that were produced in accordance with core labor standards.

- Some type of certification regarding compliance with core labor standards would be necessary in order for procuring agencies to determine whether to purchase a given good. Presumably, this could take the form of either: (1) a certification regarding compliance by foreign countries; or (2) a certification attesting to compliance by individual manufacturers, both foreign and domestic. In the latter case, it would be necessary to certify compliance by every manufacturer whose goods are supplied to U.S. government agencies.

- Presently, no such certifications exist. Either the U.S. Government would need to provide certification regarding compliance with core labor standards by foreign countries or each supplier would need to attest to compliance by manufacturers of all goods being supplied. In the case of certification provided by suppliers, this could constitute an extremely burdensome requirement. Furthermore, effective

U.S. Government enforcement of supplier certifications would require verification of compliance with labor standards by each manufacturer and therefore be unmanageable.

- Imposing such requirements would also raise questions regarding U.S. labor practices, including freedom of association and use of prison labor.

- In addition, adopting such a requirement would fly in the face of Administration efforts to streamline the U.S. government procurement system. Over the past three years, the Administration -- with strong support from Congress -- has implemented a number of reforms to procurement procedures and Congress recently enacted two procurement reform laws (initiated by the Administration). One of the chief aims of these reforms has been the elimination of administratively burdensome requirements imposed on procurement decisions.

2. Imposition of such a requirement could subject the United States to a challenge under the WTO Agreement on Government Procurement (GPA).

- The WTO Government Procurement Agreement (GPA) establishes detailed rules requiring government agencies to follow non-discriminatory and transparent procedures when they purchase goods and services. These rules include a requirement that contracts be awarded on the basis of either: lowest price or most advantageous bid under the specific evaluation criteria established for the contract and set forth in tender documentation.

- The GPA also requires that any conditions imposed on suppliers for participation in procurements be limited to those that are essential to ensure a firm's capability to fulfill the contract in question.

- The GPA contains exceptions for measures necessary to protect human life or health, to protect public morals, and for measures relating to the products or services of prison labor, but these exceptions would presumably not cover measures such as those relating to child labor; minimum wages; right to associate/organize.

- These requirements apply to procurements by U.S. federal agencies valued at $190,000 or more for goods and services contracts and $7,311,000 for construction contracts. Thus, to avoid possible WTO challenges, imposition of labor standards requirements would need to be limited to U.S. government contracts valued below these thresholds.

3. It is questionable whether such an initiative would result in significant practical benefits because in order to be administered in a WTO-consistent manner, the scope of the initiative would be severely limited with respect to the volume of procurement contracts that would be affected.

- o In order to administer such an initiative in a WTO-consistent manner, it could not apply to purchases made by U.S. federal agencies where contracts are valued at $190,000 or more for goods and/or services and $7,311,000 or more for construction.

4. Such an initiative could undermine support for U.S. objectives in the newly-established WTO Working Group on Transparency in Government Procurement.

- o The new Working Group on Transparency in Government Procurement was established this year as agreed by WTO Ministers at Singapore in December 1996. The mandate of the Working Group is to: (1) conduct a study on government procurement transparency; and (2) develop elements for an appropriate agreement.
- o Establishment of the Working Group resulted from a U.S. initiative and forms the basis for achieving long-held U.S. objectives to extend international disciplines on government procurement on a multilateral basis. Significant U.S. effort was required to overcome the opposition of a number of developing countries (most developing countries are not signatories to the GPA).

- o Due to trepidation on the part of developing countries in addressing government procurement issues, unilateral imposition of labor standards on U.S. procurements could be perceived as an affront by developing countries and provoke misgivings about U.S. motivations in the Transparency Working Group.

5. Finally, imposing a requirement for compliance with core labor standards on U.S. Government procurements would have minimal beneficial impact. Because the U.S. Government does not purchase significant amounts of goods or services from countries that would be likely targets in the area of labor standards, such a requirement would not provide a meaningful incentive to encourage those countries to adhere to core labor standards. See attached table showing U.S. government procurement values.

- o Under the Trade Agreements Act of 1979, U.S. federal government agencies are generally <u>prohibited</u> from procuring goods or services from countries that are not signatories to the GPA or NAFTA (for contracts with values equivalent to or exceeding the monetary thresholds listed above). Exceptions to this prohibition exist for CBI countries, least-developed countries and countries with which the U.S. Defense Department has concluded a memorandum of understanding concerning defense procurement.

- o Only the following countries are signatories to the GPA: Canada, Member States of the European Union, Hong Kong, Israel, Japan, Korea, Norway, Singapore, Switzerland, and the United States.

1994 U.S. GOVERNMENT PROCUREMENT
(Values in thousands of dollars)

GRAND TOTALS :	164,606,752	162,085
US UNITED STATES	153,569,505	155,954
CODE LEFT BLANK	7,879,003	1,904
JA JAPAN	599,139	527
KS KOREA, REPUBLIC OF	365,066	398
UK UNITED KINGDOM	344,804	311
IT ITALY	232,644	238
SP SPAIN	153,456	89
RS RUSSIA	152,866	20
GM GERMANY	148,005	362
CA CANADA	133,311	259
KU KUWAIT	95,099	6
IS ISRAEL	84,290	66
FR FRANCE	73,801	203
UR USSR RUSSIA	70,469	11
SA SAUDI ARABIA	63,456	23
GR GREECE	62,639	69
AA ARUBA	44,449	1
SN SINGAPORE	35,788	80
TU TURKEY	35,131	63
PM PANAMA	31,588	100
BA BAHRAIN	30,658	16
GE GERMANY, FEDERAL REPUBLIC OF	27,574	146
GH GHANA	23,478	11
TC UNITED ARAB EMIRATES	21,642	31
BE BELGIUM	21,234	68
FI FINLAND	18,220	18
SZ SWITZERLAND	16,679	24
AU AUSTRIA	14,219	63
AS AUSTRALIA	13,971	43
VM VIETNAM	13,011	1
SW SWEDEN	12,665	21
JM JAMAICA	11,969	18
UG UGANDA	10,404	22
NZ NEW ZEALAND	9,704	12
BL BOLIVIA	9,367	54
SF SOUTH AFRICA	9,224	13
DA DENMARK	9,062	32
NS SURINAME	9,027	1
EG EGYPT	8,340	37

NL NETHERLANDS	7,778	42

1994 U.S. GOVERNMENT PROCUREMENT
(Values in thousands of dollars)

NO NORWAY	7,624	16
BR BRAZIL	7,255	11
PO PORTUGAL	6,945	21
EI IRELAND	5,937	5
PK PAKISTAN	5,761	13
CH CHINA	5,747	7
ES EL SALVADOR	4,894	43
TH THAILAND	4,734	40
KE KENYA	4,550	13
RP PHILIPPINES	4,542	35
TK TURKS CAICOS ISLANDS	4,275	3
MX MEXICO	4,064	29
IV IVORY COAST	3,862	23
HK HONG KONG	3,822	30
CI CHILE	3,339	8
VC ST VINCENT & THE GRENADINES	3,221	1
BN BENIN	3,205	17
HO HONDURAS	3,162	38
EC ECUADOR	2,762	18
DJ DJIBOUTI	2,558	6
TS TUNISIA	2,518	12
AR ARGENTINA	2,484	4
IN INDIA	1,975	21
GT GUATEMALA	1,800	24
DR DOMINICAN REPUBLIC	1,769	6
JO JORDAN	1,749	7
HU HUNGARY	1,719	12
LA LAOS	1,691	3
MU OMAN	1,646	8
CN COMOROS	1,251	11
GB GABON	1,222	8
WZ SWAZILAND	1,086	8
PL POLAND	1,002	14
BB BARBADOS	973	7
BD BERMUDA	956	2
NU NICARAGUA	892	2
MZ MOZAMBIQUE	891	9

ID	INDONESIA	788	12
NT	NETHERLANDS ANTILLES	778	1
CV	CAPE VERDE	698	1
PC	PITCAIRN ISLANDS	692	1
GV	GUINEA	688	6

1994 U.S. GOVERNMENT PROCUREMENT
(Values in thousands of dollars)

NG	NIGER	671	4
PA	PARAGUAY	631	7
TD	TRINIDAD TOBAGO	631	1
NP	NEPAL	624	8
HA	HAITI	585	6
PE	PERU	579	6
ML	MALI	529	4
MY	MALAYSIA	496	5
MO	MOROCCO	479	13
ET	ETHIOPIA	410	4
TZ	TANZANIA	409	3
SG	SENEGAL	394	6
ZI	ZIMBABWE	377	6
BG	BANGLADESH	349	4
GA	GAMBIA, THE	348	6
CS	COSTA RICA	316	3
UP	UKRAINE	297	3
IC	ICELAND	287	3
MT	MALTA	280	2
YS	YEMEN ADEN	269	4
EZ		257	3
CO	COLOMBIA	238	5
MA	MADAGASCAR	203	3
AJ	AZERBAIJAN	185	1
LT	LESOTHO	182	3
BU	BULGARIA	161	3
BH	BELIZE	154	4
CT	CENTRAL AFRICAN REPUBLIC	148	3
BC	BOTSWANA	147	5
HR	CROATIA	137	2
ZA	ZAMBIA	129	4
GY	GUYANA	122	2

QA	QATAR	111	1
CE	SRI LANKA	105	2
LU	LUXEMBOURG	96	1
MI	MALAWI	92	2
NE	NIUE	90	2
TE	TROMELIN ISLAND	89	1
EN	ESTONIA	88	2
BY	BURUNDI	72	2
VE	VENEZUELA	69	1
FS	FRENCH S. & ANTAR LANDS	67	1

1994 U.S. GOVERNMENT PROCUREMENT
(Values in thousands of dollars)

PP	PAPUA NEW GUINEA	65	2
SY	SYRIA	62	1
LG	LATVIA	59	1
TW	CHINA (TAIWAN)	54	1
AL	ALBANIA	48	1
SU	SUDAN	43	4
NQ	TRUST TERRITORY OF THE PACIFI	36	1
WA	NAMIBIA	34	1
UY	URUGUAY	30	2
BF	BAHAMAS,THE	30	1
ST	ST LUCIA	30	1
RO	ROMANIA	28	1
AG	ALGERIA	27	1
MR	MAURITANIA	25	1
NI	NIGERIA	10	1
PU	GUINEA-BISSAU	6	1

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Divider Title: **32**

DASCHLE/GRASSLEY AGRICULTURE 301 LEGISLATION

Issue

Senators Grassley and Daschle have introduced these two bills to address trade restrictions on U.S. value-added agricultural exports.

Talking Points

- The intent of S. 219, namely, the requirement to identify foreign trade barriers to U.S. exports of value-added agricultural commodities is already covered by USTR's Annual Trade Estimate Report on Foreign Trade Barriers which is required by section 181 of the Trade Act of 1974.

- The 1997 report identifies the EU's ban on growth promoting hormones in meat production and the veterinary equivalence as examples of such barriers.

- Where a WTO member is violating provisions of an international agreement or maintaining discriminatory non-tariff treatment, USTR has started dispute settlement procedures under the WTO. Some examples of recent actions include the dispute settlement panel with respect to the EU ban on growth promotants in meat production. We have also initiated dispute settlement consultations with Japan over variety by variety testing for approval of apple exports and with the Philippines over its restrictions on pork and poultry imports.

- Therefore, we believe USTR already has authority under current law to undertake the activities required in S. 219.

- With respect to the provisions of S. 220, we believe Secretary Glickman's April 30 announcement that the United States and the European Union reached an agreement on an overall framework for recognizing as equivalent each other's veterinary inspection system fulfills the bill's intent. The Meat Industry Trade Policy Council whose members include the American Farm Bureau, The American Meat Institute, The American Sheep Industry Association, the National Cattlemen's Beef Association and the National Pork Producers Council support the agreement. USDA and USTR will closely monitor its implementation to ensure compliance.

Background

S. 219 requires USTR to identify countries that deny fair and equitable access to U.S. exports of value-added agricultural products. USTR is required to initiate an investigation under Section 302 of the Trade Act of 1974 of the countries so identified and may request the Secretary of Agriculture to review certifications of such countries that export meat and other agricultural products to the United States. S. 220 requires USTR to determine whether the European Union has satisfactorily implemented the 1992 Red Meat Agreement and, if not, to request the Secretary of Agriculture to review certifications for EU meat exports to the United States.

Brazilian Citrus Subsidies

ISSUE: Senator Graham from Florida would like us to address Brazilian citrus subsidies in our fast track language.

Talking Points:

- When we crafted the agriculture language for the Fast Track bill, we wanted to ensure that we had as clean a bill as possible. To do so, we agreed internally -- early-on -- that we would not include industry specific language in the bill.

- I continue to think this is the best approach for gaining broad consensus for this important bill.

- That said, in our bill's negotiating principles, we have clearly articulated that one of our major negotiating objectives is to reduce or eliminate both direct and indirect subsidies that distort agricultural markets to the detriment of US agriculture.

- Your concerns with Brazilian citrus would clearly be covered under the language articulated in our bill.

Divider Title: **33**

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Divider Title: 34

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Divider Title: **35**

SEASONAL AGRICULTURAL PRODUCTS PROPOSAL

ISSUE: Senators Graham and Mack from Florida would like to address seasonal commodities in Fast Track legislation. Specifically, they would like to allow the International Trade Commission to account for seasonal agricultural industries like tomatoes and peppers.

- When we crafted the agriculture language for the Fast Track bill, we wanted to ensure that we had as clean a bill as possible. To do so, we agreed internally early-on that we would not include industry specific language in the bill.
- I continue to think this is the best approach for gaining broad consensus for this important bill.
- That said, I also understand that legislation is likely to be introduced on this matter soon, separate from the Fast Track bill. I know there is a lot of support in the Congress for this type of legislation and I look forward to the Congressional deliberations on this important matter.

IF PRESSED TO GIVE SUPPORT FOR SEASONALITY LEGISLATION ONLY:

- It is difficult for me to address this idea without first seeing the precise language involved in the legislation. I would be happy to have my staff meet with yours to discuss this important issue.

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36

Divider Title: ______________________________

GRAMM FAST TRACK LEGISLATION

Talking Points

- We welcome support for opening markets in the Americas and we share that objective. The President is committed to a comprehensive trade agreement with Chile and to build the FTAA by the year 2005, with concrete progress by the year 2000.

- We are at a critical stage in the FTAA effort and are committed to initiate the multilateral negotiations to build the FTAA at the March 1998 second summit of the Americas. Furthermore, fast track authority will allow us to conclude the negotiations with Chile, a key step in the effort to build an FTAA that reflects U.S. interests.

- We look forward to working with you and others in forging the necessary bipartisan approach to succeed with fast track legislation that ensure an effective global trade strategy.

- We will examine your legislation and others on this topic in our work with Congress.

Background

The bill is limited to agreements within the Western Hemisphere. It also includes language to preclude a trade agreement with Cuba until such time as freedom and together rights have been restored as certified by the President. Should democracy be restored in Cuba, the President is directed to give priority to an FTA with Cuba. The bill contains language designed to dissuade the U.S. from pursuing the labor and environment agenda in the context of trade agreements, and precludes modifications to U.S. labor and environmental law through trade agreement implementing legislation under the fast track procedure.

It also proscribes implementing legislation that "is necessary" to implement the trade agreement, and includes a Senate point of order provision that would allow the striking of any provisions that are not "necessary" to implement the trade agreement. The bill is built on Section 151 of the Trade Act of 1974, as amended (i.e. the Omnibus Trade and Competitiveness Act of 1988).

5/30/97

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Divider Title: **37**

LUGAR FAST TRACK BILL

Talking Points

- I very much appreciate the efforts that Senator Lugar, Senator Gramm and others have made in thinking through some of the important issues regarding the renewal of fast track.

- Senator Lugar's bill provides a possible approach for dealing with several fast track components -- namely, the extent to which certain provisions of fast track implementing bills should be amendable and the kinds of provisions that should be allowed in those bills.

- These are just the kinds of questions that I have been consulting with Members of Congress on over the past few weeks. I expect to take those views, as well as views from the private sector, into account as we go forward.

If Pressed

- I know that Senator Lugar and others properly want to ensure that the revenue provisions included in fast track bills are sound ones and that they enjoy widespread House and Senate support.

- We certainly recognize the importance of achieving that result and would hope to work closely with Senator Lugar and others to that end.

Background

Senator Lugar's bill, S. 253, is a complete fast track proposal, roughly along the lines of the 1995 House Republican bill. For example, it limits the scope of fast track implementing provisions to those that are "necessary" to carry out the trade negotiating objectives set forth in the bill. Senator Lugar's list of objectives is more broadly cast than that included in the Archer-Dreier version, however.

One key feature of S. 253 is that it allows Members to offer amendments to a bill's PAYGO provisions. S. 253 reflects concerns raised in the Senate about the so-called "pioneer Preferences" revenue provisions included in the Uruguay Round Agreement Act, which some viewed as an Administration-House *fait accompli*. The Senator's bill would allow Members to offer amendments of a bill's PAYGO provisions with the same financial consequences that is, either cutting expenditures or raising revenues). Differences would be worked out in a special conference committee.

S. 219/S.220

Issue

Senators Grassley and Daschle have introduced these two bills to address trade restrictions on U.S. value-added agricultural exports.

Talking Points

- The intent of S. 219. namely, the requirement to identify foreign trade barriers to U.S. exports of value-added agricultural commodities is already covered by USTR's Annual Trade Estimate Report on Foreign Trade Barriers which is required by section 181 of the Trade Act of 1974.

- The 1997 report identifies the EU's ban on growth promoting hormones in meat production and the veterinary equivalence as examples of such barriers.

- Where a WTO member is violating provisions of an international agreement or maintaining discriminatory non-tariff treatment, USTR has started dispute settlement procedures under the WTO. Some examples of recent actions include the dispute settlement panel with respect to the EU ban on growth promotants in meat production. We have also initiated dispute settlement consultations with Japan over variety by variety testing for approval of apple exports and with the Philippines over its restrictions on pork and poultry imports.

- Therefore, we believe USTR already has authority under current law to undertake the activities required in S. 219.

- With respect to the provisions of S. 220, we believe Secretary Glickman's April 30 announcement that the United States and the European Union reached an agreement on an overall framework for recognizing as equivalent each other's veterinary inspection system fulfills the bill's intent. The Meat Industry Trade Policy Council whose members include the American Farm Bureau, The American Meat Institute, The American Sheep Industry Association, the National Cattlemen's Beef Association and the National Pork Producers Council support the agreement. USDA and USTR will closely monitor its implementation to ensure compliance.

Background

S. 219 requires USTR to identify countries that deny fair and equitable access to U.S. exports of value-added agricultural products. USTR is required to initiate an investigation under Section 302 of the Trade Act of 1974 of the countries so identified and may request the Secretary of Agriculture to review certifications of such countries that export meat and other agricultural products to the United States. S. 220 requires USTR to determine whether the European Union has satisfactorily implemented the 1992 Red Meat Agreement and, if not, to request the Secretary of Agriculture to review certifications for EU meat exports to the United States.

Fast Track -- Congressional Requests
Senate

Member	Date	Subject	In Bill?
Baucus, Max	6/12/97	Include Congress in trade strategy	
		labor & environment should have role in trade negotiations	
Daschle, Tom	8/1/97	How use FT?	
		How ensure food safety/environmental standards?	
		What steps to dismantle foreign ag trade barriers?	
		How assist displaced workers/protect worker rights?	
		How involve Congress/public in trade agenda?	
Dorgan, Byron L.	4/29/97	Oppose FT:	
		unconstitutional delegation of power to President; trade agreements have not reduced U.S. trade deficits and have not led to reciprocal market access for US goods and services	
Graham, Bob	8/19/97	(1) Address seasonal commodities in FT--allow ITC to account for seasonal agricultural industries.	
		(2) Opposition to heavily subsidized Brazilian citrus industry	
		(3) Tariff barriers:	
		(a) no reduction of a duty that is less than 50% of the rate of such duty that applies on such date of enactment	
		(b) no increase of any rate of duty above the rate that applies on the date of enactment	

		(c) no reduction of rate of duty on any article which was the subject of tariff reductions by the U.S. as a result of the Uruguay Round Agreements which reduced the rate of duty to a rate that was not less than 97.5% of the rate of duty that applies on Dec. 31, 1994.	
Mack, Connie	8/19/97	See Bob Graham	
Snowe, Olympia	4/29/97	Oppose FT:	
		unconstitutional delegation of power to President;	
		trade agreements have not reduced U.S. trade deficits and have not led to reciprocal market access for US goods and services.	

Fast Track -- Congressional Requests
House

Member	Date	Subject	In Bill?
Becerra , Xavier	7/16/97	Labor and environmental concerns:	
		Criticism of TAA program (poor implementation by Dept. of Labor),	
		NADBank Domestic Window program, and poor coordination between NADBank and BECC.	
		Ineffectiveness of NACEC. Letter relies primarily upon Latino Coalition study of NAFTA.	
Bonior, David E.	9/9/97	Dear Colleague---NAFTA Expansion: What's at Stake with Fast Track---invitation to panel discussion	
Boswell, Leonard	4/9/97	Future trade agreements in general: request for the President to convene the House Democratic Caucus to make his case on the importance of future trade agreements	
Brown, Sherrod	9/5/97	Dear Colleague---NAFTA's threat to food safety: Problem of poor border inspection.	
Cardin, Benjamin L.	9/5/97	Labor and environmental provisions must be attached to FT--	
		need for sanctions if these provisions are not enforced	
Crane, Phil	8/8/97	Comments on 5-year strategic plan: no mention of need to expand free trade beyond Americas	
		criticism of absence of definition for "supportive and sustainable development" and "core worker rights."	
DeFazio, Peter	9/5/97	Dear Colleague---Oppose FT: NAFTA has spawned job losses and large trade deficits	
	9/3/97	Dear Colleague---Oppose attachment of MAI to FT legislation	
Dellums, Ronald	9/3/97	Dear Colleague---Oppose attachment of MAI to FT legislation	

English, Phil	9/8/97	Request for 5-year reauthorization for TAA through Sept. 30, 2003	
Farr, Sam	7/16/97	Labor and environmental concerns:	
		Criticism of TAA program (poor implementation by Dept. of Labor),	
		NADBank Domestic Window program, and poor coordination between NADBank and BECC.	
		Ineffectiveness of NACEC. Letter relies primarily upon Latino Coalition study of NAFTA.	
Gingrich, Newt	4/10/97	Support for fast track	
Green, Gene	7/16/97	Labor and environmental concerns:	
		Criticism of TAA program (poor implementation by Dept. of Labor)	
		NADBank Domestic Window program,and poor coordination between NADBank and BECC.	
		Ineffectiveness of NACEC. Letter relies primarily upon Latino Coalition study of NAFTA.	
	4/16/97	FT should be country-specific	
Gutierrez, Luis V.	7/16/97	See Gene Green	
Hinojosa, Ruben	7/16/97	See Gene Green	
Kaptur, Marcy	9/3/97	Dear Colleague---Oppose attachment of MAI to FT legislation	
Klink, Ron	8/28/97	Dear Colleague---Oppose attachment of MAI to FT legislation	
Leach, James A.	9/2/97	Support FT: Must also examine	
		(1) problems of corruption in developing countries	
		(2) human rights issues-- prison labor in PRC	
		(3) differing labor standards between U.S. and developing countries	
		(4) environmental protection differences	

		(5) differential in transportation safety standards--U.S.-Mexico trucking	
Levin, Sandy	8/13/97	Overview of FT position: need to use FT to raise the standard of living of U.S. workers	
Martinez, Matthew C.	7/16/97	Labor and environmental concerns:	
		Criticism of TAA program (poor implementation by DOL),	
		NADBank Domestic Window program, and poor coordination between NADBank and BECC.	
		Ineffectiveness of NACEC. Letter relies primarily upon Latino Coalition study of NAFTA.	
McGovern, James P.	9/3/97	Dear Colleague---Oppose attachment of MAI to FT legislation	
Menendez, Robert	7/16/97		
Ortiz, Solomon P.	7/16/97	Labor and environmental concerns: Criticism of TAA program (poor implementation by DOL),	
		NADBank Domestic Window program, and poor coordination between NADBank and BECC.	
		Ineffectiveness of NACEC. Letter relies primarily upon Latino Coalition study of NAFTA.	
Pastor, Ed	7/16/97	Labor and environmental concerns: Criticism of TAA program (poor implementation by DOL),	
		NADBank Domestic Window program, and poor coordination between NADBank and BECC.	
		Ineffectiveness of NACEC. Letter relies primarily upon Latino Coalition study of NAFTA.	
Rangel, Charles	9/11/97	Qualitative support for FT: any FT bill must be accompanied by a domestic jobs initiative	
Reyes, Silvestre	7/16/97	Labor and environmental concerns: Criticism of TAA program (poor implementation by DOL),	
		NADBank Domestic Window program, and poor coordination between NADBank and BECC.	

		Ineffectiveness of NACEC. Letter relies primarily upon Latino Coalition study of NAFTA.	
Rodriguez, Luis V.	7/16/97	see Silvestre Reyes	
Roybal-Allard, Lucille	7/16/97	see Silvestre Reyes	
Sanchez, Loretta	7/16/97	see Silvestre Reyes	
Sanders, Bernard	9/3/97	Dear Colleague---Oppose attachment of MAI to FT legislation	
Serrano, Jose E.	7/16/97	Labor and environmental concerns: Criticism of TAA program (poor implementation by DOL),	
		NADBank Domestic Window program, and poor coordination between NADBank and BECC.	
		Ineffectiveness of NACEC. Letter relies primarily upon Latino Coalition study of NAFTA.	
Shaw, Clay	8/19/97	(1) Address seasonal commodities in FT--allow ITC to account for seasonal agricultural industries.	
		(2) Opposition to heavily subsidized Brazilian citrus industry	
		(3) Tariff barriers:	
		(a) no reduction of a duty that is less than 50% of the rate of such duty that applies on such date of enactment	
		(b) no increase of any rate of duty above the rate that applies on the date of enactment	
		(c) no reduction of rate of duty on any article which was the subject of tariff reductions by the U.S. as a result of the Uruguay Round Agreements which reduced the rate of duty to a rate that was not less than 97.5% of the rate of duty that applies on Dec. 31, 1994.	
Smith, Robert F.	5/19/97	Support for FT to open agricultural markets--	
		most realistic option is to pass a limited FT for Chile's NAFTA accession	
Stearns, Cliff	8/28/97	Dear Colleague---Oppose attachment of MAI to FT legislation	

Stupak, Bart	9/5/97	Dear Colleague---NAFTA's threat to food safety. Poor border inspection.	
Tauscher, Ellen O.	9/5/97	Dear Colleague---General support for FT.	
		Also need to consider safeguarding worker rights and environmental standards.	
Thurman, Karen	8/19/97	(1) Address seasonal commodities in FT--allow ITC to account for seasonal agricultural industries.	
		(2) Opposition to heavily subsidized Brazilian citrus industry	
		(3) Tariff barriers:	
		(a) no reduction of a duty that is less than 50% of the rate of such duty that applies on such date of enactment	
		(b) no increase of any rate of duty above the rate that applies on the date of enactment	
		(c) no reduction of rate of duty on any article which was the subject of tariff reductions by the U.S. as a result of the Uruguay Round Agreements which reduced the rate of duty to a rate that was not less than 97.5% of the rate of duty that applies on Dec. 31, 1994.	
Tierney, James F.	9/3/97	Dear Colleague---Oppose attachment of MAI to FT legislation	
Torres, Esteban E.	7/16/97	Labor and environmental concerns: Criticism of TAA program (poor implementation by DOL),	
		NADBank Domestic Window program, and poor coordination between NADBank and BECC.	
		Ineffectiveness of NACEC. Letter relies primarily upon Latino Coalition study of NAFTA.	
Velazquez, Nydia M.	7/16/97	See Esteban Torres	

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Divider Title: ______________________________

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 breifing 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 breifing 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 indivdiual brieifng papers on dairy and wheat.

Drafted: SDarragh/MWaters
Reviewed: JHuenemann 8/22

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Divider Title: ______________________________

[to be revised per issues evolving]

NAFTA: AGRICULTURAL TRADE CONCERNS WITH MEXICO

Issue

Mexico wants more access to our sugar market, which requires a renegotiation of the NAFTA sugar accord. On June 25, Mexico also imposed provisional antidumping measures on U.S. exports of high fructose corn syrup (HFCS), effectively closing this market for U.S. corn refiners, and did the same of September 1 regarding red and golden delicious apples. In addition, Mexico bans Florida citrus exports due to sanitary and phytosanitary (SPS) issues.

Points to Make

HFCS

- The Administration has requested consultations in the WTO to examine the consistency of Mexico's initiation of its dumping investigation on high fructose corn syrup.

- Recognizing our industry's concerns, and the support of the Congress, we will be vigilant in pursuing our export interests and will work closely with industry.

At the same time, we are closely examining the recent development in Mexico whereby certain others agreements were reached that limit the sale of HFCS in the Mexican market.

If upon examination we find the Government of Mexico acted in contravention of the its international obligations, we are prepared to pursue the appropriate course regarding consultations in either the WTO or under the NAFTA.

Our primary objective is to protect the interests of the U.S. HFCS industry, so we will continue to work closely with them in working with Mexico to try to resolve these issues.

Mexico's Sugar Access

- Mexico is interested in more access for its sugar. In our effort to respond to this interest we intend to address the interests of U.S. industry, both refiners and growers, and take into account the interests of our other suppliers given our WTO obligations.

- Mexico's decision to adopt provisional antidumping duties on U.S. exports of high fructose corn syrup obviously makes it more difficult for the Administration to consider negotiations on increased sugar access for Mexico.

- Any decision to negotiate with Mexico to improve the existing NAFTA sugar agreement would have to be to the benefit of the U.S. sweetener industry among other things.

Citrus

- U.S. officials have made significant progress on outstanding sanitary and phytosanitary issues affecting U.S. agricultural exports to Mexico.

- I am pleased that Mexico has agreed to allow Arizona citrus exports to Mexico this season. U.S. citrus exports are expected to begin once the workplan has been finalized between our officials.

- We will continue to work closely with Mexican officials to secure market access for Florida citrus exports to Mexico.

Background

HFCS and Mexico Sugar:

President Zedillo raised with the President during his visit to Mexico the importance of increased access to the U.S. sugar market, particularly given Mexico's large domestic surpluses of sugar. Subsequently, Zedillo wrote to the President reiterating his interest in this issue. Additional access would require a renegotiation of the NAFTA sugar accord which limits Mexico's access at this time to 25,000 metric tons annually, which is more than it would get under the WTO minimum access requirements.

In an effort to spur the U.S. to action in regards Mexico's interest in more sugar access, on June 25, Mexico's SECOFI issued a preliminary finding of dumping in its investigation of alleged dumping of HFCS from the United States. The decree imposed compensatory duties ranging from 61-102% on four U.S. companies and 102% on all other companies. Mexico's National Sugar Chamber brought the original complaint which was coordinated with SECOFI. The U.S. Congress passed sense of the Congress resolutions just before the summer recess urging USTR to request WTO consultations on the Mexican AD action.

We are also examining an apparent agreement reached whereby bottlers in Mexico have agreed to limit their purchases in HFCS and agreed to buy discounted Mexican sugar. The U.S. HFCS industry believes SECOFI organized this agreement and the agreement is in contravention of the WTO and the NAFTA, plus Mexico's competition laws. We are working with the HFCS industry and our industry to try to determine the specific evidence that makes clear SECOFI actions are, in fact, inconsistent with its international obligations.

Citrus:

Mexico recently granted approval for Arizona citrus exports to Mexico, enabling exports to begin this season. U.S. officials are working with their Mexican counterparts to finalize trapping requirements for exotic fruit flies in Arizona.

During the Binational Commission meetings on May 5-6, 1997, Mexico recognized U.S. efforts to isolate and eradicate citrus canker in Florida. USDA's Animal and Plant Health Inspection Service (APHIS) officials are working with Mexican officials to finalize a workplan to allow Florida citrus exports to Mexico. It should be noted that Mediterranean fruit fly was recently detected in Tampa, Florida as well as a new outbreak of citrus canker in Manatee County. Both pest infestations will likely delay any new agreement for Florida citrus access to Mexico.

Apples

Mexico has imposed a preliminary 101% dumping tariff on red delicious and golden delicious apple imports from the U.S., effective Monday, September 2. Ten companies were named as exporters, including four from Washington state. The industry has contacted USTR, USDA and DOC raising certain irregularities in the review, and is expected to enlist the assistance of its Congressional representatives.

Talking Points

- We are aware of SECOFI's recent decision to impose preliminary dumping duties on U.S. apples.
- Senior USTR officials have already raised this issue with senior SECOFI officials and met with industry representatives last week.
- Administration lawyers are currently reviewing Mexico's decision.
- In short, we are very concerned about this action and will certainly work with our industry to ensure our rights are being respected.

Apple Background

The investigation into the imports was initiated in March following a complaint lodged by northern Chihuahua state's Regional Union of Fruit Producers. Mexico is Washington's No. 1 export market for apples, with some 5.5 million boxes shipped last season. Under NAFTA, U.S. exports face a tariff of 12 percent for the first 3.2 million boxes; this amount increases 3 percent each year; the remainder are charged 20 percent. The tariff will be eliminated by 2003.

SECOFI figures show that the U.S. accounted for 73.8 percent of the Mexican market in 1994, 44.1 percent in 1995 and 51.5 percent in the first half of 1996.

The Washington State apple exporters (Northwest Horticultural Council, represented by Tom Graham of Skadden Arps), have met with Commerce and USTR. The key legal issue appears to be SECOFI's decision to use "best information available" before verification had taken place, because of a discrepancy in one invoice by an importer that showed a lower price than the exporter's questionnaire response. SECOFI then decided it would reject all the questionnaire responses from both exporters, and used the petitioner's numbers as BIA to set preliminary margins at 101%. Mexico's decision will be finalized in 120 days (with an extension possible).

The Washington apple industry has asked USTR to get SECOFI to revise its preliminary determination or to verify the datat provided in a tinmely manner, and to drop duties if the discrepancies are resolved. The 1997 shipping season to Mexico begins about November 1. Skadden may also pursue action in the Mexican courts seeking a preliminary injunction against the suspension of liquidation and levying of the preliminary duties.

DOC lawyers are now examining whether the Mexican actions are consistent with Article 6.8 of the Antidumping Agreement.

Drafted: AErickson
Reviewed: JHuenemann 9/14
Updated (apples) JMelle 9/13

[to be revised per issues evolving]

NAFTA: AGRICULTURAL TRADE CONCERNS WITH MEXICO

Issue

Mexico wants more access to our sugar market, which requires a renegotiation of the NAFTA sugar accord. On June 25, Mexico also imposed provisional antidumping measures on U.S. exports of high fructose corn syrup (HFCS), effectively closing this market for U.S. corn refiners, and did the same of September 1 regarding red and golden delicious apples. In addition, Mexico bans Florida citrus exports due to sanitary and phytosanitary (SPS) issues.

Points to Make

HFCS

- The Administration [has requested consultations in the WTO to examine the consistency of Mexico's initiation of its dumping investigation on high fructose corn syrup.]

- [Recognizing our industry's concerns, and the support of the Congress, we will be vigilant in pursuing our export interests and will work closely with industry.]

Mexico's Sugar Access

- Mexico is interested in more access for its sugar. In our effort to respond to this interest we intend to address the interests of U.S. industry, both refiners and growers, and take into account the interests of our other suppliers given our WTO obligations.

- Mexico's decision to adopt provisional antidumping duties on U.S. exports of high fructose corn syrup obviously makes it more difficult for the Administration to consider negotiations on increased sugar access for Mexico.

- Any decision to negotiate with Mexico to improve the existing NAFTA sugar agreement would have to be to the benefit of the U.S. sweetener industry among other things.

Citrus

- U.S. officials have made significant progress on outstanding sanitary and phytosanitary issues affecting U.S. agricultural exports to Mexico.

- I am pleased that Mexico has agreed to allow Arizona citrus exports to Mexico this season. U.S. citrus exports are expected to begin once the workplan has been finalized between our officials.

- We will continue to work closely with Mexican officials to secure market access for Florida citrus exports to Mexico.

Background

HFCS and Mexico Sugar:

President Zedillo raised with the President during his visit to Mexico the importance of increased access to the U.S. sugar market, particularly given Mexico's large domestic surpluses of sugar. Subsequently, Zedillo wrote to the President reiterating his interest in this issue. Additional access would require a renegotiation of the NAFTA sugar accord which limits Mexico's access at this time to 25,000 metric tons annually, which is more than it would get under the WTO minimum access requirements.

In an effort to spur the U.S. to action in regards Mexico's interest in more sugar access, on June 25, Mexico's SECOFI issued a preliminary finding of dumping in its investigation of alleged dumping of HFCS from the United States. The decree imposed compensatory duties ranging from 61-102% on four U.S. companies and 102% on all other companies. Mexico's National Sugar Chamber brought the original complaint which was coordinated with SECOFI. The U.S. Congress passed sense of the Congress resolutions just before the summer recess urging USTR to request WTO consultations on the Mexican AD action.

Citrus:

Mexico recently granted approval for Arizona citrus exports to Mexico, enabling exports to begin this season. U.S. officials are working with their Mexican counterparts to finalize trapping requirements for exotic fruit flies in Arizona.

During the Binational Commission meetings on May 5-6, 1997, Mexico recognized U.S. efforts to isolate and eradicate citrus canker in Florida. USDA's Animal and Plant Health Inspection Service (APHIS) officials are working with Mexican officials to finalize a workplan to allow Florida citrus exports to Mexico. It should be noted that Mediterranean fruit fly was recently detected in Tampa, Florida as well as a new outbreak of citrus canker in Manatee County. Both pest infestations will likely delay any new agreement for Florida citrus access to Mexico.

Apples

Mexico has imposed a preliminary 101% dumping tariff on red delicious and golden delicious apple imports from the U.S., effective Monday, September 2. Ten companies were named as exporters, including four from Washington state. The industry has contacted USTR, USDA and DOC raising certain irregularities in the review, and is expected to enlist the assistance of its Congressional representatives.

Talking Points

- We are aware of SECOFI's recent decision to impose preliminary dumping duties on U.S. apples.

- Senior USTR officials [Peter Scher, and others] have already raised this issue with senior SECOFI officials, and my staff meet with industry representatives last week.

- Administration lawyers are currently reviewing Mexico's decision.

- In short, we are very concerned about this action and will certainly work with our industry to ensure our rights are being respected.

Apple Background

The investigation into the imports was initiated in March following a complaint lodged by northern Chihuahua state's Regional Union of Fruit Producers. Mexico is Washington's No. 1 export market for apples, with some 5.5 million boxes shipped last season. Under NAFTA, U.S. exports face a tariff of 12 percent for the first 3.2 million boxes; this amount increases 3 percent each year; the remainder are charged 20 percent. The tariff will be eliminated by 2003.

SECOFI figures show that the U.S. accounted for 73.8 percent of the Mexican market in 1994, 44.1 percent in 1995 and 51.5 percent in the first half of 1996.

The Washington State apple exporters (Northwest Horticultural Council, represented by Tom Graham of Skadden Arps), have met with Commerce and USTR. The key legal issue appears to be SECOFI's decision to use "best information available" before verification had taken place, because of a discrepancy in one invoice by an importer that showed a lower price than the exporter's questionnaire response. SECOFI then decided it would reject all the questionnaire responses from both exporters, and used the petitioner's numbers as BIA to set preliminary margins at 101%. Mexico's decision will be finalized in 120 days (with an extension possible).

The Washington apple industry has asked USTR to get SECOFI to revise its preliminary determination or to verify the datat provided in a tinmely manner, and to drop duties if the discrepancies are resolved. The 1997 shipping season to Mexico begins about November 1. Skadden may also pursue action in the Mexican courts seeking a preliminary injunction against the suspension of liquidation and levying of the preliminary duties.

DOC lawyers are now examining whether the Mexican actions are consistent with Article 6.8 of the Antidumping Agreement.

Drafted: AErickson
Reviewed: JHuenemann 8/22
Updated (apples) JMelle 9/13

Question:

Mexico continues to deny access to peaches grown in the eastern United States. How are you addressing this issue?

Answer:

- Mexico currently accepts peach and nectarine exports from the United States if fumigated with methyl bromide under a Mexican monitoring program paid by industry. California is exporting peaches to Mexico under this program.

- U.S. officials (USDA - APHIS) are working with the eastern peach growers to implement a work plan similar to California's in order to gain approval for their peach exports to Mexico.

Background

California processed peach growers remain dissatisfied with USG action to end imports of subsidized peaches from Greece...

Drafted: Aerickson
Reviewed: Jhuenemann 8/22

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Drafted: Aerickson
Reviewed: Jhuenemann 8/22

[To be reviewed given issue is evolving]

DRAFT DRAFT DRAFT

Question:

On June 25, Mexico imposed provisional antidumping measures on U.S. exports of high fructose corn syrup (HFCS), effectively closing this market for our corn refiners. At the same time, Mexico approached the Administration for increased access to the U.S. sugar market. What is USTR doing to address the HFCS issue?

Answer:

- [We requested WTO dispute settlement consultations in an effort to ensure Mexico's actions are consistent with its international obligations and in response to U.S. industry and Congressional concerns.]

- We also raised the issue with Secretary Blanco and his staff expressing our concerns about the initiation of the AD case.

Possible Follow-up Question:

- Do you intend to respond to Mexico's interest in additional access for its sugar in light of Mexico's effort to shut out our HFCS?

Answer:

- We intend to resolve the concerns of the HFCS industry in regards the AD case in Mexico and have made that clear to Mexico. That is why we requested WTO consultations under dispute settlement.

- Furthermore, any solution to Mexico's interest in more access for sugar would have to be responsive to the concerns of the HFCS industry and our sugar refiners and producers.

Drafted: Aerickson
Reviewed: Jhuenemann 8/29

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Divider Title: 41

NAFTA AND AGRICULTURE - THE IMPACT

Issue

Some within Congress and the agricultural community still question whether NAFTA has been good for US agriculture and some now oppose the re-authorization of fast track.

Points to Make

- As the President's Study points out, the NAFTA (when its effects are isolated) has been a positive factor for the U.S. agricultural economy in terms of trade, investment and employment.

- In evaluating the NAFTA's impact, we start from the premise that the U.S. is extremely competitive in agriculture and global markets are critical to agriculture's health.

- In fact, Canada and Mexico are now the second and third largest markets in the world for U.S. agricultural products thanks in part to the NAFTA and the U.S. - Canada FTA (CFTA). U.S. agricultural exports to North America could reach $30 billion by the year 2005 -- up from $11.6 billion in 1996 -- if trends continue.

- U.S. agricultural exports to Mexico increased from $3.6 billion in 1993 to $5.4 billion in 1996.

  - The U.S. is by far the largest supplier of agricultural goods to Mexico, with a 75 percent share of Mexico's imports, and this share has grown 4-5 points since the NAFTA.

  - The nearly 15 percent average annual growth rate for U.S. exports to Mexico compared favorably with a 12.4 percent growth rate for overall agricultural exports.

  - Combined sales of twelve commodities -- corn, soybeans, wheat, field seeds, vegetable oils, cotton, sugar and related products, barley, pulses (beans, peas and lentils), beef and veal, rice, and soybeans -- rose by $2 billion, up more than 150 percent.

- U.S. imports from Mexico grew from $2.7 billion in 1993 to $3.8 billion in 1996, reflecting an 11.6 percent average annual increase, slightly above the growth rate of U.S. agricultural imports from all sources, which is not surprising.

- Specifically isolating for the effects of the NAFTA, U.S. exports to Mexico of sorghum, cattle, beef, dairy products, apples and pears benefitted substantially.

- Fresh vegetable shipments continue to dominate agricultural imports from Mexico accounting for almost a third of U.S. imports. This was the case before the NAFTA as well.

- As for Canada and the NAFTA, it is important to remember that the terms of our agricultural market access agreement with Canada were set by the CFTA and not altered by the NAFTA.

- In fact, the tariff reductions set out in the CFTA will be completed on January 1, 1998. With the exception of Canadian tariffs on dairy, poultry, eggs, margarine and barely, and U.S. products subject to tariff-rate quotas, which include dairy products, sugar and sugar products and peanut butter, all agricultural trade between us will be duty free on 1/1/98.

- U.S. agricultural exports to Canada in FY 1996 were nearly $6 billion, with exports of bulk agricultural items, intermediate goods and consumer oriented goods at record highs for a second year in a row. Processed foods dominate our trade with Canada, with exports of snack foods, processed fruits, vegetables, fruit and vegetables juiced leading.

- U.S. imports of agricultural goods from Canada increased in FY1996 to $6.4 billion. The nearly 20 percent increase is due to the relative strength of the U.S. economy and demand and the relative weakness of the Canadian dollar. Increased imports of live animals and red meats accounted for the largest changes.

Background

NAFTA established two new agreements on cross-border trade in agricultural products: one between the United States and Mexico and the other between Canada and Mexico. In general, the rules of the CFTA continue to apply to agricultural trade between the United States and Canada. The agricultural provision of NAFTA addressed non-tariff barriers, tariffs, safeguards for producers, rules of origin, and sanitary and phytosanitary regulations. All tariffs, quotas and licenses that restrict agricultural trade between the United States and Mexico will be eliminated over the 15-year implementation period.

Drafted: SDarragh
Reviewed: JHuenemann 8/22

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42

Divider Title: ______________________________

CEC REGIONAL ACTION PLANS ON
THE ELIMINATION OF DDT AND CHOLRDANE

Issue

In June, the CEC Council announced the completion of regional action plans aimed at reducing and eventually eliminating two dangerous pesticides, DDT and chlordane, from the North American environment. Both of these pesticides are persistent, bioaccumulative substances that are transported long distances through the atmosphere. (A regional action plan for the reduction of PCBs was completed in April, and is already being implemented.)

DDT was banned in the United States in the 1970s and, despite the fact that the U.S. still produces a small amount of chlordane, it has been unavailable for residential use in the U.S. since the late 1980s. Canada discontinued the remaining uses of DDT in 1985, and chlordane ten years later. Mexico, which has agreed to phase out the use of DDT over the next ten years, uses DDT to kill mosquitos which may carry malaria. Chlordane is used to kill termites.

Question:

Why is Mexico still using these substances, since they are known to be dangerous?

Answer:

Like Canada and the United States, Mexico introduced DDT in the 1950s as an agricultural pesticide. In the 1970s, its use as an agricultural pesticide began to decline as a result of environmental concerns and the introduction of stricter limits on residues of DDT on foods.

Today, DDT is registered in Mexico only for use in government-sponsored public health campaigns. It continues to be an important tool in the fight against malaria, but its use is restricted to selective applications in dwellings. There is only one private company producing DDT in Mexico, and its production is subject to government approval.

It is important to understand that malaria is a long-standing public health problem in Mexico that has inhibited development in large areas of the country. Sixty percent of Mexico's territory presents favorable conditions for malaria transmission. In the 1940s and 1950s, malaria was one of the main causes of mortality, responsible for an average of 24,000 deaths annually. Like other developing countries, Mexico turned to DDT because of its low cost and lower toxicity for applicators, compared to alternative pesticides. Since 1982, there have been no deaths in Mexico from malaria.

Chlordane was originally introduced in Mexico, as in many other countries, for use in agriculture. Currently, however, its use is limited to termite control in certain wood products. All of the chlordane currently used in Mexico is imported from a single manufacturer in the United States.

Question:

Why will it take Mexico so long to phase out the use of these substances, and why does it take the CEC to get them to do it?

Answer:

In the case of DDT, Canada and the United States will work with Mexico to develop alternative methods to control malaria. One of the Plan's objectives is to achieve an 80 percent reduction in Mexico's use of DDT for malaria control within five years. In addition, the three governments will work together to eliminate illegal uses of DDT in agriculture, minimize movement of malaria-infected populations across borders, and reduce the illegal importation of DDT. It is hoped that alternative methods of malaria control developed in Mexico can serve as a useful example for other developing countries that still use DDT for malaria control.

In the case of chlordane, over the next three years, Mexico will take the necessary legal steps to ban the use of chlordane, and will work with Canada and the United States to develop alternative methods of pest control and monitor existing chlordane stocks.

Question:

While Mexico is "phasing out" the use of DDT and chlordane, won't there be harmful effects on the United States?

Answer:

Neither of these chemicals is authorized for use in Mexico as an agricultural pesticide, and both are used for only limited applications. The reason they are the subject of concern, however, is that they remain in the environment, and their residues accumulate down the food chain. Residues of DDT in the environment have been shown to have adverse effects on wildlife reproduction. Moreover, residues of both substances can be transported long distances through the atmosphere.

Drafted by: LKAnderson/9-12-97

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Divider Title: **43**

NAFTA AND BORDER POLLUTION

Issue

Several environmental groups have alleged that the environment in the U.S.-Mexico border area has deteriorated since NAFTA was implemented.

Points to Make

- At this stage, it would be premature to make any attempt to quantify pollution trends in the border region (much less to attribute causes to those trends), because we do not yet have adequate baseline information on border pollution conditions. Anecdotal information is not sufficient to make sweeping judgements.

- EPA is currently working with Canada and Mexico, and with the Commission for Environmental Cooperation (CEC), to improve our ability to monitor pollution trends and sources.

- Nevertheless, in the last three years, the border area has seen several environmental success stories:

  -- Tijuana and Nuevo Laredo's recently completed large wastewater treatment plants that will spare the San Diego/Tijuana beaches and Rio Grande from the effects of raw sewage, markedly improving water quality in those communities.

  -- State and local governments along the border are participating in programs to reduce pollution, reduce water use and the generation of hazardous and solid waste, and design infrastructure projects that will benefit residents of "colonias" (unincorporated communities without public services) in New Mexico and Texas.

  -- The first formal joint contingency plan for reducing risks from spills involving hazardous materials has been concluded by the sister cities of Brownsville, Texas and Matamoros, Tamaulipas. This plan will serve as an effective model for other sister cities along the border.

- However, the more pertinent question is what would be the condition of the border environment without the NAFTA. NAFTA's 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.

Drafted: LKAnderson
Reviewed: J. Huenemann 8/22

Question:

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

Answer:

- Since the implementation of the NAFTA, the United States and Mexico have made significant progress in addressing the water and wastewater treatment problems.

- For example, new large wastewater plants have been completed to service Tijuana and Nuevo Laredo.

  -- The Nuevo Laredo plant is removing 18 million gallons per day of sewage which had formerly been dumped into the Rio Grande. By 1999, full operation (partial already underway) of the new treatment plant between San Diego and Tijuana will protect those cities' beaches from sewage for the first time in decades.

- Two new NAFTA institutions -- the Border Environment Cooperation Commission (BECC) and the North American Development Bank (NADBank) -- are having an impact in 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.

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Divider Title: 44

NAFTA AND ENVIRONMENTAL COOPERATION WITH CANADA AND MEXICO

Issue

NAFTA has been a positive force for environmental protection, resulting in new environmental initiatives (particularly along the U.S.-Mexico border) and improving our ability to address common North American environmental problems.

Points to Make

- The three environmental institutions created under NAFTA and its related environmental agreements are promoting enhanced cooperation among the United States, Mexico and Canada with concrete results:

  -- Cooperative efforts, for example, have led to Mexico joining the U.S. and Canada in banning the pesticides DDT and chlordane.

- These institutions (i.e., the BECC, NADBank and CEC) provide opportunities for both governments and citizens of the three parties to interact at all levels, ensuring that the public's concerns will be heard and facilitating joint efforts to address problems.

- Many of these problems were decades in the making, and cannot realistically be corrected overnight. Nevertheless, progress is already evident.

- The BECC and NADBank are certifying and arranging financing for numerous infrastructure projects in the U.S.-Mexico border region:

  -- The BECC Board has certified sixteen projects, with a combined estimated cost of nearly $230 million. The NADBank has approved financing for four water treatment and wastewater projects, with more in the pipeline. The first project to break ground, in Brawley, California, will provide clean drinking water.

- The CEC has also begun work on an unprecedented list of environmental projects in which the three NAFTA governments are cooperating to achieve such diverse objectives as protecting migratory birds, tracking hazardous wastes to ensure they are disposed of properly, and identifying sources of pollution.

Background

In any discussion of NAFTA and the environment it is important to point out that many of the environmental problems facing the United States, Canada and Mexico -- and particularly, the problems of the U.S.-Mexico border region -- were decades in the making. These problems were not created by NAFTA, and to expect them to be resolved within three years is unrealistic. Environmental infrastructure costs for the border are at least $6-8 billion over the next decade.

Nonetheless, progress is being made to correct these problems. For example, we can point to a border community in Texas whose residents have, for the first time, indoor plumbing and clean drinking water. The activities of NAFTA's environmental institutions, combined with extensive U.S.-Mexico environmental cooperation along the border, justify optimism about the border's long term prognosis, despite the many tenacious environmental problems that still exist.

Drafted: LKAnderson
Reviewed: JHuenemann

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Divider Title: 45

NAFTA AND THE ENFORCEMENT OF ENVIRONMENTAL LAWS IN MEXICO

Issue

Mexico's environmental laws are generally good, incorporating standards comparable to those of the United States. The NAFTA Environmental Side Agreement is promoting improved enforcement of those laws.

Points to Make

- Since NAFTA was implemented, Mexico has taken a number of steps to improve enforcement of its environmental laws, including:

  -- Increasing the number of its environmental enforcement actions, from just over 3,100 in 1991 to between 12,000 and 13,000 annually during 1993-96.

  -- Increasing the number and sophistication of its inspectors. The U.S. has helped Mexico to train over 660 environmental inspectors since 1992 to safeguard against illegal CFC shipments and to ensure compliance with regulations regarding the transboundary shipment of hazardous wastes.

  -- creating an environmental crimes unit within its Attorney General's office, with the power to impose criminal sanctions.

  -- instituting an innovative auditing program to promote voluntary compliance. As of April 1997, over 600 facilities had completed audits, and 404 had signed Action Plans to implement improvements. These Action Plans represented more than $800 million in environmental improvement investments.

- As a result of these enforcement efforts, Mexico reports the number of serious violations dropping. Mexico reports 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.

Drafted: LKAnderson
Reviewed: JHuenemann 8/22

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Divider Title: **46**

ETHYL CORP. v. CANADA

ISSUE

Ethyl Corporation's NAFTA Chapter Eleven proceedings against the Government of Canada have heightened concerns by certain environmental and public interest groups that the investor-state arbitration provisions in the NAFTA -- together with those in the MAI. and any future FTAA or NAFTA expansion -- could undermine environmental and health protection in the United States and abroad by authorizing monetary compensation for regulatory actions they consider legitimate.

POINTS TO MAKE

- Ethyl's case against Canada was brought under the investor-State arbitration provisions of NAFTA Chapter 11, which protect investors from arbitrary or discriminatory treatment and uncompensated expropriations, like those of U.S. investments in Cuba. Those rules are very similar to those written into our own Constitution and have been in our bilateral investment treaties for many years.

- The United States is not a party to the Ethyl arbitration and has not endorsed the arguments that have been made in the case, although we are monitoring the proceeding. The case is still in the preliminary stages. Ethyl's complaint seems to revolve around a claim that Canada has discriminated against Ethyl in favor of Canadian investors, and that the banning of Ethyl's gasoline additive MMT constitutes an expropriation of Ethyl's subsidiary facility in Canada that processed MMT.

- The NAFTA, including Chapter 11, does not overrule or weaken individual countries' environmental laws. The NAFTA does not prohibit governments from regulating foreign investors as they do domestic investors in order to protect the environment.

BACKGROUND

On April 14, 1997, Ethyl Corporation initiated a Chapter 11 arbitration proceeding challenging a decision by the Canadian federal government to ban all interprovincial trade in, and imports of, MMT, a gasoline additive, which Ethyl Corp. produces in the United States. Since MMT is not produced in Canada, the effect of the measure is to ban the use of MMT in Canadian gasoline. The arbitral panel is due to be selected by the end of August 1997, and the proceeding is unlikely to be completed until January or February 1998, at the earliest.

Prior to April 1997, Ethyl Corporation had exported MMT from the United States to its Canadian affiliate, Ethyl Canada. Ethyl Canada processed the MMT and resold it to Canadian petroleum refiners.

Canada has justified its ban based on concerns about MMT's detrimental effects on automotive emission control systems, and the consequent harm to human health caused by increased automotive emissions. There are differing views on whether MMT poses a direct risk to human health, and whether it harms automobile emission systems.

The U.S. EPA had banned the use of MMT on health grounds, but this ban was overturned by a U.S. Court of Appeals decision. Thus, MMT may now be used as a gasoline additive in the United States. EPA believes, however, that MMT is rarely used in the U.S.

EPA is in the midst of a multi-year process to evaluate the safety of MMT. If EPA finds that MMT has adverse health effects, EPA has the authority to ban the use of MMT. In addition, the Big 3 automakers are conducting a study regarding the effects of MMT on emission control systems. If this study shows that MMT is harmful to such systems, EPA reportedly has the authority to ban MMT on this basis.

The Canadian federal government reportedly employed an import and interprovincial trade ban -- rather than a direct ban on the use of MMT in gasoline -- because of limitations on its authority vis a vis the provinces in this area. There is some question whether Canada's manner of effecting a ban on use is consistent with Canada's trade-in-goods obligations under both the NAFTA and the GATT. In fact, Trade Minister Eggleton wrote a letter in February 1996 to the Environment Minister asking that the legislation not be introduced in Parliament because the legislation would amount to an import ban in violation of the GATT and the NAFTA. (However, as noted above, MMT is currently not produced within Canada and no company is known to have plans to commence production.)

Ethyl's Notice of Arbitration presents a number of claims, basically revolving around the fact that Canada has banned the import, <u>but not domestic production</u>, of MMT. Ethyl claims that despite the lack of Canadian MMT production, the ban is protectionist because MMT competes with Canadian-produced additives, such as ethanol.

While the MMT measure was under consideration in the Canadian Parliament, Ethyl approached USTR to ask that the United States weigh in against the Canadian legislation on the grounds that the measure would result in a violation of Canada's international obligations. (But Ethyl never suggested that it was interested in preparing a 301 petition.) USTR declined to pursue this matter with Canada, in light of the facts that Canada does not produce MMT and that EPA had concerns with regard to the effects of MMT.

NAFTA does not authorize private parties to bring claims regarding violations of trade-in-goods obligations. Accordingly, Ethyl is arguing that Canada's actions amount to a NAFTA Chapter 11 investment violation -- a difficult characterization since the Canadian measure applies equally to Ethyl Canada and to all other companies in Canada.

In its Notice of Arbitration, Ethyl argues that the Canadian measure (1) amounts to "disguised discrimination," in violation of Canada's Chapter 11 national treatment obligation; (2) amounts to an "indirect expropriation," because it is an "arbitrary and discriminatory" interference with the value of the investment in Ethyl Canada; and (3) a prohibited "performance requirement," because in theory Ethyl Canada could continue operations if it obtained MMT from a Canadian source (although no such source exists).

In the course of these arguments, Ethyl claims that MMT is safe, and that Canada had no basis for banning the use of MMT. These claims, along with the general "indirect taking" argument, have caused the above-mentioned concern among US NGOs. In particular, NGOs are concerned that if an arbitral panel agreed with Ethyl that Canada's ban constituted an expropriation, governments will effectively have to pay polluters not to pollute, and that the threat of such claims would have a chilling effect on government regulation. The Ethyl case under NAFTA Chapter 11 is often cited by NGOs as proof that this perceived threat has become reality. Since the relationship between domestic U.S. environmental regulatory actions and constitutional takings is already extremely controversial at present, they find the idea that NAFTA would allow international arbitral panels to hold U.S. environmental regulations to an even stricter standard particularly objectionable.

Drafted: W. Busis

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Divider Title: 47

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.

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Divider Title: **48**

Question:

Didn't the NAFTA caused the failure of more than 28,000 small Mexican businesses?

Answer:

- 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.

- An 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.[2] Further, firms that export from Mexico, just like firms that export from the United States, tend to pay higher wages.

Likely Source of Question:

Drafted: Bshpiece
Reviewed: Jhuenemann 8/22

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[2]SECOFI data.

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Divider Title: **49**

NAFTA and its Impact on the U.S. Economy

Issue:

The economic impact of NAFTA on the U.S. economy after its first 3 years is positive. The NAFTA is generating exports, trade and higher paying U.S. jobs.

Points to Make:

- The President's Study closely evaluated a range of unprecedented analysis by some of America's most prestigious relevant organizations on the NAFTA's impact on the economy. They all came to the conclusion that the NAFTA has had a positive impact on the U.S. economy.

- For example, key empirical studies show that $7 to $12 billion in additional U.S. exports during the first 3 years were due to NAFTA (Dallas Fed and DRI results).

- NAFTA generated increased exports to Mexico supported an estimated 90,000 to 160,000 U.S. jobs at wages 13-16% above the average American wage for non-supervisory production positions.

- DRI estimates that NAFTA contributed $13 billion to U.S. real income and $5 billion to business investment in 1996, controlling for Mexico's financial crisis. Over the first three years, NAFTA contributed a cumulative total of $27 billion to U.S. real income.

- These effects are only from the NAFTA's first 3 years; NAFTA is a 15 year agreement. A number of studies have projected that the long run effects of NAFTA (after full implementation and full adjustment) will be to expand real GDP by 0.5 percent or less. Applied to current GDP, the upper end of this gain reaches nearly $40 billion a year.

- The Indirect impact of NAFTA may have been more important.

    - The NAFTA protected U.S. exports and jobs during Mexico's recession. Mexico respected its NAFTA obligations and continued to reduce its barriers to U.S. goods even as it raised tariffs on products from other nations.

    - The NAFTA also helped to solidify support for reform in Mexico and to restore the confidence of international and domestic investors in Mexico's commitment to strong economic policies.

Drafted: B Shpiece
Cleared: J Huenemann 9/8

Question:

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

Answer:

Three empirical studies by among the most prestigious economic analysis organizations in the U.S. found the NAFTA had a modest positive effect on the U.S. economy. The modest nature of the impact is no surprise given the massive size of the U.S. economy and the, in relative terms, small size of the Mexican economy.

Direct effects:

- DRI/McGraw Hill - U.S. exports to Mexico in 1996 were $12 billion higher and imports $5 billion higher than they would have been without NAFTA, and that NAFTA added about $13 billion to U.S. GDP in 1996.

- Federal Reserve Bank of Dallas - U.S. exports increased by $7 billion in 1994-95, while adding $3 billion to imports.

- ITC was not able conclusively to isolate the NAFTA's effects on U.S. exports and imports, but found the NAFTA had a positive effect on overall trade.

- The $7-12 billion in additional U.S. exports to Mexico due to NAFTA (Dallas Fed and DRI results) supported 90,000-160,000 U.S. jobs, at wages 13-16% above the average non-supervisory production wage.

The indirect effects may have been even more important:

- Mexico generally respected its NAFTA obligations; it continued to reduce barriers to U.S. goods; preserving American exports and jobs, even as it raised tariffs on products from other nations.

- By 1996 U.S. exports to Mexico and our share of the Mexico's imports were at new record levels, and in 1997 U.S. exports to Mexico exceeded exports to Japan in the second quarter.

- The NAFTA helped solidify support for reform in Mexico; restore confidence of investors in Mexico's commitment to strong economic policies. The NAFTA contributed to Mexico's rapid recovery from its 1995 recession, and the recovery of U.S. exports.

Both direct and indirect effects contributed to boosting U.S. exports to Mexico to a record high in 1996 and an increase U.S. market share of Mexico's imports from 69% in 1993 to 75.5% in 1996.

Question:

Which outside studies did the Administration draw on and why?

Answer:

The Administration relied primarily on three studies -- one by DRI/McGraw Hill, one by the Dallas Fed, and one by the ITC.

- Only three empirical studies used econometric analysis to control for the effects of the peso crisis of 1995 in order to isolate the effects of the NAFTA.

- Other studies mentioned in the President's Study include that by Hinojosa-Ojeda and computable general equilibrium (CGE) models. But those are not strictly empirical analyses; they do not use statistical techniques to control for the effects of peso crisis.

Possible Follow-upQuestion:

Why did you chose to emphasize the DRI study results over others?

Answer:

The Administration commissioned the DRI to conduct a detailed econometric analysis of NAFTA's effects on trade with Mexico and the U.S. economy because there was a paucity of other independent studies at the time on the subject and the DRI is a highly-regarded independent economic research organization. I might note that the request made by the Congress was an extremely difficult undertaking from a technical standpoint.

The DRI study is the most comprehensive and recent empirical analysis of the NAFTA's effects. It used data going back to 1980 to estimate the effects of the peso exchange rate and business cycles on bilateral trade flows -- thus allowing it to control for the peso crisis and better isolate the effects of the NAFTA. The long data series allowed DRI to establish conclusive results (or in technical terms, results at a high level of statistical significance).

Likely Source of Question:

Question:

Didn't the NAFTA cause the deficit with Mexico, the loss of U.S. jobs, and the suppression of wages in the United States?

Answer:

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

The President's 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.

Job Loss: U.S. net employment increased by 8.6 million jobs from 1993 to 1996. The U.S. 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.

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.

Based on Department of Commerce, the Administration estimates total exports to Canada and Mexico support 2.3 million jobs in 1996.

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.

The 100,000 job loss figure is premised on NAFTA-TAA, which is not a valid measure of the job displacement impact of the NAFTA. It does not require that a worker has lost a job. Dept of Labor indicates that many of those certified are either not laid off, or may remain certified even though they are recalled back to work. Certification does not require any connection to NAFTA per se as it could be associated with non-NAFTA trends involving Mexico or Canada.

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

Wage Suppression:

It is hard to believe that the NAFTA has resulted in U.S. wage suppression. Half of Mexican imports entered the U.S. duty free before NAFTA. The NAFTA only lowered U.S. tariffs on Mexican goods less than two percentage points, which could not be expected to have any discernible impact on wages.

America has a $7 trillion economy, and imports from Mexico amount to just 1% of that figure. Therefore, the significance of imports from Mexico on the competitive posture of wages in the U.S., no less the NAFTA itself given its very minor impact on U.S. tariffs, is questionable at best.

DRI estimated NAFTA contributed $13 billion in real GDP in 96. Hard to believe this would depress wages.

Likely Source of Question:

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Divider Title: **50**

Question:

Isn't Mexico 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 Untied States with no real benefit for either Mexican workers or U.S. workers.

Answer:

- No. 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 can be sold into the Mexican domestic market, and this percentage will increase by 5 percentage points a 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.

Drafted: Bshpiece
Reviewed: Jhuenemann 8/22

Question:

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?

Answer:

- Actually, Maquiladoras have been providing a decreasing share of U.S. imports from Mexico, down from 49% in 1993 to 38% in 1996. 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.

Likely Source of Question:

Question:

What is positive about Maquiladora imports, even if they are now providing a decreasing share of total U.S. imports from Mexico?

Answer:

- Imports from Mexico also have a higher level of U.S. content than imports from virtually anywhere else in the world.
  - For example, imports of textiles and apparel are increasingly originating from Mexico, instead of Asia. On a value basis, the level of U.S. content in textiles and apparel imports from Mexico in 1996 was 64%, compared with 2% from Malaysia, Korea, and the Philippines combined.
- More generally, Maquiladora operations can be an element in a larger North American production process, therefore, they can help to retain, or generate, high paying jobs in the U.S. and contribute to increased U.S. competitiveness globally.

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Divider Title: **51**

NAFTA and Job Creation

Issue:

The NAFTA is contributing to continued job growth, jobs paying higher wages, and providing workers new opportunities in North America.

Points to Make

- Export supported jobs pay wages 13-16 percent above the national average for non-supervisory production workers. Export sectors not only create high paying jobs but also promote advancement in our most competitive industries.

- In 1996, U.S. goods exports to NAFTA partners supported an estimated 2.3 million U.S. jobs (1.6 million with Canada; 750,000 with Mexico). This was an increase of an estimated 311,000 since the start of NAFTA (189,000 with Canada; 122,000 with Mexico).

- In 1997 (based on export data for the first six months), U.S. goods exports to NAFTA partners support an estimated 2.6 million U.S. jobs (1.7 million with Canada; 880 thousand with Mexico).

    - If this trend continues, we'll see an increase of an estimated 569,000 export supported jobs since the start of NAFTA (314,000 with Canada; 255,000 with Mexico).

- Empirical studies reviewed in the President's Study show that $7 to $12 billion in additional U.S. exports to Mexico during the first 3 years were due to NAFTA (Dallas Fed and DRI results). These exports supported an estimated 90,000 to 160,000 U.S. jobs.

Background

An estimated 11.5 million U.S. jobs in 1996 were supported by goods exports, including one in five manufacturing jobs. Since 1993, 1.5 million new U.S. jobs were supported by exports, representing 1 out of 8 total jobs created in this country between 1993 and 1996.

Over the past four years, more than 25% of our economic growth has come from overseas trade and U.S. exports have created 1.4 million new American jobs. Trade agreements such as NAFTA, which create market opening opportunities, will give us the chance to continue this trend.

Question:

Some say U.S. workers can't compete against workers from low-wage countries. What are the facts?

Answer:

- The fact is the U.S. economy has been rated by independent experts as the most competitive large economy in the world for the last five years. American workers are the best trained, most highly educated and productive work force in the world and they can compete.

- 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%. Export to low-wage countries now account for 42 of total U.S. exports. And these are high-skilled, high paying jobs.

- 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 have grown only 1.5% during the past decade.

Likely Source of Question:

Drafted: Bshpiece
Reviewed: Jhuenemann 8/22

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Divider Title: **52**

NAFTA and Job Losses

Issue

Critics assert that NAFTA has directly contributed to U.S. job losses ranging from 100,000 to over 400,000.

Points to Make

- The President's Study found that the NAFTA is a pro jobs policy. When isolating the impact of the NAFTA, we found the NAFTA generated increase in exports to Mexico alone supported an additional 90,000 to 160,000 export supported jobs in the U.S.

- Furthermore, in 1996, an estimated 2.3 million U.S. jobs were supported by exports to Canada and Mexico. These jobs pay higher than average wages and promote advancement in some of our most competitive industries.

- The over 400,000 job loss figure incorrectly assumes that trade deficits always have a net job loss effect. The last 40 years proves this assertion incorrect: U.S. employment generally grew more when the U.S. trade balance was worsening.

  - 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 over 400,000 job loss figure is also a misapplication of the Administration's export/jobs methodology. The methodology is not applicable to estimating job losses due to imports and no appropriate methodology currently exits.

- Some imports have a job-displacing effects, but not all imports replace domestic production. Indeed, some imports fill domestic supply gaps or provide competitive inputs for U.S. production thereby supporting, rather than replacing U.S. jobs.

- The level of certified NAFTA-Transition Adjustment Assistance (NAFTA-TAA), 99,497 U.S. workers between 1993 and 1996, is also misused to assess the impact of NAFTA on U.S. job losses. NAFTA-TAA is not a valid measure of NAFTA job displacement.

  - Certification does not require that a worker has lost a job. Certified workers may remain certified even though they are called back to work. In fact, actual job layoffs total some fraction of certifications.

Background

Since 1992, 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.

Question:

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

Answer:

- This job loss estimate has no factual basis and is premised on flawed methodologies. The President's Study found that the evidence shows 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 cannot be losing jobs overall as the unemployment rate has declined to this degree.

Question:

What does the President's NAFTA Study conclude regarding the effects of NAFTA on U.S. jobs?

Answer:

- The Study contains information that indicates that due to NAFTA U.S. exports to Mexico in 1996 were $7-12 billion higher than they would have been otherwise. Those exports supported 90,000-160,000 jobs, at wages 12-16 percent higher than the national average.

- With the U.S. economy strong and unemployment at a long time low, it is difficult to say how much NAFTA increased overall U.S. employment, as many of the American workers employed producing exports to Mexico would likely have found other jobs.

- Furthermore, based on Department of Commerce methodology, the Administration estimates that the increase in exports to Mexico and Canada during the 1994 to 1996 period (whether attributable to the NAFTA or not) supported an additional 122,000 and 189,000 jobs respectively, for a total of 310,000 additional jobs.

- Total jobs supported by exports to Mexico and Canada were nearly 2.3 million, with exports to Mexico alone supporting 750,000 jobs.

Likely Source of Question:

Question:

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

Answer:

- In the three years and one half years following the NAFTA's enactment (1994 through June 1997), manufacturing jobs grew by 400,000. 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, 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.

Likely Source of Question:

Question:

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

Answer:

- This job loss estimate has no factual basis and is premised on flawed methodologies. The President's Study found that the evidence shows 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 cannot be losing jobs overall as the unemployment rate has declined to this degree.

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Divider Title: **53**

Labor Standards and Workers Rights

Issue:

Critics argue that the NAFTA has, in effect, weakened labor standards and has failed to address violations of workers rights, especially in Mexico.

Talking Points:

- This Administration is committed to encouraging the enforcement of internationally accepted labor standards, and has undertaken an unprecedented number of initiatives as a result. This includes the North American Agreement on Labor Cooperation (NAALC).

- The NAALC obligates the governments to provide for high labor standards and to strive to improve those standards.

- The NAALC public submission process subjects all three governments to pubic and internationational attention for alleged violations of labor laws. The process has resulted in outcomes such as recognition of a union previously denied recognition and permitting secret union ballots at two companies where union votes were previously not secret.

- Between 1993 and 1996, Mexico's Secretariat of Labor of Social Welfare (STPS) increased funding for enforcement of labor laws by almost 250 percent. Inspectors conducted over 48,000 inspections in Mexico in 1996, of which 9,609 were conducted to verify compliance with child labor laws.

- Mexico reports a 30 percent reduction in the number of workplace injuries and illnesses since the NAFTA was signed.

- The NAALC has also set forth an unprecedented and extensive program of extensive cooperation with Mexico (and Canada) which improves the respective capacities to effectively enforce labor laws in all three countries. The cooperative efforts have focused on:

  - industrial relations and worker rights;

  - occupational safety and health;

  - employment and training initiatives; and

  - child labor and gender issues.

- The President during his trip to Mexico in March of this year agreed with President Zedillo to redouble effort on the labor cooperation front in an effort to make more progress.

- These efforts have not yet solved all significant problems in this area, but it certainly is making a positive difference. No one can argue we would be more advanced in this area without the NAALC.

Background

The NAALC standards include eleven fundamental labor principles such as the right to associate, to organize, to bargain collectively, to strike, to the elimination of employment discrimination and to the prevention of occupational injuries and illnesses.

Drafted: M. Koplovsky
Cleared: J Huenemann 8/28

Question:

Hasn't the NAFTA weakened workers' rights in Mexico?

Answer:

- On the contrary, workers rights in Mexico have been enhanced since the implementation of the NAFTA.
- In fact, the North American Agreement on Labor Cooperation (NAALC) obligates the governments to provide for high labor standards and to strive to improve those standards.
- Mexico has increased its enforcement resources in the Labor Secretariat by over 250 percent in real terms.
- Mexico reports a 30 percent reduction in the number of workplace injuries and illnesses since the NAFTA was signed.
- The President and President Zedillo in March of this year agreed to redouble efforts in this area in an effort to make yet more progress.
- The three Parties continue to work together and make progress in areas such as industrial relations and worker rights; occupational safety and health; employment and training initiatives; and child labor and gender issues.

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Divider Title: ______________________________

U.S. Workers' Rights and Union Bargaining Leverage

Issue:

Many labor officials argue that the NAFTA has weakened U.S. workers' rights and reduced union bargaining power because it in-effect encourages firms to locate in Mexico. A well-publicized 1996 study alleged that NAFTA increased plant closings and threats of plant closings to thwart unionization efforts.

Talking Points:

- We are also concerned about any effort to defeat worker organizing and bargaining rights by illegally closing or threatening to close facilities, but we do not accept the premise that trade agreements are not in the interests of U.S. workers.

- On the contrary, trade agreements are to benefit U.S. workers by opening foreign markets to U.S. goods and services and generating higher wage U.S. employment to support increased exports. Furthermore, our market is already open, so trade agreements are clearly in our interest.

- The NAFTA, in fact, reduces some of the incentives that previously existed in Mexico that required location in Mexico to sell in Mexico (i.e., the auto decree policies), or literally precluded exporting to Mexico (i.e., high tariffs and licensing barriers) which in turn encouraged firms to locate there that sought to sell in that market.

- Furthermore, from an empirical standpoint, there is no credible evidence connecting the occurrence of, or any increase in, plant closing or the threat thereof to the NAFTA. Plant closings or threats of plant closings to thwart union organizing efforts or collective bargaining rights are illegal under current U.S. law.

  - The NAFTA did not change or weaken this law.

- A recent study commissioned by the Secretariat created by the North American Agreement on Labor Cooperation (NAALC) found that actual plant closings to forestall union organizing are rare in the U.S., but threats to close plants are more common.

  - It should also be noted that fewer workers were displaced from 1993 to 1995 than from 1991 to 1993 by plant closings.

- The study also found that the National Labor Relations Board vigorously enforces the law against employers who illegally close plants or threaten to close plants to thwart union organizing or collective bargaining. In fact, ninety percent of such cases decided by the NLRB and the federal courts are resolved in favor of workers.

- It is also important to note that the NAALC for the first time ensures that labor rights and the enforcement of those rights is an international obligation of the three Parties.

- During his visit to Mexico in May 1997, President Clinton also raised the importance of worker rights with President Zedillo and both agreed to redouble efforts on the issue.

Background:

This is not a new issue. Employers have been accused of using this strategy in labor relations for some time, whether it be a threat to move to a different state, a different region, or a different countries. The Cornell research (Kate Bronfenbrenner) has recently been utilized by some NAFTA critics, in particular, but it was one study among a dozen that were reviewed by the NAALC Secretariat and it was not found to contain empirically conclusive material linking plant closings or threats thereof to the NAFTA.

Question:

Doesn't the NAFTA encourage employers to threaten to or actually close production facilities in the U.S. and move their production facilities to Mexico?

Answer:

- No. The NAFTA opens Mexico's market, a historically closed market, to U.S. exports of goods and services. That increases the capacity of U.S. firms to export from this country into Mexico. Furthermore, the NAFTA requires the elimination of certain incentives that required production in Mexico to sell in Mexico (i.e, the auto decree policies).

- There is no credible empirical evidence to support the assertion that the NAFTA has encouraged plant movement to Mexico 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. There has been no weakening of efforts to enforce relevant U.S. labor law since the NAFTA was enacted.

    - 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 workers.

Drafted: L Karesh/DOL/M Koplovsky USTR
Cleared: J Huenemann 8/28

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Divider Title: **55**

North American Development Bank
Community Adjustment Program

Question: Why has it taken so long for the United States community adjustment and investment program (USCAIP) to be implemented?

Answer:

- While it has taken longer than expected to get the program operational, there has been significant progress over the last several months.

- On September 4, the finance committee endorsed the first three loans of the Community Adjustment and Investment Program.

    - The direct financing application for Watsonville, CA was approved. An intermediary will have access to a line of credit up to $500,000 for loans to borrowers in the community. The intermediary will leverage up to $5 million in new loans through this facility.

    - An SBA guarantee was approved for a $45,000 loan to a wholesale distributor of corn and flour tortillas in El Paso, Texas, and a U.S. Department of Agriculture guarantee was approved for a $229,000 loan to a farmer cooperative for the expansion of a storage facility for agricultural produce in Mt. Vernon, GA.

- In August, Treasury announced that businesses in 35 communities are eligible for loans or loan guarantees through the United States Community Adjustment and Investment Program (USCAIP) to help these businesses create new job opportunities. The NADBank will join with the Departments of Treasury and Agriculture and the Small Business Administration in heavily marketing the program in these areas.

- In June agreements were entered into among the Treasury and the Department of Agriculture and the Small Business Administration, committing these two agencies to providing federal loan guarantees to businesses in impacted areas. The USCAIP program enhances agency guarantees by expanding guarantee cover-age of each loan and defraying fee expenses.

Background

The USCAIP was established to encourage and foster economic opportunities within communities that have experienced job losses related to changing trade patterns with Mexico and Canada. (Sites were selected based on the number of worker certifications by the Department of Labor as displaced under the NAFTA-TAA program and unemployment levels in 1996.) On July 16, the Hispanic Caucus sent a letter to the President, as well as held a press conference and released a report, critical of the Administration's slow implementation of the USCAIP.

North American Develoment Bank
Environmental Operations

Question: What is the NADBank doing to improve the border environment?

Answer:

- The NADBank has approved financing for four projects (two in the United States and two in Mexico), and three are already under construction:

  - a $24.8 million water treatment facility for the City of Brawley, California;

  - a $4. 1 million improvement in the water supply and wastewater system for the small community of Mercedes, Texas;

  - a $750,000 water supply and wastewater treatment facility for the small community of Naco, Sonora;

  - and a $l.1 million wastewater treatment plant for the Fraccionadora Industrial del Norte, S.A. (FINSA) industrial park in Matamoros, Tamaulipas.

- The Bank has established an Institutional Development Program (IDP) to provide technical assistance for local utilities to improve their project management capacity. The Bank has already approved $1.8 million in IDP commitments for 12 projects. The program was recently expanded from S2 million to $4 million.

- To ensure affordable financing for poor border corranunities, the Bank has established cofinancing arrangements with U.S. and M@can grant programs. For example, the Bank has recently entered into a Cooperative Agreement that win enable the Bank to combine its fmancing with up to $170 million in EPA grants.

- In addition, the Bank's sister institution, the Border Environment Cooperation Commission (BECC), has established a $10 million program to assist communities in project development.

- The NADBank and BECC are now poised to increase their assistance to the border region in addressing its environmental infrastructure needs. The Bank and BECC, in cooperation with federal and state officials on both sides of the border, have identified more than 30 projects with a total cost of about $500 million as the core of their 199799 work plan.

W Schall4TT
September 10,

Question:

Why have BECC and NADBank been so slow to certify and finance sorely needed projects for the border region?

Answer:

- The BECC and NADBank have been staffed for less than two and a half years. In that time, there has been impressive progress -- seven financed projects under construction now, and up to four more beginning construction this summer.

- It is important to remember that major infrastructure projects in developed countries -- which have fully-developed financial and institutional systems -- still take years to make the transition from concept to working infrastructure.

- In the border area, especially on the Mexican side, these systems are not fully developed and there are institutional and legal requirements that must be met.

- Both NAFTA institutions have specific capacity-building programs in place to assist communities in addressing these areas.

- Further, the agreement requires extensive public participation and in-depth review and evaluation of the projects before they are approved.

- We fully support these requirements, believing they are essential for project sustainability. While important, they nonetheless add time to the process for adequate project development.

Question:

Why can't the NADBank provide financing at more favorable rates to these often poor communities?

Answer:

- The capital structure of the Bank allows it to borrow in financial markets and to lend to projects that otherwise have difficulty getting loans.

- Similar to other international financial institutions such as the World Bank, the NADBank is required to preserve its capital, is not eligible to borrow in the tax-exempt bond market, and therefore must charge market-based interest rates (typically, only 1.0 to 1.5 percentage points above the interest rates on U.S. Treasury borrowings).

- This capital structure will enable the Bank to leverage $225 million in U.S. appropriations into $2-3 billion in lending.

- The NADBank has addressed this affordability question by establishing cofinancing arrangements with U.S. and Mexican grant programs, as well as other concessional financing.

  -- For example, the Bank recently entered into a Cooperative Agreement with EPA for a Border Environment Infrastructure Fund (BEIF) that will enable the Bank to combine its financing with up to $170 million in EPA grants for eligible water and wastewater projects certified by the BECC.

  -- The Bank has already put together affordable financing packages for small, poor border communities such as Naco, Sonora, and Mercedes, Texas by combining grant funds with Bank loans.

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Divider Title: **56**

NAFTA and its Sectoral Impacts in Overview

Issue

Reductions in Mexican barriers in key sectors have led to U.S. share gains in Mexican import markets.

Points to Make

- U.S. suppliers hold dominant shares of Mexico's import markets and in many sectors have expanded their shares significantly under NAFTA at the expense of other suppliers.

  Textiles and Apparel:

  Since NAFTA was signed, the U.S. share of Mexican imports is up 17.2 percentage points to 86.4 percent. Mexico has cut tariffs by 10.7 percentage points under NAFTA, the U.S. cut tariffs by 7.8 percentage points.

  Transport Equipment:

  U.S. share up 19.2 percentage points to 83.1 percent. Mexico cut tariffs by 10.2 percentage points, the U.S. cut tariffs by 1.1 percentage points.

  Electronic Goods and Appliances:

  U.S. share up 5.7 percentage points to 74.3 percent. Mexico cut tariffs by 9.0 percentage points, the U.S. cut tariffs by 2.2 percentage points.

- In industries such as autos, chemicals, textiles, and electronics, the NAFTA permits U.S. companies to achieve synergies across the North American market, improving strategic positions abroad, and contributing to strong growth in jobs, production, and investment.

- In several industries that have experienced strong import growth from Mexico, Mexican imports have largely displaced imports from other regions, which have lower U.S. domestic content.

  Apparel:

  Share of U.S. imports supplied by Mexico rose from 4.4 percent in 1993 to 9.6 percent in 1996, while the share of U.S. imports from China, Hong Kong, Taiwan and Korea fell from 39 percent in 1993 to 30 percent in 1996. Close to two-thirds of the value of Mexican apparel imports in 1996 was comprised of U.S. content.

Question:

Why did you chose these sectors to analyze in detail?

Answer:

- Collectively these sectors represent about half of two way merchandise trade, almost two thirds of manufactured trade and they encompass high technology, industrial and consumer products.

    - They are agriculture, automotives and parts, chemicals, computers and software, electronic components, selected consumer goods, printed products, processed foods, telecommunications equipment and textiles and apparel.

- These sectors also individually account for a significant volume of trade with Mexico and witnessed major increases in one way or two-way trade 1994-96 and are sectors that were the subject of appreciable Mexican or U.S. tariff reductions on average.

- We covered agriculture, but did not go into great detail on specific commodities in part because the Secretary of Agriculture was required to deliver a more detailed report on this issue to the Congress.

Likely Source of Question:

Question:

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

Answer:

- The sector analysis generally reflects the overall competitive strength of the U.S. economy.
- The NAFTA's market opening requirements are generating new gains for U.S. industry and agriculture and building powerful North American synergies that translate into greater global competitiveness.
- The 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.
- The synergies that are being created are not contributing to an overall increase in imports in the U.S., but Mexico is taking a greater share of global U.S. imports which is proving to be a positive in some sectors (textiles and apparel, telecommunications, etc.):
  - Imports from Mexico tend to contain significant amounts of U.S. produced value added, or content, when compared to imports from elsewhere in the world.

Likely Source of Question:

Question:

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?

Answer:

- No major sector that has been harmed by the NAFTA. U.S. production is up virtually across the board in the sectors we examined. Secondly, even with productivity gains, employment is generally steady or up.
    - Where employment has declined consistent with a decades old trend (i.e., apparel), the NAFTA is serving to expand U.S. exports and preserve certain U.S. jobs and there have been production gains.

Likely Source of Question:

Question:

Does the Study address the issue of wages in each sector analyzed? If not, why not?

Answer:

- We were not able to address in detail wages in the individual sectors we analyzed, given the lack of sufficient data. We did take into account the limited wage data the ITC provided, which generally showed wage gains.

- We did address the wage issue more generally in the Chapter on the overall economy noting that wages and incomes are rising, with incomes at all levels up, and lower incomes up the most.

Follow up question:

The industrial sectors you studied virtually all seem to show that the wage gains that did occur did not outpace inflation. How do you explain that? Did the NAFTA cause that to occur?

Answer:

- There is no definitive explanation that can be discerned from the available data. There is no evidence that the lack of significant real wage gains can be at all explained by the NAFTA.

- On the contrary, export supported jobs pay on average 13-16 more than do other jobs.

Likely Source of Question:

Congressional critics of the NAFTA.

Drafted: Bshpiece
Reviewed: Jhuenemann 8/22

NAFTA and the Manufacturing Economy

Issue

Critics claim that NAFTA has had a negative impact on U.S. manufacturing

Points to Make

- Since the NAFTA was signed (December 1993 to June 1997), manufacturing jobs grew by 400,000. Prior to the NAFTA, U.S. manufacturing jobs declined 1.3 million (6.8%) between 1989 and 1993.

- Manufacturing productivity has been growing at a rapid pace by historical standards. In 1996, manufacturing productivity grew by just under four percent, the fastest rate since 1986 and the third fastest productivity growth figure since data collection began in 1977.

- Since 1992, industrial production in the U.S. has grown by nearly 20 percent. In contrast, the level of industrial production in Japan has grown by only 7 percent and industrial production in Germany is current slightly below its level in 1992.

- U.S. exports of manufactured products have increased by 35 percent or $136.2 billion to a level of $524.7 in 1996. Manufacturing exports are up an additional 11.6 percent in the first five months of 1997 and on an annualized basis would reach $585.6 in 1997.

- Manufacturing workers have also benefited from this growth. Nearly every income measure for production and nonsupervisory workers from real wages to real compensation to weekly income has increased in recent years.

    - Between 1993 and June 1997, real hourly earning was up 2.0 percent, real weekly earnings are up 2.6 percent and real compensation per hour has increased by over 1.3 percent.

Background

Critics cite NAFTA as the source of U.S. manufacturing plants relocations to Mexico. No general data is available on U.S. production facilities moving to Mexico. Moreover, the NAFTA required the Government of Mexico to stop providing unfair inducements to U.S. investors to locate in Mexico. For example, in the auto sector, NAFTA is eliminating Mexican government requirements that U.S. auto companies set up production in Mexico which was formerly the only means of serving the Mexican market.

Question:

Isn't it true that NAFTA is responsible for 38 percent of the 1.1 million decline in manufacturing jobs since 1989?

Answer:

- Since the NAFTA's enactment (1994 through to June 1997) manufacturing jobs have increased by 400,000. Prior to the NAFTA, U.S. manufacturing jobs declined 1.3 million, or 6.8 percent, between 1989 and 1993.

- The Administration 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 creating a more competitive 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.

Likely Source of Question:

Drafted: Bshpiece
Reviewed: Jhuenemann 8/22

Question:

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

Answer:

- In the three years and one half years following the NAFTA's enactment (1994 through June 1997), manufacturing jobs grew by 400,000. 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, 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.

Likely Source of Question: