

THE NEGOTIATING GROUPS

As the chart below shows, the structure of the negotiations is broken into six broad negotiating areas, with 19 working groups. Some of the groups are sector-specific, while many cover cross-cutting issues. In general, each of the groups has met three to five times since June. Not all of the groups will necessarily result in a specific agreement. In some cases, particularly in the sector-specific groups, an important role is to give guidance and support to the cross-cutting groups such as tariff negotiations.

There follows a listing of the objectives of the various negotiating groups and some background on each issue.

NAFTA NEGOTIATING GROUPS

MARKET ACCESS

- Tariffs/non-tariff barriers
- Rules of origin
- Government procurement
- Agriculture
- Automobiles
- Other industrial sectors
 - Textiles
 - Energy

TRADE RULES

- Safeguards
- Subsidies and trade remedies
- Standards
 - Sanitary/Phytosanitary
 - Health/Environment
 - Industry

SERVICES

- Principles for services
 - Temporary Entry
- Financial
- Insurance
- Land transportation
- Telecommunications
- Other services

INVESTMENT (Principles and restrictions)

INTELLECTUAL PROPERTY RIGHTS

DISPUTE SETTLEMENT

TARIFFS/NONTARIFF BARRIERS

U.S. Objectives: Through the NAFTA, we seek the immediate or phased elimination of all tariffs (duties) among the United States, Mexico and Canada. We also seek the reduction of nontariff trade barriers (NTBs), whether imposed at the border or not. For both tariffs and NTBs, our goal is to maximize the gains from liberalizing trade while minimizing adjustment pressures in sensitive sectors through gradual phase-ins and other measures.

Background: This exercise is one of the most labor-intensive underway, with over 27,000 tariff line items under negotiation. The average tariff in the United States is 4 percent, versus 10 percent in Mexico.

Initial, conditional tariff offers were made in Dallas on September 19. Tariff elimination will proceed from actual applied rates as opposed to nominal rates. In addition, all three countries have agreed that no products would be excluded from the tariff negotiation. In their conditional offers, each country proposed an allocation of products to immediate, medium-term or long-term staging categories, depending on the sensitivity of the various products. We have been analyzing these proposals and in November started a line-by-line review of how each country thinks tariffs should be eliminated. Our aim is to negotiate a balanced and mutually advantageous schedule for tariff elimination.

The group also is responsible for examining non-tariff trade barriers. Non-tariff measures under review include import licenses, quotas and other practices that burden imports as opposed to domestically-produced goods. In functional areas (government procurement, standards, services, investment and intellectual property rights), and in sectoral areas (agriculture, autos, textiles and apparel, and energy/petrochemicals), the appropriate NAFTA work group will deal with the NTBs in its area of responsibility.

RULES OF ORIGIN

U.S. Objectives: We plan to build on the rules of origin in the U.S.-Canada Free Trade Agreement, which generally employs a "change in tariff classification" rule as the basis for determining substantial transformation. In addition, we will seek to strengthen the value-content-based rule of origin in certain sectors, such as automobiles. All three parties wish to ensure that NAFTA rules of origin maximize benefits for North American producers, and are seeking one set of rules of origin to cover trade among all three countries for tariff preference

purposes. The United States also seeks the elimination, over time, of drawback and performance-related duty remission programs. Finally, we seek to harmonize Customs procedures and documents, to facilitate entry of goods in all three countries.

Background: Rules of origin determine a product's country of origin for purposes of duty assessment, import programs, and statistics. With companies increasingly sourcing their components from different parts of the world, this is not as easy a question as it might appear. So far, the parties have reviewed the rules of origin for about half of the chapters in the tariff schedule with the Mexicans and Canadians. Work also is proceeding in the area of developing a more precise, and less costly to administer, value-content rule (where such a rule is applicable).

With respect to duty drawback, the United States has set out its position that such programs should be eliminated, but the parties have not yet agreed on the issue.

GOVERNMENT PROCUREMENT

U.S. Objectives: The United States is seeking to apply the rules of the U.S.-Canada government procurement agreement to Mexico and to achieve greater liberalization when feasible. A key objective is to provide greater transparency, and predictability in the competition for supplying goods to governments and parastatal enterprises by firms from any of the NAFTA countries.

Background: The government procurement measures in the U.S.-Canada Free Trade Agreement are based on GATT Government Procurement Code provisions (to which the United States and Canada belong but Mexico does not). The CFTA, however, provides for a lower-than-GATT threshold for goods and it includes services, so the scope is much broader than the GATT Code. In addition, there is an effective set of bid protest procedures which do not exist now under the Code.

AGRICULTURE WORK GROUP

U.S. Objectives: The U.S. goal is to enhance the free flow of agricultural products by eliminating tariff and nontariff barriers to trade in North America. We also seek an effective transition mechanism to enable sensitive sectors to adjust to trade liberalization, as well as a timely safeguard provision for certain agricultural items.

Background: Agriculture is an important component of North American trade, with U.S. trade with Mexico and Canada totaling \$13 billion in 1990. Trade flows are affected by a host of

government policies in all three countries. Many of these policies are under multilateral negotiation in the Uruguay Round, and the Round may be the most appropriate forum for handling certain issues, such as subsidies. The group therefore is focusing its initial efforts in areas such as designing a special NAFTA safeguard for certain agricultural items.

AUTOMOTIVE WORK GROUP

U.S. Objectives: The NAFTA should result in an integrated, rationalized and competitive North American automotive industry, chiefly by eliminating government practices that distort trade and investment. Specifically, the United States seeks to eliminate restrictions under the Mexican Automotive Decrees, including investment restrictions, export performance requirements, and import restrictions. The parties agree that there should be transition provisions to allow adjustment to increased competition. We also seek a stronger rule of origin than in the U.S.-Canada FTA.

Background: Automotive trade (including parts) comprises about \$59 billion in three-way trade for the NAFTA members. It also is a sector in which government policies -- including the Mexican Auto Decrees and the U.S.-Canada Auto Pact -- have had a major impact on trade and investment flows. The principal task is to liberalize trade and investment in the sector and to make the U.S. and North American industry more competitive vis-a-vis the rest of the world.

OTHER INDUSTRIAL SECTORS -- TEXTILES AND APPAREL

U.S. Objectives: The parties wish to eliminate trade-distorting practices in textile and apparel trade, but with a sufficiently strong origin rule to ensure that the advantages of tariff elimination accrue to North American producers. In addition, the United States seeks a transition period so that U.S. companies and workers will have time to adjust.

Background: We have reached conditional agreement on the definition of the textile and apparel sector for purposes of the NAFTA negotiations, exchanged information on country practices, and had preliminary exchanges of views on the timing of phase-outs on tariffs, quotas and licensing requirements. We have also discussed, but not yet agreed on, rules of origin, safeguards, customs cooperation and enforcement, and labeling requirements.

OTHER INDUSTRIAL SECTORS -- ENERGY AND PETROCHEMICALS

U.S. Objectives: We seek to incorporate provisions in the NAFTA that strengthen the important role of energy and energy products in North America, while respecting Mexico's constitutional restraints.

Background: Energy/petrochemicals is an important, and sensitive, area in the NAFTA negotiations. The United States and Canada have agreed that they would respect Mexico's constitutional provisions on energy, but there still remain important areas in which progress could be made to enhance cooperation in this sector in all three countries.

SAFEGUARDS

U.S. Objectives: In the NAFTA, the United States seeks a two-track safeguard system:

- (1) a bilateral provision that would allow parties to respond effectively and quickly if there are injurious increases in imports from either NAFTA partner in any industry or farm sector; and
- (2) a global provision that will maintain the ability to limit NAFTA imports as part of a safeguard action on imports from all sources, provided the NAFTA products are partly responsible for the injury.

Background: While the NAFTA should result in new export opportunities for many sectors in America, the Administration is committed to easing the adjustment pressures that might be created by trade liberalization.

Each country agrees that it is important to have certain "safeguards" in place in case imports of a certain good increase to such an extent that they harm a domestic industry or farm sector. The focus of the trilateral discussions has been on ensuring that the safeguard process is transparent, including rights for private parties to make their views known.

ANTIDUMPING, SUBSIDIES AND COUNTERVAILING MEASURES

U.S. Objectives: We seek better cooperation between the authorities in each country and greater transparency of laws and regulations against unfair trade (i.e., making them easier to understand). Our goal is to maintain strong and effective defenses against unfairly traded goods, without unduly burdening business in North America.

Background: All three sides have laws against unfair pricing and subsidized goods, but there are significant differences in the administrative and judicial procedures related to these laws. Mexico has questioned the applicability of AD/CVD laws in a free trade area, arguing that the economic logic of the laws is no longer viable when trade barriers are eliminated. The United States believes that without the practical experience of a completely liberalized trading area, it is inappropriate to have separate AD/CVD regimes for the NAFTA as compared to the rest of the world. So far, there have been extensive discussions of the administrative/procedural aspects of each country's AD/CVD laws.

STANDARDS

U.S. Objectives: The United States wants the NAFTA to contain disciplines that prevent the use of product standards and technical regulations as discriminatory or unnecessary trade barriers. An equally important goal is to preserve the U.S. right to apply standards and technical regulations, including those that are more stringent than international standards, to protect human, plant or animal health or safety and to protect the environment. Those standards must be based on a scientific justification and a level of risk that the party issuing the standards considers appropriate.

Background: Disciplines for standards setting and enforcement are needed to deal with the possibility that, as tariffs and other trade barriers are eliminated, standards might be used to establish unwarranted barriers to trade to protect affected domestic producers in agriculture and industry.

The standards groups is not negotiating about specific standards per se, but rather on the process by which standards and technical regulations are established. This includes elements such as transparency, equal treatment, scientific basis, risk assessment and other aspects of the standards-setting process. We also are working to encourage the enhancement of standards, consistent with law and regulation in all three NAFTA countries.

SERVICES WORK GROUPS

U.S. Objectives: We seek to eliminate barriers to trade in services in NAFTA to the maximum extent possible. This includes removing barriers to investment in services within North America, as well as removing barriers that prohibit trade of services across the border. It will likely also include specific rules for a limited number of sectors, such as insurance, financial services, telecommunications, and land transportation.

Background: NAFTA negotiators are wrestling with the same issues as are being considered in the GATT Uruguay Round of multilateral trade negotiations. Services trade comprises multiple sectors, such as insurance, financial services, transportation, telecommunications, professional services (doctors, lawyers, accountants) and others.

The various working groups on services -- Services (Principles), Financial Services, Insurance, Land Transportation, Telecommunications, and Other Services -- are attempting to eliminate unnecessary hurdles to service providers so far as possible. A key tenet is national treatment: foreign service companies should have the right to establish and operate a company and to offer services in the country on the same basis as a country national. The same holds true for individual service providers, but subject to each nation's immigration requirements. As practical examples, a foreign bank should be able to establish its operations under the same prudential guidelines as a domestic institution; and an accountant ought to be able to audit and prepare corporate reports without being a national of the country.

So far, information about trade in services and existing barriers has been exchanged. After consultations with the Congress and the private sector, the United States presented a draft in November that is designed to achieve the goals described above.

There are also working groups on specific services sectors, as follows:

- o The Financial Services group has focused on the list of services and financial institutions that will be covered by the agreement and the rules that will govern trade in financial services, specific barriers to be eliminated, and cross-border transactions. All parties recognize that there may be exceptions to any rules as well as a transition period.
- o The Insurance group seeks a similar set of rules on insurance as to that in the financial services group. It is anticipated that the rules will be substantially the same in all areas.
- o The Land Transport group is charged with negotiating liberalization of current restrictions on the transportation industry, such as laws prohibiting foreign-owned or -operated motor carriers from doing business in a country, and addressing other barriers that impede transportation efficiency among the three countries. The parties have agreed that for discussion purposes, the scope should include railroads, local/intercity transit service, trucking, warehousing,

non-petroleum pipelines, arrangement of freight services, vehicle maintenance and repair, and passenger transportation for the bus and rail industry (with a few other categories still under discussion), as well as a possible transition period. A subgroup is addressing questions involving enhancement of technical and operating safety standards.

- o In Telecommunications Services, we seek to ensure access and use of the services of the public telecommunications network for the provision of covered goods and services. Additionally, we want to ensure the greatest possible liberalization of the Mexican and Canadian telecommunications sectors.
- o Finally, in Other Services, the Parties are discussing barriers to service providers in miscellaneous fields, most important of which may be regulations pertaining to professionals (doctors, lawyers, accountants, architects, and engineers). Canada and the United States have urged that, with respect to the professions, the U.S.-Canada FTA provides a good blueprint.

Finally, a subgroup on the temporary entry of professionals has been created under the Services (Principles) group. The objective is to facilitate the temporary entry within North America of NAFTA-country professionals and managers who are engaged in trade and investment activities. In recognition of the special trading relationship which the U.S.-Canada Free Trade Agreement created, that accord created new arrangements and procedures for easing the temporary entry of business visitors, traders and investors, professionals and intra-company transferees between the signatory countries. In similar fashion, the NAFTA subgroup is addressing current practices within the three countries with a view toward simplifying temporary entry procedures for persons engaged in business activities.

INVESTMENT WORKING GROUP

U.S. Objectives: The United States seeks to establish a foundation of principles to apply to investment in all goods and services industries. For the United States, this means the principles customarily included in bilateral investment treaties, such as national treatment, right of establishment, right to repatriate profits, guarantees against unfair expropriation, and access to arbitration for settlement of disputes.

Background: The parties generally agree that North American firms should be able to establish subsidiaries or branches, operate partnerships or take over other companies in any of the

three nations. Each side recognizes that there may have to be certain sectors in which open investment is "off limits," but the United States wants to keep these to the minimum necessary to ensure the protection of vital national interests. The parties have agreed that the principles negotiated by the investment group would govern investment in all goods and services, with exceptions to be negotiated.

INTELLECTUAL PROPERTY

U.S. Objectives: The United States seeks to codify obligations on accession to the current texts of the Paris, Berne, Geneva, Patent Cooperation and UPOV Conventions; according national and MFN treatment among the NAFTA countries; providing adequate and effective protection for patents, trademarks, copyrights, trade secrets and integrated circuit lay-out designs; and, establishing measures necessary for timely and effective border and internal enforcement.

Background: The protection of intellectual property is one of our chief global trade goals. Fortunately, President Bush's commitment to strong IPR protection in North America is shared by President Salinas and Prime Minister Mulroney.

So far, the Parties have exchanged information on national laws and practices in areas of enforcement and protection of intellectual property rights and identified issues which need to be resolved. We have generally agreed on the structure of the chapter on intellectual property, and the United States presented an initial text of an intellectual property rights chapter in November.

DISPUTE SETTLEMENT

U.S. Objectives: We wish to create a flexible, pragmatic oversight and consultation mechanism for the NAFTA. When consultations are not sufficient to resolve a problem, we seek establishment of fair, speedy, and effective panel procedures for the resolution of controversies. Since the United States generally has a more open market, it is in our interest to see an effective dispute settlement mechanism incorporated in the NAFTA.

Background: One of the keys to a successful trade agreement is swift and fair dispute settlement procedures. Business leaders have frequently called for such procedures to handle their complaints. Nevertheless, actual drafting of text will probably have to take place at a later stage of the negotiations, once the substantive and legal framework of the NAFTA becomes clearer.

LABOR AND THE ENVIRONMENT

While the NAFTA negotiations proper are about reducing impediments to trade and investment in North America, the President has an equally strong commitment to ensuring that progress is made across the broad range of issues affecting U.S., Mexican and Canadian relations, especially in the areas of labor issues, environmental concerns, and matters concerning infrastructure development at the borders.

LABOR ACTIVITIES

Occupational Safety and Health

- o A general comparison of each country's occupational safety and health systems is underway.
- o Mexican and U.S. officials responsible for occupational health and safety will hold a conference on a high hazard industry (iron and steel) on December 16-17, in Mexico City. The conference will include participants from industry, labor and government. Similar conferences on the construction and chemical industries are contemplated for 1992.
- o A Mexican technician visited the OSHA industrial hygiene testing laboratory in August for information on how a similar testing program might be established in Mexico. Until such time as the Mexican program is better established, OSHA will provide industrial hygiene testing for selected specialized Mexican samples.
- o U.S. and Mexican officials agreed to exchange visits of inspection personnel to observe enforcement methods.
- o During October and November, OSHA assisted its Mexican counterpart in presenting a series of seminars on health, safety and medical programs for managers of maquiladora plants.
- o OSHA will send expert personnel to Mexico to conduct a series of training courses for Mexican inspectors and technicians in late 1991 or early 1992.
- o OSHA and its Mexican counterpart have agreed to distribute English translations of Mexican occupational safety and health laws and regulations to multinational firms operating in Mexico.

Employment Standards/Child Labor

- o A meeting of enforcement officials from both countries was held on May 31 to exchange information on enforcement programs and techniques.
- o A joint child labor study should be completed in late November. Plans are to present the results at a conference in early 1992.
- o The Departments of Labor and Education will collaborate with Mexican counterparts to assess stay-in-school policies and programs and how they affect child labor.

Labor Statistics

- o The Department of Labor and Mexican agencies responsible for national statistical programs have collaborated in developing a series of activities that will modernize Mexican social and economic data collection and analyses.

Workplace Training

- o In mid-September 1991, a delegation of Mexican officials, led by their Director of Employment Services, visited Employment and Training Administration sites in California, New York and Puerto Rico for further information on training and other employment services programs.

Quality and Productivity

- o U.S. and Mexican officials met in September to exchange information on productivity and human resources. Discussions covered high performance workplaces, trends in labor/management relations and innovative reward systems. The discussions included case studies and site visits.

Informal Sector

- o The United States and Mexico have agreed to analyze the economic and social policy effects of the informal sector and implications for workers, economic growth, and trade development. The first meeting was held on November 7 in Mexico City.

Worker Rights-Labor Management Relations Systems

- o The Department of Labor and its Mexican counterpart agreed to hold discussions to gain further mutual understanding of how each country provides basic worker rights -- freedom of association and the right to organize and bargain collectively, including the cultural, legal and economic

context as well as the prevailing labor management relations policies, processes and practices.

Worker Adjustment Programs in the United States

- o The Administration is committed to working with the Congress to ensure that an effective, adequately funded worker adjustment program is in place when the NAFTA takes effect.

ENVIRONMENTAL ACTIVITIES

Public Participation

- o Representatives of non-governmental environmental organizations have been appointed to the Advisory Committee on Trade Policy and Negotiations and to five subsidiary Policy Advisory Committees: Intergovernmental, Services, Investment, Industry and Agricultural. These groups provide direct input to the negotiators of the NAFTA, as well as to all trade policy negotiations.

Environmental Review

- o In October, USTR released a study, in coordination with EPA and other concerned agencies, addressing the possible environmental effects of a free trade agreement, drawing in particular on our analysis of border environmental issues. Mexico has announced that it will undertake a similar review. USTR seeks public comment on the study, which is available from USTR, in order to issue a final report in December.

Integrated Border Environment Plan

- o The initial draft of the U.S.-Mexico Border Plan was released by EPA for public comment on August 1. As part of the public comment process, U.S. and Mexican environmental officials held public hearings on the plan in sister cities along the border during September. The plan is expected to be finalized by late fall.

Border Infrastructure Improvements

- o Even in advance of the completion of the Border Plan, Mexico announced that \$460 million will be allocated over the next three years for environmental infrastructure projects along the border, with over \$142 million to be provided in 1992 alone.
- o The funds will be allocated as follows: water supply and wastewater treatment: \$223 million; municipal solid waste:

\$26 million; highway, bridge and border crossing projects: \$120 million; and provision of housing areas with necessary utilities: \$44 million.

Enforcement

- o A new bilateral Working Group on Enforcement has been established as part of the cooperative process for consultation on enforcement. The Working Group has met several times and is developing a work program to enhance cooperative efforts in enforcing environmental regulations in both countries.

Technical Cooperation and Training

- o A U.S.-Mexico Business Environmental Committee has been established with the initial goal of helping Mexican business in the Border Area and Mexico City to meet priority environmental protection goals.
- o U.S. and Mexican agencies are working together in a wide range of activities in this area, including: the comprehensive study of Mexico City air pollution, which is entering its next phase; training of Mexican enforcement officials; and, establishing an environmental technology clearinghouse in Mexico City.

Conservation

- o To stem the trade in endangered and threatened species, the Government of Mexico acceded to the Convention on International Trade in Endangered Species (CITES) in July. The Fish and Wildlife Service is working with Mexican officials on CITES procedures and other wildlife issues.
- o The National Park Service met with Mexican officials in July and made progress on establishing sister parks along the border. Cooperative work on forest conservation and resource management issues is proceeding between the U.S. Forest Service, the Agency for International Development and the National Marine Fisheries Service and their Mexican counterparts.

BORDER CONGESTION & INFRASTRUCTURE

In addition, with increased trade flows as a result of a NAFTA, land transportation traffic levels are expected also to increase, with potential environmental consequences. The draft U.S.-Mexico Environmental Review examines and makes recommendations in regard to these consequences, including safety and environmental

protection for transport of hazardous wastes and materials, noise levels, and pollution from trucks and buses.

Beyond the environmental impact, there are concerns about infrastructure from representatives and citizens on both sides of the border, including concerns about delays crossing the U.S.-Mexico border. The U.S. General Services Administration (GSA) has undertaken an ambitious Southwest Border Capital Improvements program, to be completed in 1994, that should provide sufficient physical inspection facilities at virtually all ports of entry.

Despite this program, there are concerns that existing border facilities, including customs inspection stations, access roads, bridges, and related infrastructure have not kept pace with the increase in traffic, including commercial traffic, in recent years. It is said that limitations on inspection agency staff, inadequate coordination between U.S. and Mexican Customs agencies, and delays resulting from clearance procedures for trucks entering the United States have further contributed to the border congestion problem.

In some instances, the solution to any such problems may lie in relatively low-cost measures. For examples, delays going into Mexico at Nuevo Laredo were substantially ameliorated by the installation of additional computer equipment by Mexican Customs and expansion of the Mexican import compound.

The Department of Transportation, GSA, and the U.S. Customs Service -- working with other relevant agencies, such as the Immigration and Naturalization Service and the Department of Agriculture -- are evaluating each of these border infrastructure and congestion problems and will recommend solutions for negotiation either within or in parallel to the NAFTA.