

# CRS Report for Congress

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## Environment in Fast Track Trade Authority: Summary of the Clinton Administration Proposal

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### Summary

President Clinton has asked Congress for "fast track" authority for implementing future trade agreements; this authority would limit congressional debate and prevent amendments to implementing legislation. Delays in completing this proposal were attributed to difficulties in reconciling conflicting pressures over environment and labor concerns. The President's proposal contains references to environmental concerns, but various interests are likely to seek clarification on these points.

On October 1, 1997, the Senate Finance Committee marked up and approved its version of fast-track legislation. For a discussion of this and other trade legislation, see CRS Issue Brief 97016, *Trade Agreements: Renewing the Negotiating and Fast Track Implementing Authority*.<sup>1</sup>

On September 16, 1997, President Clinton submitted to Congress the proposed Export Expansion and Reciprocal Trade Agreements Act of 1997, legislation to renew the "fast track" authority for implementing future trade agreements. Fast track procedures provide for limited debate and no amendments to implementing legislation. There are expectations that the United States will soon begin negotiating expansion of free trade with Chile and other countries in the Western Hemisphere.

Delays in completing this proposal had been attributed to the difficulties Administration officials had in reconciling the conflicting pressures for and against

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<sup>1</sup> The Senate Finance Committee bill includes mention of environmental matters under three of the principal trade negotiating objectives: trade in services, foreign investment, and regulatory competition. In addition, the bill includes international economic policy objectives to reinforce the trade negotiations process. On environment, the bill states that, "it is the policy of the United States to reinforce the trade agreements process by ... expanding the production of goods and trade in goods and services to ensure the optimal use of the world's resources, while seeking to protect and preserve the environment and to enhance the international means for doing so."

including environment and labor concerns in the fast track bill. The proposal sent to Congress attempts to win support from both sides by adopting somewhat of a compromise on environment and labor. While if adopted, these provisions would be the first direct references to environment in overall negotiating authority in a fast track law, they are also somewhat conditional and may require additional clarification of their intent and effect. The specific references to environment or environment-related issues in the proposal are as follows:

"Trade Negotiating Objectives" (Section 2) include three direct references to environment:

- Section 2 (a), Overall Trade Negotiating Objectives, includes subsection (5): "to address those aspects of foreign government policies and practices regarding labor, the environment, and other matters that are directly related to trade and decrease market opportunities for United States exports or distort U.S. trade."

This language seems intended to reassure those who express concern that general environmental objectives will intrude into and complicate trade negotiations and agreements, even when they are not directly related to trade. It also appears to be directed toward those concerned that legitimate environmental concerns will be left out of such negotiations. However, the term "directly related to trade" would appear to most participants and observers in trade matters to require additional negotiation among Members of Congress to get clarity on what would and would not be included in this terminology if this proposal is introduced. It is expected that considerable debate will occur over how to clarify this language.

- Section 2 (b), Principal Trade Negotiating Objectives, includes subsection (7), "Worker Rights and Environmental Protection," which states "The principal negotiating objectives of the United States regarding worker rights and protection of the environment are, through the World Trade Organization, ... (D) to promote sustainable development; and (E) to seek to ensure that trade and environmental protection are mutually supportive, including through further clarification of the relationship between them."

Environmental groups have expressed concern that this language appears to relegate these objectives to the WTO, and perhaps by inference, to exclude them from upcoming regional and bilateral agreements. This is not regarded by these groups as an acceptable approach, because they feel that the WTO has achieved little on environmental issues to date.

- Section 2(c), Guidance for Negotiators, states in subsection (1) "In pursuing the negotiating objectives described in subsection (b), the United States negotiators shall take into account United States domestic objectives including, but not limited to, the protection of health or safety, essential security, environmental, consumer or employment opportunity interests and the law and regulations related thereto."

This language relates to the objective of protecting U.S. environmental laws and levels of protection during trade negotiations and parallels language on services and

foreign investment included in the Omnibus Trade and Competitiveness Act of 1988 (P.L. 100-418, Title 1), the last major authority for fast-track procedures.

There are a number of other sections of potential interest in relation to environmental issues, including adding more obligations with regard to consultation with Congress; section 7(b), which, among other things, continues currently allowed public input on any matters relevant to a proposed trade agreement; and section 2(b)(5) on transparency, which includes increased public access to information on trade issues and increasing the openness of international dispute settlement procedures.

In materials prepared to accompany the fast track proposal to Congress, the Administration identified three major objectives: "(1) to break down unfair foreign trade barriers and create good American jobs; (2) to promote and advance worker rights; and (3) to promote responsible environmental protections. Throughout this process on fast track, our goal has been to ensure the President has the capacity to pursue all three objectives effectively." In addition, they note a commitment to conclude companion labor/environment agreements in future trade agreements where appropriate, and they note that Chile has already agreed to enter into such agreements.

Discussions in Congress are underway on legislation to accept parts or all of the Administration's proposed language or combine it with other approaches. On October 1, 1997, the Senate Finance Committee marked up and approved its own version of fast-track legislation. Several other legislative proposals have been introduced in Congress over the past year, some explicitly prohibiting setting or amending environmental standards in legislation implementing trade agreements under fast track authority. (For additional information on this subject, see CRS Report 97-876 E, *Fast-Track Authority: Debate Over the President's Proposal*, and CRS Report 97-886 E, *Fast-Track Trade Authority: Which Environmental Issues are "Directly Related to Trade"?*)