J5

CIFIUS

UNITED STATES GOVERNMENT

memorandum

DATE: October 7, 1981

REPLY TO ATTN OF: Bob Murphy

SUBJECT: U.S. Response to Canadian Energy and Investment Policy -- TPC October 7

TO: Murray Weidenbaum

As has become increasingly clear, Canadian energy and investment policies under the Foreign Investment Review Agency (FIRA) and the proposed National Energy Program (passage of implementing legislation virtually assured in Parliament) present a number of problems. Main USG concerns are with:

- o Performance requirements on imports/exports for foreign firms seeking to invest in Canada;
- o Review of mergers between non-Canadian companies which involve transfer of Canadian assets -- extraterritorial application of authority;
- o "Back-in" provisions which provide inadequate compensation for assets taken;
- o Discrimination between foreign and Canadian ownership in granting tax incentives and Federal land leases.

USG Response

The attached paper provides options for USG policy (Tab A1). Options are separated into those dealing with practices under FIRA and those concerning the proposed NEP. USTR recommends a course of action outlined at Tab A2. Contrary to the usual trade policy process, this recommendation does not have the endorsement of the TPSC -- it was, however, reviewed by the TPRG.

USG policy should seek to remedy violations of U.S. rights under agreed rules of international behavior. This is consistent with the trade policy statement of the Administration. USTR's recommendation, however, contains certain elements which CEA should oppose. In particular:

- o Movement toward a Section 301 case (essentially any practice "burdening U.S. commerce") should proceed only with a clear indication of possible measures for retaliation, as otherwise response under this action could easily escalate to very onerous trade restrictions;

- o Support for Interior's review of reciprocity under the Mineral Lands Leasing Act (as required by law) is fine, but is not a choice open for policy options. The review is mandated by law and is proceeding. Presenting this as a possible course of action in the event Canada does not delay or modify the NEP essentially prejudges Interior's review. All of this is, of course, in addition to the strong reasons against actually using the MLLA (see Tab A3).

CEA Suggested Response

The USG should take some action to remedy the violation by Canada of obligations under international trade agreements. CEA might in this context support:

-- GATT Article XXII consultations on the FIRA

-- Seek delay and modification of the NEP. If no delay is forthcoming, proceed to:

- Public discussion of Canadian policies
- GATT Article XXII consultations on the NEP
- Continue to raise the NEP in OECD fora
- Initiate consultations under dispute settlement mechanisms of subsidies and aircraft codes.

This would represent a careful, measured response targetted at the problems in question.

Final Note

Response must not signal a new direction in U.S. investment policy. It should also make clear USG concern is with methods and not with most of the Canadian objectives.

Attachments:
TPC Paper
Murphy memo of September 28

cc: BN, JJ, JB, MF, WD, ES, AW

TRADE POLICY COMMITTEE

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C. 20506

October 5, 1981

MEMORANDUM FOR MEMBERS OF THE TRADE POLICY COMMITTEE

FROM: WILLIAM E. BROCK
CHAIRMAN

SUBJECT: U.S. response to Canadian FIRA and NEP

The attached paper provides a list of options and specific actions available for use in response to Canadian investment and energy problems associated with FIRA and the NEP. This paper is a redraft of the one transmitted last week. It reflects changes made by the TPRG.

A series of bilateral consultations have been held with the Canadians. To date we have had little success in convincing Canadian Government officials to change the discriminatory provisions of the NEP or FIRA.

I would like the Trade Policy Committee to approve the recommended actions discussed in this paper.

Attachment

PROBLEM

Canadian investment and energy policies embodied in FIRA and the NEP present a number of problems. In general, these policies:

-- Are discriminatory;

-- Distort trade and investment flows;

-- Are contrary to Canada's international obligations; and

relevance? -- Set a bad example for the LDCs.

Specifically, our major concerns are:

-- The extent to which FIRA imposes import/export requirements on foreign firms seeking to invest in Canada;

-- Possible extension of FIRA to review existing foreign investment;

-- FIRA's review of the transfer of ownership of Canadian subsidiaries resulting from external mergers between non-Canadian parent companies;

-- Inadequate (less than 1 percent) compensation for the 25 percent share in all leases on federal lands which energy firms must arrogate to the crown (25 percent "back-in" provision);

-- Establishment of the CIRB to carry out the procurement provisions of the NEP; and

-- Establishment of the Petroleum Incentives Program (PIP) which replaces the depletion allowance with a system of grants based on the degree of Canadian ownership and control.

FIRA has been in place since the early 1970's and legislation to expand FIRA's authority appears not to be on the front burner at this time. Implementing legislation for the NEP, however, will be considered in mid-October when Bill C-48 will be considered in its final form and the Energy Security Act will be introduced.

The USG must decide upon an appropriate response to these policies.

Objectives

1. Reduce the damage to U.S. economic interests resulting from the NEP and FIRA by seeking: elimination of the CIRB, elimination of FIRA-mandated performance requirements, adequate compensation for the 25 percent "back-in" provision and elimination of the discriminatory grants scheme contained in the PIP.

2. Prevent policies such as those now employed in energy from spreading to other sectors.

3. Signal U.S. intention to Canada and other countries that the U.S. will not sit idly by if countries are initiating or continueing policies which discriminate against U.S. trade or place undue restrictions on U.S. investment.

4. Make clear that our problems are with the methods being employed to implement FIRA and the NEP and not with most of the objectives of FIRA and the NEP.

Key Distinction

5. Keep control of the issue, i.e., demonstrate to the Congress that the Administration is acting on the problem in a responsible way.

6. Minimize any possible harmful effects our response might have on other U.S. economic and international interests

Very Important *7. Avoid signaling a new direction in U.S. investment policy.

OPTIONS

TAB A1

A. FIRA

1. Seek GATT Article XXII consultations and continue preparation of information for possible Section 301 options. Await results of NEP legislation before taking any further action.

2. Do nothing.

B. NEP

1. Do nothing.

2. Seek a commitment from Canada to delay implementation of the NEP while we consult. If unable to obtain such a commitment or if consultations do not yield substantive results proceed to option 3.

3. Depending on the outcome of the consultations, take some or all of the following actions against Canada:

-- Objective public discussion of Canadian policies;

-- GATT Article XXII consultations on the NEP;

-- continue to raise the NEP in the OECD;

-- initiate consultations under the subsidies code on Canadian duty remission programs;

-- invoke dispute settlement provisions of the aircraft code regarding discriminatory Canadian taxation of repairs;

-- review proposed changes in Defense Production Sharing Agreements (DPSA) standstill on adding new items to the Auto Pact and on liberalizing U.S. procurement restrictions under the Surface Transportation Assistance Act;

-- continue developing 301 case with an eye to stronger responses to discriminatory Canadian policies (to be developed prior to initiating a case); and

-- expedition of Interior's review of Canada's status under the MLLA.

See BACKGROUND for more detailed discussion of these options.

RECOMMENDATION

FIRA

Request GATT Article XXII consultations. In addition, continue working on gathering information for a 301 action

NEP

Seek a commitment from Canada to delay implementation of the NEP while we consult. If unable to obtain such a commitment or if consultations do not yield substantive results proceed to take action against Canada as outlined in Option 3 above.

BACKGROUND

Because FIRA is well established there is no reason to delay seeking Article XXII Consultations and preliminary 301 information gathering. These are mild preliminary steps which leave the door open for other measures. However, seeking a delay in the implementation of the NEP may allow us to soften provisions of the CIRB, the 25 percent back-in provision and the PIP. If, as is quite possible, Canada refuses to delay or the consultations do not lead to substantive changes most of the actions specified in Option 3 can be undertaken quickly.

Further elements

1. If NEP discussions fail, the USG owes it to the private sector to inform it of the trend in discriminatory Canadian policies on energy and investment.

2. Also, these options mainly reflect the administration's intent to be less than fully cooperative on Canada's trade goals (Autos, DPSA, etc.).

Possible Actions Against Canada

Public Discussion to U.S. Private Sector

1. Public Warnings by USG Officials on Trends of Energy and Investment Policies in Canada.

-- This program would not begin until it appears that Canada has rejected our call for a delay in the NEP.

It is incumbent on us to inform the private sector on the current attitude of the Canadian Government toward foreign direct investment. This should be done by high-level USG officials in a dispassionate and objective manner. While these public discussions would address the current investment effects of the NEP and FIRA, they would also focus on the potential expansion of both programs. These discussions should relate to specific problems the U.S. industry has encountered in investing in Canada.

Finally, we should point out the folly of Canada's actions and the need for U.S. citizens to understand that certain of the retaliatory actions would have a similar type negative impact on the U.S. economy. Our intention is not to make the same mistake Canada is making.

In these public discussions we should make clear that we are willing to accept most Canadian objectives and believe that ways can be found to achieve these objectives without doing major damage to U.S. and Canadian long-range mutual goals.

These statements could have very strong repercussions on the Canadian stock markets and international money markets. Therefore it is necessary to speak with one voice using an interagency agreed upon set of talking points. Careful use of this option should make it one of the most effective options we have.

International Fora

2. Article XXII Consultations

-- Time frame for Article XXII consultations is flexible.

We should request formal consultations with Canada under Article XXII:1 of the GATT concerning trade distorting effects of FIRA's performance requirements as a violation of Article III.4 or Article III.5 of the GATT. Article III.4 provides for national treatment of imported products. Article III.5 of the GATT prohibits any contracting party from establishing or maintaining any regulation which requires, directly or indirectly, that any specified amount or proportion of the product which is the subject of the regulation must be supplied from domestic sources.

Article XXII is a purely consultative mechanism. Our intention is to try to build pressure on Canada by including the EC and Japan in the consultation process. By requesting formal consultations, the U.S. would put Canada on notice that we are serious about the problem and implies that we could invoke the more significant dispute settlement procedures under Article XXIII of the GATT. If Article XXII consultations are unsuccessful, we could then move to the dispute settlement provisions of GATT Article XXIII.

3. OECD

-- The timing is determined by the meeting dates.

The U.S. should continue to pursue in the OECD its case against the discriminatory Canadian investment policies. The OECD investment instruments contain provisions for formal consultations.

Our argument in the OECD is based on the national treatment principle. Canada joined the original consensus supporting the 1976 Declaration and the related Decision on National Treatment, but made "interpretive statements" at the time which they regard as reservations. Though the instruments are not binding, they were undertaken with the understanding that they constituted a commitment by the OECD governments to the principles embodied therein.

We may not be able to take this issue very much further in the OECD, given the nonbinding nature of the instruments. We do not expect that the OECD efforts will in themselves cause the Canadians to modify the NEP. The discussions do serve the purpose of officially disapproving the Canadian policies.

4. Duty Remission and Aircraft Code

We should request notification of Canada's various duty remission programs as subsidies under the provisions of Article 7:1 of the Subsidies Code and request consultations under Article 12:3 of the Code. These programs are designed to reduce imports and to foster exports for certian industries. The USG has periodically expressed concern over these programs, but in the absence of a formal complaint by a U.S. firm no action has been taken.

At the same time, we should initiate dispute settlement procedures under Article 8 of the MTN Code on Trade in Civil Aircraft. We believe that Canada is violating its commitments by charging a tax only on parts used in aircraft repair in Canada, whereas it taxes parts and labor -- on total repair -- for work done outside of Canada. Consultations have failed to resolve the issue.

Although neither of the above actions are energy-related, they would highlight our intention to put pressure on Canada to live up to its international obligations as well as our intention to pursue U.S. rights.

Standstill in Other Trade-Related Negotiations

-- This would be initiated immediately.

5. The following actions would send a clear signal to Canada that we are not operating under the rubric of business as usual. They are not negative retaliatory actions that would rescind something already given. Together they comprise a statement that there is a price for Canada to pay for its protectionist policies.

a. Surface Transportation Assistance Act (STAA) Procurement Discussions

Inform the Canadians that we are unwilling to continue discussions with them on the possible liberalization of "Buy American" rules affecting purchases of urban mass transit equipment under the STAA.

Canada, as a competitive producer and significant U.S. supplier of urban mass transit equipment, has expressed interest in obtaining a waiver from the STAA "Buy American" provisions. Over the last 18 months, the U.S. has consistently told Canada that we see little opportunity for reciprocity in the transportation sector and have suggested broadening the scope of our discussions to include the telecommunications and heavy electrical sectors. (In any event, it appears unlikely that Canada will be able to propose an acceptable package.)

b. Standstill on DPSA

We should recommend to the Department of Defense that before modifying its procurement procedures in ways that would benefit Canadian suppliers of U.S. defense equipment it should conduct an interagency review on the trade aspects of the present and proposed program.

Under the Defense Production Sharing Arrangement, Canada and the United States largely have removed barriers to reciprocal defense procurement.

There are still unresolved questions on which country is the main beneficiary of this program.

c. Automotive Products Trade Act

We should inform the Canadians that we are postponing action on the assignment of duty-free status to certain Original Motor Vehicles Equipment imported from Canada (webbing, leather tool cases, trim and molding).

Precise trade data is not available for the products but estimates of potential trade coverage provided by the petitioners suggest a total trade volume of as much as $18,000,000 per year.

Other

6. 301 Investigation of NEP and FIRA

-- A determination on initiation of the investigation can be made by the end of the year. The investigation and announcement of retaliation could take an additional two - twelve months.

The TPSC 301 Committee will continue developing its determination as to merits of a Section 301 investigation regarding the trade and investment effects of the NEP and FIRA. This action could be taken concurrently with formal GATT proceedings under Articles XXII and XXIII. Specifically, the 301 Committee would address the Canadian Government's practice under FIRA of concluding legally binding agreements with U.S. companies which provide, as a condition to allowing investment, that the companies source some portion of production materials in Canada and/or establish specific export commitments. The Committee would also address the provision of the NEP that requires that Canadian suppliers of goods and services be provided a "full and fair but competitive" opportunity to share in procurement related to oil and gas exploration and development

The 301 Committee would also address the discriminatory treatment of and the burden to U.S. commerce created by the provisions associated with U.S. firms investing in Canada under the NEP (e.g., the PIP grants based on Canadian ownership rates and the 25 percent back-in) and FIRA (e.g., mergers between U.S.

companies resulting from review of takeovers of Canadian affiliates and possible expansion of FIRA's mandate to review existing foreign investment in Canada). Before the Section 301 investigation is started, the 301 Committee should have recommendations regarding appropriate responses which the U.S. is prepared to implement at the completion of the investigation.

7. Mineral Lands Leasing Act

-- Action on this option can start immediately. A final decision by the Department of the Interior could not be made before early November.

Section 1 of the Mineral Lands Leasing Act of 1920 (MLLA) prohibits investment in federal mineral leases by citizens and corporations of countries which do not accord American citizens similar or like rights.

The TPSC recommends that the Department of Interior expedite the review process. The final determination by the Department of Interior should recognize that the USG views as discriminatory certain aspects of FIRA and the NEP even if it is decided that use of the MLLA is not relevant to this discrimination.

8. Moratorium

-- No action at this time.

There are several bills being considered on the Hill which, if enacted, would place a moratorium on foreign investment in the U.S. This type of retaliation would do as much or more damage to the U.S. as it would to Canada.

The Administration seeks increased capital for investment and welcomes foreign direct investment. By placing a moratorium on new investment even for a short period of time, we would be sending the wrong signal to all potential foreign investors. The confusion which would result would have at least a temporary negative impact on investment in the U.S. at the same time our economic programs have been designed to increase investment. The CCEA will be reviewing possible changes in CFIUS that would impact on Canadian investment in the U.S. We should urge the CCEA to move with all deliberate speed and report to the TPC any action it proposes to take which would relate to this program.

UNITED STATES GOVERNMENT

memorandum

DATE: September 28, 1981

REPLY TO ATTN OF: Bob Murphy

SUBJECT: USG Response to Canadian Energy and Investment Policies -- TPC, October ~~1~~ 7 -- Preview Memo

TO: Murray Weidenbaum

Oct. 7 4:00PM Roosevelt Room

A TPC is scheduled for ~~October 1 at 3:00 p.m. in Room 308 OEOB~~. The only item on the agenda, thus far, is USG response to Canadian energy and investment policies. A staff paper (attached) has been prepared that presents a set of possible actions and provides relevant background material. / Revised Version Attached To Cover Memo

Issues

The main point at issue is Canada's desire and right to pursue a domestic objective versus Canada's international commitments to open trade and investment flows. The overall aim of present and proposed Canadian policies is to promote Canadianization of Canada's energy industry -- at least 50 percent Canadian ownership -- by 1990. USG policy is not intended to alter this goal. Contrary to rhetoric from Canadian government officials, the USG, while possibly disagreeing with aspects of this goal, is not trying to dictate domestic policy objectives to the GOC.

What concerns the USG are the methods employed to attain Canadianization. Many of the present and proposed policies are contrary to international agreements in the GATT and OECD, and are probably in violation of U.S. trade law.

Canadian Practices

The policies and practices that have raised USG and U.S. energy industry objection arise out of the Foreign Investment Review Agency (FIRA) (a screening device for investment in Canada) and the Canadian National Energy Program (NEP) (part of which has been implemented, remainder is pending in Parliament with passage likely).

Practices under FIRA and NEP:

- Performance requirements that force companies investing in Canada to make commitments with regard to purchasing inputs from Canadian firms, employing Canadians, exporting products;

- o Review of mergers between non-Canadian companies which involve transfer of Canadian assets -- extra-territorial application of authority;

- o Discrimination between foreign and Canadian ownership in tax policy and land leasing;

- o Retroactive "back-in" provisions which essentially will allow the GOC to confiscate 25 percent of revenue from oil production, making only a token ex gratia payment in exchange.

Recommendation

The paper provides three options for U.S. policy:

Option 1 proposes that the USG confront the GOC on these issues asking for substantial modification of existing practices and a delay in implementing the NEP.

Option 2 seeks a compromise over the more onerous provisions of the FIRA and the NEP.

Option 3 accepts the status quo and completion of the NEP on the condition that the FIRA and the NEP not be expanded in scope.

CEA should support options 1 and/or 2. In either case, a program of response should be drawn up to use as a bargaining tool. This program of response would be implemented if the GOC did not make progress on meeting U.S. objections to the FIRA and the NEP. Option 3 represents USG acceptance of Canadian practices which are in violation of international agreements and hence, contradicts stated USG policy of upholding agreed rules of international behavior.

A program of response should signal the GOC that the USG will not tolerate practices which run counter to the letter and spirit of international agreements. Guidelines for a USG response are presented on page 2 of the attached paper. Perhaps most important is the requirement that a USG response should not represent (or be perceived to represent) a shift in direction from the Administration's policy of liberalizing trade and capital movements.

I suggest outlining the following response:

- o Jawboning - both privately and publicly - while taking care to make the distinction between criticizing Canadian objectives and Canadian

practices. Avoid perception of "paternalistic USG" which could spur Canadian nationalism even further. (Responses 1 and 2 in attached paper);

- o Consultations under the dispute settlement process of GATT Article XXII concerning trade aspects, and continue U.S. case against discriminatory Canadian investment policies within the OECD. The basis of U.S. argument would be that Canada is not living up to its commitments as expressed in the GATT and the 1976 OECD Declaration on National Treatment (Responses 3, 4, and 5);

- o Standstill on trade issues of significance to Canada; (Response 6);

- o Oppose any moratorium or restrictions on foreign investment in the U.S. (Response 10).

If employed, these actions would represent a controlled, measured response targeted specifically at Canada. They can also easily be modified if and when the GOC changes its practices.

Responses to Avoid

Two responses that should not be pursued at this time are initiation (as opposed to development) of a Section 301 case and retaliation under the Mineral Lands Leasing Act.

Section 301 of the 1974 Trade Act permits the President to retaliate with trade measures when foreign practices "burden U.S. Commerce." Before initiating a Section 301 case, possible retaliatory measures should be specified. Starting down this road without clear knowledge of what to do if (very likely) a positive finding results is poor policy. To keep this response open, the issue could be remanded to the staff level for interagency study.

Tab A3

The Department of Interior is required by law to proceed with a review of Canadian reciprocity under the Mineral Lands Leasing Act (MLLA). If Canada is found non-reciprocal then Interior may proceed to "mirror" the Canadian practice by allowing Canadian investment in U.S. leases on the same scale as that afforded U.S. investment in Canadian leases. Proponents of taking this action argue that the effect is largely symbolic, since only a small percentage of Canadian investments are covered and proper design of the "mirror" will further decrease economic impact. Hence, they argue, it is a "good" option. Because little pain would actually be inflicted on Canada, though, the tool will appear much stronger than it really is and would probably only serve to fuel Canadian nationalism. A perfect propaganda weapon for Trudeau!

Since Interior is obligated under the law, the review of reciprocity must proceed. I have been told by contacts at Interior that it may be possible to define reciprocity so as to find no violation on the part of Canada. Thus, no retaliation would be required. To permit Interior to carry through to this conclusion, though, efforts to define criteria for reciprocity and retaliation must be resisted.

You should support Interior's review as required by law, but oppose efforts to narrowly define the criteria for reciprocity and retaliation.

Final Note

Other background materials will be added to a briefing memo on this issue later in the week.

cc: ES, JB, JJ, BN , AW

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

MEMORANDUM FOR THE MEMBERS OF THE CABINET COUNCIL ON ECONOMIC AFFAIRS WORKING GROUP ON INTERNATIONAL INVESTMENT POLICY

FROM: Marc E. Leland

SUBJECT: Meeting of the CCEA Working Group

I would like to schedule a meeting of the Working Group on International Investment Policy for 10:00 a.m. on Wednesday, November 25, to review the status of the inter-agency effort to study the possible implications of the French nationalization program for U.S. interests. A paper on the French nationalization program will be distributed prior to the meeting. The meeting will be held in Room 4125, Main Treasury building.

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL OF ECONOMIC ADVISERS

DATE: 11/27

TO: Jerry Jordan

FROM: Bob Murphy

RE: CFIUS Meeting November 30

A meeting has been scheduled for Monday, November 30, at 11:00 a.m. in Room 4121 of Treasury to discuss the proposed Kuwait Petroleum-Santa Fe merger.

Defense is expected to provide their analysis of the technology transfer issue. As I reported on last Monday's meeting, a recommendation to the CCEA on this merger will be made following Defense's report. I expect that, barring new conerns raised by Defense, the recommendation will be to not oppose the merger.

I will plan to attend the meeting. Let me know whether you plan to attend.

I do not

11/30/81 Mtg cancelled
B Mc notified

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

NOV 25 1981

MEMORANDUM FOR THE COMMITTEE ON FOREIGN INVESTMENT IN THE UNITED STATES

FROM: Marc E. Leland

SUBJECT: Meeting of the Committee on Foreign Investment in the United States

There will be a meeting of the Committee on Foreign Investment in the United States (CFIUS) on Monday, November 30, at 11:00 a.m. in Room 4121 of the Treasury Department. The Committee will discuss the proposed investment between Kuwait Petroleum Corporation and Santa Fe International Corporation.

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL OF ECONOMIC ADVISERS

DATE: 1/18

TO: Jerry Jordan

FROM: Bob Murphy

Meetings of the CFIUS and the CCEA Working Group on International Investment Policy have been scheduled for 2:00 p.m. January 20. I attach the materials sent over from Treasury concerning these meetings. No paper was provided for the CFIUS meeting.

Let me know if you plan to attend. If not I probably can.

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

JAN 15 1982

MEMORANDUM FOR THE COMMITTEE ON FOREIGN INVESTMENT IN THE UNITED STATES

FROM: Marc E. ~~Leland~~

SUBJECT: Meeting of the CFIUS

On Wednesday, January 20, there will be a meeting of the CFIUS from 2:00-3:00 p.m. in Room 4426, Main Treasury.

At this meeting I would like to discuss the status of the CFIUS reviews of COGEMA-Pathfinder, and KPC-AZL; and possible CFIUS action on the Societe Nationale Industrielle Aerospatiale investment. The group should also be prepared to discuss the question of a CFIUS review of the change in ownership of U.S. subsidiaries of French corporations that are nationalized.

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

JAN 15 1982

MEMORANDUM FOR THE CABINET COUNCIL ON ECONOMIC AFFAIRS WORKING GROUP ON INTERNATIONAL INVESTMENT POLICY

FROM: Marc E. Leland

SUBJECT: Meeting of the CCEA Working Group

On Wednesday, January 20, there will be a meeting of the CCEA Working Group on International Investment Policy from 3:00-4:30 p.m. in Room 4426, Main Treasury.

Items for discussion at the CCEA Working Group meeting include:

-- draft Agenda (attached) for the upcoming United States-French bilateral consultations on investment; and

-- the Working Group analysis of foreign government-controlled investments in the United States.

Attachment

DRAFT

Agenda for Bilateral Consultations with the Government of France on Foreign Direct Investment Policies

I. French Policies Toward Foreign Direct Investment in France

A. General approach and coverage

B. Application procedure

1. Requirements
2. Decision parameters
3. Timing
4. Experience (review of procedure-specific cases)

C. Sectoral conditions limitations or prohibitions (bans, ownership or participation requirements, etc.) and how they are applied.

1. Existing
2. Planned

D. Post nationalization policy as it relates to items 1.A through 1.C; and

1. Treatment of new and existing foreign investments in France vs. domestic (French) firms, and in particular nationalized firms
2. Relation of French investment and industrial policies

II. French Policies Toward Outward Foreign Direct Investment

A. Restrictions (existing or planned)

B. Post nationalization: treatment of French subsidiaries abroad (control, operations etc.)

III. U.S. Investment Policies

A. General approach and coverage

B. CFIUS review procedures

C. CCEA review of U.S. international investment policy (French nationalization, foreign government-controlled investments in the U.S., and changes in the CFIUS)

IV. Factual Information

A. List of U.S. subsidiaries and holdings of French firms to be nationalized

B. List of French subsidiaries and holdings of U.S. firms to be nationalized