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Trade Negotiations in the 108th Congress

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Trade Negotiations in the 108th Congress

SUMMARY

The Bush Administration has made bilateral and regional free-trade agreements (FTAs) more important elements of U.S. trade policy, a strategy known as “competitive liberalization.” This strategy is designed to push forward trade liberalization simultaneously on bilateral, regional and multilateral fronts. It is meant to spur trade negotiations by liberalizing trade with countries willing to join FTAs, and to pressure other countries to negotiate multilaterally. Some argue, however, that the accent on regional and bilateral negotiations undermines the multilateral forum and increases the risk of trade diversion away from competitive countries not in the trade bloc.

The broadest trade initiative being negotiated during the 108th Congress is the multilateral trade negotiations in the World Trade Organization (WTO). In November 2001, trade ministers from 142 WTO member countries agreed to launch a new round of trade talks covering market access, WTO institutional rules, and developing-country issues. A meeting of trade ministers at Cancún, Mexico in September 2003 ended without agreement on a negotiating framework and cast doubt on the January 1, 2005 deadline.

Another major initiative is the Free Trade Area of the Americas. In April 1998, 34 Western Hemisphere nations formally initiated negotiations on tariffs and nontariff trade barriers in the hemisphere. Negotiators have released drafts of an agreement-in-progress. Trade ministers met in Miami in November 2003 and announced a blueprint for negotiations which reaffirms the January 2005 deadline for a final agreement.

The United States also participated or is

participating in several regional or bilateral trade negotiations. Two agreements — FTAs with Chile and with Singapore — were concluded during the 108th Congress and are now in effect. An FTA with four countries of the Central American Common Market (CACM) was reached in December 2003, and a fifth country joined that agreement in January 2004. An agreement to integrate the Dominican Republic into this agreement was concluded in March 2004. Bilateral FTAs were concluded with Australia in February 2004 and with Morocco in March 2004. Negotiations are underway with the Southern African Customs Union (SACU). The Administration is also negotiating a bilateral FTA with Bahrain and plans to begin negotiations with Thailand and with Panama. The United States and Colombia announced that bilateral talks on an FTA would begin in May 2004, and these talks might include other Andean countries. There are several other trade initiatives under discussion, including a U.S.-Middle East FTA and an FTA with countries in south-east Asia.

Most of the current trade negotiations began after trade promotion authority (fast-track authority) legislation was enacted in 2002. That legislation covers agreements signed before June 30, 2005, although a two-year extension is possible. Under the legislation, if the President meets notification requirements and other conditions, Congress will consider a bill to implement a trade agreement under an expedited procedure (no amendment, deadlines for votes). The notification requirements include minimum 90-day notices before starting negotiations and before signing a trade agreement.

MOST RECENT DEVELOPMENTS

- On March 25, 2004, the President notified Congress of his intent to sign a free-trade agreement (FTA) with the Dominican Republic. The agreement, concluded on March 15, 2004, would integrate the Dominican Republic into an earlier signed FTA between the United States and five Central American countries.
- On March 23, 2004, the United States and Colombia announced that FTA negotiations between the two countries, and possibly with other Andean countries, will begin May 18-19, 2004.
- On March 8, 2004, the President notified Congress of his intent to sign a bilateral free-trade agreement with Morocco. The two countries had concluded the trade agreement on March 2, 2004.
- The second round of negotiations on a U.S.-Bahrain FTA was held on March 1-5, 2004.

BACKGROUND AND ANALYSIS

For over 50 years, U.S. trade officials have negotiated multilateral trade agreements to achieve lower trade barriers and rules to cover international trade. In the past two decades, U.S. officials also negotiated four free-trade agreements with neighboring countries or strategic partners.¹ Currently, the Bush Administration is making bilateral and regional free-trade agreements more important elements of its trade policy. The multilateral arena is no longer the only means, or perhaps even the principal means, by which the United States is pursuing the benefits of trade.²

U.S. Negotiating Strategy

U.S. negotiating strategy is based on a concept known as “competitive liberalization.” As explained by the Administration, this strategy is designed to push forward trade liberalization on multiple fronts: bilateral, regional and multilateral. It is meant to further trade negotiations by liberalizing trade with countries willing to join free trade agreements, and to put pressure on other countries to negotiate in the WTO. As United States Trade Representative (USTR) Robert B. Zoellick has written,

we want to strengthen the hand of the coalition pressing for freer trade. It would be fatal to give the initiative to naysayers abroad and protectionists at home. As we have seen in

¹ The four agreements are the U.S.-Israel Free Trade Agreement (effective 1985), the Canada-U.S. Free Trade Agreement (effective 1989), the North American Free Trade Agreement (effective 1994) and the U.S.-Jordan Free Trade Agreement (effective 2001).

² For further information, see CRS Report RL31356, *Free Trade Agreements: Impact on U.S. Trade and Implications for U.S. Trade Policy*, by William H. Cooper.

the League of Nations, the UN, the IMF and the World Bank, international organizations need leaders to prod them into action.³

However, others argue that the accent on regional and bilateral negotiations will undermine the World Trade Organization (WTO) and increase the risk of trade diversion. Trade diversion occurs when the lower tariffs under a trade agreement cause trade to be diverted away from a more efficient producer outside the trading bloc to a producer inside the bloc. What results from the plethora of negotiated FTAs, according to one recent article, “is a ‘spaghetti bowl’ of rules, arbitrary definitions of which products come from where, and a multiplicity of tariffs depending on source.”⁴ Nonetheless, in the aftermath of the failure of the WTO Ministerial meeting in Cancún, Mexico, USTR Zoellick indicated that the United States would more aggressively pursue bilateral and regional free trade agreements. “We are going to keep trying to open markets one way or the other,” he said.⁵

The manner in which the Administration chooses potential partners has been the subject of scrutiny by some Members of Congress. Traditionally, regional and bilateral trade agreements have been negotiated for a mixture of economic, political, and development reasons. The U.S.-Canada Free-Trade Agreement (FTA) was primarily economic in nature: recognizing the largest bilateral trade relationship in the world between two countries at a similar stage of development. The partnership with Mexico to create NAFTA brought in a country at a different stage of development and gave attention to trade as a lever to encourage economic advancement. It also had a geopolitical rationale of encouraging stability in the U.S. neighbor to the south. The FTA with Israel is seen as an affirmation of U.S. commitment to the Jewish state, while the FTA with Jordan can be seen as a reward for Jordan’s cooperation in the Middle East peace process.

In May 2003, USTR Zoellick enumerated several factors to evaluate countries seeking to negotiate trade agreements with the United States, but he said there were no formal rules or procedures to make the determination.⁶ A GAO study released in January 2004 reports that an interagency process has been established to assess FTA partners using 6 factors. These factors include a country’s readiness in terms of trade capabilities, the maturity of its political and legal system, and the will to implement reforms; the economic benefit to the United States; the country’s support of U.S. trade liberalization goals; a partner’s

³ Robert B. Zoellick, “Unleashing the Trade Winds,” *The Economist*, December 7, 2002, p.29.

⁴ Jagdish Bhagwati and Arvind Panagariya, “Bilateral Trade Treaties Are a Sham,” *Financial Times*, July 14, 2003.

⁵ “U.S. Plans to Accelerate Own Trade Agreements Talks,” *Congress Daily*, September 14, 2003.

⁶ These considerations included cooperation with the United States in its foreign and security policies; country support for U.S. positions in the Free-Trade Area of the Americas (FTAA) and the WTO; the ability of a trade agreement to spur internal economic or political reform in the target country or region; the ability to counteract FTAs among other countries or trading blocs that disadvantage American firms; the presence of congressional interest or opposition to an FTA; support among U.S. business and agricultural interests; the ability of a country to anchor broader trade agreements to spur regional integration; the willingness of a partner to negotiate a comprehensive agreement covering all economic sectors; and the capacity constraints of the Office of the USTR. “Following the Bilateral Route?”, *Washington Trade Daily*, May 9, 2003; “Zoellick Says FTA Candidates Must Support U.S. Foreign Policy,” *Inside U.S. Trade*, May 16, 2003.

compatibility with U.S. foreign and economic policy interests; Congressional or private sector support, and U.S. government resource constraints.⁷

Some Members of Congress have questioned the manner in which potential FTA partners are chosen. Representative Calvin Dooley has called for the establishment of a “strategic roadmap” to help define potential FTA partners that would advance the U.S. economic, geopolitical, and multilateral agenda, given the limited resources of the Office of the USTR.⁸ In addition, some business groups have expressed a desire to concentrate more on the multilateral negotiations of the WTO, which potentially could yield greater commercial gains.⁹

In the aftermath of the failed WTO Cancun Ministerial in September 2003, some legislators have urged reconsideration of FTAs currently under negotiation for allegedly obstructing the progress of WTO negotiations. The focus of the talk of retaliation has centered on the ‘G-21 countries’ a negotiating bloc whose demands centered on deep reductions in developed country agricultural subsidies, but who reportedly resisted opening their own markets. The United States currently is conducting FTA negotiations with G-21 countries such as South Africa, Guatemala, and Costa Rica. Potential FTAA partners Argentina, Bolivia, Brazil, Colombia, Ecuador, Paraguay, Peru, and Venezuela also signed on to G-21 negotiating positions, and the United States has FTAs with two other G-21 participants, Chile and Mexico.

The Administration has also equated the concept of free trade with national security. It cites the negotiation of free trade agreements in multilateral, regional, and bilateral settings as an integral part of its strategy to enhance prosperity and freedom for the rest of the world. In the September 2002 National Security Strategy, the Administration elevated the concept of ‘free trade’ to a moral principle, “the freedom for a person or a nation to make a living.” According to this document, free-market economic and trade policies, more than development assistance, provides nations with the ability to lift themselves out of poverty and to insure stability.¹⁰

While the Administration is pursuing trade agreements on multiple fronts, some question whether the United States should be negotiating trade agreements at all. They charge that jobs are lost because of cheaper imports, and that relocation of U.S. production to other countries has been facilitated by trade agreements. Some argue that trade agreements do not adequately address the problem of countries with lower labor and environmental standards that are able to produce at lower cost. Some critics believe that the U.S. economy will be harmed by the Administration’s pursuit of free-trade agreements.

⁷ GAO Report 04-233, *International Trade: Intensifying Free Trade Negotiating Agenda Calls for Better Allocation of Staff and Resources*, January 2004, pp 9-10, 12.

⁸ “Business Treads Carefully in Assessment of Administration Trade Policy,” *Inside U.S. Trade*, June 20, 2003.

⁹ “Filling Up with Appetizers,” *Congress Daily AM*, June 11, 2003.

¹⁰ National Security Council, *National Security Strategy of the United States*, September 2002, [<http://www.whitehouse.gov/nsc/nss.pdf>], pp. 17-21.

The result of the competitive liberalization strategy is that the United States is involved in an unprecedented number of trade negotiations. Multilaterally, the United States and over 140 countries are participating in the Doha Development Agenda under the auspices of the World Trade Organization. Regionally, the United States is meeting with 33 other countries in the western hemisphere to create a Free Trade Area of the Americas, and is beginning free-trade negotiations with countries in central America and in southern Africa. Bilaterally, it is seeking FTAs with Australia, Bahrain, and Morocco, and concluded agreements with Singapore and Chile. Furthermore, the President has recently proposed initiatives that could lead to free-trade agreements with the countries of southeastern Asia and the Middle East.

Notification and Consultation Requirements

Later sections of this Issue Brief might refer to formal notifications by the Administration to Congress. Under trade promotion authority (TPA) legislation passed in 2002 (Title XXI, P.L. 107-210), the President must notify Congress before starting negotiation of a trade agreement and before signing a completed agreement. TPA legislation applies to trade agreements signed before June 30, 2005, with a possible two-year extension. If the Administration meets the notification requirements, consults as required, and satisfies the other conditions in the TPA legislation, Congress will consider implementing legislation for a trade agreement under expedited (“trade authorities” or “fast-track”) procedures.¹¹ The following briefly reviews the notification and consultation requirements.

Before the Start of Negotiations. Before starting negotiations, the Administration must notify Congress at least 90 calendar days in advance. (This requirement was waived for certain negotiations that were underway before enactment of the TPA legislation.) Before and after submitting this notice, the Administration must consult with the relevant congressional committees and the Congressional Oversight Group (COG).¹² The Administration must comply with certain additional consultation and assessment requirements for agricultural, textile and apparel, and fish and shellfish negotiations.

During Negotiations. In the course of negotiations, the USTR must consult closely and on a timely basis with the COG and all committees of jurisdiction. Guidelines developed by the USTR, in consultation with the House Ways and Means Committee and the Senate Finance Committee (the revenue committees), cover briefings of the COG, access by COG members and staff to documents, and coordination between the USTR and the COG at critical periods of the negotiations.

¹¹ For further information, see CRS Report RL31974, *Trade Agreements: Requirements for Presidential Consultation, Notices, and Reports to Congress Regarding Negotiations*, by Vladimir N. Pregelj, and CRS Report RL32011, *Trade Agreements: Procedure for Congressional Approval and Implementation*, by Vladimir N. Pregelj.

¹² Members of the COG are the chairman and ranking member of the House Ways and Means Committee and the Senate Finance Committee, three other members from each of those committees (no more than two from the same party), and the chairman and ranking member from any other committees with jurisdiction. COG members are official advisers to the U.S. delegation in trade negotiations. They consult with and provide advice to the USTR on the formulation of objectives, negotiating strategies, and other trade matters.

Before Signing the Agreement. At least 180 calendar days before signing a trade agreement (at least 90 calendar days for an agreement with Chile or with Singapore), the President must report to the revenue committees on proposals that might require amendments to U.S. trade remedy laws. At least 90 calendar days before entering into a trade agreement, the President must notify Congress of the intention to enter into the agreement. No later than 30 days after this notification, the private sector advisory committees must submit their reports on the agreement to Congress, the President, and the USTR. Also at least 90 calendar days before entering into a trade agreement, the President must provide the International Trade Commission (ITC) with the details of the agreement and request an assessment.

The USTR must consult closely and on a timely basis (including immediately before initialing an agreement) with the revenue committees, the COG, and other congressional advisers, and with the agriculture committees when an agreement relates to agricultural trade.

Entering Into the Agreement. Within 60 days of entering into the agreement, the President must submit a list of required changes to U.S. law that likely would be necessary to bring the United States into compliance with the agreement. Not later than 90 calendar days after the President enters into an agreement, the ITC must report to the President and to Congress on the likely impact of the agreement on the U.S. economy and on specific industrial sectors. There is no deadline for submission of an implementing bill.

Agreements Concluded and In Effect

Bilateral Trade Agreements

U.S.-Chile FTA. The U.S.-Chile FTA went into effect January 1, 2004. The United States and Chile commenced formal negotiations on December 6-7, 2000.¹³ After two years of negotiations, an agreement was announced on December 11, 2002. On January 30, 2003, President Bush notified Congress of his intent to sign the agreement. The Agreement was signed on June 6, 2003, after a delay some attributed to the Administration's irritation over Chile's refusal to support U.S.- sponsored resolutions on Iraq in the United Nations earlier in the year. Implementing legislation (H.R. 2738) was passed by the House on July 24, 2003 by 270-156 and by the Senate on July 31, 2003 by 66-31. On September 3, 2003, President Bush signed the U.S.-Chile Free Trade Agreement Implementation Act (P.L. 108-77). Negotiation with Chile was offered by USTR Zoellick as a template for negotiations with the Central American countries and for a Free Trade Area of the Americas. Debate on the Chile FTA focused on the future use of the agreement's labor and environmental provisions, capital controls, and immigration.

U.S.- Singapore FTA. The U.S.-Singapore FTA went into effect on January 1, 2004. The United States and Singapore launched negotiations on a bilateral FTA in December 2000.¹⁴ The agreement was completed on January 15, 2003 after the two parties resolved

¹³ For further information, see CRS Report RL31144, *A U.S.-Chile Free Trade Agreement: Economic and Trade Policy Issues*, by J. F. Hornbeck.

¹⁴ For further information, see CRS Report RL31789, *Singapore-U.S. Free Trade Agreement*, by (continued...)

outstanding differences related to capital controls. On May 6, 2003, President Bush signed the agreement with Singapore's Prime Minister Goh Chok Tong at the White House. Implementing legislation (H.R. 2739) was passed by the House on July 24 by 272-155 and by the Senate on July 31 by 66-32. On September 3, 2003, President Bush signed the U.S.-Singapore Free Trade Agreement Implementation Act (P.L. 108-78) in Washington D.C. Debate centered around the future use of the agreement's labor and environmental provisions as a template for other FTAs and some members' dissatisfaction with the immigration provisions of the legislation.

Agreements Concluded But Not Implemented

U.S.-Central American FTA (CAFTA). On January 8, 2003, negotiations formally began on an FTA between the United States and the five nations composing the Central American Common Market (CACM)—Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua.¹⁵ U.S. trade with the region totaled \$21.2 billion in 2002. The United States imported \$11.8 billion (primarily apparel items, bananas, coffee, and assembled electronic equipment) and exported \$9.4 billion (led by apparel, textiles, electrical generating equipment, and electrical components for assembly).

On December 17, 2003, the United States concluded negotiations on a U.S.-Central America Free Trade Agreement (CAFTA) with four of the five CACM countries (Guatemala, Honduras, El Salvador, and Nicaragua). Costa Rica eventually agreed to CAFTA on January 25, 2004, after resolving market access issues with the United States in the areas of telecommunications, insurance, and agriculture. The draft text was released on January 25, 2004.

Under CAFTA, more than 80% of U.S. consumer and industrial exports would become duty-free immediately, with all tariffs removed within 10 years. Tariffs would go to zero on information technology products, agricultural and construction equipment, paper products, chemicals, and medical/scientific equipment, among others. Over half of current U.S. farm exports to Central America would become duty-free immediately, including "high quality" cuts of beef, cotton, wheat, soybeans, certain fruits, and vegetables, processed food products, and wine. At the same time, the U.S. conceded to slight increases in sugar quotas for the Central American countries. Advances were also made in other areas important to the United States, including services trade, intellectual property rights, investment, and government procurement. For Central American parties, benefits received under the Caribbean Basin Trade Partnership Act (CBTPA) would become permanent.

CAFTA, however, may still evolve and faces political uncertainty. In the United States, opposition has formed against liberalizing trade rules for Central America's major exports, apparel and agricultural goods. There is also considerable resistance to the agreement from labor groups, although many industry groups have come out in favor of the agreement.

¹⁴ (...continued)
Dick K. Nanto.

¹⁵ For further information, see CRS Report RL31870, *The U.S.-Central America Free Trade Agreement (CAFTA): Challenges for Sub-Regional Integration*, by J.F. Hornbeck.

U.S.-Dominican Republic FTA. On August 4, 2003, the Administration notified Congress of its intent to begin negotiations for an FTA with the Dominican Republic. An FTA was concluded on March 15, 2004. It would integrate the Dominican Republic into the CAFTA. The Dominican Republic is the 32nd largest trading partner of the United States. Two-way trade was valued at \$8.6 billion in 2003, with \$4.6 billion in imports and \$4.0 billion in exports. Leading exports include electrical circuitry, ignition and generating parts, computers, heavy construction equipment, cotton, and apparel. Leading imports are apparel, medical instruments, circuit breakers, electrical equipment, and jewelry. Since 1985, the Dominican Republic has received preferential access for many goods under the Caribbean Basin Initiative. The Dominican Republic is the largest economy in the Caribbean with a population of 8.7 million and a GDP of \$21.6 billion (2001 \$).

U.S.-Australia FTA. Formal talks began on March 18, 2003.¹⁶ The United States and Australia reached agreement on a bilateral free trade agreement on February 8, 2004. On February 12, 2004, the President notified Congress of the intent to sign the agreement. Two-way goods trade between the United States and Australia totaled \$18.9 billion in 2003. Livestock, wine, minerals, vehicles, and vehicle parts were leading imports from Australia, which totaled \$6.5 billion in 2003. U.S. exports amounted to \$12.4 billion, led by computer equipment, aircraft, vehicles, heavy machinery, and medical equipment. A desire to cement the U.S.-Australian strategic relationship, and Australia's cooperation in the war against terrorism, may have also underpinned these negotiations.

Under the agreement, tariffs will be eliminated on nearly all manufactured goods. However, the United States was able to maintain protection of several agricultural areas. Australia's sugar quota in the U.S. market will remain unchanged at 78,000 tons. The agreement provides a gradual increase in Australian beef and dairy quotas, and a gradual reduction of the above-quota tariff on beef and dairy. After 18 years, tariffs and quotas are lifted for Australian beef imports. U.S. negotiators were unable to negotiate the removal of the successor to the Australian Wheat Board and other monopoly export groups. The agreement does not provide for an investor-state dispute mechanism, which Australia opposed, nor does it provide for changes to cultural content policies for Australian television, film, and new media. Australia was also unwilling to modify its Pharmaceutical Benefits Scheme (PBS), which sets and controls drug prices; however, the agreement provides for greater transparency in PBS decision-making.

U.S.-Morocco FTA. On January 21, 2003, negotiations formally began on a U.S.-Morocco FTA¹⁷. These negotiations culminated in an agreement announced on March 2, 2004. On March 8, 2004, the President notified Congress of his intention to sign the trade agreement. While proposed with a strong national security and foreign policy rationale, the announced FTA also seeks to support U.S. economic objectives. These objectives include allowing U.S. agricultural products to compete more effectively against those of the European Union, which currently benefit from preferential access. From Morocco's perspective, the FTA could lead to an increase in U.S. foreign direct investment and provide

¹⁶ For further information, see CRS Report RS21476, *U.S.- Australia FTA Negotiations*, by William H. Cooper.

¹⁷ For further information, see CRS Report RS21464, *Morocco- U.S. Free Trade Agreement*, by Raymond L. Ahearn.

preferences for textile and apparel exports to the United States. U.S.-Morocco trade totaled \$859 million in 2003, composed of \$463 million in U.S. exports and \$396 million in imports. Leading U.S. exports are corn, wheat, soybeans, aircraft parts, and coal; leading imports include electrical equipment, apparel, calcium and chalk phosphates, mineral oil, processed fish, and processed vegetables. The most sensitive issue is wheat, where Morocco traditionally has protected its large population of subsistence farmers with high tariffs. Morocco has refused to eliminate tariffs or to establish tariff-rate quotas on wheat, fearing social disruption if its subsistence farmers are driven out of business and into the cities. For their part, U.S. wheat farmers question the value of an agreement to the United States that excludes a major U.S. agricultural export.

Agreements Under Negotiation or With Announced Intent to Negotiate

Multilateral Trade Negotiations

At the 4th Ministerial meeting of the World Trade Organization (WTO) in Doha, Qatar on November 9-14, 2001, trade ministers from over 140 member countries of the World Trade Organization agreed to launch a new round of multilateral trade negotiations.¹⁸ The negotiations became known as the Doha Development Agenda, because of the possibility of increased participation of developing-country members, which now account for about four-fifths of the WTO members.

The work program combined on-going negotiations on agriculture and services liberalization with new negotiations on trade barriers for industrial products, WTO rules on dumping and subsidies, several topics that developing countries had sought such as easier access to medicines under the existing WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), and so-called “Singapore issues”(investment, competition, transparency in government procurement, and trade facilitation).

Negotiators have missed virtually all major deadlines. The 5th Ministerial, which was held September 10-14, 2003 in Cancún Mexico, was intended to take stock of progress mid-way through the negotiations and provide a framework for the remaining negotiations. However, that meeting ended without agreement on a framework, principally because of a rift between developed and developing countries on agriculture and the Singapore issues.

Trade ministers at the 2001 Doha meeting set a deadline for a multilateral agreement of December 31, 2004. Given the lack of progress at Cancún and other difficulties, it is uncertain whether this deadline can be met. At a December 15, 2003 meeting of the WTO General Council, the Council Chairman noted that there had been progress in getting the round back on track, but there was still much to do. In a January 11, 2004 letter, the U.S. Trade Representative (USTR) offered proposals on how to move the round forward and suggested that the next Ministerial be held in Hong Kong before the end of 2004. The responses to the USTR’s proposals for moving forward were generally positive. At a

¹⁸ For further information, see CRS Report RL32060, *World Trade Organization Negotiations: The Doha Development Agenda*, by Lenore Sek.

February 11, 2004 meeting of the WTO General Council, member countries approved new chairpersons for the negotiating groups, but they made no decision on the next Ministerial. Negotiations have slowly restarted.

Regional Negotiations

Free Trade Area of the Americas. The Free Trade Area of the Americas (FTAA) is a regional trade proposal among 34 nations of the Western Hemisphere that would promote economic integration by creating, as originally conceived, a comprehensive (presumably WTO-plus) framework for reducing tariff and nontariff barriers to trade and investment.¹⁹ The United States traded \$715.5 billion worth of goods with the FTAA countries in 2003: 277.7\$ billion in exports and \$437.8 billion in imports.

Formal negotiations commenced in 1998, and the process so far has led to draft texts, the last released at the 8th trade ministerial meeting that took place November 17-21, 2003 in Miami. The negotiating schedule calls for a final agreement by January 2005, with its entry into force to occur no later than year-end. The FTAA negotiations, however, are at a crossroads, with Brazil and the United States, the co-chairs of the Trade Negotiations Committee (TNC) that oversees the process, at odds over how to proceed.

Brazil took strong exception to the U.S. approach to the FTAA, and responded with its own “Three Track Proposal.” To avoid an impasse, the United States and Brazil jointly authored the *Ministerial Declaration* of the 8th ministerial meeting, which defined how the FTAA negotiations will proceed. Although the *Declaration* reaffirms the commitment to complete a “comprehensive and balanced” agreement by January 2005, it does so in the context of a rather unorthodox compromise. It states that “countries may assume different levels of commitments...[with a] common set of rights and obligations applicable to all countries...[and may also] choose, within the FTAA, to agree to additional obligations and benefits.” The additional obligations may be defined in plurilateral negotiations, with a country’s benefits being linked to the obligations it undertakes. Although no negotiating area will be left out of the agreement, because countries may take on varying obligations within the FTAA structure, it is a very different notion from the broad “single undertaking” premise that had been envisioned at the start.

Depending on one’s viewpoint, this resolution may be considered a success or a disappointment. In any case, a middle ground has emerged that was not initially contemplated, largely because of tension that arose between Brazil and the United States. Both countries are pursuing, and in some cases competing for, parallel bilateral negotiations with select Latin American countries. Brazil is not a big trading partner of the United States, and although an FTAA might be viewed as a way to change this, the Lula administration is focused on industrial policy and trade with Latin America and the European Union, both of which can be pursued outside the FTAA. Thus, there is some reason to question whether there is sufficient momentum to produce a “comprehensive” FTAA by January 2005.

¹⁹ For more information, see: CRS Report RS20864, *A Free Trade Area of the Americas: Status of Negotiations and Major Policy Issues*, by J. F. Hornbeck

U.S.-Southern African Customs Union FTA. On November 4, 2002, the USTR notified Congress that talks to negotiate an FTA would begin with the Southern African Customs Union (SACU).²⁰ The first round of negotiations began in Johannesburg on June 3, 2003. SACU is a customs union composed of South Africa, Botswana, Lesotho, Namibia, and Swaziland. A large degree of economic integration exists among the SACU states led by South Africa, the dominant economic power. U.S. exports to SACU totaled \$2.8 billion in 2003, led by aircraft, vehicles, construction and agricultural equipment, and computers. U.S. imports from SACU totaled \$5.6 billion, composed of minerals such as platinum, diamonds, and titanium, textiles and apparel, vehicles, and automotive parts. Potential problems relating to an FTA with SACU include competition issues related to the South African telecommunications industry and government procurement, U.S. textile tariffs and quotas, and intellectual property rights especially with regard to access to HIV/AIDS medicines. While all the SACU states are eligible for the tariff preferences under the Africa Growth and Opportunity Act (Title I, P.L. 106-200), the negotiation of an FTA would “lock-in” and potentially expand such tariff advantages. The third round of talks was held in Namibia in February 2004.

U.S. - Andean FTA. On November 18, 2003, the Administration formally notified Congress of the intent to initiate negotiations for an FTA with Colombia, Peru, Ecuador, and Bolivia. On March 23, 2004, the United States and Colombia announced that “...free trade negotiations between the two countries, and possibly other Andean countries, will begin May 18-19.”²¹ In 2003, the United States imported \$11.6 billion from the four Andean countries and exported \$6.5 billion, for a total of \$18.1 billion in trade. Colombia and Peru accounted for 71% of that total. Leading U.S. imports in 2003 from the four countries were crude and refined petroleum oils (about one-third of all imports), which were primarily from Colombia and Ecuador; bananas; copper; coffee; and cut flowers. About 10% of U.S. imports from the region came in under existing Andean trade preferences. Leading U.S. exports were machinery parts, data processing machines, corn, wheat, and telecommunications transmission apparatus such as cell phones.

Bilateral Negotiations

U.S.- Bahrain FTA. On August 4, 2003, the USTR notified Congress of the intention to negotiate an FTA with Bahrain beginning in 2004. Formal negotiations began on January 26, 2004. The Administration has praised the economic and commercial environment of the sheikhdom. The proposed FTA is touted by the Administration as a first step in the creation of the Middle East Free Trade Area by 2013 and foresees the possibility that other nations in the gulf region could link in to this agreement as they reform their economies and develop their trade potential. Bahrain is a kingdom of 640,000 persons, 40% of whom are guest workers, with a GDP of \$7.9 billion in 2001 (2001, current \$). Bahrain was a founding member of the WTO in 1995 and signed a Bilateral Investment Treaty (BIT) with the United States in 2001 and a Trade and Investment Framework Agreement (TIFA) in 2002. The nation has diversified its economy away from dependence on petroleum and has created a

²⁰ For further information, see: CRS Report RS21387, *United States-Southern African Customs Union (SACU) Free Trade Agreement Negotiations: Background and Potential Issues*, by Ian F. Fergusson.

²¹ USTR. Press Release, March 23, 2004 [<http://www.ustr.gov/releases/2004/03/04-25.pdf>].

services hub for information technology, telecommunications and health care. U.S. merchandise trade with Bahrain totaled \$875 million in 2003: imports of \$378 million included apparel, textiles, fertilizers, chemicals, and aluminum and exports of \$497 million were led by aircraft and aircraft parts, military equipment, passenger vehicles, machinery, and, not surprisingly, air conditioning equipment.

U.S.-Thailand FTA. On February 12, 2004, the Administration officially notified Congress of its intent to negotiate an FTA with Thailand. The White House sees potential benefits as: (1) promotion of U.S. exports, notably benefitting U.S. farmers and the auto and auto parts industries; (2) protection of U.S. investment; and (3) advancement of the Enterprise for ASEAN Initiative (mentioned later in this issue brief) and the U.S.-Singapore FTA.²² It also emphasized Thailand's importance on military, security and political issues. Thailand is the 18th largest U.S. trading partner. Two-way trade in 2003 was \$20.5 billion — \$15.1 billion in U.S. imports, \$5.4 billion in U.S. exports. Leading U.S. imports were computers and parts, television receivers, and jewelry, and leading exports were integrated circuits, semiconductors, computers and computer parts .

U.S. - Panama FTA. During the FTAA summit in Miami on November 18, 2003, USTR Zoellick announced that the Administration had formally notified Congress of its intent to begin negotiations for an FTA with Panama. In announcing the proposed FTA, the USTR cited Panama's return to democracy, its position as a regional financial and commercial center, and its assistance with counternarcotics, antiterrorism, and anti-money laundering efforts.²³ Panama was the 63rd largest trading partners of the United States in 2003 with imports of \$290 million, lead by shrimp, fresh fish, precious or semi-precious metals, refined petroleum, and sugar, exports of \$1.7 billion, comprised of refined petroleum, aircraft, medicaments, corn, computer parts and accessories and telecommunications equipment. Total two-way trade (exports + imports) amounted to nearly \$2 billion. The stock of U.S. direct investment in Panama was approximately \$20 billion in 2002. In the negotiations, the United States will seek to address high tariff levels on some agricultural products, restrictive licensing practices, and the lack of regulatory transparency. Panama will seek greater access to its largest market, the United States, which was the destination for 47% of its exports in 2002. Owing to the similarities between the Panama and Singapore economies as major transshipment centers, the United States may seek to incorporate in an FTA with Panama certain customs and intellectual property provisions contained in the U.S. - Singapore FTA.

Other Potential Trade Agreements

Middle East - North African Free Trade Agreement. On May 9, 2003, President Bush announced an initiative to create a U.S.- Middle East Free Trade Agreement by 2013. According to reports, this initiative would begin a multi-stage process to prepare countries in the region for an FTA with the United States. Countries would begin the process by

²² The White House. Fact Sheet on Free Trade and Thailand. October 19, 2003.

²³ Press Conference of USTR Zoellick and President Moscono of Panama, November 18, 2003.

negotiating accession to the World Trade Organization²⁴ and subsequently concluding Bilateral Investment Treaties (BIT) and Trade and Investment Framework Agreements (TIFA) with the United States.²⁵ As domestic reforms progress, countries would then negotiate FTAs with the United States, possibly linking to other existing or planned FTAs, such as with Jordan, Morocco or Bahrain.

The Administration's rationale for this regional FTA is to provide the incentive for the transformation of the economies of the Middle East and their integration into the world economy. One study reports that, since 1980, the share of world exports emanating from middle eastern countries has dropped from 13.5% to 4%, and that per capita income has fallen by 25% in the Arab world.²⁶

On May 22, 2003, the Middle East Trade and Engagement Act (S. 1121-Baucus/H.R. 2267- Smith) was introduced to provide duty-free access for import-sensitive goods that are currently excluded from the U.S. Generalized System of Preferences (GSP). According to Senator Baucus, this legislation would be modeled on the existing African Growth and Opportunity Act (AGOA) and Andean Trade Preference Act, and that the legislation could serve as an interim step before these countries join FTAs with the United States.²⁷ The proposal includes a declaration by Congress that bilateral free trade agreements should be negotiated, where feasible, with interested countries or political entities in the greater Middle East, in order to increase U.S. trade with the region and increase private sector investment in the region. The Administration has not taken a position on the legislation.

Enterprise for ASEAN. This initiative, announced by President Bush on October 26, 2002, provides the impetus for the negotiation of bilateral FTAs with individual countries of the Association of Southeast Asian Nations, or ASEAN (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam). The first stage of this process is expected to be the negotiation of a region-wide trade and investment framework agreement (TIFA), which is seen as the first step in the process of negotiating individual FTAs with ASEAN member states. Thailand is the first candidate for an FTA under this initiative. As stated by the Administration, the principal benefits to the United States of FTAs with ASEAN member states are the potential to reduce high tariffs on agricultural products and to eliminate restrictive tariff-rate quotas on other U.S. exports, while the major benefit to ASEAN countries would be improved access to the U.S. market. The initiative is also seen as a way of countering growing Chinese influence in the region. Two-way trade with ASEAN reached \$122.5 billion in 2003, with exports of \$41.9 billion and imports of \$80.6 billion.

²⁴ In the Middle East region, Afghanistan, Algeria, Iran, Iraq, Libya, Lebanon, Saudi Arabia, Syria, and Yemen remain outside the WTO.

²⁵ "President Bush Lays Out Broad Plan for Regional FTA with Middle East by 2013," *International Trade Reporter*, May 15, 2003.

²⁶ Edward Gresser, "Blank Spot on the Map: How Trade Policy Is Working Against the War on Terror," Progressive Policy Institute *Policy Report*, February 2003.

²⁷ Remarks of Senator Baucus, *Congressional Record*, May 22, 2003, S. 7005.

New Zealand. During the 108th Congress, there has been Congressional interest in launching FTA negotiations with New Zealand. Fifty House members wrote to President Bush in January 2003 advocating the initiation of negotiations, as did 19 Senators in March 2003. Proponents claim an FTA with New Zealand would be a natural complement to ongoing U.S. FTA negotiations with Australia due to the high degree of integration of the Australian and New Zealand economies. However, Administration officials have enumerated several political and security impediments to a potential FTA, including New Zealand's longstanding refusal to allow nuclear powered ships into its harbors and its refusal to support the United States in the Iraq war.²⁸ An FTA with New Zealand may also entail tough negotiations on sensitive U.S. agriculture sectors such as beef, lamb, and sugar, although many of these issues are currently being negotiated with Australia. For its part, New Zealand fears that a solo U.S.-Australian FTA would reorient U.S. trade and investment away from New Zealand towards Australia. New Zealand was the 46th largest trading partner of the United States in 2002 with two-way trade slightly greater than \$4 billion. U.S. exports of \$1.7 billion were led by machinery, aircraft and parts, electronic equipment and vehicles; U.S. imports of \$2.3 billion were led by meat, dairy products, wood products, and machinery.

Taiwan. A free trade agreement with the Republic of China on Taiwan has been advanced by proponents in the last several years. In the 108th Congress, H.Con.Res. 98 (Ramstad) called for a free trade agreement with Taiwan, and House Majority Leader Delay lent support to an FTA with Taiwan in a speech to the American Enterprise Institute on June 2, 2003.²⁹ Taiwan is the 8th largest trading partner of the United States with total two-way trade in 2003 equal to \$47.6 billion in 2003; the United States is now Taiwan's second largest trading partner after mainland China. The U.S. imported \$31.5 billion in merchandise from Taiwan with computers, circuitry, vehicle parts, television transmission, and telecommunications equipment leading. U.S. exports to Taiwan, which totaled \$16.1 billion, include integrated electronic circuits, electrical machinery, aircraft parts, corn, and soybeans. While the Bush administration has indicated support for the concept of a U.S.-Taiwan FTA, the Administration cites several outstanding trade disputes remain including Taiwan's enforcement of intellectual property rights, the imposition of excessive standards, testing, certification and labeling requirements, and Taiwanese rice import quotas.³⁰ In addition, the negotiation of an FTA with Taiwan likely would encounter the ire of the mainland Chinese government, which considers Taiwan to be a province of China. Taiwan acceded to the WTO on January 1, 2002 and signed a Trade and Investment Framework Agreement with the United States in 1994.

FOR ADDITIONAL READING

The WTO

CRS Report RL32053. *Agriculture in WTO Negotiations*, by Charles E. Hanrahan.

²⁸ "Zoellick Says Relationship with New Zealand Makes FTA a Challenge," *Inside U.S. Trade*, May 23, 2003.

²⁹ Available at [http://www.aei.org/include/news_print.asp?newsID=17544].

³⁰ U.S. Trade Representative, *2003 National Trade Estimate Report on Foreign Trade Barriers*, p. 358.

- CRS Report RL32060. *The World Trade Organization: The Doha Development Agenda*, by Lenore M. Sek.
- CRS Report RS20448. *Foreign Investment Issues in the WTO*, by James K. Jackson.
- CRS Report RS21492. *Services Negotiations at the WTO: An Overview of the U.S. Offer*, by James K. Jackson.
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- CRS Report RS21610. *WTO: Trade Remedies in the Doha Round*, by Vivian C. Jones.
- CRS Report RS21664. *The WTO Cancún Ministerial*, by Ian F. Fergusson

Free Trade Area of the Americas

- CRS Report RL30935. *Agricultural Trade in the Free Trade Area of the Americas*, by Remy Jurenas.
- CRS Report RS20864. *A Free Trade Area of the Americas: Status of Negotiations and Major Policy Issues*, by J. F. Hornbeck.

Proposed Regional and Bilateral FTAs

- CRS Report RL32110. *Agricultural Trade in a U.S.-Central American Free Trade Agreement (CAFTA)*, by Remy Jurenas.
- CRS Report RS21464. *Morocco - U.S. Free Trade Agreement*, by Raymond J. Ahearn.
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- CRS Report RL31870. *The U.S.-Central America Free Trade Agreement (CAFTA): Challenges for Sub-Regional Integration*, by J. F. Hornbeck.
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- CRS Report RL30652. *U.S.-Jordan Free Trade Agreement*, by Mary Jane Bolle.
- CRS Report RL31789. *The U.S.-Singapore Free Trade Agreement*, by Dick K. Nanto.

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- CRS Report RS21554. *Free Trade Agreements, Developing Country Preferences and the WTO*, by Jeanne J. Grimmett.
- CRS Report RL31356. *Free Trade Agreements: Impact on U.S. Trade and Implications for U.S. Trade Policy*, by William H. Cooper.
- CRS Report RL31974. *Trade Agreements: Requirements for Presidential Consultations, Notices, and Reports to Congress Regarding Negotiations*, by Vladimir N. Pregelj.
- CRS Report RL31932. *Trade Agreements: Impact on the U.S. Economy*, by James K. Jackson.
- CRS Report RL31844. *Trade Promotion Authority (Fast-Track Authority for Trade Agreements): Background and Developments in the 107th Congress*, by Lenore Sek.

Negotiations on Trade Agreements During the 108th Congress

(Agreements Concluded and Implemented in Bold; Agreements Concluded and Not Implemented in Italics)

Agreement	U.S. Total Trade* (\$ bill.)	Status	Sensitive Areas
Doha Development Agenda of the WTO	\$1,842	A work program was produced at the trade ministerial meeting in Doha in Nov. 2001. In September 2003, trade ministers at the Cancún Ministerial failed to agree on the future course of negotiations. The Jan. 1, 2005 deadline for final agreement is in doubt.	Agriculture, trade remedies, "Singapore issues", industrial market access
Free Trade Area of the Americas	\$715.5	Formal negotiations began in 1998. The first draft of the agreement was adopted in Québec in April 2001; the second was adopted at Quito in Nov. 2002. Trade ministers met in Miami on November 20-21, 2003 and reaffirmed a Jan. 2005 deadline.	Agriculture, antidumping, textiles and apparel, worker rights
U.S.-Andean FTA	\$37.5	On November 18, 2003, the Administration notified Congress of intent to begin negotiations with Colombia, Peru, Ecuador, Bolivia. On March 23, 2004, the United States and Colombia announced FTA talks between the two countries, and possibly other Andean countries, would begin May 18-19, 2004.	IPR, agriculture, investment
U.S.-Singapore FTA	\$29.2	President Bush signed agreement on May 6, 2003. President Bush signed the Implementing legislation (P.L. 108-78) on September 3, 2003. Effective January 1, 2004.	Capital flows
<i>U.S.-Central America FTA</i>	<i>\$22.7</i>	<i>Talks were formally launched on Jan. 8, 2003. An agreement was reached among the U.S. and four Central American (CA) countries on Dec. 17, 2003. A fifth CA country joined the agreement, and the text was released, on Jan. 25, 2004. The President notified Congress of his intent to sign the agreement on February 20, 2004.</i>	<i>Textiles and apparel, rules of origin, worker rights, agriculture, environment.</i>
U.S.-Thailand FTA	\$20.5	The Administration officially notified Congress of its intent to negotiate an FTA on February 12, 2004.	Agriculture, trucks, telecommunications
<i>U.S.-Australia FTA</i>	<i>\$18.9</i>	<i>Talks began in March 2003. An agreement was announced on February 8, 2004. The President notified Congress of his intent to sign the agreement on February 13, 2004.</i>	<i>Agriculture, investment, pharmaceuticals</i>
<i>U.S.-Dominican Republic FTA</i>	<i>\$8.5</i>	<i>Talks formally began Jan. 12, 2004. An agreement was concluded on March 15, 2004. On March 25, 2004, the President notified Congress of the intent to sign the pact.</i>	<i>Agriculture, IPR, textiles and apparel</i>
U.S.-SACU FTA	\$8.4	Talks began on June 3, 2003 and are expected to conclude in 2004.	Telecom, textiles, pharmaceuticals
U.S.-Chile FTA	\$6.4	President Bush signed the agreement on June 6, 2003. President Bush signed the Implementing legislation (P.L. 108-77) on September 3, 2003. Effective January 1, 2004.	Capital flows, agriculture
U.S.- Panama	\$2.0	On November 18, 2003, the Administration formally notified Congress of intent to begin negotiations with Panama.	Agriculture, transparency, transshipment
<i>U.S.-Morocco FTA</i>	<i>\$0.86</i>	<i>Talks formally began on Jan. 21, 2003. An agreement was announced on March 2, 2004. On March 8, 2004, the President notified Congress of the intent to sign the accord.</i>	<i>Agriculture, textiles & apparel</i>
U.S.-Bahrain FTA	\$0.88	On August 4, 2003, the Administration gave Congress notice of intent to begin negotiations. Talks began on Jan. 26, 2004. Negotiations are expected to conclude by mid- to late 2004.	Serve as hub for Middle East FTA

* Domestic exports (Fas value) plus imports for consumption (Customs value) with countries of the proposed agreement in 2003.