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Agriculture and Fast Track or Trade Promotion Authority

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Summary

New "fast track," or trade promotion authority (TPA), legislation to implement trade agreements is at issue in the 107th Congress. Such authority could enable the Administration to submit negotiated foreign trade agreements to Congress for consideration under expedited procedures. Efforts to renew this authority, which expired in 1994, have not succeeded since then. Many agricultural and food industry interests are among the export-oriented enterprises that support TPA, arguing that foreign trading partners will not seriously negotiate with an Administration that lacks it. However, some farm groups argue that fast track ultimately will lead to new agreements that could have adverse effects on U.S. producers, at least in some commodity sectors. This report will be updated if events warrant.

What Is Fast Track Authority?

Fast track, or trade promotion, authority (TPA), refers to legislation explicitly enabling the President to negotiate trade agreements with foreign countries and then to submit implementing legislation to Congress for approval under special, expedited procedures. First adopted in the Trade Act of 1974, the authority was used to negotiate and implement several bilateral and multilateral agreements, including agreements in the Tokyo Round of multilateral trade negotiations, the U.S.-Canada Free Trade Agreement (FTA), the North American Free Trade Agreement (NAFTA), and the Uruguay Round (UR) accords, which included establishment of the World Trade Organization (WTO). Fast track is intended to strengthen the President's negotiating authority and credibility by reassuring foreign trading partners that agreements will be considered promptly by Congress and not subjected to changes that would force a return to the bargaining table.

Fast track procedures included requirements for advance notification of Congress and consultations with relevant committees, before an agreement could be concluded. Lawmakers, in effect, used these consultative requirements as informal mark-ups to address, in advance, the various policy issues that otherwise might be debated during the votes on the implementing legislation. (For more information, see CRS Issue Brief IB10084, *Fast-Track Authority for Trade Agreements (Trade Promotion Authority):*

Background and Developments in the 107th Congress, and *Trade Promotion Authority (Fast-Track Authority for Trade Agreements)* in the CRS Trade Electronic Briefing Book at [http://www.congress.gov/brbk/html/ebtra9.html].)

Importance of Trade for Agriculture

Export markets are critical to U.S. farmers' prosperity. According to the U.S. Department of Agriculture (USDA), agricultural export value is equivalent to about 20% of the value of farm production and 25% of farm income. It is estimated that major crops planted on one out of every three acres are exported. (See CRS Report 98-253, *U.S. Agricultural Trade: Trends, Composition, Direction, and Policy*.)

Most agricultural interests contend that U.S. efforts to open international markets must continue in order to sustain farm exports—including the negotiation of new or enhanced trade agreements that reduce tariff and nontariff import barriers and curtail the use of trade-distorting domestic and export subsidies. Now underway are a new round of WTO multilateral negotiations to further reform trade, including agriculture; and negotiations to create several new bilateral or regional FTAs (see page 6).

Most acknowledge that free trade cannot be a one-way street: the United States also is expected to open its own borders to the products of other countries. While increased agricultural imports bring variety and lower prices to U.S. consumers, they also can compete directly with U.S.-produced goods and force adjustments on U.S. producers.

Previous Fast Track Trade Legislation and Agriculture

Fast track procedures were used to implement three free trade agreements and two multilateral trade agreements. Those with significant agricultural provisions include:

NAFTA, which provides for the phased elimination of all tariffs on trade between the United States, Canada, and Mexico. The agreement incorporates the phased tariff reductions (by 1998) agreed to in the earlier (1988) U.S.-Canada FTA and all of its agricultural provisions. As for U.S.-Mexico bilateral trade, most tariffs will be eliminated by 2004, while tariffs for import-sensitive items, including a number of agricultural products, will not be completely eliminated until 2009. The North American Free Trade Agreement Implementation Act (P.L. 103-182, approved December 8, 1993, 19 U.S.C. 3301 note) includes the changes in U.S. law that affect U.S.-Mexican agricultural trade.

The **Uruguay Round/WTO Agreements,** which established the WTO and are the most comprehensive multilateral trade agreements in history. The UR Agreement on Agriculture (URAA) strengthens rules and disciplines for agricultural trade and requires WTO members to reduce import protection, export subsidies, and trade-distorting domestic support. Other UR agreements set new multilateral rules for trade in services, trade-related investment measures, trade-related intellectual property rights, and government procurement, and dispute settlement. The Uruguay Round Agreements Act (P.L. 103-465, approved December 8, 1994, 19 U.S.C. 3511) has a number of important agricultural provisions.

Effects of Trade Agreements on U.S. Agriculture

The support of agricultural groups for fast track legislation depends in large part on their perceptions of how they have been affected by previous agreements. Comparing trade flows before and after NAFTA's entry into force, most analyses report that NAFTA has had a positive overall effect on U.S. agricultural trade. Of course, factors other than trade liberalization—including population and economic growth, national agricultural policies, exchange rates, geographic proximity, and weather—also influence trade flows.

Canada and Mexico are, respectively, the second and third largest U.S. agricultural export markets, together accounting for about one-fourth of the value of our farm exports worldwide. Total agricultural trade between the United States and its two NAFTA partners increased from $17.5 billion in 1993, the year just prior to NAFTA's entry into force, to an estimated $30 billion in 2001. The United States was exporting slightly more than it was importing from these two countries combined.

U.S. agricultural exports to Mexico reached $7.4 billion in FY2001, while Mexico's exports to the United States were $5.3 billion. In FY1996, the U.S. trade balance with Canada turned from a surplus to a negative one. For FY2001, U.S. agricultural exports to Canada were $8 billion, and Canada's exports to the United States were $9.5 billion.

U.S. commodity exports to Mexico with substantial gains since NAFTA include coarse grains, wheat, cotton, processed fruits and vegetables, and red meats. Mexico has made significant gains in tomatoes, peppers, onions, cucumbers, grapes, and melons. U.S. commodity exports to Canada that have grown include soybeans, corn, poultry meat, dairy and egg products, fresh vegetables, citrus, cotton, and wine and beer. Canada's export gains include cattle, hogs, red meats, dairy products, rapeseed oil, and potatoes.

Some U.S. farmers contend that they have been disadvantaged by NAFTA or that their concerns are not being addressed by the agreement, often leading to lingering trade tensions and/or formal actions to obtain import relief. Commodities that have been the focus of such frictions include imports of Canadian wheat, live animals, potatoes, and stuffed molasses (a sugar-containing product); and of Mexican cattle, tomatoes and other winter vegetables, and (prospectively) sugar. Often such complaints revolve around the contention that foreign products are unfairly subsidized or "dumped" here at less than the cost of production. Moreover, a June 2001 report by Public Citizen's Global Trade Watch attempts to document the harm that, it asserts, NAFTA has caused to individual farmers and consumers while benefitting only large agribusinesses (*Down on the Farm: NAFTA's Seven-Years War on Farmers and Ranchers in the U.S., Canada, and Mexico*).

Meanwhile, some U.S.-exported agricultural products have come under similar scrutiny by Mexico and Canada – e.g., complaints by Mexico about U.S. meat products and high-fructose corn syrup; and by Canada about U.S. corn, among others.

Fast track and free trade advocates also have been promoting the success of the URAA by citing USDA estimates of its economic benefits for farmers. For example, USDA has stated that the URAA and other WTO agreements will increase U.S. agricultural exports by a projected $4.7 billion to $8.7 billion by 2005, and raise farm income by as much as $2.5 billion by the same year. Others challenge such assertions, contending that at it is difficult to separate the agreement's effects from other factors that influence world trade, and that the numbers are highly speculative and overly optimistic.

Other assessments of the impact of the URAA have focused on implementation of commitments and dispute settlement. The Office of the U.S. Trade Representative (USTR) reports that most countries, including all major trading partners of the United States, generally are in compliance with their market access and export subsidy reduction commitments. A few countries, however, have not met their commitments to open markets to some U.S. agricultural products.

Much attention has been paid by farmers and agribusinesses to the WTO dispute settlement process—and its perceived weaknesses. The United States has won most of the agricultural cases it has brought to the WTO or reached favorable settlements before the cases were adjudicated by WTO panels. But concerns have arisen about the pace of implementation of panel decisions in the U.S.'s favor. A prominent example is the European Union's (EU's) continuing reluctance to implement a WTO ruling against its ban on imports of meat produced with hormones.[1] However, other agricultural interests contend that the economic benefits of free trade agreements outweigh these problems.

New Fast Track (Trade Promotion) Authority

Previous "fast track" authority expired in 1994, and efforts since then to renew it were not successful. However, early in the 107th Congress, President Bush and congressional Republican leaders indicated that renewal of TPA would be a trade priority. Democrats who support trade reform also have expressed interest in TPA-fast track, although they warned that Congress must address longstanding concerns about trade agreements' impacts on the environment and labor, among other issues, if a measure is to win widespread, bipartisan support.

Nonetheless, on December 6, 2001, the House narrowly passed, largely along party lines, a TPA bill (H.R. 3005) that had been approved October 9, 2001, by its Ways and Means Committee. H.R. 3005, sponsored by Committee Chairman Thomas, would authorize the President to negotiate trade agreements reached by June 30, 2005 (with a 2-year extension possible). The Senate Finance Committee cleared its version of H.R. 3005 on December 18, 2001; full Senate consideration is expected sometime in 2002.

Agricultural Provisions

TPA enjoys support throughout much, but not all, of the agricultural community. For example, some 80 farm, agribusiness, and related organizations signed a June 18, 2001 letter to the President pledging their active support for TPA. On the other hand, a few others, including the National Farmers Union, joined nearly 50 labor, environmental, consumer, and allied organizations on a June 19, 2001, letter to Members of Congress to oppose what was at the time the leading Republican alternative, because, they argued, it would not address labor, environmental, and related concerns.

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[1] For background, see CRS Report RS20142, *The European Union's Ban on Hormone-Treated Meat*, December 19, 2000.

Key House Members with agricultural constituencies – including the chairman of the House Agriculture Committee – had threatened to withhold support for TPA unless the Administration promised to support increases in U.S. farm subsidies. The Administration had criticized the House-passed omnibus farm bill (H.R. 2646) for its cost ($73.5 billion in new spending over 10 years) and potential for undermining U.S. efforts to expand agricultural trade. However, the committee chairman, and the ranking Democrat, ultimately pledged their support for TPA after receiving assurances that the Administration would agree to the new farm spending. (The farm bill is pending in the Senate.)

In part to shore up support for TPA among agricultural groups and to address their specific trade concerns, proponents have included in the new TPA legislation extensive language regarding negotiating objectives and consultation requirements for agriculture. H.R. 3005 states that the principal agricultural negotiating objective is to obtain competitive, fairer, and more open market opportunities for U.S. agricultural exports by (among other things):

- Reducing or eliminating tariffs and other charges by a date certain, and reducing foreign ones to levels the same as or lower than U.S. levels;
- Reducing or eliminating subsidies that harm U.S. exports or unfairly distort markets;
- Allowing for the preservation of (non trade-distorting) programs that support family farms and rural communities;
- Developing disciplines for domestic farm support so that production in excess of domestic food security needs is sold at world prices, and eliminating policies that create price-depressing surpluses;
- Eliminating when possible state trading enterprises (STEs);
- Strengthening dispute settlement mechanisms in order to eliminate practices (including STE activities; "unjustified" labeling, technical, sanitary and other technical barriers to trade; and restrictive administration of tariff rate quotas) that impair U.S. market opportunities;
- Eliminating practices that adversely affect trade in perishable or cyclical products and addressing their trade problems; and ensuring that import relief mechanisms for such products are as accessible and useful to U.S. growers as they are to producers in other countries;
- Considering whether other countries have not lived up to existing trade agreements, and how such agreements have impacted U.S. agriculture;
- Maintaining bona fide food assistance programs, and preserving U.S. market development and export credit programs.

The bill calls on U.S. negotiators to establish, as the base year for calculating each country's "Aggregate Measurement of Support" (i.e., level of most potentially trade-distorting domestic agricultural subsidies), to be the end of its UR implementation period. There is also explicit language regarding certain studies and consultations with Congress over the agricultural negotiations.[2]

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[2] The Trade and Development Act of 2000 (P.L. 106-200) already contains a list of explicit U.S. objectives and consultation requirements for agriculture in WTO negotiations.

To garner more support from agricultural members, the bill's House sponsors added language, to the committee-passed version, expanding the consultation requirements that U.S. officials must follow before undertaking tariff reduction negotiations on agricultural products considered "import-sensitive" (defined in the House version as those subject to the minimum 2.5% annual reduction required under the URAA). The U.S. Trade Representative (USTR) would have to identify such products – likely more than 200 specific items ranging from cheese and many other dairy products to various fresh fruits and vegetables, sugar and other sweeteners, beef and lamb, oilseeds, wine, tobaccos, cotton, wool, and chocolate – and consult with Congress on how domestic producers would be affected by tariff cuts, among other requirements. The Senate version contains somewhat different language but with the same intent.

Some analysts note that while H.R. 3005 and the Senate bill give the President the authority he sought to proceed with negotiations, provisions in those bills will make it difficult for the President to achieve stated negotiating objectives for agriculture. In particular, analysts say both bills' requirement to consult in advance with Congress before negotiating cuts in tariffs on import-sensitive products, make negotiating tariff reductions more difficult and prevent negotiations of trade-offs between sectors. Similarly, the Senate committee bill, by making preservation of U.S. export credit programs a principal negotiating objective, may render negotiations on export subsidy reduction or elimination more difficult. The Administration, however, has expressed the view that while the fast track bills pose additional hurdles for lowering tariffs on import-sensitive products, in the long-run they provide a "better basis" for negotiations.

Potential Uses of the New Authority

Even lacking TPA, U.S. officials have been active in various trade negotiations; officials contend that TPA will expedite the negotiations toward a successful conclusion. The following negotiations are currently among the most prominent.

WTO. At the WTO Fourth Ministerial Conference in Doha, Qatar, November 9-14, 2001, trade ministers agreed on a declaration to begin a new round of multilateral trade negotiations, including on agriculture. The Doha declaration gives new impetus to sectoral negotiations on agriculture, which had been underway since early 2000, by effectively incorporating them into a comprehensive trade round and by setting an agreed negotiating mandate for agriculture. The deadline for concluding the negotiations in the new round, including those on agriculture, is January 1, 2005. (See CRS Report RS21085, *Agriculture in WTO Negotiations*.)

Free Trade Area of the Americas (FTAA). A high priority for President Bush, negotiation of an agreement to remove all trade barriers within the Western Hemisphere would go well beyond NAFTA to cover 34 countries. Some of them want more access to U.S. beef, sugar, citrus and vegetable markets; U.S. groups in turn want additional openings for an array of products plus more assurance that these countries will abide by SPS and other trade rules. At the third Summit of the Americas in April 2001, hemispheric leaders agreed to conclude negotiations and implement an agreement by 2005.

Other FTAs. Meanwhile, the Administration is negotiating bilateral FTAs with Chile and Singapore. FTAs with Jordan and Vietnam already have been negotiated, and have been approved by Congress in 2001. Others could be negotiated, e.g., with Australia and New Zealand.