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OA/ID Number: 10602
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Folder Title:
Daschle/Agriculture [Fast Track]

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ADMINISTRATION SUPPORT FOR U.S. AGRICULTURE

The Administration is well aware that no other sector in the U.S. economy has benefited as much from trade as agriculture, and that no other sector's future is so closely tied to exports and free and fair access to foreign markets. Agricultural exports were a record \$60 billion in FY 1996, and with a trade surplus of \$27 billion, agriculture is now the largest positive contributor to the U.S. balance of trade.

We share the concerns of Senator Daschle and other leaders in the agricultural community about the very real restrictions in foreign countries facing exporters of U.S. agricultural products. The Administration will continue to be aggressive in the international arena, building on our past trade policy successes, and opening up new opportunities for U.S. agriculture.

Support for Value-added Agricultural Exports

The export of value-added agricultural products is an important component of U.S. agriculture's success in foreign markets. These exports contribute directly to farm income and to the health of the overall economy, and value-added farm sales overseas are an important factor in improving the United States merchandise trade balance. Unfortunately, U.S. farmers and ranchers cannot realize their full export potential because some foreign countries deny fair and equitable market access to U.S. agricultural products.

In order to identify unfair market restrictions on U.S. value-added agricultural exports, and to focus our resources on removing these barriers, the Administration supports S. 219, the Value-added Agricultural Products Market Access Act of 1997.

The Administration agrees that it would be beneficial for the U.S. Trade Representative to identify, on an annual basis, countries that deny market access for value-added U.S. agricultural products, or that apply standards for the import of value-added agricultural products from the United States, that are not related to protecting human, animal, or plant life or health, and are not based on scientific principles. 5/11

The Need for More Timely Data on Trade in Livestock and Livestock Products

America's livestock sector contributes greatly to our agricultural trade surplus. The export value of red meats, for example, have risen steadily during this Administration, and is at a record level. U.S. agriculture now boasts a \$2.4 billion surplus in red meat trade.

Significant cross-border trade, in particular, with Canada in live animals and meat has accompanied the rise in exports. Timely and reliable trade data are critical to our producers, especially those who live in border areas and experience first-hand trade with our geographical neighbors. Imports can have an important impact on the conditions of competition facing U.S. livestock producers. The Department of Agriculture's Task Force on Concentration in the Livestock Industry called for more timely reporting of price and quantity data for livestock and

livestock product trade. More timely data can help improve competition in the market place.

For this reason, I direct the following administrative actions that will improve the availability of livestock import data:

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Check* 2
The Secretary of Agriculture, in close cooperation with the U.S. Customs Service and the agricultural community, will identify and make available to the public timely and appropriate quantity and value data on U.S. imports of live cattle and beef from Canada.

Improved Availability of Basic Data on Canada's Cattle Sector

Increased cross border trade between the United States and Canada in cattle and beef has raised the interest of U.S. livestock producers about economic conditions in Canada's cattle sector. Up-to-date information on cattle inventory, cattle slaughter, and cattle and beef trade will answer U.S. producer needs for information about a significant competitor in the U.S. market. To obtain this information on Canada's cattle sector:

The Secretary of Agriculture will engage in consultations with his counterpart in Canada for the reciprocal exchange, on a monthly basis, of data on cattle inventory; cattle slaughter; and cattle and beef trade between the United States and Canada. This data shall be made available to the public upon receipt.

Voluntary Labeling of Meat of U.S. Origin

The rise in cross-border trade between the United States and Canada in cattle and beef has raised interest in developing a voluntary labeling system for meat of U.S. origin. The Administration stands ready to assist the livestock industry in its ongoing efforts to examine and develop voluntary labeling of meat of U.S. origin. To this end:

olives
The Secretary of Agriculture will, in cooperation with the U.S. livestock industry, develop guidance for the voluntary labeling of meat and meat food products produced in the United States from livestock raised in the United States to indicate the U.S. origin of the meat and meat food products, and will promote technical assistance to the U.S. industry to facilitate the use of such labeling.



ADMINISTRATION SUPPORT FOR U.S. AGRICULTURE

The Administration is well aware that no other sector in the U.S. economy has benefited as much from trade as agriculture, and that no other sector's future is so closely tied to exports and free and fair access to foreign markets. Agricultural exports were a record \$60 billion in FY 1996, and with a trade surplus of \$27 billion, agriculture is now the largest positive contributor to the U.S. balance of trade. The Government safety net is getting smaller, while producers' exposure to the market is rising.

We also share the concerns of Senator Daschle and other leaders in the agricultural community about the very real restrictions in foreign countries facing exporters of U.S. agricultural products. The Administration will continue to be aggressive in the international arena, building on our past trade policy successes, and opening up new opportunities for U.S. agriculture.

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Unfortunately, U.S. farmers and ranchers cannot realize their full export potential because some foreign countries deny fair and equitable market access to U.S. agricultural products. In order to identify unfair market restrictions on U.S. value-added agricultural exports, and to focus our resources on removing these barriers, the Administration/I support(s) S. 219, the Value-added Agricultural Products Market Access Act of 1997.

This bill requires the U.S. Trade Representative, on an annual basis, to identify countries that deny market access for value-added U.S. agricultural products, or that apply standards for the import of value-added agricultural products from the United States that are not related to public health concerns or cannot be substantiated by reliable analytical methods. The Trade Representative shall undertake an investigation of such countries, and report annually to Congress on the progress of removing barriers to free and equitable trade in value-added agricultural products.

The Need for More Timely Data on Trade in Livestock and Livestock Products

America's livestock sector contributes greatly to our agricultural trade surplus. The export value of poultry and red meats have risen steadily during this Administration, and are at record or near-record levels. U.S. agriculture now boasts a \$ billion surplus in red meat trade and a \$ billion surplus in poultry trade.

Significant cross-boarder trade with Canada, in particular, in live animals and meat has accompanied the rise in exports. Timely and reliable trade data are critical to our producers,

especially those who live in boarder areas and experience first-hand trade with our neighbors. As Senator Daschle has pointed out, America's cattle producers remain especially concerned about the impact of live animal and meat trade on prices paid for their animals. The Department of Agriculture's Task Force on Concentration in the Livestock Industry also highlighted these concerns, and called for more timely reporting of price and quantity data for livestock and livestock product trade.

In response to Senator Daschle's urging, I direct the following administrative actions that will improve the availability of livestock trade data and address concerns about the origin of the U.S. meat supply:

- First, I direct the Secretary of Agriculture to undertake, through rulemaking, the addition of data in the weekly *Export Sales* report on the export quantity and destination of U.S. beef and pork. The Secretary will also consult with all interested parties on the desirability and feasibility of providing similar weekly data on the value of such exports.
- Second, I direct the Secretary of Agriculture, in close cooperation with the U.S. Customs Service, the Bureau of the Census, and the agricultural community, to identify and make available to interested producers and producer groups timely and appropriate data on trade in live animals and meat between the United States and Canada.
- Third, I direct the Secretary of Agriculture to engage in consultations with his counterpart in Canada for the reciprocal exchange, on a monthly basis, of data on cattle inventory; cattle slaughter; and cattle and beef trade between the United States and Canada. This data shall be made available to all interested parties upon receipt.
- Fourth, I direct the Secretary of Agriculture to engage in ongoing discussions within the agricultural community, and with other interested parties, concerning the definition of country of origin for the U.S. meat supply.

Fast Track Status Document
NGO/Private Sector/Congressional Proposals/Concepts/Suggestions

Florida Citrus Mutual

This group would like an amendment to the FT bill that would prohibit POTUS from making tariff cuts without further authorization for products like citrus. This group has the support of Sen. Graham and Rep Thurman and other Floridians

Cons: If we agreed to this proposal, it would prompt other import sensitive commodity groups to ask for special deals too, e.g. sugar, peanuts, etc... Also, as we prepare for the 1999 round of Ag negotiations, it doesn't make sense to limit our tariff cutting options before we get into the negotiation.

Possible Compromise: We could agree to language in the final bill that would call for us to consult closely with Congress on import sensitive products throughout the negotiation process.

American Farm Bureau/Florida Tomato and Pepper Growers

These groups would like the administration to agree to support legislation that would allow special consideration for seasonal industries. The group has support from Senators Graham and Mack, and Reps Thurman and Shaw. In 1996 USTR supported the Graham bill in the Senate (S. 1463) and the Shaw bill in the House (H. 2795). There was a hearing of the W&M trade subcommittee on April 25, 1996 on the Shaw bill. Jennifer Hillman was the first -- and main -- witness, and she testified that we supported it. Shortly after the Administration's endorsement, Mexico, Chile, Australia, New Zealand, Guatemala, EU, Argentina, Peru, Columbia and Malaysia told us that this legislation would violate our commitments under the WTO safeguards agreement.

Two cons are: highly likely to result in WTO challenges by multiple countries; may prompt other countries (e.g., Mexico) to adopt comparable measures designed to stop U.S. exports.

Possible Solution: Continue to assert that this legislation should not be tied to fast track because we want to keep the bill clean and as uncontroversial as possible. This legislation has little chance of success surviving on its own. In addition, adding language to the FT bill stipulating that that the administration needs to consult closely with Congress on import sensitive products throughout the negotiation process should on the margins with this group.

US Wheat Associates

US Wheat Associates (can't lobby Congress) have written in about their concerns on State Trading Enterprises, Chile's price band, SPS concerns, and subsidies. We have already addressed most of their concerns in the current Fast Track language. Their President, Alan Tracy, and the board supports the current Fast Track bill.

Solution: None needed.

American Frozen Food Institute

The AFFI opposes any legislation to apply front panel country of origin labeling.

Solution: None needed if we do not support labeling, or voluntary labeling.

Con Agra

Con Agra wants USTR to change our current program of peanut imports from Argentina, administering the program by specific contracts. Although this issue is important to Con Agra, it is unlikely to affect their support for Fast Track.

Option: We could choose to do this. However, this issue is a chit we should/could use to get something from Argentina on some issue of concern to us. Why not get something for it.

Dairy Industry

Many dairy industry folks and the members associated with this industry are still stinging from the loss the US had in the dairy, eggs, and poultry case with Canada. Many need to see the administration taking action against Canada to support additional free trade legislation. The industry has petitioned USTR to take a case against Canada on price pooling in the dairy industry. Congressman Gutknecht is especially interested in this issue.

Solution: Accept the case. We are scheduled to announce that we are accepting the case soon.

Senator Daschle

Senator Daschle has four legislative proposals that would require the administration to : 1) provide real-time price and quantity information to the public on imported meat and livestock products. Beef industry supports this proposal and the packing industry opposes. USDA working closely with Daschle's staff on compromise; 2) develop a system for labeling carcasses, meat and meat food products produced in the US. USDA working closely with Daschle's staff to find compromise; 3) seek consultations with Canada to provide for monthly exchange of data on cattle production, cattle slaughtered, and cattle and beef shipped to the US. This shouldn't be a big problem. 4) convene a meeting of the Working Group on Agricultural Subsidies to establish a regime for wheat price reporting for NAFTA parties and for parties to all subsequent agreements forged in North America. Convening such a meeting is not hard, but getting Canada to cooperate would be next to impossible.

Solution to proposal 1&2: Working on it.

Solution to proposal 3: If all the legislation calls for is seeking consultations, I don't see why we would oppose such a bill. However, we should be clear that we do not know if Canada would cooperate.

Solution to proposal 4: If all the legislation called for was convening a meeting, I don't see why

we would oppose it. However, we should be clear to Daschle's staff that Canada would tell us to pound sand.

CLOSE HOLD!!

FAST TRACK-RELATED ENVIRONMENTAL INITIATIVES

Enviro

INITIATIVE	SOURCE ¹	LIKELIHOOD OF SUCCESS	COMMENTS	RECOMMENDATION
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FAST TRACK LEGISLATION & NEW FTA PROCEDURES

1 Involve environmental committees in consultations, etc.	VP letter; many NGOs		A key NGO proposal is mandating environmental committee jurisdiction for fast track legislation/agreements. The Administration bill's notice and consultation provisions require consultation with "such other committees of the House and Senate as the President deems appropriate" (sec. 4(a)(2)), and "each other committee . . . which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement" (sec.4(b)(1)(B)). Administration could commit to include environmental committees in such consultations; or fast track legislation could include an illustrative list in the provisions mandating consultations with committees -- e.g., for FTAs, "including, but not limited to, . . . Senate Environment and Public Works, House Resources, etc."	Yes, through either amendment, Administration statement, &/or report language.
2 Give Congress more time to consider implementing legislation and environmental assessments/reports	VP letter		This request to lengthen the process for congressional consideration has somewhat dropped off the NGO lists since their February letter to the Vice President.	No
3 Transparency negotiating objectives	Daschle, NWF, et al	Easy	1988 Act (CK) and Administration's bill include transparency negotiating objectives. Could perhaps make them more explicit or develop POTUS statement or report language with more specificity. Perhaps top, most widely held priority for NGOs.	Yes, done -- Included in Administration Bill. Have promised Daschle further Administration commitments on this

INITIATIVE	SOURCE	LIKELIHOOD OF SUCCESS	COMMENTS	RECOMMENDATION
9 Environmental assessments/reports for trade and investment agreements	Many NGOs, Berlin	If mandatory, difficult. If in the form of a political commitment, easy.	Major NGO priority is mandatory environmental impact assessment conducted before/during course of negotiations and put out for public comment before finalizing; as well as an assessment for Congress at end of process. NWF would have USTR do regulations setting forth procedures to follow; others seek mandatory legislation on fast track. Could make political commitment along lines USTR was following for Chilean accession in 1995: explicitly include environment in federal register notice soliciting comment on potential negotiations and public hearings; include environmental agencies and advisory committees (including TEPAC) in development of negotiating objectives and positions; conduct assessment of Chile's environmental laws (though did not produce public document, could commit to do so in future); and state intent to produce report to Congress on environmental issues when agreement concluded. Could do minor legislative amendment to sec. 5(a)(2) (re supporting information) calling upon President to submit any other information he considers useful. Could do more explicit provision mandating environmental reports for FTAs (as USTR did for NAFTA and UR). Raises resource issues for USTR, but has significant potential to moderate NGO views of the bill. NGOs were unsuccessful in efforts to get such an amendment into NAFTA and UR implementing legislation.	Consider committing to report to Congress (when submitting agreement) with respect to certain types of agreements, e.g., Chile FTA.

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⑤ Conduct analysis of status of environmental laws of potential FTA partners	Internal; Daschle for labor	Fairly Easy	Easy to commit to do so but fairly demanding of EPA and USTR resources. Could be part of a response to request for environmental assessments; also somewhat responsive to request for readiness criteria Should ensure that any commitment in this regard for labor be at least matched for environment.	Yes. Anticipate agreeing to Daschle request to do so for labor, probably as country reports.
⑥ List in Fast Track bill the agreements to be negotiated	NWF, Audubon		Administration bill addressed this somewhat by explicit grandfathering of WTO and Chile FTA negotiations. Some have asked for bill language specifically precluding the MAI.	Already addressed somewhat vis a vis MAI, Chile, WTO.
⑦ Readiness criteria	Berlin	Controversial	Environmental CEOs very positive on this last spring. Administration consideration of the environmental regime of a potential FTA partner could take various forms -- e.g., "considerations to be taken into account", or "extent to which..." (Administration's CBI bill formulation) rather than strict conditionality. Could be legislation or Administration commitment. Could be indirect, e.g., Administration commitment to prepare reports on potential FTA partner legal regimes (see above). Senate Finance majority's strongly adverse reaction to environmental condition in CBI parity bill probably predictive of legislative approach.	No, not unless decide to do readiness criteria more generally, in which case should include an environmental criterion

INITIATIVE	SOURCE	LIKELIHOOD OF SUCCESS	COMMENTS	RECOMMENDATION
(8) General negotiating objectives that strike balance between trade objectives and legitimate environmental laws	VP Letter, NWF	Difficult	Administration bill's "guidance for negotiators" addresses very well concerns about legitimate environmental laws, but NGOs dissatisfied with bill's balance because they see WTO and trade-related objectives as too restrictive.	Yes. Should argue bill already does this
(9) Various specific negotiating objectives, e.g.: --safeguarding legitimate US and international environmental, health, and safety laws; --allowing nations to determine own level of risk; --negotiating exceptions that incorporate polluter pays and precautionary principles; --allowing environmental PPMs (distinctions among imported products based on environmental harms caused by their production)	NWF, others	Difficult to include any specific envt'l negotiating objectives; degree of controversy among various objectives varies.	Bill's "guidance for negotiators" is responsive in part. Administration intent/ability to continue to pursue some of these objectives can be clarified through policy statement and/or committee report language. SPS agreement already enshrines countries' ability to determine their own acceptable level of risk and, to certain extent, the precautionary principle (though NGOs not happy with WTO beef hormones case handling of this question); nothing in FT bill takes away President's ability to pursue in other agreements as appropriate. US industry would strongly oppose incorporation of polluter pays principle. Any effort to negotiate to allow the use of environmental PPMs would also evoke strong business opposition and could create a large loophole in the rules of the trading system.	Important to retain "guidance for negotiators"

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10	Work to require environmental assessments by businesses engaged in international trade and investment	NWF	Very Difficult	Many U.S. firms are making such assessments through the use of environmental management systems (EMS) and the President could encourage this trend but any attempt to make such systems mandatory would face strong opposition from the business community. Legislating this for U.S. companies operating abroad would be difficult to monitor and even harder to enforce.	No, unless there is ongoing Administration activity in other fora that can be highlighted (eg, anything EPA is advocating in ISO 14000?)
11	Use trade/investment agreements to require multinational corporations to comply with high standards wherever they operate	VP letter	Very difficult	Would be difficult to implement/enforce, esp to extent it required Parties and panels to make judgments regarding whether home or host country's standards are higher	No
12	High environmental standards enforceable through trade agreements	NWF, other ENGOs	Non-starter on Hill	One e.g. would be to make provisions like NAFTA's Article 1114 "pollution haven" provision (that parties should not lower standards for purpose of attracting investment) subject to binding dispute settlement rather than consultations as is the case in NAFTA	No
13	Include procedures in trade agreements that will lead to greater enforcement of environmental laws	Audubon	Difficult	Can argue that Administration bill preserves President's prerogatives to address these issues, though mostly outside of the agreement itself.	No further action.

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NAFTA - CEC

(14) Extend to NAFTA the Uruguay Round Implementing Act's requirements for domestic notification, publication and consultation (URAA Sec. 127)	Berlin	Fairly easy	USTR already follows these obligations with respect to NAFTA disputes as a matter of practice. Could extend them to NAFTA and to dispute settlement proceedings of future FTAs (and investment agreements, w/ exception of investor-state arbitral proceedings), either through fast track legislation or unilateral executive order.	Yes; vehicle to be determined
(15) Increased demonstration of Administration commitment to North American Commission for Environmental Cooperation (CEC) (esp. by EPA Administrator)	WWF, NWF, Audubon, CIEL, Sierra Club, Berlin	Good	Specific e.g.s: Browner actively participate in CEC Ministerial in late October; EPA to devote more resources and higher level attention to CEC issues; bring more U.S. initiatives to CEC for participation by all three governments; increase CEC biodiversity protection activities; demonstrate strong support for vigorous CEC trade and environment agenda; more funding for U.S.-Mexico border cleanup; active cooperation between NAFTA Free Trade Commission and CEC	Need some CEC initiatives; defer until consulted with EPA
(16) Urge other NAAEC parties to use National Advisory Committees more	NWF	Moderate	Easily done. Check with EPA re status of previous efforts and basis for the concern.	Defer until consulted with EPA.

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17 Have President task Administrator Browner with reviewing Maurice Strong letter for ideas on strengthening operation of the CEC	Internal	Easy	Maurice Strong 5/97 letter, which transmitted results of CEC-sponsored review of the operation of the NAAEC, contains several ideas which could form the basis of a USG initiative for improving the operation of the Agreement, including further analysis of the links between trade and the environment, and broadening public participation to include Members of Congress. Could be part of USG preparation for NAAEC mandated 4-year review of the Agreement. Could perhaps include EPA-convened conference to develop recommendations from the public. This is a way of responding to NGO requests for greater Administration commitment to CEC (see above) and increased CEC independence (see below). Timetable for results of EPA analysis likely to extend beyond FT.	Depends on what else Administration puts forward on CEC commitments
18 Strengthen CEC's independent investigatory powers and resources	Daschle, Berlin	Difficult	Increasing CEC independence regarding investigation of citizen submissions and enforcement matters will face opposition from US sovereignty types as well as other governments. Some within USG would also have concerns.	No; could direct EPA to study the issue as part of review of the NAAEC.

INITIATIVE	SOURCE	LIKELIHOOD OF SUCCESS	COMMENTS	RECOMMENDATION
Clarify interpretation of NAFTA Investment Chapter expropriation provisions by taking position regarding Ethyl Corp. investor/state dispute with Canada	WWF	Moderate	Ethyl Corporation's investor/state action for \$\$ compensation against Canada for its ban of the gasoline additive MMT continues to draw intense NGO criticism and is a favorite example of opponents of NAFTA, the MAI, and fast track. Since the relationship between domestic U.S. environmental regulatory actions and constitutional takings is already extremely controversial at present, NGOs find the idea that NAFTA would allow international arbitral panels to hold U.S. environmental regulations to an even stricter standard for expropriations particularly objectionable. While the facts are complicated and some of Ethyl's claims are colorable, few if any experts believe that Ethyl's expropriation argument should prevail. A very narrowly argued submission to the arbitral panel that took issue with the expropriation element of Ethyl's case, or some alternative public expression of US views, would go far to eliminate an easy target for fast track's (and the MAI's) opponents. USG taking a position adverse to a US company presents some difficulties and issues of precedent.	Under consideration by USTR General Counsel

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CHILE FTA/NAFTA ACCESSION

State some objectives for improving NAAEC for Chile (whether as NAAEC accession or bilateral environmental side agreement)	Internal	Difficult	Natural resource extraction issues, and substance of Chile's environmental laws, are both areas that many NGOs consider inadequately addressed by the current NAAEC provisions. Chile likely to resist obligations that go beyond Canada's and Mexico's. US Senate Republicans opposed inclusion of natural resource extraction issues during NAAEC negotiations. Some groups are already raising issue of impact on Chile's forest resources. Modifications would be easier in context of bilateral agreement negotiation than if the NAAEC itself were being renegotiated w/ Canada and Mexico. Could commit to study issues, solicit input as we proceed w/ negotiation of the Chile-US side agreement	No, not at this time. Commit to study issue and consult broadly as preparation for FTA negotiations.
Commit to produce analysis of Chile's environmental laws	Internal	Easy	Much of this work has already been done but would need to be updated. Canada published an assessment of Chile's environmental laws as part of the Chile-Canada FTA & side agreements. (Note also broader proposal to do environmental law assessment for all FTAs.)	Yes, part of country reports

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FREE TRADE AREA OF THE AMERICAS

Actively participate in Costa Rican trade & environment symposium in April 1998	NWF, Audubon	Good	Already intend to participate actively in CR's planning of this event, though Costa Rica has requested that US role be low profile. NGOs want Barshefsky and Browner to pledge to attend but unclear whether Costa Rica has a ministerial level event in mind	Yes but do not commit Cabinet level participation
Create BECC/NADBank analog in the Inter-American Development Bank	NWF, Daschle	Difficult	Very popular with NGOs. They envision a BECC-like mechanism for giving local communities a voice in the type of infrastructure projects IDB would finance. US leverage in IDB is limited.	Treasury is developing package of IDB initiatives for Daschle
Commit to extending CEC to Latin America	Various groups	Difficult	This proposal takes several forms: adding Chile and other FTAA countries to the existing CEC; creating a South American sister organization to the CEC; creating some sort of vaguely defined institution for environmental cooperation among the FTAA governments. Creation of a new international institution (as opposed to accession to the existing CEC or a simple bilateral environmental cooperation agreement) would require legislation, which would not be eligible for fast track under Administration's proposal.	No. Specific commitments should not go beyond side agreements with Chile. Can commit to pressing environmental issues in FTAA.

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WORLD TRADE ORGANIZATION (WTO)

Pledge to increase transparency and public participation	All	Difficult (in WTO)	Much of what is being sought -- amicus briefs in WTO proceedings, greater access to documents, panel proceedings open to the public -- the US unsuccessfully sought during and after the UR and other countries still actively resist. (We did make some progress on derestriction of documents.) We are already committed to continuing efforts on these issues in section 126 of the Uruguay Round Agreements Act and the Statement of Administrative Action and can easily commit to redoubling our efforts. Perhaps highest priority for NGOs. However, chances for eventual success are not promising. Daschle staff seek some high profile method for demonstrating commitment -- e.g., USTR speech.	Yes, have committed to Daschle.
Protect environmental rules and treaties from threat of WTO challenge	WWF	Difficult	The U.S. has been isolated in discussions in the CTE on the relationship between national environmental laws and WTO rules. There may still be room for progress clarifying the relationship between the WTO and specific multilateral environmental agreements (MEAs). Would argue US defense of EPA gasoline regulation and shrimp/turtle law are part of concerted effort to protect environmental rules.	WTO negotiating objective is responsive.
More environmental representatives on USTR advisory committees	NWF		Basis for concern and level of NGO interest unclear.	No

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Strengthen role of environmental agencies in trade negotiations.	NWF, Audubon	Good	Environmental agencies are already part of the TPRG/TPSC interagency trade policymaking process. Their level of participation is perhaps more related to budget and agency priorities than a fast track issue. However, the President could make a commitment to increase the level of resources deployed by environmental agencies to participate in trade negotiations. This could be supplemented by building environmental agency trade policy expertise through the secondment of staff to USTR.	Yes to some Administration effort/commitment.
EPA to co-chair US representation on WTO Committee on Trade & Environment (CTE)	NWF		Other environmental agencies -- State, Interior, NOAA -- are just as affected as EPA by many of the issues debated in the CTE. State is generally in charge of coordinating international work on environmental matters and would have a strong claim to any co-chair. Agreeing in this context would also raise issues in other WTO fora where other agencies might insist on equal treatment, such as the Committee on Agriculture, the SPS Committee and the TRIPs Council. Environmental agencies regularly send representatives on delegations to CTE meetings and participate actively in developing U.S. policy and instructions.	No

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Push for creation of Eminent Persons Group	Daschle	Difficult	Could represent an effort to get past the perceived gridlock in the CTE on contentious issues; would give USG credit for environmental "leadership" in WTO. Other countries likely to resist this idea, particularly if tied to an expectation that there might be action on any outputs/recommendations at the "millennial" Ministerial. The quality and practicability of any possible results of such a group is also hard to predict. Prior attempts along these lines have produced very modest results. Difficulty of issues makes consensus among eminent persons unlikely.	Yes. Promised to Daschle.
Create private sector advisory groups in WTO akin to the OECD's BIAC and TUAC	Internal	Difficult	Propose the establishment under WTO auspices of private sector advisory groups to provide advice and expert opinion to the various WTO bodies (using, for example, the OECD advisory groups as a model). Other countries likely to resist the idea of creating regularized avenue for private sector input into WTO. NGOs likely to support for same reason. Developed internally as possible alternative to Eminent Persons Group request; not sought by any NGOs or Members of Congress.	No.

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Ecolabeling initiative in the WTO	Daschle	Difficult	Unlikely that we could propose an initiative that strikes balance between environmental and business communities' strongly held polar opposite views on ecolabeling without alarming either side. Senate Finance Majority likely to oppose.	No.
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MULTILATERAL AGREEMENT ON INVESTMENT

Exclude MAI from fast track coverage	NWF et al.	Fairly easy	All ENGOs strongly support. They argue that negotiation of the MAI to date does not comport with the consultation and negotiation processes for fast track agreements nor how they'd like to see future agreements conducted. Administration bill excludes MAI. May need to take a position if Congress adds it back on.	Yes, done already.
Commit to environmental review of MAI	Numerous NGOs	Fairly easy	There is already staff-level interagency agreement to prepare an environmental report on the MAI at the conclusion of the negotiations. One issue is whether to formally solicit public comment (e.g. a FR notice) while negotiations are underway.	Yes to report to Congress at conclusion of negotiations
Include environmental issues in MAI negotiations	Audubon	Fairly easy	U.S. has already proposed three environmental provisions; others may be considered.	No recommendation required

INITIATIVE	SOURCE	LIKELIHOOD OF SUCCESS	COMMENTS	RECOMMENDATION
Propose good environmental provisions for MAI, including: -- requirement that countries have good environmental laws; -- binding guidelines for corporations; -- provisions to prevent MAI from weakening environmental laws.	WWF	Difficult	A definition of what constitutes “good” environmental laws would be impossible to negotiate in the context of an investment agreement, and would be adamantly opposed by the business community. Making the OECD Guidelines mandatory would be adamantly opposed by the business community. MAI does not threaten legitimate domestic or international environmental laws, contrary to prevailing opinion among the NGOs.	No

1. SOURCES:

- Audubon: Resolution of the National Audubon Society Board of Directors, September 14, 1997.
- Berlin: Memo from Ken Berlin to Shelly Fidler et al., dated September 3, 1997.
- Daschle: Memo to Bob Kyle, NEC, from Rick Samans, Staffer to Senator Daschle, dated September 6, 1997.
- Internal: Idea generated within the Executive Branch.
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Propose good environmental provisions for MAI, including: -- requirement that countries have good environmental laws; -- binding guidelines for corporations; -- provisions to prevent MAI from weakening environmental laws.	WWF	Difficult	A definition of what constitutes “good” environmental laws would be impossible to negotiate in the context of an investment agreement, and would be adamantly opposed by the business community. Making the OECD Guidelines mandatory would be adamantly opposed by the business community. MAI does not threaten legitimate domestic or international environmental laws, contrary to prevailing opinion among the NGOs.	No

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CLOSE HOLD!!

FAST TRACK-RELATED ENVIRONMENTAL INITIATIVES

INITIATIVE	SOURCE ¹	LIKELIHOOD OF SUCCESS	COMMENTS	RECOMMENDATION
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FAST TRACK LEGISLATION & NEW FTA PROCEDURES

Involve environmental committees in consultations, etc.	VP letter; many NGOs		A key NGO proposal is mandating environmental committee jurisdiction for fast track legislation/agreements. The Administration bill's notice and consultation provisions require consultation with "such other committees of the House and Senate as the President deems appropriate" (sec. 4(a)(2)), and "each other committee . . . which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement" (sec.4(b)(1)(B)). Administration could commit to include environmental committees in such consultations; or fast track legislation could include an illustrative list in the provisions mandating consultations with committees -- e.g., for FTAs, "including, but not limited to, . . . Senate Environment and Public Works, House Resources, etc."	Yes, through either amendment, Administration statement, &/or report language.
Give Congress more time to consider implementing legislation and environmental assessments/reports	VP letter		This request to lengthen the process for congressional consideration has somewhat dropped off the NGO lists since their February letter to the Vice President.	No
Transparency negotiating objectives	Daschle, NWF, et al	Easy	1988 Act (CK) and Administration's bill include transparency negotiating objectives. Could perhaps make them more explicit or develop POTUS statement or report language with more specificity. Perhaps top. most widely held priority for NGOs.	Yes, done -- Included in Administration Bill. Have promised Daschle further Administration commitments on this

INITIATIVE	SOURCE	LIKELIHOOD OF SUCCESS	COMMENTS	RECOMMENDATION
Environmental assessments/reports for trade and investment agreements	Many NGOs, Berlin	If mandatory, difficult. If in the form of a political commitment, easy.	Major NGO priority is mandatory environmental impact assessment conducted before/during course of negotiations and put out for public comment before finalizing; as well as an assessment for Congress at end of process. NWF would have USTR do regulations setting forth procedures to follow; others seek mandatory legislation on fast track. Could make political commitment along lines USTR was following for Chilean accession in 1995: explicitly include environment in federal register notice soliciting comment on potential negotiations and public hearings; include environmental agencies and advisory committees (including TEPAC) in development of negotiating objectives and positions; conduct assessment of Chile's environmental laws (though did not produce public document, could commit to do so in future); and state intent to produce report to Congress on environmental issues when agreement concluded. Could do minor legislative amendment to sec. 5(a)(2) (re supporting information) calling upon President to submit any other information he considers useful. Could do more explicit provision mandating environmental reports for FTAs (as USTR did for NAFTA and UR). Raises resource issues for USTR, but has significant potential to moderate NGO views of the bill. NGOs were unsuccessful in efforts to get such an amendment into NAFTA and UR implementing legislation.	Consider committing to report to Congress (when submitting agreement) with respect to certain types of agreements, e.g., Chile FTA.

INITIATIVE	SOURCE	LIKELIHOOD OF SUCCESS	COMMENTS	RECOMMENDATION
Conduct analysis of status of environmental laws of potential FTA partners	Internal; Daschle for labor	Fairly Easy	Easy to commit to do so but fairly demanding of EPA and USTR resources. Could be part of a response to request for environmental assessments; also somewhat responsive to request for readiness criteria Should ensure that any commitment in this regard for labor be at least matched for environment.	Yes. Anticipate agreeing to Daschle request to do so for labor, probably as country reports.
List in Fast Track bill the agreements to be negotiated	NWF, Audubon		Administration bill addressed this somewhat by explicit grandfathering of WTO and Chile FTA negotiations. Some have asked for bill language specifically precluding the MAI.	Already addressed somewhat vis a vis MAI, Chile, WTO.
Readiness criteria	Berlin	Controversial	Environmental CEOs very positive on this last spring. Administration consideration of the environmental regime of a potential FTA partner could take various forms -- e.g., "considerations to be taken into account", or "extent to which..." (Administration's CBI bill formulation) rather than strict conditionality. Could be legislation or Administration commitment. Could be indirect, e.g., Administration commitment to prepare reports on potential FTA partner legal regimes (see above). Senate Finance majority's strongly adverse reaction to environmental condition in CBI parity bill probably predictive of legislative approach.	No, not unless decide to do readiness criteria more generally, in which case should include an environmental criterion

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General negotiating objectives that strike balance between trade objectives and legitimate environmental laws	VP Letter, NWF	Difficult	Administration bill's "guidance for negotiators" addresses very well concerns about legitimate environmental laws, but NGOs dissatisfied with bill's balance because they see WTO and trade-related objectives as too restrictive.	Yes. Should argue bill already does this
Various specific negotiating objectives, e.g.: --safeguarding legitimate US and international environmental, health, and safety laws; --allowing nations to determine own level of risk; --negotiating exceptions that incorporate polluter pays and precautionary principles; --allowing environmental PPMs (distinctions among imported products based on environmental harms caused by their production)	NWF, others	Difficult to include any specific envt'l negotiating objectives; degree of controversy among various objectives varies.	Bill's "guidance for negotiators" is responsive in part. Administration intent/ability to continue to pursue some of these objectives can be clarified through policy statement and/or committee report language. SPS agreement already enshrines countries' ability to determine their own acceptable level of risk and, to certain extent, the precautionary principle (though NGOs not happy with WTO beef hormones case handling of this question); nothing in FT bill takes away President's ability to pursue in other agreements as appropriate. US industry would strongly oppose incorporation of polluter pays principle. Any effort to negotiate to allow the use of environmental PPMs would also evoke strong business opposition and could create a large loophole in the rules of the trading system.	Important to retain "guidance for negotiators"

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Work to require environmental assessments by businesses engaged in international trade and investment	NWF	Very Difficult	Many U.S. firms are making such assessments through the use of environmental management systems (EMS) and the President could encourage this trend but any attempt to make such systems mandatory would face strong opposition from the business community. Legislating this for U.S. companies operating abroad would be difficult to monitor and even harder to enforce.	No, unless there is ongoing Administration activity in other fora that can be highlighted (eg, anything EPA is advocating in ISO 14000?)
Use trade/investment agreements to require multinational corporations to comply with high standards wherever they operate	VP letter	Very difficult	Would be difficult to implement/enforce, esp to extent it required Parties and panels to make judgments regarding whether home or host country's standards are higher	No
High environmental standards enforceable through trade agreements	NWF, other ENGOS	Non-starter on Hill	One e.g. would be to make provisions like NAFTA's Article 1114 "pollution haven" provision (that parties should not lower standards for purpose of attracting investment) subject to binding dispute settlement rather than consultations as is the case in NAFTA	No
Include procedures in trade agreements that will lead to greater enforcement of environmental laws	Audubon	Difficult	Can argue that Administration bill preserves President's prerogatives to address these issues, though mostly outside of the agreement itself.	No further action.

INITIATIVE	SOURCE	LIKELIHOOD OF SUCCESS	COMMENTS	RECOMMENDATION
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NAFTA - CEC

Extend to NAFTA the Uruguay Round Implementing Act's requirements for domestic notification, publication and consultation (URAA Sec. 127)	Berlin	Fairly easy	USTR already follows these obligations with respect to NAFTA disputes as a matter of practice. Could extend them to NAFTA and to dispute settlement proceedings of future FTAs (and investment agreements, w/ exception of investor-state arbitral proceedings), either through fast track legislation or unilateral executive order.	Yes; vehicle to be determined
Increased demonstration of Administration commitment to North American Commission for Environmental Cooperation (CEC) (esp. by EPA Administrator)	WWF, NWF, Audubon, CIEL, Sierra Club, Berlin	Good	Specific e.g.s: Browner actively participate in CEC Ministerial in late October; EPA to devote more resources and higher level attention to CEC issues; bring more U.S. initiatives to CEC for participation by all three governments; increase CEC biodiversity protection activities; demonstrate strong support for vigorous CEC trade and environment agenda; more funding for U.S.-Mexico border cleanup; active cooperation between NAFTA Free Trade Commission and CEC	Need some CEC initiatives; defer until consulted with EPA
Urge other NAAEC parties to use National Advisory Committees more	NWF	Moderate	Easily done. Check with EPA re status of previous efforts and basis for the concern.	Defer until consulted with EPA.

INITIATIVE	SOURCE	LIKELIHOOD OF SUCCESS	COMMENTS	RECOMMENDATION
Have President task Administrator Browner with reviewing Maurice Strong letter for ideas on strengthening operation of the CEC	Internal	Easy	Maurice Strong 5/97 letter, which transmitted results of CEC-sponsored review of the operation of the NAAEC, contains several ideas which could form the basis of a USG initiative for improving the operation of the Agreement, including further analysis of the links between trade and the environment, and broadening public participation to include Members of Congress. Could be part of USG preparation for NAAEC mandated 4-year review of the Agreement. Could perhaps include EPA-convened conference to develop recommendations from the public. This is a way of responding to NGO requests for greater Administration commitment to CEC (see above) and increased CEC independence (see below). Timetable for results of EPA analysis likely to extend beyond FT.	Depends on what else Administration puts forward on CEC commitments
Strengthen CEC's independent investigatory powers and resources	Daschle, Berlin	Difficult	Increasing CEC independence regarding investigation of citizen submissions and enforcement matters will face opposition from US sovereignty types as well as other governments. Some within USG would also have concerns.	No; could direct EPA to study the issue as part of review of the NAAEC.

INITIATIVE	SOURCE	LIKELIHOOD OF SUCCESS	COMMENTS	RECOMMENDATION
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Clarify interpretation of NAFTA Investment Chapter expropriation provisions by taking position regarding Ethyl Corp. investor/state dispute with Canada	WWF	Moderate	Ethyl Corporation's investor/state action for \$\$ compensation against Canada for its ban of the gasoline additive MMT continues to draw intense NGO criticism and is a favorite example of opponents of NAFTA, the MAI, and fast track. Since the relationship between domestic U.S. environmental regulatory actions and constitutional takings is already extremely controversial at present, NGOs find the idea that NAFTA would allow international arbitral panels to hold U.S. environmental regulations to an even stricter standard for expropriations particularly objectionable. While the facts are complicated and some of Ethyl's claims are colorable, few if any experts believe that Ethyl's expropriation argument should prevail. A very narrowly argued submission to the arbitral panel that took issue with the expropriation element of Ethyl's case, or some alternative public expression of US views, would go far to eliminate an easy target for fast track's (and the MAI's) opponents. USG taking a position adverse to a US company presents some difficulties and issues of precedent.	Under consideration by USTR General Counsel
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CHILE FTA/NAFTA ACCESSION

State some objectives for improving NAAEC for Chile (whether as NAAEC accession or bilateral environmental side agreement)	Internal	Difficult	Natural resource extraction issues, and substance of Chile's environmental laws, are both areas that many NGOs consider inadequately addressed by the current NAAEC provisions. Chile likely to resist obligations that go beyond Canada's and Mexico's. US Senate Republicans opposed inclusion of natural resource extraction issues during NAAEC negotiations. Some groups are already raising issue of impact on Chile's forest resources. Modifications would be easier in context of bilateral agreement negotiation than if the NAAEC itself were being renegotiated w/ Canada and Mexico. Could commit to study issues, solicit input as we proceed w/ negotiation of the Chile-US side agreement	No, not at this time. Commit to study issue and consult broadly as preparation for FTA negotiations.
Commit to produce analysis of Chile's environmental laws	Internal	Easy	Much of this work has already been done but would need to be updated. Canada published an assessment of Chile's environmental laws as part of the Chile-Canada FTA & side agreements. (Note also broader proposal to do environmental law assessment for all FTAs.)	Yes, part of country reports

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FREE TRADE AREA OF THE AMERICAS

Actively participate in Costa Rican trade & environment symposium in April 1998	NWF, Audubon	Good	Already intend to participate actively in CR's planning of this event, though Costa Rica has requested that US role be low profile. NGOs want Barshefsky and Browner to pledge to attend but unclear whether Costa Rica has a ministerial level event in mind	Yes but do not commit Cabinet level participation
Create BECC/NADBank analog in the Inter-American Development Bank	NWF, Daschle	Difficult	Very popular with NGOs. They envision a BECC-like mechanism for giving local communities a voice in the type of infrastructure projects IDB would finance. US leverage in IDB is limited.	Treasury is developing package of IDB initiatives for Daschle
Commit to extending CEC to Latin America	Various groups	Difficult	This proposal takes several forms: adding Chile and other FTAA countries to the existing CEC; creating a South American sister organization to the CEC; creating some sort of vaguely defined institution for environmental cooperation among the FTAA governments. Creation of a new international institution (as opposed to accession to the existing CEC or a simple bilateral environmental cooperation agreement) would require legislation, which would not be eligible for fast track under Administration's proposal.	No. Specific commitments should not go beyond side agreements with Chile. Can commit to pressing environmental issues in FTAA.

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WORLD TRADE ORGANIZATION (WTO)

Pledge to increase transparency and public participation	All	Difficult (in WTO)	Much of what is being sought -- amicus briefs in WTO proceedings, greater access to documents, panel proceedings open to the public -- the US unsuccessfully sought during and after the UR and other countries still actively resist. (We did make some progress on derestriction of documents.) We are already committed to continuing efforts on these issues in section 126 of the Uruguay Round Agreements Act and the Statement of Administrative Action and can easily commit to redoubling our efforts. Perhaps highest priority for NGOs. However, chances for eventual success are not promising. Daschle staff seek some high profile method for demonstrating commitment -- e.g., USTR speech.	Yes, have committed to Daschle.
Protect environmental rules and treaties from threat of WTO challenge	WWF	Difficult	The U.S. has been isolated in discussions in the CTE on the relationship between national environmental laws and WTO rules. There may still be room for progress clarifying the relationship between the WTO and specific multilateral environmental agreements (MEAs). Would argue US defense of EPA gasoline regulation and shrimp/turtle law are part of concerted effort to protect environmental rules.	WTO negotiating objective is responsive.
More environmental representatives on USTR advisory committees	NWF		Basis for concern and level of NGO interest unclear.	No

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Strengthen role of environmental agencies in trade negotiations.	NWF, Audubon	Good	Environmental agencies are already part of the TPRG/TPSC interagency trade policymaking process. Their level of participation is perhaps more related to budget and agency priorities than a fast track issue. However, the President could make a commitment to increase the level of resources deployed by environmental agencies to participate in trade negotiations. This could be supplemented by building environmental agency trade policy expertise through the secondment of staff to USTR.	Yes to some Administration effort/commitment.
EPA to co-chair US representation on WTO Committee on Trade & Environment (CTE)	NWF		Other environmental agencies -- State, Interior, NOAA -- are just as affected as EPA by many of the issues debated in the CTE. State is generally in charge of coordinating international work on environmental matters and would have a strong claim to any co-chair. Agreeing in this context would also raise issues in other WTO fora where other agencies might insist on equal treatment, such as the Committee on Agriculture, the SPS Committee and the TRIPs Council. Environmental agencies regularly send representatives on delegations to CTE meetings and participate actively in developing U.S. policy and instructions.	No

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Push for creation of Eminent Persons Group	Daschle	Difficult	Could represent an effort to get past the perceived gridlock in the CTE on contentious issues; would give USG credit for environmental "leadership" in WTO. Other countries likely to resist this idea, particularly if tied to an expectation that there might be action on any outputs/recommendations at the "millennial" Ministerial. The quality and practicability of any possible results of such a group is also hard to predict. Prior attempts along these lines have produced very modest results. Difficulty of issues makes consensus among eminent persons unlikely.	Yes. Promised to Daschle.
Create private sector advisory groups in WTO akin to the OECD's BIAC and TUAC	Internal	Difficult	Propose the establishment under WTO auspices of private sector advisory groups to provide advice and expert opinion to the various WTO bodies (using, for example, the OECD advisory groups as a model). Other countries likely to resist the idea of creating regularized avenue for private sector input into WTO. NGOs likely to support for same reason. Developed internally as possible alternative to Eminent Persons Group request; not sought by any NGOs or Members of Congress.	No.

INITIATIVE	SOURCE	LIKELIHOOD OF SUCCESS	COMMENTS	RECOMMENDATION
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Ecolabeling initiative in the WTO	Daschle	Difficult	Unlikely that we could propose an initiative that strikes balance between environmental and business communities' strongly held polar opposite views on ecolabeling without alarming either side. Senate Finance Majority likely to oppose.	No.
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MULTILATERAL AGREEMENT ON INVESTMENT

Exclude MAI from fast track coverage	NWF et al.	Fairly easy	All ENGOs strongly support. They argue that negotiation of the MAI to date does not comport with the consultation and negotiation processes for fast track agreements nor how they'd like to see future agreements conducted. Administration bill excludes MAI. May need to take a position if Congress adds it back on.	Yes, done already.
Commit to environmental review of MAI	Numerous NGOs	Fairly easy	There is already staff-level interagency agreement to prepare an environmental report on the MAI at the conclusion of the negotiations. One issue is whether to formally solicit public comment (e.g. a FR notice) while negotiations are underway.	Yes to report to Congress at conclusion of negotiations
Include environmental issues in MAI negotiations	Audubon	Fairly easy	U.S. has already proposed three environmental provisions; others may be considered.	No recommendation required

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