

UNITED STATES TRADE REPRESENTATIVE
AND
COUNCIL ON ENVIRONMENTAL QUALITY

Guidelines

for implementation of
Executive Order 13141

Environmental Review of Trade Agreements



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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

¹The 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.

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 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

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 US 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 US 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 N.W., Washington, D.C. 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.