Telecommunication Union and international telecommunication standardization and development. Except where noted, meetings will be held at the Department of State, 2201 ''C'' Street, NW., Washington, DC.

The ITAC will meet on December 20, 2000, from 9:30 to noon to prepare for the World Telecommunication Policy Forum on Internet Telephony in Department of State room 1406 and from 1:30 to 4:30 to prepare for the next meeting on ITU Reform in Department of State room 1207.

The ITAC–T National Committee will meet January 10, 2001 from 9:30 to noon and February 28, 2001 from 9:30 to 3:30 at the offices of the Telecommunication Industry Association, 2500 Wilson Boulevard, Arlington, VA 22201. The ITAC–T National Committee will meet February 14, 2001 from 9:30 to 3:30 at the offices of the Alliance for Telecommunications Industry Solutions, 1200 G Street, NW., Washington, DC 20005. The agenda for all three meetings will be preparations for the ITU–T Telecommunication Standardization Advisory Group meeting starting on March 19, 2001.

The ITAC–T U.S. Study Group A will meet from 9:30 to noon on January 4, 2001, to prepare positions for the ITU–T Study Group 2 meeting starting in January 23, 2001.

The ITAC–T U.S. Study Group B will meet from 9:00 am to 4:30 on January 19, 2001, at the Wyndham Anatole Hotel, 2201 Stemmons Freeway, Dallas, TX 75207 to prepare positions for the next ITU–T Study Group 15 meeting, February 5–9, 2001.

Members of the general public may attend these meetings. Directions to meeting locations and actual room assignments may be determined by calling the Secretariat at 202–647–0965/2592. For meetings held at the Department of State: entrance to the building is controlled; people intending to attend any of the ITAC meetings should send a fax to (202) 647–7407 not later than 24 hours before the meeting for preclearance. This fax should display the name of the meeting (ITAC T, U.S. Study Group) and date of meeting, your name, social security number, date of birth, and organizational affiliation. One of the following valid photo identifications will be required for admission: U.S. driver's license, passport, U.S. Government identification card. Enter the Department of State from the C Street Lobby; in view of escorting requirements, non-Government attendees should plan to arrive not less than 15 minutes before the meeting begins.

Attendees may join in the discussions, subject to the instructions of the Chair. Admission of members will be limited to seating available.

Dated: December 9, 2000.

Marian Gordon,

Chairman, ITAC–T, U.S. Department of State.

[FR Doc. 00–32310 Filed 12–18–00; 8:45 am]

BILLING CODE 4710–45–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Council on Environmental Quality

Guidelines for Implementation of Executive Order 13141: Environmental Review of Trade Agreements

AGENCY: Office of the United States Trade Representative and Council on Environmental Quality.

ACTION: Guidelines for implementation of Executive order 13141–environmental review of trade agreements: final.

SUMMARY: On November 16, 1999, President Clinton signed Executive Order 13141. 64 FR 63169 (Nov. 18, 1999). The Order makes explicit the United States' commitment to a policy of careful assessment and consideration of the environmental impacts of trade agreements, including, in certain instances, written environmental reviews. The Order directs the Office of the United States Trade Representative (USTR) and the Council on Environmental Quality (CEQ) to oversee implementation of the Order, including the development of procedures pursuant to the Order.

The procedures called for by the Executive Order (the Guidelines) are published below. USTR and CEQ developed the Guidelines through an extensive public process and consultations with appropriate foreign policy, environmental, and economic agencies and Congress. USTR and CEQ have carefully taken public views into account in finalizing the Guidelines, and the final Guidelines endeavor to reflect many of them.

FOR FURTHER INFORMATION CONTACT: Office of the U.S. Trade Representative, Environment and Natural Resources Section, telephone 202–395–7320, or Council on Environmental Quality, telephone 202–456–6224.

SUPPLEMENTARY INFORMATION:

A. Background

Executive Order 13141 builds on U.S. experience with written environmental reviews of previous trade agreements, including the North American Free Trade Agreement (1991–92 and 1993), the Uruguay Round Agreements (1994), and the proposed Accelerated Tariff Liberalization initiative with respect to forest products (1999). The Order institutionalizes the use of environmental reviews as an important tool to help identify potential positive and negative environmental effects of certain major trade agreements, and to facilitate consideration of appropriate responses where effects are identified. Pursuant to the Order, environmental reviews, along with a process of ongoing assessment and evaluation, should help shape trade agreements that contribute to the broader goal of sustainable development. The Order is available on USTR's internet web site at www.ustr.gov.

USTR and CEQ developed the Guidelines called for by the Order in consultation with interested agencies on the Trade Policy Staff Committee (TPSC), including the Departments of Agriculture, Commerce, Energy, Interior, Justice, State, Treasury and Transportation, the U.S. Environmental Protection Agency, and the U.S. Agency for International Development. The TPSC, established under section 242 of the Trade Expansion Act of 1962, as amended (19 U.S.C. section 1872), is the principal staff-level mechanism for interagency decisionmaking on U.S. trade policy. The current participants in the TPSC process for purposes of the Guidelines include agencies with relevant environmental, economic and foreign policy expertise. *See* Guidelines, Appendix A.[1]

As part of the process for developing the Guidelines, USTR and CEQ sought to involve interested members of the public at significant stages. At the outset, USTR and CEQ requested public comment concerning issues the agencies should consider in developing the guidelines, and received twenty-two sets of written comments. 65 FR 9757 (Feb. 22, 2000). USTR and CEQ also requested comment on draft guidelines published in July, 2000, and received twenty-five sets of written comments. 65 FR 42,743 (July 11, 2000). Eight individuals and organizations presented testimony with regard to the draft guidelines at the August 2 public hearing. All written comments and a

[1] The basic work of the TPSC is performed by a network of staff-level subcommittees and task forces, organized by geographical region and/or sector. The committees prepare recommendations on subjects within the purview (*e.g.,* instructions to negotiators on specific issues relevant to a given trade agreement). These recommendations take the form of a paper, which must then be cleared by agencies on the TPSC.

transcript of the hearing are available for public inspection in USTR's reading room located at 600 17th Street NW., Washington, DC 20508.

USTR and CEQ also consulted extensively with the Trade and Environmental Policy Advisory Committee (TEPAC), as well as other interested advisory committees. TEPAC is part of the trade advisory committee system established by Congress to provide private sector information and advice on the priorities and direction of U.S. trade policy. TEPAC sponsored several workshops on the Guidelines for TEPAC members and other participants, which were open to the public. USTR, CEQ, and other interested agencies participated in the public workshops. TEPAC also submitted a divided recommendation prior to publication of the draft Guidelines, and USTR and CEQ consulted informally with interested TEPAC members throughout the development of the Guidelines.

In addition, USTR and CEQ drew upon agencies' experience gained to date in implementing the Executive Order in the review of the Jordan Free Trade Agreement negotiations, *see* 65 FR 58,342 (September 28, 2000), and in planning for the review of the Free Trade Area of the Americas negotiations. *See* 65 FR 75,763 (Dec. 4, 2000).

B. Public Comments

The views of the public played a significant role in shaping the final Guidelines. USTR and CEQ benefitted from numerous constructive comments provided by the public in written comments and at the August 2, 2000 hearing. Public views reflected many different perspectives, including those of environmental organizations, industry, and agriculture.

Public comments generally supported the overall goals of the Executive Order and Guidelines, and noted that the draft Guidelines represented a significant step forward toward achieving those goals. However, a number of commenters expressed concern that the draft Guidelines were insufficiently specific concerning how environmental considerations would actually be integrated into the development of U.S. trade negotiating objectives. Some of these commenters also advocated more robust consideration of alternatives than provided for in the draft Guidelines. Some commenters also favored more explicit provision for engaging the public early in the negotiating process to allow for a meaningful public role in shaping overall trade objectives and negotiating positions. In particular, these commenters emphasized that early public engagement would assist in identifying ''win-win'' opportunities where the opening of markets and reduction or elimination of subsidies may yield environmental benefits.

From another perspective, other commenters were concerned that the process outlined in the draft Guidelines was too prescriptive and inflexible, and could thus hamper trade negotiators. A number of commenters emphasized the need to ensure that reviews would be based on an objective, impartial analysis of environmental effects and sound scientific principles. They requested that the final Guidelines clarify that positive as well as negative impacts would be considered, and stressed that all government agencies with relevant expertise and all interested advisory committees should be involved in the reviews.

Commenters differed concerning the degree to which reviews should address global and transboundary environmental impacts. Several commenters favored creating a presumption in favor of reviewing such effects, while others argued that the reviews should normally be limited to impacts within the United States.

Several commenters requested that the final Guidelines provide for greater transparency in the negotiation process, including the release of draft negotiating texts. While acknowledging that confidentiality for some aspects of the negotiation might be appropriate, these commenters argued that non-disclosure should be kept to a minimum, and that cleared advisors should be used where confidentiality was unavoidable.

Concerning agency roles, a number of commenters contended that CEQ and environmental agencies should have a more prominent role in conducting the reviews, while others argued that their role should be less prominent. Several commenters criticized the way in which governmental resource constraints were reflected in the draft Guidelines and urged that reviews should not be conditioned on the availability of resources.

Finally, several commenters pointed out that the draft Guidelines omitted reference to possible implications of trade agreements for state and local (as well as federal) environmental regulatory authorities.

C. Principal Revisions to the Draft Guidelines

The final Guidelines have strengthened and clarified provisions pertaining to early and proactive integration of environmental and trade policy objectives. Specifically, Sections I and II of the Guidelines expressly acknowledge that the written environmental review process is not the sole means of integrating environmental concerns and goals into a proposed trade agreement, and make clear that public input will be sought even where no written environmental review is conducted (Section II.7). The final Guidelines also clarify that informal public outreach and consultations shall take place at an early stage in the review process, and that information received at this stage will be used to inform the development of U.S. negotiating objectives and positions (Section III, A and B).

The final Guidelines provide further clarification that reviews will consider positive as well as negative potential impacts of trade agreements (*see, e.g.,* Section IV.B.2, and Appendix C) and that analysis will be objective and scientific (Section V.A.2). Objectivity and balance in the reviews are further advanced through the active involvement of a broad range of government agencies (Section VIII.A.5) and relevant advisory committees (*see, e.g.,* sections VI.6 and IV.4). The final Guidelines also provide clarifications regarding possible state, local, and tribal governmental regulatory issues (Sections IV.B.2.b, V.B.1 and appendix C).

The final Guidelines make explicit (in a new Section IV.C) that the extent of the analysis shall be proportionate to the significance of anticipated environmental impacts. Where initial steps in the review process indicate that environmental impacts are likely to be *de minimis,* it will normally be appropriate to abbreviate the analysis.

Concerning global and transboundary impacts, the final Guidelines provide some additional clarification to ensure that potential global and transboundary impacts are appropriately identified in the scoping process (Section V.B.5). However, the general approach of the draft Guidelines has been retained in conformity with the Executive Order, which provides that the focus of the review should be on impacts in the United States, and examination of global and transboundary impacts may be included as appropriate and prudent.

The final Guidelines include a new provision concerning transparency and confidentiality in the review process (Section VI.6). This is a difficult and complex issue, which has implications beyond the scope of the Order and the Guidelines. The United States believes that transparency and openness are vital to ensuring public understanding and support for international trade policy, and is at the forefront of efforts to improve transparency in the world

trading system. The United States is also committed to keeping the public informed about trade negotiations and engaging in regular dialogue with interested stakeholders. However, disclosure of certain information to foreign governments could compromise the ability of trade negotiators to obtain the best outcome for national interest. Therefore, it is important to maintain a degree of confidentiality concerning development of U.S. negotiating objectives and positions and the conduct of negotiations.

The final Guidelines endeavor to strike a balance between these goals. They state that sufficient information shall be provided to the public to facilitate understanding and involvement in a meaningful manner concerning U.S. negotiating objectives and the environmental review process. However, to the extent that disclosure would impair the United States' ability to develop negotiating objectives or conduct negotiations, or would compromise proprietary or confidential information, issues shall be addressed, where appropriate, through the advisory committee system of cleared advisors.

The final Guidelines make clear that CEQ and USTR shall jointly oversee the implementation of the Executive Order, including the Guidelines, and consult at the outset of each review (Section VIII.A.1, 5). The final Guidelines also modify references to the role of governmental resources (for example, the specific reference to resources in connection with consideration of global and transboundary effects is deleted, see Section V.B.5). However, because adequate resources are critical to the effective implementation of the Order and Guidelines, several provisions address the resource issue (Sections II.5, VIII.A.2 and 6). Additional language clarifies that agencies shall seek adequate resources to carry out their responsibilities within their planning budgets (Section VIII.A.6).

Finally, the Guidelines are intended to be a living document. CEQ and USTR retain the ability to revise the Guidelines, in consultation with other agencies, advisory committees and the public, as experience is gained with applying them to particular reviews (Section VIII.B.1). If CEQ and USTR conclude that revision is appropriate, the public shall be notified of the intent to revise and be given an opportunity to comment on significant revisions.

Carmen Suro-Bredie,

Chair, Trade Policy Staff Committee, Office of the U.S. Trade Representative.

Dinah Bear,

General Counsel, Council on Environmental Quality.

Guidelines for Implementation of Executive Order 13141 Council on Environmental Quality and the United States Trade Representative

I. Purpose of the Guidelines

1. The Council on Environmental Quality (CEQ) and the United States Trade Representative (USTR) issue these Guidelines pursuant to Executive Order 13141, Environmental Review of Trade Agreements (the Order). The purpose of the Guidelines is to implement the Order so as to ensure that consideration of reasonably foreseeable environmental impacts of trade agreements (both positive and negative), and identification of complementarities between trade and environmental objectives, are consistent and integral parts of the policymaking process.

2. The primary focus of the Order and these Guidelines is on the process for evaluating the environmental implications of certain major proposed trade agreements, which will be the subject of written environmental reviews (ERs). In addition, as recognized by the Order, the broader goal of sustainable development shall also be advanced through an ongoing process of assessment, evaluation and public consultation by responsible Federal agencies, even where no ER is conducted.

II. Environmental Review of Trade Agreements

1. Section 4(a) of the Order identifies three categories of agreements for which an ER is mandated in light of their potential for significant environmental impacts: (1) comprehensive multilateral trade rounds; (2) bilateral or plurilateral free trade agreements; and (3) major new trade liberalization agreements in natural resource sectors.

2. Section 4(b) of the Order provides that agreements reached in connection with enforcement and dispute resolution actions are not covered by the Order.

3. Section 4(c) of the Order provides that ERs may also be warranted for other agreements. A decision to initiate the ER process for a Section 4(c) agreement shall be based on objective criteria.

4. The significance of reasonably foreseeable environmental impacts shall be an essential factor in determining whether to conduct an ER for a section 4(c) agreement. The assessment of this factor shall include consideration of the following criteria:

a. The extent to which the agreement might affect environmentally sensitive media and resources and/or result in substantial changes in trade flows of products or services that could confer environmental harms or benefits;

b. The extent to which the agreement might affect U.S. environmental laws, regulations, policies, and/or international commitments;

c. The magnitude and scope of reasonably foreseeable environmental impacts; and

d. The magnitude of anticipated changes in trade flows.

5. In certain circumstances, additional factors, such as negotiation timetables and the availability of relevant data, analytical tools and expertise, may be considered in decisions regarding section 4(c) agreements.

6. The Order anticipates that most sectoral liberalization agreements will not require an ER because it is expected that they are unlikely to result in significant environmental impacts.

7. A decision not to conduct an ER for a Section 4(c) agreement will not relieve the Federal government of the obligation to consider environmental issues under the process of ongoing consultations, assessment and evaluation applicable to the negotiation of all trade agreements. As part of that process, USTR shall facilitate identification of any relevant environmental issues by providing opportunities for engaging the public, as well as through the early initiation of the Trade Policy Staff Committee (TPSC) process.[1]

8. The decision not to conduct an ER for a Section 4(c) agreement may be reassessed as appropriate.

III. Initiation of the Environmental Review Process

A. General Principles

1. The overarching goal of the ER process is to ensure that, through the consistent application of principles and procedures, environmental considerations are integrated into the development of U.S. trade negotiating objectives and positions. The process is intended to provide timely information

[1] The Trade Policy Staff Committee (TPSC), established under section 242 of the Trade Expansion Act of 1962, as amended, 19 U.S.C. section 1872, is the principal staff-level mechanism for interagency decisionmaking on U.S. trade policy. The current participants in the TPSC process with respect to the implementation of these Guidelines include all agencies with relevant environmental, economic and foreign policy expertise. *See* Appendix A.

that will enable trade policymakers and negotiators to understand the environmental implications of possible courses of action.

2. The goals of the ER process shall be achieved through a variety of formal and informal means, flexible enough to accommodate the different types of trade agreements and negotiating timetables. Early in the negotiating process, public views on the broad objectives of the proposed agreement shall be sought through informal public outreach and consultation. As more is known about the shape of the proposed agreement, the process shall become more formal and analytical, leading to the issuance of the written ER documents.

3. Pursuant to Section 5 of the Order, while an ER shall be undertaken sufficiently early in the negotiating process to inform the development of negotiating positions, it shall not be a condition for the timely tabling of specific negotiating positions.

B. Early Outreach and Consultations

1. When negotiation of the prospective trade agreement is first under consideration, USTR, through the TPSC, shall seek information regarding potential environmental concerns and benefits associated with the commercial practices and trade policies under consideration. This shall be accomplished through an ongoing, flexible process of consultation with Congress, the interested public, and advisory committees, and, in the normal case, **Federal Register** notice(s) requesting public comment on environmental issues and other issues concerning the negotiations. *See* Appendix B.

2. By virtue of their relevant expertise, TPSC agencies play an important role in the development of trade policies and objectives. Accordingly, throughout the ER process they shall provide analytical expertise and shall bring important environmental issues to the attention of the relevant TPSC subcommittee(s) in a timely manner.

3. The environmental information developed in this early stage shall inform the development of U.S. negotiating objectives and positions.

C. Initiating the Written Environmental Review

1. USTR, through the TPSC, shall initiate the formal written ER process with a notice in the **Federal Register** as soon as possible once sufficient information exists concerning the scope of the proposed trade agreement, allowing for the meaningful evaluation of its potential environmental ramifications. *See* Appendix B.

2. Environmental issues shall be analyzed by the relevant TPSC subcommittee(s) or, as appropriate, by a working group under the subcommittee(s). For purposes of these Guidelines, the term Environmental Review Group (ERG) refers to any TPSC group tasked with the environmental review of trade agreements under these Guidelines.

3. In order to expedite the initiation of the ER process for a particular trade agreement, it may be desirable to analyze discrete aspects of the proposed agreement as sufficient information becomes available. In all cases, the final ER document should address identified environmental issues in a comprehensive manner.

4. For some agreements that fall under Section 4(c) of the Executive Order, the need for an ER may not be identified until after specific negotiating positions have been established or are under development. In such cases, the ER process shall be initiated as soon as feasible thereafter.

IV. Determining the Scope of the Environmental Review

A. General Principles

1. The scoping process involves the identification of significant issues to be analyzed in depth in the written ER, along with the elimination from detailed study of those issues which are not significant or have been covered by prior reviews.

2. The early involvement of agencies with relevant expertise and the public in the scoping process helps assure that analysis is adequate and that issues are identified in a timely manner.

3. Scoping includes consideration of the environmental dimensions of the commercial practices and trade policies at issue, including ways in which the potential trade agreement can complement U.S. environmental objectives.

4. USTR, through the TPSC, shall request public comment on the scope of the ER through the **Federal Register** Notice of Intent to Initiate Environmental Review, and shall seek the views of interested advisory committees, including the Trade and Environment Policy Advisory Committee (TEPAC). *See* Section VI and Appendix B.

B. The Scoping Process

1. Overview

a. The scoping process for the ER has two principal components: (i) identification of issues; and (ii) selection and prioritization of issues for review. The first component focuses on soliciting input and determining the types of environmental impacts that could result from the proposed trade agreement. The second component focuses on selecting and prioritizing the significant issues that should be analyzed to determine the environmental consequences of the trade agreement, if any. The result of an effective scoping process is a targeted, analytical work plan.

b. Issue identification and prioritization is an iterative process. Negotiating positions are likely to undergo continual adjustment until the agreement is completed. The steps taken to establish the scope of the ER may, therefore, be revisited throughout the negotiations.

2. Identification of Issues

a. This step in the scoping process is meant to identify the range of possible environmental impacts (both positive and negative) associated with the trade agreement under consideration. However, not all issues identified will necessarily be analyzed in the ER. The second step in the scoping process, issue selection and prioritization (described below), will be used to select important issues warranting further analysis.

b. Solicitation of Information

(1) The scoping process shall draw upon the knowledge of any agency with relevant expertise in the subject matter under consideration, as well as the views of Congress, the public, and advisory committees.

(2) Where matters affecting state, local and tribal government regulatory authority may be at issue, USTR shall consult with the Intergovernmental Policy Advisory Committee (IGPAC) and other appropriate sources of information.

3. Information Relevant to Scoping

a. Three types of information shall be considered when determining the scope of the ER:

(1) the scope and objectives of the proposed trade agreement;

(2) a realistic range of alternative approaches for accomplishing the broad objectives of the trade agreement; and

(3) types of reasonably foreseeable environmental impacts.

b. Ascertaining the Scope of the Proposed Trade Agreement

(1) The scope of the ER is a function of the scope and objectives of the proposed trade agreement and the range of realistic approaches for achieving those objectives. Thus, there should be a close and interactive relationship

between the ERG and the TPSC subcommittee(s) responsible for the negotiation.

(2) The ERG shall maintain continuing awareness of U.S. negotiating goals as they evolve and ensure that the scope of the ER properly reflects emerging environmental issues.

c. Ascertaining Options for Analysis

(1) Scoping shall be used to assist in identifying possible alternative negotiating approaches and options for accomplishing the broad objectives of the trade agreement, including approaches for achieving environmental benefits. Options may also include consideration of methods for addressing positive and negative environmental impacts.

(2) The scoping process shall be used to gain an understanding of options or approaches reflecting a realistic range of possible negotiating outcomes. However, the options analyzed during the ER process shall not constrain trade negotiators from considering others.

d. Ascertaining Reasonably Foreseeable Environmental Impacts

(1) During the initial stages of scoping, a range of reasonably foreseeable environmental impacts (both positive and negative) should be considered for inclusion in the ER. *See* Appendix C. Later, as scoping progresses, some of the identified impacts may be eliminated from consideration through the process of prioritization and analysis described below.

(2) Domestic impacts are necessarily the primary concern and priority for an ER conducted under the Executive Order and these Guidelines. However, the scoping process shall also consider, pursuant to Section IV.B.5, whether it is appropriate and prudent to examine global and transboundary impacts.

(3) Consistent with existing legal requirements, the ERG may consult with academic, federal, state or local entities, and/or other interested groups that have relevant experience with economic and environmental analyses and modeling techniques.

4. Selection and Prioritization of Issues and Considerations for Establishing Scope

a. Once environmental issues have been sufficiently identified, the ERG shall select and prioritize the issues and establish the scope of the ER.

b. Considerations for establishing ER scope include:

(1) the perceived significance of potential environmental impacts;

(2) the relative importance placed on a particular issue by governmental agencies, the public, and/or advisory committees;

(3) availability of analytical tools capable of assessing environmental impacts at an adequate level of detail;

(4) existence of opportunities for building on, or incorporating by reference, work already performed or being performed elsewhere in the interagency process, so that the ER is not duplicative of other efforts.

5. Special Considerations for the Scoping of Global and Transboundary Impacts

(1) The scoping process for every ER shall be used to identify whether reasonably foreseeable global and transboundary impacts might be associated with the proposed trade agreement.

(2) Evaluation of whether it is appropriate and prudent to analyze global and transboundary impacts in the ER shall include consideration of the following:

(a) scope and magnitude of reasonably foreseeable global and transboundary impacts;

(b) implications for U.S. interests, including international commitments and programs for international cooperation;

(c) availability of relevant data and analytic tools for addressing impacts outside the United States, including reviews performed by other countries involved in negotiations or by regional or international organizations; and

(d) diplomatic considerations.

C. Outcome of the Scoping Process

1. Once the scoping process has identified and prioritized significant issues that warrant further analysis, the ERG shall plan how to proceed, taking into account that the analysis should be proportionate to the significance of anticipated impacts. Where initial steps in the ER process indicate that environmental impacts are likely to be *de minimis,* it will normally be appropriate to abbreviate the analysis.

V. Analytical Content of the Review

A. General Principles

1. Since trade agreements exhibit broad variation, it is likely that each ER will incorporate uniquely tailored analytical approaches. A different mix of analytical methodologies may be needed for different types of trade agreements.

2. The analysis shall entail an objective, rigorous assessment of the environmental issues under consideration, and shall be based on scientific information and principles, documented experience and objective data. Analysis shall normally be both qualitative and quantitative. The analytical process should take into consideration assumptions and/or uncertainty in the data and methodologies and document limitations due to those assumptions or uncertainties.

3. Agencies shall use best efforts to identify sources of data and analytical methodologies available within and outside of the U.S. government, which would then provide a foundation for subsequent specific environmental reviews. A list of such sources shall be created and made available to the public. The list may be updated over time, including on the basis of public comments.

B. Analysis of Implications for Environmental Laws and Regulations

1. The ER shall examine the extent to which the proposed trade agreement may have implications for U.S. environmental regulations, statutes and other obligations and instruments. The ER should also analyze, as appropriate, any implications that the agreement may have regarding the ability of state, local, and tribal authorities to regulate with respect to environmental matters.

2. Examples of possible regulatory implications include impacts on the ability to maintain, strengthen and enforce laws, regulations and policies on pollution control; control of toxic and hazardous wastes and materials; protection of natural resources, wildlife and endangered species; relevant product standards; control and regulation of pesticides; food safety; and the public's ability to obtain information regarding the environment.

C. Analysis of Economically Driven Environmental Impacts

1. The ER shall examine the extent to which positive and negative environmental impacts may flow from economic changes estimated to result from the trade agreement. *See* Appendix C.

2. Application of modeling techniques may provide a useful approach for estimating such environmental impacts. However, modeling and other economic analytical techniques, in and of themselves, are unlikely to provide an exclusive means for assessing areas of environmental concern. For example, prevailing tools for assessing the economic effect of comprehensive trade agreements rely on aggregation of resource sectors to estimate broad trends, while estimates of environmental impact generally benefit from a more local or regional analysis.

3. Environmental impacts shall be analyzed in comparison to a base or baseline scenario. A baseline comparison shall take into account those changes that are likely to occur in the economy and the environment even in the absence of the proposed trade agreement.

D. Identifying Ways To Address Environmental Impacts

1. Key findings and supporting analysis of the ER shall be made widely available to trade negotiators of the proposed agreement, as well as to trade and environmental policymakers throughout the government.

2. Where significant regulatory and/or economically driven environmental impacts have been identified, there shall be an analysis of options to mitigate negative impacts and create or enhance positive impacts. Options may include changes to negotiating positions as well as environmental policy responses outside the trade agreement, such as seeking possible changes to relevant U.S. domestic and international environmental policies.

3. Where options that address identified impacts are described in the ER document, they may include options for post-agreement actions for agencies to consider, such as actions to assess the accuracy of the analysis.

VI. Public Participation

1. Provision for public participation in the review and assessment of environmental impacts of trade agreements is an essential component of these Guidelines, and is meant to ensure that the public and the government benefit from an open and inclusive process of trade policy development.

2. In addition to the public, advisory committees and Congress shall regularly be consulted.

3. Procedures for public participation should be flexible, not excessively burdensome, and responsive to needs for expedited action and confidentiality. The period for public comment shall normally be forty-five days, unless a shorter or longer period is appropriate.

4. Requests for public comment shall be far enough in advance of critical junctures in the negotiation so that, to the extent practicable, the public has a reasonable opportunity to prepare and submit comments to be taken into account during the ER process. Appendix B provides guidance on the types and content of public notification and participation.

5. Public hearings, notices in relevant publications, website postings, and other mechanisms shall be employed as appropriate and feasible. When the negotiating timetable permits, a public hearing or hearings shall normally be conducted.

6. Consistent with the United States' commitment to transparency and openness in the conduct of trade negotiations, sufficient information shall be provided to the public to facilitate understanding and involvement in a meaningful manner concerning U.S. negotiating objectives and the ER process. To the extent that such disclosure would impair the United States' ability to develop negotiating objectives or conduct negotiations, or would compromise proprietary or confidential information, issues shall be addressed, where appropriate, through the advisory committee system of cleared advisors.

VII. Documentation of the Environmental Review Process

A. General Principles

1. Documentation is important for memorializing the ER process and explaining the rationale for the conclusions reached. Documentation also provides opportunities for integrating environmental considerations into negotiating positions. To that end, the Draft ER document, along with public comments, shall serve as one key means of informing the negotiation process.

2. In addition to informing the public, Final ER documents should serve as points of reference for subsequent ERs so that lessons can be learned and information drawn from the effort.

3. In order to factor environmental considerations into the development of trade negotiations, relevant steps and work products in the ER process should be undertaken sufficiently early to be of benefit to U.S. trade negotiators in developing negotiating positions.

4. Confidentiality concerns shall be taken into account when developing the Draft and Final ER documents and preparing them for public release.

B. The Environmental Review Documents

1. Consistency in the ER process, to the extent feasible given the variations in trade agreements, should be reflected through a consistent documentation format and content. Appendix D provides information on the structure and content that shall normally be followed for Draft and Final ER documents.

2. All ER documents shall be written in plain language and shall provide the rationale for the scope of the review and the selected methodology. ER documents shall also include a summary of key points raised in public comments.

3. A Draft ER document shall normally be prepared and provided to the public for comment. However, in unusual circumstances, such as when a trade agreement is to be completed under a compressed negotiating schedule, it may not be possible to produce a Draft ER document. In such cases, the Final ER document shall be issued publicly as soon as is feasible following the conclusion of the trade agreement.

4. When environmental implications that are substantially different from those analyzed in the Draft ER document emerge in the course of negotiations, an amended ER document may be prepared and made available to the public, as USTR deems appropriate through the TPSC process.

VIII. Administrative Considerations

A. Roles and Responsibilities

1. CEQ and USTR shall jointly oversee the implementation of the Executive Order, including these Guidelines.

2. Regardless of whether a written ER is mandated, USTR shall initiate the TPSC process for examining environmental issues as early as feasible in the consideration of potential trade agreements. For those agreements falling within the 4(c) category, USTR, through the TPSC, shall also determine whether an agreement warrants an ER and as part of that decision identify the resources available to perform the ER. For those agreements subject to a mandatory ER, resources available to perform the review shall be identified at the time of initiation of the ER process.

3. The decision whether to proceed with an ER shall be reflected in the TPSC paper(s) initiating negotiations. These paper(s) shall include, as appropriate, discussion of the environmental issues identified at this early stage in the TPSC process, and recommendations on how they should be addressed. Where relevant, subsequent TPSC papers shall include information regarding the findings of ERs and other environmental assessments and evaluations undertaken.

4. USTR, through the TPSC, shall conduct the ER. Environmental issues shall be analyzed by the ERG. Membership in the ERG shall be open to all interested agencies, and shall include, at a minimum, those agencies with relevant expertise in economic and environmental assessment.

5. USTR shall consult with CEQ at the outset of each environmental review. CEQ and agencies with environmental

expertise shall play a prominent role in the conduct of the reviews. Environmental agencies shall be principally responsible for providing the expertise necessary to analyze impacts on environmental media and natural resources within their areas of specialization. Similarly, the expertise of economic agencies shall be drawn upon where appropriate, and they shall be primarily responsible for identifying the economic changes likely to flow from a proposed agreement.

6. Effective implementation of the Order and Guidelines depends upon the availability of adequate resources and the full engagement of all agencies with relevant expertise. USTR, CEQ, and all Federal agencies subject to the Order shall seek adequate resources to carry out their responsibilities under the Order. Budget requests through OMB in support of these Guidelines must be written within each agency's planning guidance level. Upon request from USTR, with the concurrence of the Deputy Director for Management of the Office of Management and Budget, Federal agencies shall, to the extent permitted by law and subject to the availability of appropriations, provide analytical and financial resources and support, including the detail of appropriate personnel to USTR to carry out these Guidelines.

B. Implementation and Oversight

1. CEQ and USTR shall jointly exercise general oversight of the implementation of these Guidelines including their periodic review and update as necessary. If USTR and CEQ conclude that revision is appropriate, the public shall be notified of the intent to revise and be provided with an opportunity to comment on significant revisions.

2. These Guidelines are intended only to improve the internal management of the executive branch and do not create any right, benefit, trust or responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers or any person.

Appendix A

Participants in the Trade Policy Staff Committee Process for Purposes of the Guidelines

Chair

Office of the U.S. Trade Representative

Statutory Members

U.S. Department of Agriculture
U.S. Department of Commerce
U.S. Department of Labor
U.S. Department of State
U.S. Department of the Treasury

Invited Members

Council of Economic Advisers
Council on Environmental Quality
National Economic Council/National Security Council
Office of Management and Budget
U.S. Agency for International Development
U.S. Department of Defense
U.S. Department of Energy
U.S. Department of Health and Human Services/Food and Drug Administration
U.S. Department of the Interior
U.S. Department of Justice
U.S. Department of Transportation
U.S. Environmental Protection Agency

Advisory Member

U.S. International Trade Commission

Appendix B

Public Notification and Participation Considerations

This appendix provides details on the format for particular elements of public participation described in the Guidelines. The time between key steps in the trade negotiation process will vary depending on the type and scope of the proposed agreement as well as the dynamics of the negotiation. For that reason, the precise number and timing of **Federal Register** notices and other mechanisms for public participation cannot be prescribed with specificity, and notices may be combined with **Federal Register** notices issued for other purposes (such as requests for comment on broader issues in the negotiations). **Federal Register** notices shall normally be posted on USTR's internet website.

I. Minimum Requirements for Public Participation in Environmental Review Process

A. At a minimum, the public shall be involved at the following stages of the Environmental Review Process:

1. Notice of Intent to Conduct Environmental Review
2. Notice of Intent to Initiate Environmental Review and Request for Comments on the Scope of Environmental Review
3. Notice of Availability of the Draft Environmental Review document and Request for Comments (in the normal case where a draft ER document is prepared for public comment)
4. Notice of Availability of the Final Environmental Review document

B. USTR shall also normally seek public views on environmental issues through regular consultations with Congress, advisory committees and the interested public.

II. Guidance for Particular Public Notifications

A. Notice of Intent to Conduct Environmental Review

1. USTR shall notify the public of a decision to conduct an Environmental Review of the agreement.

B. Notice of Intent to Initiate Environmental Review and Request for Comments on Scope of Environmental Review

1. The notice and request shall normally provide information on the following subjects:

a. key U.S. negotiating objectives,

b. the elements and topics expected to be under consideration for coverage by the proposed agreement,

c. the countries expected to participate in the agreement,

d. the sectors of the U.S. economy likely to be affected (if known),

e. environmental issues already identified through the TPSC process and/or public input as potentially significant.

2. It may also be appropriate to request additional comments on the scope of the environmental review as new information emerges and/or negotiating objectives shift.

C. Notice of Availability of Draft Environmental Review Document and Request for Comments

1. In the normal circumstance, where a Draft ER document is prepared for public distribution, the Draft ER document shall be made available to the public through publication of a notice of availability in the **Federal Register** and posting on the USTR website. Comments from the public will be requested.

D. Notice of Availability of Final Environmental Review Document

1. The Final ER document shall be made available to the public through publication of a notice of availability in the **Federal Register** and posting on the USTR website.

E. Availability of Public Comments

1. Public comments on environmental issues relating to the particular trade agreement and the Draft ER shall be available for public review in the USTR reading room, located at 600 17th Street NW., Washington, DC 20508.

F. Revision of Guidelines

1. USTR and CEQ, in consultation with interested agencies, may on occasion find it appropriate to revise and/or update these Guidelines. When USTR and CEQ are considering a significant revision of the Guidelines, the public shall be notified of the intent to revise and given an opportunity to comment on any significant revisions.

Appendix C

Types of Potential Environmental Impacts for Consideration

This appendix provides a list that may be useful for identifying the range of reasonably foreseeable environmental impacts arising from a proposed trade agreement. This list is illustrative and is intended to provide a general frame of reference for assisting in establishing the scope of the ER. The scope of any review must be determined on a case-by-case basis and all reasonably foreseeable environmental effects—both positive and negative—should be considered during scoping for the environmental review regardless of whether they are included on this list.

Scoping with respect to economic effects typically will be conducted through an iterative exchange between those responsible for economic analysis and those with expertise in various areas of environmental concern. Similarly, with respect to the potential effects of proposed trade disciplines on environmental laws and regulations, the scoping will typically involve an iterative exchange between those expert in the development, implementation, and interpretation of trade texts and those expert in various fields of environmental knowledge.

I. Regulatory Effects

A. Potential positive and negative implications of the proposed trade agreement for U.S. environmental regulations, statutes, and binding obligations such as multilateral environmental agreements, as well as potential implications for the ability of state, local and tribal authorities to regulate with respect to environmental matters.

B. Potential positive and negative implications of the proposed trade agreement for environmental policy instruments and other environmental commitments.

II. Economic Effects (Compared to a Base or Projected Baseline)

A. Products, processes, or sectors that may be positively or negatively affected by the proposed trade agreement, including the effects of increases or decreases in the diffusion of environmental products and technologies.

B. Changes in types or characteristics of goods and services and their distribution.

C. Changes in volume, pattern, and modes of transportation (*e.g.,* increased or decreased potential for spread of invasive species, or increased or decreased pollution impacts of transportation equipment and infrastructure).

D. Structural changes (*e.g.,* increased or decreased efficiency in natural resource use)

E. Technology effects involving changes in the process of production, including increased or decreased use of environmentally responsible technology.

III. Environmental Effects (Related to Economic Effects Identified Above)

A. Changes in level, intensity, geographic distribution and temporal scope of variables used to measure the affected environment in comparison with base values (using either base year or baseline trend as appropriate).

B. Interaction of trade-related impacts with other impacts on the relevant media or resources.

C. Environmental effects resulting from changes of standards that stem from economic effects.

IV. Increased or Decreased Impacts on Environmental Media and Resources

A. Air quality and atmosphere (including climate, ozone).

B. Fresh water quality and resources (including both surface and ground), soil retention and quality.

C. Protected or environmentally sensitive terrestrial and marine areas (*e.g.,* national parks, national wildlife refuges, wetlands, marine sanctuaries).

D. Endangered species and other species identified as significant under law (*e.g.,* certain marine mammals, migratory birds).

E. Marine, aquatic and terrestrial biodiversity, including species, genetic variety and ecosystems and the potential for invasive species to compromise such biodiversity; also ecosystem productivity and integrity, living resources and ecosystem services.

F. Environmental quality related to human health, including changes in environmental exposure to toxic substances (*e.g.,* increases or decreases in exposure to pesticide residues on food).

G. Transboundary and global impacts may include those on:

1. Places not subject to national jurisdiction or subject to shared jurisdiction, such as Antarctica, the atmosphere (including ozone and climate change features), outer space, and the high seas;
2. Migratory species, including straddling and highly migratory fish stocks and migratory mammals;
3. Impacts relating to environmental issues identified by the international community as having a global dimension and warranting a global response;
4. Transboundary impacts involving the boundaries of the United States;
5. Environmental resources and issues otherwise of concern to the United States.

Appendix D

Structure and Content of Environmental Review Documents

This appendix provides details on the structure and content of the Draft and Final environmental review documents. In certain circumstances (*e.g.,* where confidentiality is appropriate, or where there is a compressed negotiation timetable), it may be necessary to adopt a modified documentation format. However, each ER document shall normally contain the following sections:

(1) Summary
(2) Table of Contents
(3) Objectives of the Proposed Trade Agreement
(4) Scope of Review
(5) Analysis
(6) Findings and Conclusions
(7) Appendices

I. Guidance for Particular ER Document Sections

A. The *Objectives* section of the ER document should present an overview of the goals and negotiating history of the particular trade agreement under consideration. This section may highlight the perceived benefits of the agreement and related objectives for pursuing it.

B. The *Scope of Review* section should describe the principal potential environmental impacts and/or regulatory issues or types of laws and regulations identified in the scoping process. This section should not be a compendium of all potential impacts, but only those considered sufficiently important to warrant consideration for including in the ER analysis. This section of the ER document should also provide a brief presentation of the rationale employed during the issue prioritization process and the criteria used for establishing the scope of the ER and eliminating issues deemed irrelevant.

C. The *Analysis* section of the document should describe the expected beneficial and adverse impacts of those negotiating options or approaches selected for review, which should be compared to a base or baseline scenario that estimates conditions that would exist in the absence of the proposed trade agreement. The described impacts should include both beneficial and adverse impacts. This section should summarize the analytical methodology used in determining the environmental impacts, including assumptions made and uncertainties in the data and methodology (a description of the methodology may more appropriately be provided in an appendix). This section should also describe proposed options (if any) for addressing potential negative impacts and/or for enhancing benefits of the proposed trade agreement.

D. The *Conclusions* section of the document should summarize the potential environmental impacts expected from the proposed trade agreement, and may present options for addressing those impacts. This section of the document may also include discussion of any post-agreement actions when responsible agencies determine that such actions are warranted or desirable.

E. The number and nature of *Appendices* for each ER document will vary according to the nature of the trade agreement under review. In general, the use of appendices is encouraged whenever inclusion of technical and/or supporting data would improve clarity and aid in the understanding of the review process. At a minimum, a summary of key issues identified by the public during the ER process should be included as an appendix of both the Draft and Final ER documents.

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