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Trade Negotiations During the 109th Congress

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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, it argues, will 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. Critics contend, 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 controversial CAFTA (Central American Free Trade Agreement) — an agreement signed with the five countries of the Central American Common Market (CACM) and the Dominican Republic — was passed by the House on July 28, 2005, by a vote of 217-215. Later in the day, the Senate approved the House version of the legislation to implement CAFTA, and President Bush signed it on August 2 (P.L. 109-53). In December 2005, Congress approved implementing legislation for the Bahrain FTA and President Bush signed the legislation of January 11, 2006 (P.L. 109-169).

The United States is participating in several other regional and bilateral trade negotiations. Agreements were concluded and became effective during the 108th Congress with Australia, Chile, and Singapore. Also during the 108th Congress, an agreement with Morocco was approved, but it did not take effect until January 1, 2006. Negotiations are underway with Panama, Thailand, three Andean nations (Colombia, Peru, and Ecuador), and the United Arab Emirates. Negotiations have recently concluded with Peru, Colombia, and Oman. USTR announced the launch of FTA negotiations with South Korea on February 3, 2006, and with Malaysia on March 8. Several other trade initiatives are under discussion, including a U.S.-Middle East FTA and an FTA with countries in southeast Asia.

An ongoing regional 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, but the talks have now stalled.

The broadest trade initiative being negotiated 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, trade remedies, and developing-country issues. The WTO's 6th Ministerial was held at Hong Kong in December 2005, but no breakthrough on negotiating modalities was reached. An April 30, 2006 deadline to reach agricultural and industrial market access modalities was also missed.

Potential agreements resulting from current trade negotiations may be considered by Congress under trade promotion authority (TPA)legislation enacted in 2002. That legislation covers agreements signed before June 30, 2007. 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

May 10, 2006: The House Ways and Means Committee conducted its "mock mark-up" of implementing legislation for the U.S.-Oman FTA.

May 8, 2006: The United States and the United Arab Emirates conducted their 5th round of FTA negotiations during the week of May 8.

April 21, 2006: WTO Director-General Lamy announced that the April 30, 2006 deadline for establishing agriculture and industrial market access modalities would not be met.

April 18, 2006: Ambassador Portman resigns as USTR to be nominated Director of the Office of Management and Budget. Deputy USTR Susan Schwab is nominated to be USTR.

April 18, 2006: The United States announced that it is ending negotiations for a free trade agreement with the Southern African Customs Union (SACU).

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. During the 108th Congress, U.S. officials negotiated and Congress approved four bilateral free-trade agreements with Australia, Chile, Morocco, and Singapore.[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 liberalized trade.[2]

Trade agreements are negotiated by the executive branch, although Congress has the ultimate Constitutional authority to regulate interstate and foreign commerce. Trade promotion authority (TPA) requires that the President consult with and advise Congress throughout the negotiating process. After the executive branch signs an agreement, Congress may consider implementing legislation if any statutory changes are required under the agreement. There is no deadline for submission of the legislation, but once a bill is submitted, TPA requires a final vote within 90 legislative days.

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[1] The United States also is a party to four previous negotiated agreements: 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.

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. According to former United States Trade Representative (USTR) Robert B. Zoellick,

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

Critics 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 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 in 2003, then-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 reportedly 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 was seen by supporters as an affirmation of U.S. support for 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, then-USTR Zoellick enumerated several factors used 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

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[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 (continued...)

2004 reported that an interagency process had 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 compatibility with U.S. foreign and economic policy interests; congressional or private sector support, and U.S. government resource constraints.[7] More recently, USTR Portman announced that new FTA partners would be determined by which countries could negotiate an agreement before the expiration of U.S. trade promotion authority in June 2007.[8]

Some Members of Congress have questioned the manner in which potential FTA partners are chosen. Senator Max Baucus criticized the Administration for overlooking high volume trading partners in Asia and has been quoted saying that "this Administration's trade policy is dictated largely by its foreign policy, not by economics."[9] 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.[10] In January 2005, the National Association of Manufacturers advocated the commencement of FTA negotiations with Egypt, India, Malaysia, New Zealand, and South Korea.

The Administration 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 its September 2002 National Security Strategy, the Administration seemed to equate the concept of 'free trade' to a basic freedom or 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, will provide nations with the ability to lift themselves out of poverty and to insure stability.[11]

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[6] (...continued)
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.

[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] "Portman Says FTA Decisions Based on Ability to Sign by 2007," *International Trade Reporter*, October 7, 2005.

[9] "Baucus Proposes FTAs in Asia to Offset Chinese Influence ," *Inside U.S. Trade*, December 10, 2004.

[10] "Filling Up with Appetizers," *Congress Daily AM*, June 11, 2003.

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

While the Administration is pursuing trade agreements on multiple fronts, critics question whether the United States should be negotiating trade agreements at all. They state that American 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.

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 149 countries are participating in the Doha Development Agenda under the auspices of the World Trade Organization. Regionally, the United States has engaged with 33 other western hemisphere countries in an effort to create a Free Trade Area of the Americas, and has conducted FTA negotiations with countries in South America (Colombia, Peru, and Ecuador), Southern Africa (Botswana, Lesotho, Namibia, South Africa, and Swaziland), Panama, Thailand, Oman, and the United Arab Emirates. Of these, agreements have been concluded with Peru and Oman. The United States has ratified FTAs with Bahrain and with the Dominican Republic and the countries of the Central American Common Market (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua). Implementing legislation for these agreements have been passed by the United States, but the agreements have not yet entered into force. Agreements with Singapore and Chile entered into force on January 1, 2004, an agreement with Australia entered into force on January 1, 2005, and an agreement with Morocco entered into force on January 1, 2006.

TPA Notification and Consultation Requirements

Later sections of this Issue Brief 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 entered into before June 1, 2007. If the Administration meets the notification requirements, consults as required, and satisfies other conditions in the TPA legislation, the 2002 legislation calls on Congress to consider implementing legislation for a trade agreement under expedited ("trade promotion" or "fast-track") procedures.[12] 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

[12] 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.

congressional committees and the Congressional Oversight Group (COG).[13] 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.

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, private sector advisory committees must submit reports on the trade 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 trade 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 Signed

U.S.-Dominican Republic-Central American FTA (DR-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.[14] U.S. trade with the region totaled $34.9

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[13] 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.

[14] For further information, see CRS Report RL31870, *The Dominican Republic-Central America-*
(continued...)

billion in 2005. The United States imported $18.1 billion (primarily apparel items, bananas, coffee, and integrated circuits) and exported $16.8 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 later agreed to CAFTA on January 25, 2004, after resolving market access issues with the United States in the areas of telecommunications, insurance, and agriculture. President Bush notified his intent to enter into the agreement on February 20, 2004. The parties signed CAFTA on May 28, 2004, at a ceremony at the Organization of American States in Washington, D.C. Just as negotiations on CAFTA were completed, the United States began negotiating an FTA with the Dominican Republic that would integrate the Dominican Republic into the FTA with the Central American countries. Negotiations between the United States and the Dominican Republic began on January 12, 2004, and concluded on March 15, 2004. As negotiated between the United States and the Dominican Republic, the Dominican Republic would have its own market access provisions, but would accept the CAFTA framework already negotiated. On March 25, 2004, the President notified Congress of his intent to sign the FTA with the Dominican Republic. A new agreement was signed by all seven countries in Washington, D.C., on August 5, 2004, and was referred to as the DR-CAFTA. The House Ways and Means Committee held its first hearing into CAFTA on April 21, 2005. The agreement has been ratified with three of the signatories: El Salvador on December 7, 2004; Honduras on March 3, 2005; and Guatemala on March 10, 2005.

President Bush sent draft implementing legislation to Congress on June 23, 2005. On the same day, the legislation was introduced in the House (H.R. 3045) and in the Senate (S. 1307). The bills were referred to the Ways and Means Committee and to the Finance Committee respectively. The Senate Finance Committee approved S. 1307 by voice vote on June 29, 2005, and the full Senate approved the bill by a 54-45 vote on June 30, 2005. The House Ways and Means Committee ordered H.R. 3045 favorably reported by a 25-16 vote on June 30, 2005. The House approved the legislation on July 28, 2005, by a vote of 217-215, and later in the day this bill passed the Senate by a vote of 55-45.[15] The President signed the legislation on August 2 (P.L. 109-53). On March 1, 2006, President Bush implemented the agreement with El Salvador, the first country to enact legislation implementing the agreement.

U.S.-Bahrain FTA. On January 26, 2004, formal negotiations began on a U.S.-Bahrain FTA. Talks concluded after three rounds on May 27, 2004.[16] On September 14, 2004, the two countries signed an agreement. The House approved implementing legislation by the vote 327-95 in the House on December 7, 2005; the Senate approved the measure by unanimous consent on December 13 and the President signed the legislation on January 11,

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[14] (...continued)
United States FTA (DR-CAFTA), by J.F. Hornbeck.

[15] Although the Senate had acted previously, the final legislation must originate in the House (as a revenue measure), and the bills must be identical (under TPA procedures), hence the revote.

[16] For further information, see CRS Report RS21846, *Proposed U.S.-Bahrain Free Trade Agreement*, by Martin A. Weiss.

2006 (P.L. 109-169). This FTA is touted by the Administration as a first step in the creation of the Middle East Free Trade Area by 2013, and it foresees the possibility that other nations in the gulf region could link to this agreement as they reform their economies and develop their trade potential. U.S. merchandise trade with Bahrain totaled $783 million in 2005: imports of $432 million included apparel, textiles, fertilizers, chemicals, and aluminum and exports of $351 million were led by aircraft and aircraft parts, military equipment, passenger vehicles, machinery, and, not surprisingly, air conditioning equipment.

Agreements Under Negotiation

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.[17] 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).

On August 1, 2004, negotiators in Geneva reached agreement on a framework for the conduct of future negotiations.[18] This framework had been the goal of the unsuccessful 5th Ministerial, held in Cancún, Mexico, in September 2003. The framework provides a blueprint for future negotiations on agriculture, non-agricultural market access (NAMA), and services. Ministers also agreed to begin negotiations on trade facilitation, but the other so-called Singapore issues of government procurement, investment, and trade and competition policy were dropped from the Doha round negotiations. Members acknowledged that the December 31, 2004 deadline for completion of the round would not be met, and the framework set no new deadline.

The WTO's 6th Ministerial was held in Hong Kong from December 13-18, 2005. Although certain concrete steps were taken on assistance to LDCs, an end date of 2013 for agricultural exports subsidies, and the use of a "Swiss" formula in the NAMA negotiations, broader agreement on the modalities of the talks remain elusive. A new deadline for

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[17] For further information, see CRS Report RL32060, *World Trade Organization Negotiations: The Doha Development Agenda,* by Ian F. Fergusson.

[18] For more information, see CRS Report RL32645. *The Doha Development Agenda: The WTO Framework Agreement,* coordinated by Ian F. Fergusson, and CRS Report RS21905, *The Agricultural Framework Agreement in the Doha Round Negotiations,* by Charles Hanrahan.

agriculture and industrial market modalities was set for April 30, 2006, but that deadline, like all the others, came and went.[19]

Regional Negotiations

Free Trade Area of the Americas. In 1994, 34 Western Hemisphere nations met at the first Summit of the Americas, envisioning a plan for a Free Trade Area of the Americas (FTAA) by January 2005. The 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.[20] The United States traded $976.7 billion worth of goods with the FTAA countries in 2005: $399.9 billion in exports and $576.8 billion in imports.

Formal negotiations commenced in 1998, and five years later, the third draft text of the agreement was presented at the Miami trade ministerial held November 20-21, 2003. 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. Deep differences remain unresolved as reflected in the Ministerial Declaration, which has taken the FTAA in a new direction. It calls for a two-tier framework comprising a set of "common rights and obligations" for all countries, augmented by voluntary plurilateral arrangements with country benefits related to commitments. The 4th Summit of the Americas took place in Mar del Plata, Argentina, but there was no agreement on reviving negotiations.

Progress on the FTAA still depends on Brazil and the United States agreeing on a common set of obligations and defining parameters for plurilateral arrangements. This goal remains elusive, despite ongoing communications between their trade representatives. In the meantime, the trade dynamics of the region are changing, with many in the region heading toward bilateral agreements with the United States, the EU, and each other. Brazil and other Mercosur countries may have to evaluate the welfare tradeoffs of entering a deeper versus a shallower two-tier FTAA, or no FTAA at all, given the agreements forming around them. In March 2005, the Government Accountability Office (GAO) issued a report criticizing the handling of the FTAA negotiations by its two co-chairs, the United States and Brazil. It faulted two mechanisms intended to facilitate progress as having failed to revitalize the talks, the two-tiered negotiating structure and the co-chairmanship of the U.S. and Brazil. It also faulted the two nations for placing a higher priority on other trade negotiations, such as the Doha Round and other regional FTAs.[21]

U.S.-Southern African Customs Union FTA. On April 18, 2006, the United States abandoned work on an FTA with the Southern African Customs Union (SACU).

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[19] See CRS Report RL33176, *The World Trade Organization: The Hong Kong Ministerial*, coordinated by Ian F. Fergusson.

[20] 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.

[21] GAO Report 05-168, *FTAA: Missed Deadline Prompts Efforts to Restart Stalled Hemispheric Trade Negotiations*, March 2005.

Instead, the United States announced that it would begin a new work program on trade and investment issues. The talks began in November 2002, when the USTR notified Congress of the intent to negotiate an FTA with the five nations of SACU.[22] The first round of talks began in Johannesburg, South Africa on June 3, 2003. SACU is a customs union composed of South Africa, Botswana, Lesotho, Namibia, and Swaziland. The negotiations were hampered by the reluctance of SACU to negotiate on the full range of issues that have been addressed in other bilateral and regional FTAs that the United States has signed. At one point, SACU countries envisioned a two-stage negotiating process, with a market access agreement serving as an early harvest. Other issues of concern to the United States such as government procurement, investment, and intellectual property rights would be put off in a follow-up agreement. Such a strategy would have represented a departure from U.S. negotiating practices.[23] 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 have "locked-in" and potentially expanded such tariff advantages.

U.S.-Andean FTA. On November 18, 2003, the Administration formally notified Congress of its intent to initiate negotiations for an FTA with Colombia, Peru, Ecuador, and Bolivia. (In March 2005, Bolivians elected a President, Evo Morales, that repudiated FTA negotiations with the United States.) The negotiations began on May 18-19, 2004, with Colombia, Peru, and Ecuador. The United States and Peru announced a bilateral deal on an FTA on December 7, 2005, after resolving their agriculture and IPR issues; the United States signed a deal with Colombia on February 27 after these issues were resolved. It has not been decided whether to seek Congressional approval for these agreements separately, or submit them to Congress as a package. The fate of the FTA in Peru may depend on the result of a run-off election for President in May 2006: one candidate supports the agreement, the other opposes it. In addition, the outlook for an FTA with Ecuador has been clouded by several investment disputes and the treatment of sensitive agricultural products. In 2005, the United States imported $20.0 billion from the four Andean countries and exported $9.9 billion, for a total of $29.9 billion in trade. Colombia accounted for nearly half of that total. Leading U.S. imports in 2005 from the three countries were crude and refined petroleum oils, which were imported primarily from Colombia and Ecuador; bananas; copper; coffee; and cut flowers. About half of U.S. imports from the region came in under existing Andean trade preferences, which terminate at year-end 2006 and may not be renewed. Leading U.S. exports were machinery parts, data processing machines, corn, wheat, and telecommunications transmission apparatus such as cell phones.

Bilateral Negotiations

South Korea. The Administration notified Congress on February 3, 2006, of its intent to begin FTA negotiations with South Korea. Korea is the 7th largest trading partner of the United States with two-way trade totaling $71.5 billion in 2005 — $27.7 billion in exports and $43.8 billion in imports. Motor vehicles, computers and computer equipment, and

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[22] For further information, see CRS Report RS21387, *United States-Southern African Customs Union (SACU) Free Trade Agreement Negotiations: Background and Potential Issues*, by Danielle Langton.

[23] "SACU Stills Wants FTA with U.S. that Delays Talks on Investment, IPR", *Inside U.S. Trade*, February 24, 2006.

consumer electronics are major import categories; major U.S. exports include electrical and industrial machinery, aviation, chemicals, and aircraft. The talks were announced after the resolution of a high-profile disputes over screen-quotas for Korean films and restrictions on U.S. beef exports to Korea. The negotiations will likely contend with South Korea's well protected agricultural sector; non-tariff barriers in the automotive and other manufacturing sectors; and the status of products made at the Kaesong industrial complex, an industrial zone in North Korea set up by South Korean manufacturers. Proponents contend that an FTA would solidify South Korea's position as an economic powerhouse and would benefit the U.S.-South Korean security relationship.

U.S.-Panama FTA. During the FTAA summit in Miami on November 18, 2003, then-USTR Zoellick announced that the Administration had formally notified Congress of its intent to begin negotiations for an FTA with Panama.[24] Those bilateral negotiations began formally on April 25, 2004, in Panama City, Panama. The negotiations have progressed quickly in part because they have relied on the text of the DR-CAFTA agreement as an overall framework for discussion. 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, anti-terrorism, and anti-money laundering efforts. Panama was the 65th largest trading partner of the United States in 2005 with total trade of $1.2 billion. U.S. imports of $320 million were led by shrimp, fresh fish, precious or semi-precious metals, refined petroleum, and sugar. U.S. exports in 2005 totaled $904 million and were comprised of refined petroleum, aircraft, medicaments, corn, computer parts and accessories and telecommunications equipment. In the negotiations, the United States is seeking to address high tariff levels on some agricultural products, restrictive service licensing practices, and the lack of regulatory transparency. Panama is seeking greater access to its largest market and is also seeking maritime concessions. Negotiations have focused on sensitive agricultural products, retail services, investment, and government procurement related to the Panama Canal Area.

U.S.-Thailand FTA. On February 12, 2004, the Administration officially notified Congress of its intent to negotiate an FTA with Thailand. Negotiations began formally on June 28, 2004 in Hawaii and the latest round of talks began on January 9, 2006, in Chiang Min, Thailand. These negotiations were accompanied by demonstrations in Thailand over proposed IPR provisions, and by the subsequent resignation of the chief Thai negotiator.[25] 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.[26] It also emphasized Thailand's importance on military, security and political issues. Thailand is the 19th largest U.S. trading partner. Two-way trade in 2005 was $23.3 billion — $19.9 billion in U.S. imports, $7.2 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

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[24] For further information, see CRS Report RL32540, *The Proposed U.S.-Panama Free Trade Agreement*, by J. F. Hornbeck.

[25] "Health NGOs to Focus Pressure on U.S. Ahead of Next Thai FTA Talks," *Inside U.S. Trade*, January 27, 2006.

[26] The White House. Fact Sheet on Free Trade and Thailand. October 19, 2003.

computer parts. The continuation of a 25% U.S. tariff on light trucks, intellectual property rights protections, services, and sugar are issues in the negotiations.

Malaysia. The Administration announced FTA negotiations with Malaysia on March 8, 2006. Malaysia is the 10th largest trading partner of the United States with two-way trade totaling $ 44.2 billion in 2005 — $10.5 billion in exports and $33.7 billion in imports. Major exports to Malaysia include electronic circuitry, computer parts and equipment, scientific equipment, aircraft, and machinery. U.S. imports from Malaysia include computers and parts, electrical machinery, telecommunications equipment, furniture, and rubber products. The United States will likely seek the removal of import licensing restrictions on motor vehicles, removal of government procurement restrictions, to increase IPR protection, and to liberalize the protected financial services.

U.S.-United Arab Emirates. On November 15, 2004, the USTR sent formal notification to Congress that the Administration intended to pursue FTA negotiations with both the United Arab Emirates (UAE) and Oman. Talks began in March 2005. The USTR said that both of these FTAs would be a move toward the President's plan for a Middle East Free Trade Area. (See "Other Potential Trade Agreements" below.) Negotiations on the FTA were recently delayed in the wake of the attempted assumption of management contracts stemming from a Dubai firm's investment in a company operating ports in the United States. This controversy may affect the type of investment and government procurement provisions that are included in this FTA. Also, the Administration has identified the UAE as one of four countries that might be the subject of U.S. sanctions for human trafficking.[27] In 2005, the United States imported $1.5 billion from Kuwait and exported $8.5 billion to the emirates. The leading U.S. import was crude petroleum. Leading U.S. exports were aircraft, cars, and machinery.

U.S.-Oman FTA. FTA talks were announced on November 15, 2004, and talks began in March 2005. On October 3, 2005, USTR announced that negotiations had been concluded with Oman, and under the timetable set forth by TPA, the agreement was signed on January 19, 2006, in Washington. Worker protections in the Oman and the UAE have been a controversial issue in the negotiations. Both nations rely heavily on guest workers, and reportedly place heavy restrictions on the right to strike or to organize.[28] In 2005, the United States imported $555 million from Oman and exported $593 million to the kingdom.

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. This initiative would create a multi-stage process to prepare countries in the region for an FTA with the United States. Countries would begin the process by negotiating accession to

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[27] "U.S. Threatens FTA Partners in Gulf With Sanctions Over Human Trafficking." *Daily Report for Executives*, June 6, 2005.

[28] U.S. to Conclude Oman FTA as Early As Next Month After Two Rounds, *Inside U.S. Trade*, April 29, 2005.

the World Trade Organization[29] and subsequently by concluding Bilateral Investment Treaties (BIT) and Trade and Investment Framework Agreements (TIFA) with the United States.[30] As domestic reforms progress, countries would then negotiate FTAs with the United States, possibly linking to other existing or in-progress FTAs, such as with Jordan, Morocco, Bahrain, Oman, or the United Arab Emirates. Qatar and Kuwait have also been mentioned as a near-term FTA candidates. The USTR has stated that FTAs with Middle Eastern countries are consistent with the 9/11 Commission recommendation that the United States encourage development in the Middle East by expanding trade.

The Administration's rationale for this potential 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.[31]

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 (see earlier section on Thailand). As seen 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 $148.5 billion in 2005, consisting of imports of $98.9 billion and exports of $49.6 billion.

Egypt. Egypt is the 54th largest trading partner of the United States with U.S. imports in 2005 of $2.1 billion, exports of $3.2 billion, and two-way trade totaling $5.3 billion. Major export to Egypt include cereals, aircraft and parts, machinery, vehicles and parts, telecommunications equipment, and arms; imports include textiles, apparel, carpets, petroleum, and iron and steel. With a population of 65.3 million, Egypt is the largest country in the Middle East. Egypt has been a member of the World Trade Organization since 1995, and it has concluded a TIFA with the United States.

Egypt's central position in the Arab world has led to speculation that the United States would seek to launch FTA negotiations. The two sides reportedly have established a number

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[29] In the Middle East region, Afghanistan, Algeria, Iran, Iraq, Libya, Lebanon, Syria, and Yemen are not members of the WTO. Saudi Arabia became a WTO member in December 2005.

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

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

of exploratory "subcommittees" to prepare for the negotiations.[32] In November 2004, a House Ways and Means Committee delegation led by Chairman Thomas found reforms in customs administration, tariff reduction, and tax reform encouraging, but they cited continuing intellectual property rights violations and Egyptian restrictions on U.S. agricultural imports as impediments to an agreement.[33] In addition, discriminatory taxes on imports and poor labor rights standards have also been mentioned as impediments to an agreement.[34] In January 2005, the Pharmaceutical Research and Manufacturers of America (PhRMA) indicated that it opposed launching FTA negotiations with Egypt after the Egyptian Ministry of Health granted marketing approval to generic drugs without, PhRMA alleges, providing legally required data exclusivity periods.[35] The United States has reportedly suspended consideration of an FTA with Egypt due to continuing human rights issues, including the imprisonment of a Presidential candidate in the 2005 elections and concerns over the treatment of Sudanese refugees.[36]

Taiwan. An FTA with Taiwan has been advanced by proponents in the last several years.[37] In the 109th Congress, two concurrent resolution (H.Con.Res. 342 [Andrews]; H.Con.Res. 346 [Ramstad]) were introduced in February 2006. Taiwan is the 8th largest U.S. trading partner with total two-way trade in 2005 of $56.9 billion. The United States is now Taiwan's second largest trading partner after mainland China. In 2005, the U.S. imported $34.9 billion in merchandise from Taiwan with computers, circuitry, vehicle parts, television transmission, and telecommunications equipment leading. U.S. exports to Taiwan, which totaled $22.0 billion, included 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, it cites several outstanding trade disputes, including Taiwan's enforcement of intellectual property rights, the imposition of excessive standards, testing, certification and labeling requirements, and Taiwanese rice import quotas.[38] 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.

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[32] U.S., Egypt Set Up 'Subcommittees' To Lay Groundwork for Free Trade Talks, *International Trade Reporter*, July 21, 2005.

[33] House Ways and Means Committee, "Congressional Delegation to Tunisia, Jordan, Oman, and Egypt: Finding by the Delegation," November 17, 2004. [http://waysandmeans.house.gov/media/pdf/trade/111704codelfindings.pdf]

[34] "U.S. to Consider Egypt FTA After Next TIFA, Wants Further Reforms," *Inside U.S. Trade*, January 14, 2005.

[35] "PHRMA Calls for U.S. to Oppose Egypt FTA Over IPR Violations," *Inside U.S. Trade*, February 4, 2005.

[36] "Free Trade Talks with Egypt Put on Hold Pending Progress on Political, Other Issues," *International Trade Reporter*, January 26, 2006.

[37] For further information, see CRS Report RS20683, *Taiwan's Accession to the WTO and Its Economic Relations with the United States and China*, by Wayne M. Morrison.

[38] U.S. Trade Representative, *2005 National Trade Estimate Report on Foreign Trade Barriers*, p. pp. 591-608.

New Zealand. In the 109th Congress, there is some congressional interest in launching FTA negotiations with New Zealand. In February 2005, 54 House Members launched the "Friends of New Zealand Congressional Caucus" to demonstrate support for FTA negotiations. Proponents claimed an FTA with New Zealand would be a natural complement to then 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.[39] 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 were also under negotiation 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 53rd largest trading partner of the United States in 2005 with two-way trade of $4.9 billion. U.S. imports of $3.2 billion were led by meat, dairy products, wood products, and machinery. U.S. exports of $2.9 billion were led by machinery, aircraft and parts, electronic equipment and vehicles.

FOR ADDITIONAL READING

The WTO

CRS Report RL32053. *Agriculture in WTO Negotiations*, by Charles E. Hanrahan.
CRS Report RL33176. *The World Trade Organization: The Hong Kong Ministerial*, coordinated by Ian F. Fergusson.
CRS Report RL32645. *The Doha Development Agenda: The WTO Framework Agreement*, coordinated by Ian F. Fergusson.
CRS Report RS21569. *Geographical Indications and WTO Negotiations*, by Charles E. Hanrahan.
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CRS Report RL32810. *WTO: Antidumping Issues in the Doha Development Agenda*, by Vivian C. Jones.
CRS Report RL33085. *Trade in Services: The Doha Development Agenda Negotiations and U.S. Goals*, by William Cooper.
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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: Major Policy Issues and Status of Negotiations*, by J. F. Hornbeck.

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

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CRS Report RL32770. *Andean-U.S. Free-Trade Agreement Negotiations*, by Angeles Villarreal.
CRS Report RL32322. *Central America and the Dominican Republic in the Context of the Free Trade Agreement (DR-CAFTA) with the United States*, coordinated by K. Larry Storrs.
CRS Report RS21464. *Morocco - U.S. Free Trade Agreement*, by Raymond J. Ahearn.
CRS Report RL32375. *The U.S.-Australia Free Trade Agreement: Provisions and Implications*, by William H. Cooper.
CRS Report RS21846. *Proposed U.S.-Bahrain Free Trade Agreement*, by Martin A. Weiss.
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CRS Report RS21387. *United States - Southern African Customs Union (SACU) Free Trade Agreements Negotiations: Background and Potential Issues*, by Ian F. Fergusson.
CRS Report RL31870. *The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR)*, by J. F. Hornbeck.
CRS Report RL31144. *The U.S.-Chile Free Trade Agreement: Economic and Trade Policy Issues*, by J. F. Hornbeck.
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.
CRS Report RL32314. *U.S.-Thailand Free Trade Agreement Negotiations*, by Raymond J. Ahearn and Wayne M. Morrison.

General

CRS Report RS21554. *Free Trade Agreements and WTO Exceptions*, by Jeanne J. Grimmett and Todd Tatelman.
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.

Trade Negotiations During the 109th Congress

(* - Agreements Signed)

Agreement	U.S. Total Trade+ ($ bill.)	Status	Sensitive Areas
Doha Development Agenda of the WTO	$ 2,513.0	A work program was produced at the trade ministerial meeting in Doha in Nov. 2001. On August 1, 2004, negotiators reached a framework agreement on the conduct of future negotiations. The 6th WTO Ministerial was held at Hong Kong in December 2005. April 30, 2006 deadline for modalities was missed.	Agriculture, industrial market access, services trade facilitation, development issues
Free Trade Area of the Americas	$ 976.7	Negotiations began in 1998. Trade ministers met in Miami on Nov. 20-21, 2003, where the third draft text of the agreement was presented. Talks have stalled, with no date for the next ministerial meeting.	Agriculture, antidumping, textiles and apparel, worker rights, IPR
U.S. - South Korea FTA	$71.5	Administration notified Congress of intent to begin negotiations on February 3, 2006.	Agriculture, automobiles, non-tariff barriers
U.S.-Malaysia	$44.2	Administration notified Congress of intent to begin negotiations on March 8, 2006.	Financial services, autos, IPR
* U.S.-Dominican Republic-Central America FTA (DR-CAFTA)	$34.9	Talks were formally launched with five Central American countries on Jan. 8, 2003 and with the Dominican Republic (DR) on Jan. 12, 2004. The United States, the five Central American countries, and the DR signed the DR-CAFTA agreement on Aug. 5, 2004. Both Houses approved implementing legislation (H.R. 3045) on July 28, 2005. The President signed the legislation on August 2. (P.L. 109-53). Came into force between the U.S. and El Salvador on March 1, 2006.	Textiles and apparel, rules of origin, worker rights, agriculture, environment, IPR.
U.S.-Thailand FTA	$23.3	The Administration officially notified Congress of its intent to negotiate an FTA on Feb. 12, 2004. Negotiations formally began on June 28, 2004.	Sugar, trucks, telecommunications IPR
U.S.-Andean FTA	$29.9	On May 18-19, 2004 the United States began FTA talks with Colombia, Peru, and Ecuador. Negotiations with were concluded on December 7, 2005 with Peru and on February 27, 2006 with Colombia.	IPR, agriculture, investment
U.S.-SACU FTA	$10.9	Talks began on June 3, 2003, but negotiations were dropped on April 18, 2006.	Gov procurement, textiles, pharmaceuticals
U.S.-United Arab Emirates	$8.5	Notified with Oman Nov 2004; Talks began the week of Mar. 8, 2005, with the UAE.	Worker rights, investment, services
U.S. Oman	$1.1	Notified with UAE in Nov. 2004; Agreement signed on Oct. 3, 2005.	Worker's rights, MEFTA
U.S.- Panama	$1.2	On Nov. 18, 2003, the Administration formally notified Congress of its intent to begin negotiations with Panama. Talks began formally on Apr. 25, 2004.	Agriculture, services, maritime services
* U.S.-Bahrain FTA	$0.8	Talks began on Jan. 26, 2004. An agreement was reached on May 27, 2004 and signed on Sept. 14, 2004. The House approved implementing legislation on December 8, 2005, the Senate approved it Dec. 13 and the President signed it on Jan. 11, 2006 (P.L. 109-169).	Serve as hub for Middle East FTA

+Domestic exports (Fas value) plus imports for consumption (Customs value) with countries of the proposed agreement in 2005.