Order Code RL32829

CRS Report for Congress
Received through the CRS Web

Trade Issues in the 109th Congress: Policy Challenges and Opportunities

Updated February 22, 2006

(name redacted)
Specialist in International Trade and Finance
Foreign Affairs, Defense, and Trade Division

Trade Issues: Policy Challenges and Opportunities Facing the 109th Congress (Second Session)

Summary

The second session of the 109th Congress is expected to face an extensive trade agenda consisting of a wide range of issues. In some respects these issues are distinct, each with its own policy and economic implications. In other respects the issues are interrelated. They have emerged from common sets of domestic political, foreign policy, and economic factors and affect or are affected by the concerns of Members of Congress, of other policymakers and of many interest groups. These issues and how policymakers deal with them will define overall U.S. trade policy.

During the first session, the 109th Congress dealt with a number of critical trade issues. The Bush Administration requested and received a two-year extension of its trade promotion authority. The Congress also debated U.S. participation in the World Trade Organization (WTO) as it considered, but did not pass, a congressional resolution to withdraw from the WTO. In addition, the Administration sent and the Congress passed legislation to implement a free trade agreement with five Central American countries plus the Dominican Republic, the DR-CAFTA, and passed implementing legislation for a free trade agreement with Bahrain. Furthermore, the 109th Congress repealed two trade programs that had been declared illegal by the WTO. During the second session, the 109th Congress may be called on to debate more free trade agreements, trade relations with China, and tariff preferences for developing countries, among other issues. The Congress might also continue to monitor the Doha Development Agenda negotiations proceeding in the WTO.

Each issue or set of trade issues bears its own implications as Members of Congress weigh the merits and disadvantages. In most cases, the 109th Congress will be considering and debating each issue separately. However, the trade issues as a whole have implications for a wider debate on U.S. trade policy. As the 109th Congress addresses these issues, its decisions will have implications for key questions that help define U.S. trade policy in the long-term.

This report will generally cover the trade issues as they unfold. However, it will not track legislation per se. The report will be updated as events warrant.

Contents

List of Tables

Trade Issues in the 109th Congress (Second Session): Policy Challenges and Opportunities

The 109th Congress during its first session acted on several major trade issues:

- the Congress passed implementing legislation for the highly controversial Dominican Republic-Central America Free Trade Agreement (CAFTA) and implementing legislation for the U.S.-Bahrain FTA, both of which President Bush signed into law;

- it passed legislation to comport with two World Trade Organization rulings: repeal the so-called Byrd Amendment that redistributed revenues from antidumping and countervailing duty orders to eligible domestic companies, and eliminate the U.S. cotton subsidies program;

- the Congress acceded to President Bush's request that his Trade Promotion Authority (TPA) be extended to July 1, 2007; and

- the Congress did not pass a resolution that would call for the withdrawal of the United States from the World Trade Organization (WTO), thus agreeing to U.S. participation, at least for another five years.

Other congressional actions during the first session may help shape the trade agenda during the second session. For example, the Senate passed legislation to grant Ukraine permanent normal trade relations (PNTR) status and the Senate also passed legislation amending customs regulations in order to suspend new shipper bonding privileges for three years. The House passed the United States Trade Rights Enforcement Act that would, among other things, allow U.S. producers to bring countervailing duty (CVD) actions against "non-market economies," such as China.

The second session of the 109th Congress is expected to face a range of other trade issues, some which may require consideration of legislation; others involve congressional oversight responsibilities. These matters include bills to implement new FTAs and oversight of the round of negotiations in the WTO. In some respects these issues are distinct, each with its own policy and economic implications. But they are also interrelated. They have emerged from common sets of domestic political and economic factors and are driven by the concerns of Members of Congress, of other policymakers, and of many interest groups. These issues and how policymakers deal with them all help to define U.S. trade policy.

This report discusses the spectrum of trade issues that the 109th Congress will likely confront in the second session and analyzes how these issues are interrelated. It discusses the political, economic, and other factors that help to determine how trade policy is debated and implemented. This report will generally follow the trade issues as they unfold and will be updated accordingly. However, it will not track legislation per se. Readers are advised to refer to other CRS products cited throughout the report for more information on the specific issues and related legislation.

Placing Trade Issues In Context

A number of economic factors influence U.S. trade policy: domestic economic conditions; growing trade deficits; the impact of trade (exports and imports) on various states, regions, and industries; the importance of trade to the U.S. economy; and the geographical distribution of U.S. exports and imports; among other factors. It is also influenced by political factors, such as the role and concerns of Congress in trade policy, the role and agenda of the President, and the different perspectives that the two branches bring to the trade debate and foreign policy considerations. These factors influence the climate in which the issues emerge and are debated by the Congress.

Economic Factors

Domestic economic conditions can influence the trade policy agenda. Poor economic growth or recession that is coupled with escalating unemployment often causes policymakers to direct their attention to trade. For example, the structural adjustments that the steel industry had been experiencing led to presidential measures to restrict steel imports in 2002.[1]

Rapidly growing U.S. **trade deficits** also generate interest in foreign trade and reassessments of trade policies. Economists assert that trade deficits are themselves not the results of trade policy but are the products of broader economic conditions. Nevertheless, large trade deficits have caused the Congress, in many cases, to give priority to trade on its agenda especially when U.S. trade deficits with one or more trading partners are increasing rapidly. Large deficits are often perceived as an indication that the trade relationship is unbalanced or unfair. **Table 1** below shows U.S. trade in goods and services from 1996-2005.

---

[1] See CRS Report RL31748, *The American Steel Industry: A Changing Profile,* by Stephen Cooney.

Table 1. U.S. Trade in Goods and Services, 1996-2005
(Billions of Dollars)

Year	U.S. Exports	U.S. Imports	U.S. Balances	Year	U.S. Exports	U.S. Imports	U.S. Balances
1996	850.9	953.7	-102.9	2001	1,006.7	1,369.3	-362.7
1997	933.9	1,040.9	-107.0	2002	975.9	1,397.7	-421.7
1998	932.9	1,095.7	-163.2	2003	1,020.5	1,517.0	-496.5
1999	965.5	1,226.7	-261.2	2004	1,151.4	1,769.0	-617.6
2000	1,070.1	1,445.4	-375.4	2005	1,271.1	1,996.9	-725.8

Source: U.S. Department of Commerce. Bureau of the Census.

In 2005, the U.S. trade deficit in goods and services hit a record $725.8 billion, a 17.5% increase over the previous record of $617.6 billion in 2004. During the 10-year (1996-2005) period, the U.S. trade deficit increased over 600%, from $102.9 billion to $725.8 billion. Most economists attribute the deficits, especially the broader current account deficits, to macroeconomic factors, including relative real economic growth rates of the United States and its major trading partners, real exchange rates, and savings and investment balances in the United States and other countries.[2] Trade policy and trade policy tools have little effect on trade balances, especially in the long run. However, they affect the composition of trade. But trade deficits, by definition, translate into more U.S. firms and workers being hit by import competition thereby increasing the pressure for protection.

Related to U.S. trade deficits is the **value of the U.S. dollar** in terms of other major currencies. Over time, the U.S. dollar has fluctuated in value. Recently, the dollar has been appreciating against major currencies despite record-breaking U.S. current account deficits.[3] A stronger dollar makes U.S. domestic goods more expensive compared to imports exacerbating U.S. trade imbalances. While consumers benefit from lower import prices, import-sensitive manufacturers must make adjustments to match the competition. These adjustments might include using labor-saving technology and/or moving some production offshore and may lead to protectionist trade policy actions.

Along with the growing U.S. trade deficits and the value of the U.S. dollar, the increasing **importance of foreign trade in the U.S. economy** plays a role in setting the congressional trade agenda. It creates more "winners" and "losers" from trade, thus, increasing the potential salience of the trade issues. In 1960, the ratio of exports plus imports of goods and services to U.S. gross domestic product (GDP), a measure

---

[2] See CRS Report RL31032, *The U.S. Trade Deficit: Causes, Consequences, and Cures*, by (name redacted).

[3] St. Louis Federal Reserve Bank. *International Economic Trends*. February 2006. p. 1.

of openness, was 9.5%. By 2005, the ratio increased to 26.6%.[4] As the United States has become more integrated with the rest of the world economy, a larger range of economic activities is affected by trade and raises policy issues. For example, advances in telecommunications technology now allow some services to be imported or "outsourced" from India and other countries creating competition for some U.S. domestic providers. However, these same advances also lower costs to consumers of those services.

The **geographical distribution of U.S. trade** has shifted. In particular, the role of advanced developed countries has declined while the role of less developed countries has expanded. In 1990, 63.9% of U.S. exports went to the industrialized countries while 35.1% went to developing countries. By 2005, the share of U.S. exports accounted for by developing countries had increased to 47.0%. Similarly, in 1990 58.8% of U.S. imports came from industrialized countries and 40.9% from developing countries. In 2005, 54.9% of U.S. imports came from developing countries.[5] The rise of the newly industrializing economies of East Asia (Hong Kong, Singapore, South Korea, Taiwan) and the emergence of Mexico as a significant U.S. trading partner account for part of this surge; however, much of the increase in developing countries' share of U.S. trade derives from China. Between 1990-2005, China's share of U.S. imports grew from 3.1% to 14.6% and its share of U.S. exports rose from 1.2% to 4.7%. Shifts in trade patterns have coincided with rising concerns about the ability of U.S. workers to compete with countries with low wages and the impact of globalization on U.S. employment, wages, and living standards.

The relative share of the United States in world trade has declined over the years. U.S. exports accounted for 15.7% of world exports in 1960 (when Japan and Europe were still recovering from the devastation of World War II) and 9.0% in 2004. The decline can be attributed to, among other things, the emergence in the international trading system China and other developing countries, as they have opened up their economies to the rest of the world. It can also be attributed to the emergence market economies in the former communist states in Central and Eastern Europe and the former Soviet Union.[6]

Political Factors

Congressional concerns and responsibilities in U.S. trade and trade policy are extensive. The Constitution assigns trade responsibility to the Congress. Article I, Section 8, states in part that the Congress shall have the authority "to lay and collect taxes, duties, imposts and excises... [and] regulate commerce with foreign nations, and among the several states..." For most of U.S. history this responsibility largely meant setting tariffs on imports into the United States.

---

[4] CRS calculations based on data in Office of the President. Council of Economic Advisers. *Economic Report of the President 2005.* February 2006. p. 280-281.

[5] Calculations based on data collected by U.S. Department of Commerce, Bureau of the Census.

[6] CRS calculations based on data in IMF. *Direction of Trade Statistics.* Various issues.

With the enactment of the Reciprocal Trade Agreements Act (RTAA) of 1934, the Congress delegated for limited periods of time the authority to the President to negotiate trade agreements to reduce tariffs reciprocally. It also delegated to the President the authority to reduce tariffs by proclamation within certain parameters. The RTAA was a congressional and executive branch reaction to the growing political burden on the Congress from tariff administration, to the political reality that it was easier for Congress to raise tariffs than lower tariffs given the political imperative of constituent interests, and to the largely adverse economic results of the Smoot-Hawley Tariff Act of 1930.[7]

Over time, trade negotiations have become more complex as trade negotiations have moved beyond tariffs to nontariff trade barriers, investment, labor, environment, and other issues. They have moved from the bilateral frameworks under the original RTAA to the multilateral negotiations under the General Agreement on Tariffs and Trade (GATT) and its successor organization, the World Trade Organization (WTO). In 1974, the trade negotiating authority was granted in the form of expedited (or fast-track) congressional consideration (limited debate and no amendments) of implementing legislation for proposed agreements.

While delegating negotiating authority to the President, the Congress maintains much control over trade policy. It does so by placing time limits on the authority, thus requiring the President to return to Congress to request its renewal. The Congress establishes negotiating objectives that must be adhered to in any agreement eligible to receive expedited (fast-track) treatment. The Congress requires that the executive branch notify the Congress when it intends to enter trade agreement negotiations and when it intends to sign trade agreements. It also requires the executive branch to consult the Congress during the negotiations. The Congress most recently granted the authority in 2002, initially until July 1, 2005, but was extended until July 1, 2007, as provided by law, upon the President's request and after the Congress did not pass a resolution disapproving the request.

An overall concern of Members of Congress is that the President remains mindful of Congress's constitutional authority over trade. In addition, Members want to make sure the Administration consults the Congress as its pursues negotiations in the bilateral and multilateral fora and conducts other aspects of U.S. trade policy. Members are also concerned that U.S. trade policy not unduly harm their constituents. Some want to make sure that the United States will preserve its ability to protect U.S. industries from dumped imports and other unfair foreign trade practices and that foreign countries allow U.S. exports to compete fairly. Members also want to ensure the United States holds its trade partners accountable for adhering to trade agreement obligations.

Each presidential administration conducts trade policy based on its own priorities and strategy. During the Bush Administration's first term, the United States pursued an activist trade agenda. It took the lead with the European Union (EU) and other trade powers in launching a new round of multilateral negotiations

---

[7] For more discussion, see Destler, I.M. *American Trade Politics: System Under Stress.* Institute for International Economics and the Twentieth Century Fund. 1986. P. 9-36.

in the WTO; pursued negotiations with individual countries and groups of trade partners to establish bilateral and regional free trade agreements (FTAs); and used other initiatives to forge closer economic ties that could lead to free trade agreements. The Bush Administration's priorities in its second term appear to include completing FTA negotiations; launching negotiations with other trading partners; completing of Doha Development Agenda (DDA) round of negotiations in the WTO; and ensuring U.S. trade partners' compliance with their obligations under bilateral and multilateral agreements.

In order for U.S. trade policy to be implemented successfully, the legislative and executive branches must work in tandem. As with many policy issues**,** conflicts on trade matters may arise between some Members of Congress and the Administration because of positions taken by their respective political parties. However, the Congress and the President bring different institutional perspectives that can place the **two branches in conflict** over trade matters regardless of their party affiliation. In general, Members of Congress are most concerned for the interests of their respective constituencies — workers, firms, agriculture, and industries — and the impact of trade on them. The President, as national leader, must weigh the positions of various groups against other national objectives (such as national security and foreign policy concerns and broad economic gains) in making trade policy.

Trade Issues

The 109th Congess has already faced some trade issues, and will likely confront more, requiring consideration and debate during the second session. How Congress addresses these issues could have long-term implications for U.S. trade policy.

Trade Promotion Authority (TPA)

The President's trade promotion authority (TPA), that is, the authority to negotiate trade agreements that receive expedited (set deadlines, limited debate, and no amendments) congressional consideration, will expire on July 1, 2007. The expiration date has become a virtual deadline for U.S. negotiations on multilateral, regional, and bilateral trade agreements that require congressional approval. The deadline constrains the presidential and congressional trade agendas, especially regarding trade negotiations. The TPA statute stipulates that agreements entered into by July 1, 2007, would be eligible for expedited congressional consideration if all other conditions under the authority are met. However, the statute also requires that the President notify the Congress of his intention of entering into (signing) an agreement at least 90 calendar days prior to doing so. Therefore, any U.S. agreement would have to be concluded by April 2, 2007, in order to meet the TPA criteria. While the Congress could choose to renew the authority briefly, as was done in 1993 to cover the completion of the Uruguay Round agreements, it is by no means certain that the 110th Congress would choose to do so. Also, congressional debate on the issue would likely be divisive, if the debate over the original extension of TPA in 2002 is an indicator.

The World Trade Organization

Since its founding in 1995, the WTO has embodied the international trade system. It provides the basic set of principles and rules by which its 149 members conduct trade among themselves and also provides a mechanism for those members to settle disputes over adherence to the rules. The WTO is evolving: The membership is now negotiating expansion and revision of its rules in the Doha Development Agenda (DDA) round, and countries are negotiating their entry into the WTO as new members. For some Members of Congress and for some interest groups, the WTO is controversial. They view the organization's rules as impinging on U.S. sovereignty, especially when WTO trading partners are able to challenge U.S. trade remedy laws for being contrary to WTO rules and principles. On the other hand, others assert that the WTO provides stability and predictability to the international trading system by ensuring that member countries' trade regimes meet basic standards and by providing a forum to encourage other countries to remove trade barriers.

During its first session, the 109th Congress had the opportunity to weigh in on the issue of U.S. participation in the WTO as it does every five years under U.S. law. The Congress did not pass a resolution that would have called for the withdrawal of the United States from the World Trade Organization (WTO), thus agreeing to U.S. participation, at least for another five years.[8]

The Doha Development Agenda Negotiations. In November 2001, the United States and the other members of the WTO launched what has become known as the Doha Development Agenda (DDA) round of negotiations. The failure early on to reach agreement on some basic ground rules, such as the modalities for negotiations on agriculture, made the end of 2005 deadline unachievable. The negotiations have continued with an emphasis on agriculture, non-agriculture market access (NAMA), and services. Trade ministers from the 149 members met in December 2005 in Hong Kong for the biannual ministerial meeting and recommitted their countries to completing the round of negotiations by the end of 2006, keeping in mind the April 2007 deadline on trade promotion authority (TPA) within which the Bush Administration is operating.[9]

Although the Congress has no direct involvement in the negotiations, legislation establishing the trade promotion authority (TPA) requires the executive branch to consult continually with the Congress during trade negotiations. The Congress could also conduct oversight hearings on the progress of the negotiations. The DDA covers a broad range of issues that have been of particular interest to Members, including agricultural subsidies and market access; trade remedy laws (such as antidumping laws); and intellectual property rights protection.

---

[8] For more information, see CRS Report RL32700, *Seeking Withdrawal of the Congressional Approval of the WTO Agreement: Background, Legislative Proposals, and Practical Consequences.*

[9] For more information on the DDA negotiations, see CRS Report RL32060, *World Trade Organization Negotiations: The Doha Development Agenda*, by Ian Fergusson.

If and when agreements are completed in the WTO, implementing legislation would have to be submitted to the Congress and would be subject to congressional approval. Under the trade promotion authority, the Congress would consider the implementing legislation for the agreements on an expedited basis.

U.S. Compliance with WTO Decisions. The WTO has ruled against the United States in several cases brought to the Dispute Settlement Body (DSB) against U.S. trade actions, most of which involve U.S. trade remedy laws. In some cases, the WTO has determined that U.S. implementation of its trade remedy laws does not comply with WTO rules. In some cases, compliance requires just a change in administrative regulation or practice. In some other cases, the determination was that the U.S. law itself violated U.S. WTO obligations and requires an act of Congress for the United States to come into compliance. Compliance with WTO rulings has generated debate, especially when the program in question has broad congressional support. On the one hand, the program may benefit critical constituencies and be politically popular. On the other hand, failure to comply subjects the U.S. to possible WTO-authorized sanctions and might encourage noncompliance by trading partners in cases where they lose.

The 109th Congress passed legislation that addressed two outstanding adverse decisions against the United States. In the first, the Congress repealed the so-called Byrd Amendment, the Continued Dumping and Subsidy Offset Act (CDSOA) of 2000 (Title X of P.L. 106-387). The law requires the Treasury Department to distribute revenues, collected from antidumping (AD) and countervailing duty (CVD) orders, to firms that had been successful petitioners in the AD and CVD cases. In 2002, the WTO had ruled against the United States in a challenge brought by 11 WTO members. Of the 11, the EU, Canada, and Japan eventually imposed tariff sanctions, authorized by the WTO, against selected U.S. exports because the United States had failed to repeal the law by an established deadline. After much congressional debate, a provision to repeal the Byrd amendment was included in the conference report accompanying S. 1932, the Deficit Reduction Act of 2002. It passed the House on December 19, 2005, and the Senate on December 21, 2005. (Because the House version did not include some language (language unrelated to the repeal), the House had to vote again on the Senate version, which it did on February 2, 2006.) However, under the provision the operation of the Byrd Amendment program continues until September 30, 2007. The EU, while acknowledging the repeal, has raised concerns about the delay of its effect. It is not clear whether U.S. trading partners will continue sanctions against U.S. exports.[10]

The same conference report also included the elimination of the U.S. "Step 2" cotton subsidies programs that the WTO had ruled illegal in a March 2005 Appellate Body ruling. The ruling came as the result of a case filed by Brazil. It is not clear at this point whether the congressional action addresses all aspects of the WTO ruling.[11]

---

[10] For more information, see CRS Report RL33045, *The Continued Subsidy and Dumping Offset Act ("The Byrd Amendment")*, by Vivian Jones.

[11] For more information see, CRS Report RS22187, *U.S. Agricultural Response to WTO Decision on Cotton Decision*, by (name redacted).

Bilateral and Regional Trade Negotiations and Agreements

Following the consideration and approval by 109th Congress of two free trade agreements — the DR-CAFTA and the U.S.-Bahrain FTA — during the first session, the Bush Administration will likely ask for consideration of several new bilateral and regional free trade agreements during the second session. Any FTA would be subject to congressional passage of implementing legislation. Furthermore, under the law granting trade promotion authority, the executive branch must consult with the Congress as trade agreement negotiations proceed. Members of Congress will likely monitor negotiations, mindful of the potential economic impact FTAs may have on their constituents and the United States as a whole.

The congressional debate on DR-CAFTA was highly contentious with differences falling along party lines principally over the degree to which the agreement protects labor rights in the DR-CAFTA partner countries. The Senate passed it 54-45 and the House passed the implementing bill 217-215 on June 30, and July 28, 2005, respectively. President Bush signed the legislation into law (P.L. 109-53) on August 2, 2005.[12]

Legislation implementing the U.S.-Bahrain FTA was far less contentious and passed easily, in the House (327-95) on December 7, 2005, and in the Senate (unanimous consent) on December 13, 2005. President Bush signed the bill into law on January 11, 2006 (P.L. 109-169). The FTA with Bahrain is part of a larger Bush Administration initiative to create a Middle East Free Trade Area (MEFTA) by 2013. The United States had already concluded an FTA with Morocco that entered into force on January 1, 2006. The United States and Oman signed an FTA on January 19, 2006, and the President is expected to send implementing legislation to Congress sometime in 2006. Negotiations with the United Arab Emirates (UAE) continue.[13]

On January 6, 2006, President Bush announced to Congress his intention to sign an FTA with Peru. The negotiations with Peru had been part of negotiations with Ecuador, Colombia, and Bolivia on a regional U.S.-Andean FTA, but the negotiations with Colombia and Ecuador have bogged down, and Bolivia's continued participation is in doubt, following recent presidential elections.[14] The United States is conducting FTA negotiations with Panama, Thailand, and the members of the Southern African Customs Union (SACU). In addition, the United States and South Korea announced on February 2, 2006, their intention to begin FTA negotiations.

Debates over implementing legislation on completed FTAs and oversight of negotiations on new FTAs in the 109th Congress will likely generate critical policy

---

12 For more information on the DR-CAFTA, see CRS Report RL31870, *The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR)*, by (nam e redacted).

13 For more information on the MEFTA, see CRS Report RL32638,*The Middle East Free Trade Area: A Progress Report*, by (name redacted).

14 For more information, see CRS Report RL32770, *Andean-U.S. Free Trade Agreement*, by (name redacted).

questions. For example, some Members of Congress have questioned the criteria that the Bush Administration uses to choose FTA partner countries. They have argued that many of the recently completed FTAs are with countries with relatively small economies that do not offer significant new commercial opportunities to U.S. exporters and investors. The Bush Administration has countered that these FTAs are stepping stones in building regional free trade areas that will offer greater opportunities to the United States while encouraging economic growth and development in those regions. The Administration also contends that FTAs assist the United States in defending its foreign policy and national security interests by strengthening ties with countries that have cooperated with the United States on the war on terrorism and the wars in Afghanistan and Iraq.

Trade negotiations also raise concerns about the potential impact of pending agreements on the U.S. economy as a whole and on specific sectors, particularly import-sensitive sectors such as some agricultural products and textiles. Economists have argued that FTAs can create new trade, boosting economic efficiency — a positive contribution to the economy, but they can also divert trade from more efficient to less efficient producers by giving preferential treatment to the imports of the latter, a negative contribution to the world economic welfare. Members of Congress must weigh the political and economic gains of achieving increased access to foreign markets in exchange for greater foreign access to U.S. markets.

Trade Enforcement/Trade Organization

During the first session and continuing into the second session of the 109th Congress, Members have expressed great concern regarding the lack of compliance by U.S. trading partners with bilateral agreements with the United States and multilateral agreements in the WTO. While much of this concern derives from trade problems with China, they are also fed by longstanding issues with other major trading partners including Canada, Japan, and the EU. On July 27, 2005, the House passed H.R. 3283, the "United States Trade Rights Enforcement Act," largely a China-focused bill (discussed further in the section on U.S.-China economic relations). Other bills have been introduced that would, among other things, augment U.S. government trade enforcement responsibilities and capabilities. Congressional leadership on trade policy in both political parties have indicated that trade enforcement will be a priority for the remainder of the 109th Congress.

Issues Pertaining to U.S. Imports

The 109th Congress will probably confront a spate of issues that relate to access of imports to U.S. markets. The issues pertain to treatment of imports from current and former communist countries and to tariff preferences the United States grants to certain developing countries.

Permanent Normal Trade Status. A number of former communist and some nominally communist states remain subject to the so-called Jackson-Vanik amendment of the Trade Act of 1974, as amended. The amendment requires that the normal trade status (NTR, also called most-favored nation (MFN) status) of these countries depends on fulfilling specified freedom of emigration conditions and therefore must be renewed annually. A number of countries, including Russia, Kazakhstan, and Ukraine, that were part of the former Soviet Union, and other communist states, such a Vietnam, are in this situation. Legislation must be enacted for these countries to attain permanent normal trade status (PNTR).

All of these countries have conditional NTR under Jackson-Vanik (tariffs on their exports to the United States are lower than would be the case if they did not have it); therefore, not having PNTR has had no immediate, practical impact on their trade with the United States. However, all four countries, as well as others, are seeking accession to the World Trade Organization (WTO). Under WTO rules, the United States would have to grant them unconditional MFN (or PNTR) upon their accession. If it does not, then the United States would have to invoke the WTO provision of "non-applicability," that is, it would declare that the WTO rules and other obligations would not apply in its trade relations with the other country. Therefore, the United States would not benefit from their accession to the WTO.

The debate on whether to grant these countries PNTR will possibly include political, foreign policy, as well as foreign trade matters. For example, issues may arise over Russian President Putin's moves to centralize political power in the Kremlin by eliminating direct elections for regional governors and by putting political pressure on the domestic press and over his policies toward Chechnya. The U.S. business community could raise concerns about the business climate in Russia in the wake of the arrest of Yukos Oil chairman Mikhail Khodorkovsky and the forced sale of Yukos assets. Concerns might also be raised regarding commitments in Ukraine and Vietnam towards economic reforms such as protection of intellectual property rights.[15]

Tariff Preferences. The United States grants unilateral trade preferences to groups of developing countries to encourage economic development by extending duty free treatment to their exports of eligible products to the United States. The most geographically comprehensive program, the Generalized System of Preferences (GSP), is due to expire on December 31, 2006.[16] The more geographically targeted Andean Trade Preferences Act (ATPA) also expires on that date. Legislation to reauthorize these programs may be introduced during the 109th Congress, and Congress might consider issues regarding the duration of the authorization, conditions of country and product eligibility, and the impact of these programs on the U.S. economy. The 109th Congress might also monitor the implementation of other trade preference programs such as the Caribbean Basin Initiative (CBI) and the African Growth and Opportunity Act (AGOA) that provide more favorable

---

[15] For more information on these issues, see CRS Report RS21123, *Permanent Normal Trade Relations (PNTR) Status for Russia and U.S.-Russian Economic Ties* and CRS Issue Brief IB98033, *The Vietnam-U.S. Normalization Process*, by (name redacted).

[16] For more information on GSP see, CRS Report 97-389,*Generalized System of Preferences*, by William H. Cooper.

preferences to those regions than is the case under GSP.[17] Some Members have proposed extending additional trade preferences to other poor developing countries.

Trade Remedy Laws. U.S. trade remedy laws are designed to alleviate the adverse impact on U.S. industries from some imports. Countervailing duty (CVD) statutes are used to alleviate the impact of imports that benefit by foreign government subsidies. Antidumping duty (AD) laws attempt to counter the effects of imports that are dumped (sold at less than fair value). The escape clause (also called "Section 201" for the provision of the Trade Act of 1974) authorizes measures to restrict imports that are sold fairly but at such rapid rates as to cause or threaten to cause serious injury to domestic producers of like products.

There are also U.S. trade remedy laws (such as section 301 of the Trade Act of 1974) designed to address foreign barriers to U.S. exports and provisions to deal with the lack of foreign protection of IPR (special 301). Some Members of Congress have questioned the effectiveness of these laws and/or the executive branch's effectiveness in implementing the laws. They have proposed changes that would strengthen the protection of domestic producers.[18] Others have proposed that U.S. CVD laws be amended to apply to non-market economies, such as China.

Major U.S. trading partners have challenged (in some cases successfully) the legality of U.S. trade remedy laws in the WTO. For example, the Byrd amendment (discussed under the WTO issues) and the U.S. 1916 Antidumping Act (which was been repealed by the 108th Congress) were challenged successfully. They have also challenged how the United States has implemented its trade remedy laws, arguing that the procedures the United States uses to make determinations in AD and CVD cases do not conform to rules under WTO agreements. Many U.S. trading partners have claimed that U.S. trade remedy laws are protectionist and are seeking tighter rules on the use of trade remedy laws in the Doha Development Agenda round negotiations in the WTO; however, many in the Congress have expressed opposition to trade agreements that would weaken U.S. trade remedy laws.

U.S. trade remedy laws could be the subject of oversight hearings and also legislation. Congress will probably closely monitor trade agreements that include changes in U.S. trade remedy laws.

Outsourcing. For many years, U.S. multi-national firms have dis-aggregated their production processes to allow them to take advantage of lower labor costs and other attributes in foreign countries. At first they would import some parts to be assembled as final products in the United States. This was followed by investment in whole production facilities abroad for re-export back to the United States or to third markets. Recent reports indicate that U.S. multi-nationals are subcontracting or "outsourcing" the actual design of computer hardware, software, and other

---

[17] For more information on AGOA, see CRS Report RL31772, *U.S. Trade and Investment Relationship with Sub-Saharan Africa: The African Growth and Opportunity Act and Beyond.,* by Danielle L. Langton.

[18] For more information, see CRS Report RL32371, *Trade Remedies: A Primer*, by Vivian C. Jones.

electronics products to offshore firms.[19] This trend may raise important policy issues for the 109th Congress as Members consider the impact on constituent firms and workers and well as the impact on the U.S. economy as a whole.[20] For example, should the U.S. government support programs to keep jobs in the United States by discouraging outsourcing by U.S. firms?

Export Controls/Foreign Policy Sanctions

Under the Export Administration Act (EAA), the Congress has delegated to the President the authority to control U.S. exports of so-called dual-use goods and technologies, for example high-speed computers, that can be used for both military and civilian purposes. Among other things, the authority permits the President to establish a licensing mechanism to ensure that dual-use goods and technologies are not exported to recipients who would use them to threaten U.S. national security. The authority also allows restriction on exports that are in short supply.

The last EAA reauthorization expired in August 2001. The export control regime has been maintained under the International Emergency Economic Powers Act (IEEPA), which permits the President to control economic activities in response to a declared emergency. The Congress might consider legislation to reauthorize the EAA. In the past, the debate of export control authority has centered around how restrictive U.S. controls should be. Many in the business community, especially those who export high technology goods and services, while understanding the need for controls, have argued that controls that are unnecessarily restrictive impeded their ability to compete with foreign firms in third markets, particularly when those firms do not face the same limits. Others argue, on the other hand, export controls should be sufficiently effective to ensure that dual-use technology and goods not get into the hands of those who wish harm to the United States.[21]

The 108th Congress passed and the President signed the Burmese Freedom and Democracy Act (P.L.108-61) that imposed a series of sanctions against economic ties with the military regime in Burma (Myanmar). The act contains a provision (Section 3 (a) (1)) that imposes a ban on imports products made in Burma until the government takes steps to promote democracy and human rights. The import ban was to be in effect for one year from the time of enactment (July 28, 2003) and renewable annually for up to three years from the date of enactment. The import ban has been renewed by Congress for each of the three years. However, Congress would have to take action to amend the provision to permit the import ban to continue beyond July 28, 2006.

---

[19] See for example, Outsourcing. *Business Week*. March 21, 2005.

[20] See CRS Report RS21883, *Insourcing and Outsourcing of Jobs in the U.S. Economy: An Overview of the Evidence Based on Foreign Investment Data*, by (name redacted).

[21] For more information on export controls, see CRS Report RL31832, *The Export Administration Act: Evolution, Provisions, and Debate*, by (name redacted).

Bilateral Economic Relationships

Five individual and regional trading partners dominate U.S. foreign trade and therefore have a significant impact on U.S. trade policy and the trade agendas of the Congress and the President: the European Union, Canada, Mexico, China and Japan. Together these trading partners accounted for close to 70% of U.S. merchandise trade in 2006.

Table 2. U.S. Trade in Goods with Major Partners, 2005
(Billions of Dollars)

	U.S. Exports	U.S. Imports	Total Trade	Trade Balances
World	904.3	1,671.1	2,575.4	-766.8
European Union	186.3	308.8	495.1	-122.4
Canada	211.3	287.9	499.2	-76.5
Mexico	120.0	170.2	290.2	-50.1
China	41.8	243.5	285.3	-201.6
Japan	55.4	138.1	139.5	-82.7

Source: U.S. Department of Commerce data

In most cases, billions of dollars of trade flows between each partner without incident. In addition, the United States works closely with these trading partners in the WTO and other multilateral institutions. However, trade disputes arise. Because of the size and importance of the relationships, these disputes raise concerns with the Congress and are often the subject of oversight hearings, if not legislation. Such has already been the case during the 109th Congress.

The European Union. The economic relationship between the United States and the European Union (EU) is the largest in the world. The modern U.S.-European economic relationship has evolved since World War II, broadening as the six-member European Community expanded into the present 25-member European Union. The ties have also become more complex and interdependent, covering a growing number and type of trade and financial activities.

In 2005, $495.1 billion flowed between the United States and the EU in merchandise trade. The EU as a unit is the largest **merchandise** trading partner of the United States. In 2005, the EU accounted for $186.3 billion of total U.S. exports (or 20.6%) and for $282.6 billion of total U.S. imports (or 18.5%) for a U.S. trade deficit of $122.4 billion.

U.S.-EU disputes have become increasingly complex. The issues in question are no longer just border trade issues (tariffs and other customs regulations) but also differences over competition policy and government regulations, disputes that impinge on the sovereign right of nations to run their economies in their national interests.

Several issues in the relationship are simmering and could erupt into full blown disputes in the next two years. The European Union is a party to the case in the WTO over the failure of the United States to comply with the adverse WTO ruling on the Byrd amendment. The EU will have to decide whether the U.S. Congress's repeal the Byrd amendment (discussed earlier) is adequate or to maintain tariff sanctions on U.S. exports.

Another perennial issue has been over alleged government subsidies for Boeing and Airbus Industrie by their home governments. The United States had threatened to take the EU to the WTO over what it claims are WTO-illegal subsidies by the EU governments of a new large commercial airliner by Airbus Industrie. The EU counterclaims that the U.S. company Boeing, the only other producer of large commercial airliners, is subsidized by the U.S. government through defense and space contracts and through other assistance. Having failed to work out their differences in bilateral discussions, the two parties independently filed complaints with the WTO in March 2005. The WTO created two panels, one to study U.S. charges of illegal subsidies to Airbus, and the second to study EU charges against Boeing. The cases are to be argued this year, but final decisions are not expected until sometime in 2007.

Another issue, thought to have been resolved, has re-emerged. In October 2004, the Congress repealed the Foreign Sales Corporation (FSC)-Extraterritorial Income (ETI), a program that provided an export tax subsidy for certain firms. The repeal was in response to a WTO ruling that the program conflicted with WTO rules on subsidies. Before the repeal, the EU had imposed tariff sanctions on selected U.S. exports because the United States had failed to repeal the program before a set deadline but lifted the sanctions after the Congress passed the repeal. Subsequently, the EU challenged certain provisions of the new law that allowed for a phase-out of the subsidies, and the WTO upheld the challenge. The United States filed an appeal, and on February 13, 2006, the WTO Appellate Body ruled against the United States.[22] The EU has threatened to reimpose the tariff-sanctions.[23]

On February 7, 2006, the WTO Dispute Settlement Body issued a preliminary decision that ruled in favor of the United States and other countries that challenged the EU ban on imports of bio-engineered food products. A final decision is expected later in the year.

Canada. Canada is the largest single-country U.S. trading partner. It is the largest market for U.S. exports and largest source of U.S. imports. The two countries are also closely tied by stocks of foreign direct investment in each other's economies, with many industries and sectors interlinked across the border. The tight relationship

---

[22] For more information on U.S.-EU economic relations, see CRS Issue Brief IB10087, *U.S.-European Trade Relations: Issues and Policy Challenges.*

[23] *National Journal's Congress DailyPM*. February 13, 2006.

was institutionalized on January 1, 1989, when the U.S.-Canada FTA went to effect. The FTA was superceded when NAFTA entered into force on January 1, 1994.

Agricultural trade is among the most potent disputes in U.S.-Canada trade given the importance of the sector to both economies and has drawn a great deal of congressional attention. Two issues in particular are long-running and very divisive.

The first pertains to the shipment of Canadian cattle into the United States. In 2003, the United States banned all Canadian beef imports because of the discovery of a case of "mad cow" disease. Subsequently, the Bush Administration allowed some types of beef products to be imported but has still maintained tight restrictions on most beef imports, including live cattle. U.S. and Canadian agriculture officials had been discussing ways to establish procedures to reopen the U.S. border to live Canadian beef. (Trade in processed or packaged beef has already resumed.) On January 5, 2005, the U.S. Department of Agriculture issued a rule to go into effect on March 7, 2005 that would permit additional beef imports from Canada including live cattle younger than 30 months. U.S. cattlemen opposed the rule, and the Ranchers Cattlemen Action Legal Fund brought a case which led to a ruling by the a U.S. District Court judge suspending the implementation of the rule. In addition, on March 3, 2005 the Senate passed a joint resolution to block the implementation of the rule.[24] However, U.S. meat-packers supported the rule and sought its implementation. On July 18, 2005, the United States began to import live cattle from Canada.

A second issue concerns imports of softwood lumber from Canada. U.S. lumber producers claim that low stumpage fees that provincial governments charge for lumber harvested from public lands and other practices constitute illegal government subsidies to the Canadian lumber industry. After a five-year U.S.-Canadian lumber agreement that imposed tariffs on Canadian softwood lumber expired in 2001, the U.S. lumber industry filed a series of countervailing duty and antidumping cases alleging the threat of material injury. The Department of Commerce and the U.S. International Trade Commission determined that injury and/or threats of injury existed from dumping and subsidies. Canada has challenged the actions in the NAFTA dispute settlement mechanism and the dispute settlement mechanism in the WTO. Canada is awaiting a WTO panel decision on obtaining compensation from the United States on measures the WTO determined to be illegal.[25] Canada has prevailed in NAFTA dispute settlement proceedings, upholding Canadian claims that U.S. actions violate U.S. laws. However, the United States has prevailed in WTO proceedings, with a Dispute Settlement Body ruling that U.S. actions are congruent with WTO rules.

---

[24] For more information on the U.S.-Canada beef importing issue see CRS Report RL32627, *Bovine Spongiform Encephalopathy ("Mad Cow Disease") and Canadian Beef Imports*, by (name redacted) and (name redacted).

[25] For more information on the U.S.-Canada softwood lumber trade issue, see CRS Issue Brief IB10081, *Lumber Imports from Canada: Issues and Events*. For more information on U.S.-Canada economic relations, see CRS Report RL33087, *United States-Canada Trade and Economic Relationship: Prospects and Challenges*, by (name redacted).

Mexico. Mexico is the second largest single-country export market for U.S. exports (having surpassed Japan) and the third largest source of U.S. imports. In 2005, the United States incurred a trade deficit of $50.1 billion with Mexico. Bilateral trade had increased rapidly even before the North American Free Trade Agreement (NAFTA) went into effect on January 1, 1994. Several disputes have disturbed what on the whole has been a harmonious trade relationship. On January 1, 2002, the Mexican Congress enacted a 20% tax on soft drinks made with high-fructose syrup. The U.S. exports high-fructose corn syrup and soft drinks that contain such syrup. The tax was in retaliation over a disagreement on how much Mexican sugar should be allowed to enter the United States under NAFTA. The United States claims that the tax violates Mexico's obligations in the WTO. A dispute resolution panel requested by the United States determined that the tax violated WTO rules, and Mexico has appealed the decision in 2005.

Another long-standing issue concerns the right of Mexican trucks to transport goods throughout the United States. Under NAFTA, Mexican trucks were to obtain that right in 2000, but the Clinton Administration suspended that concession to Mexico alleging safety problems with Mexican trucks. Mexico has been pressing the United States for full compliance with this provision. In June 2004, the U.S. Supreme Court ruled that Mexican trucks could operate in the United States. The two countries are now engaged in negotiations to resolve safety concerns.[26]

China. China's relationship with the United States is the most dynamic and contentious at this time. Bilateral trade has soared. Total U.S.-China trade has increased from $5.0 billion in 1980 to $285.3 billion in 2005. The U.S. trade deficit of $201.6 billion with China in 2005 is the largest U.S. bilateral trade deficit, far exceeding the second largest with Japan at $82.5 billion deficit with Japan. China is the second largest source of U.S. imports and the 11th largest export market. China has become the second largest (next to Japan) foreign holder of a U.S. Treasury securities, thus helping to finance the increasing U.S. national debt.

On November 10, 2005, the United States and China came to an agreement that restricts China's exports of wearing apparel and textiles to the United States. The agreement was in response to surges in U.S. imports of textile and apparel after the multilateral quotas on these products expired on January 1, 2005. The agreement was also in lieu U.S. unilateral safeguard actions on these products from China which threatened more extensive restrictions.[27]

The huge trade deficit has generated concerns about the effects of rapidly growing imports on U.S. import-sensitive industries and workers. Some interest groups representing labor and certain industries, for example, have focused on China's exchange rate regime that pegs the *yuan* to a basket of currencies including U.S. dollar. U.S. critics of China's policy charge that China deliberately undervalues the yuan/dollar exchange rate to underprice its exports and place them at a unfair

---

[26] For more information on U.S.-Mexico economic ties, see CRS Report RL32934, *U.S.-Mexico Economic Relations: Trends, Issues, and Implications*, by (name redacted).

[27] For more information, see CRS Report RL32168, *Safeguards on Textile and Apparel Imports from China*, by Vivian Jones.

competitive advantage over U.S. producers. U.S. policymakers and affected industries have also raised concerns about the effectiveness of China's intellectual property rights (IPR) protection, along with other issues.

On July 27, 2005, the House passed (255-168) H.R. 3283 (English) that targets China's unfair trade practices by allowing U.S. countervailing duty orders to be applied to imports from non-market economies (including China), and increase monitoring China's compliance with WTO obligations and its commitments to the United States on intellectual property rights (IPR) protection, among other things. A companion bill, S. 1421 (Collins), was introduced in the Senate. A number of bills have been introduced that would target China's exchange rate policies. For example, the Senate is expected to vote during the second session of the 109th Congress on S. 295 (Schumer) that would impose 27.5% tariff surcharges on imports from China, if China does not revalue its currency to market levels. On November 16, 2005, the Senate had agreed, per unanimous consent, to consider the bill no later than March 31, 2006.[28]

Japan. The U.S.-Japan economic relationship is very strong and mutually advantageous. The two economies are highly integrated via trade in goods and services — they are large markets for each other's exports and important sources of imports. More importantly, Japan and the United States are closely connected via capital flows. Japan is the largest foreign source of financing of the U.S. national debt. It will likely remain so for the foreseeable future, as U.S. national debt mounts and the stock of U.S. domestic savings remains insufficient to finance it. Japan is also a significant source of foreign private portfolio and direct investment in the United States, and the United States is the origin of much of the foreign investment in Japan.

The United States has consistently run merchandise trade deficits with Japan. After declining in 2003, the deficit has been rising, reaching $82.5 billion in 2005, the largest U.S. trade deficit with Japan. In 2005, the U.S. exports to Japan amounted to $55.4 billion and U.S. imports amounted to $138.1 billion.

In the 1980s and the 1990s, the U.S.-Japan economic relationship was often a source of sharp friction due to widespread Japanese trade barriers and the growing competition posed by Japanese industries (in autos, for example). The tone has softened considerably. Nevertheless, bilateral trade disputes do arise. Japan is a party to the complaint against the United States in the WTO regarding the Byrd Amendment, and Japan imposed tariff sanctions against selected U.S. exports. Japan first imposed the ban on imports of U.S. beef in December 2003 due to concerns over a case of bovine spongiform encephalopathy (BSE), also know as "mad cow disease," in Washington State. Japan lifted the ban on imports of beef from cattle 20 months or younger on December 12, 2005, but reimposed it on January 20, 2006, when Japanese meat inspectors discovered prohibited spinal bone material in a shipment. Some Members of Congress raised concerns over the Japanese original

---

[28] For more information on U.S.-China trade issues, see CRS Issue Brief IB91121, *China-U.S. Trade Issues,* by (name redacted).

ban and the reimposed ban, even proposing legislation to retaliate against Japanese imports if the ban were not lifted. [29]

The Wider Trade Debate

The range of trade issues that the 109th Congress will likely face is very broad and diverse. Each issue or set of issues bears its own implications as Members of Congress weigh the merits and disadvantages. In most cases, the 109th Congress will be considering and debating each issue separately. However, the cumulative effect of each debate may have wider implications for U.S. trade policy. As the 109th Congress addresses these issues, its decisions may define U.S. trade policy in the long term.

Free Trade or Protectionism?

The history of U.S. trade policy since the 1930s is one of a movement toward trade liberalization — lowering of tariffs and other trade barriers — and working in concert with other major trading powers to create multilateral rules to promote freer trade. At the same time, U.S. trade policymakers have taken measures to restrict trade by crafting laws that make it easier for domestic U.S. industries to obtain relief from dumped and subsidized imports and from surges in fairly-traded imports. While this debate over the direction of U.S. trade policy is sometimes framed as "free trade or protectionism," the terms of the debate are more subtle — more open trade or more restricted trade. The outcome of the trade issues before the 109th Congress will influence in which direction U.S. trade policy proceeds.

The Rise of Developing Countries

Developing countries have emerged as significant players in U.S. trade and world trade as a result of globalization. This trend presents the United States with challenges. For example, how should the United States respond to the increasing competition from less expensive labor in the developing countries? Should labor rights be included in trade agreements? These questions cut across the debates on each of the U.S. FTAs with developing countries, the Doha Development Agenda negotiations in the WTO, discussions and congressional proposals on trade remedy laws, the issue of "outsourcing," and the anticipated surge in textile and wearing apparel imports, among other issues. A broader question that might be considered is whether on balance the United States will consider trade with developing countries as a "race to the bottom" or as a "win-win" proposition for both sides.

Labor, Environment, and Trade

The issues of workers rights and environmental protection, become significant points of debate in congressional consideration of many trade matters. More

---

[29] For more information on U.S.-Japan economic ties, see CRS Report RL32649, *U.S.-Japan Economic relations: Significance, Prospects, and Policy*.

precisely, the question is to what extent should workers rights, environmental protection, and other concerns be part of trade agreements or other trade policy initiatives. The Congress included workers rights and environmental policy as principal negotiating objectives in the legislation granting trade promotion authority. Some Members of Congress have argued that trade agreements should ensure that trade partners' treatment of workers rights meet internationally accepted core labor standards or otherwise face trade sanctions. Others contend that trade agreements should only ensure that countries adequately enforce their own trade laws. A similar division of thought exists regarding trade agreements and environmental protection.

This underlying debate will likely emerge in congressional consideration of DR-CAFTA and other trade agreements involving developing country trading partners. It may also arise if and when Congress considers renewal of the President's trade promotion authority and reviews U.S. participation in the WTO. The outcome of these debates might determine in which direction U.S. trade policy is moving on these issues.

Shaping the International Trade System

The trade issues that the 109th Congress faces and how the Congress deals with them could have an impact on the international trading system. The international system is becoming larger and more complex. Lying at the foundation of the system is the WTO. Over the years, the rules the WTO (and its predecessor the GATT) administers have expanded from tariffs to such nontariff barriers as government procurement practices, sanitary and phytosanitary measures, and IPR protection. An objective of the Doha Development Agenda is to broaden the rules coverage even more. The 107th Congress helped set the agenda for the DDA round and U.S. negotiating positions during the round when it granted the President trade promotion authority and established negotiating objectives. The 109th Congress through oversight and the Administration's mandatory consultations can continue to influence the agenda.

The WTO is also expanding its membership. As of February 2006, the WTO has 149 members with 29 more countries at various stages of attaining membership or accession. Congress does not vote on whether a country can join the WTO. Through oversight it can influence the U.S. position on negotiating a country's entry. The Congress could have a more direct impact when it considers PNTR for those countries, such as Russia, Ukraine, and Vietnam, whose NTR status is still conditioned under the Jackson-Vanik amendment.

Along with the WTO, the international trading system is populated by a web of regional and bilateral free trade areas based on FTAs. In some cases, these areas are interlinked, while in others, they are distinct. FTAs have become a significant and expanding part of the international trading system.

International trade observers and policymakers are divided on whether the two tracks of the international trading system — the multilateral (the WTO) and bilateral/regional (FTAs) — are mutually reinforcing or in conflict. The Bush Administration firmly bases its trade policy strategy on the two prongs being reinforcing. Former USTR Zoellick has argued that the FTAs he negotiated are "cutting edge agreements [that] carry an importance beyond the size of newly opened markets, because they set high, enforceable standards in newer areas of importance to America — such as services, intellectual property, transparency and anti-corruption and e-commerce."[30]

On the other hand, others contend that FTAs undermine the WTO and its principles because they promote discriminatory treatment in trade by limiting preferential treatment to the participants in the FTA. Some critics have also asserted that bilateral and regional FTAs create a conglomeration of tariff-reduction schedules and rules of origin that are in conflict with one another and create confusion in the trading system undermining trade efficiency.[31]

In between these two groups are policymakers and observers who assert that FTAs and the WTO are not necessarily incompatible, but oppose the emphasis that bilateral and regional FTAs have been given by the Bush Administration. They argue that the Administration needs to devote the limited available staff and other resources to WTO negotiations where, they claim, it can promote U.S. trade policy goals more effectively.[32]

---

[30] Zoellick, Robert B. Remember Seattle: Mixed Signals are Bad for Trade. *The Wall Street Journal.* October 5, 2004.

[31] Se for example, Sutherland, Peter. (Chairman) *The Future of the WTO: Addressing Institutional Challenges in the New Millennium.* Report by the Consultative Board to the Director-General Supachai Panitchpadi. Geneva. 2004. p. 19-27.

[32] See for example, Cardin Pushes Administration to Focus on WTO Talks Instead of FTAs. *Inside U.S. Trade.* March 11, 2005.