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Agriculture in Pending U.S. Free Trade Agreements with Colombia, Panama, and South Korea

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Summary

The 112th Congress is expected to consider separate free trade agreements (FTAs) signed by the Bush Administration with South Korea, Panama, and Colombia. If and when submitted, these trade agreements will be debated under trade promotion authority, or fast-track rules, designed to expedite congressional consideration. Liberalizing trade in agricultural products, particularly the pace of expanding market access for the more sensitive agricultural commodities, was one of the more challenging areas that trade negotiators faced in concluding each of these FTAs. In each instance, issues dealing with food safety and animal/plant health matters (technically not part of the FTA negotiating agenda) were not resolved until later.

Of these three pending agreements, the U.S.-South Korea (KORUS) FTA would be the most commercially significant for U.S. agriculture since the North American Free Trade Agreement (NAFTA) took effect with Mexico in 1994. Because Colombia, one of the largest markets in South America, imposes a high level of border protection on agricultural imports, the Colombia FTA has the potential to noticeably increase U.S. agricultural exports. Though Panama is a relatively small market, U.S. exporters would have opportunities to make additional sales.

Many U.S. commodity groups, some general farm organizations, and many agribusiness and food firms support these three trade agreements. They argue for quick approval to secure the benefits of additional agricultural exports once all three are fully implemented (estimated to range from $2 billion to $4 billion). They contend that the timely approval of these FTAs will protect or enhance the U.S. competitive position in these three markets. Their focus has shifted from not simply securing the gains already negotiated, to ensuring that the United States moves before other major agricultural exporting countries (e.g., the European Union, Australia) lock in preferential access under their FTAs negotiated with South Korea, Colombia, and Panama.

During 2010, the Obama Administration's objective was to address outstanding issues of concern to some Members of Congress before submitting these FTAs to Congress for consideration. In December, U.S. and South Korean negotiators agreed to changes in the KORUS' auto provisions sufficient enough for the President to call now for its quick approval. Though the Administration and some Members of Congress sought a full opening of South Korea's market to U.S. beef (i.e., slaughtered from all cattle, irrespective of age), Korean negotiators succeeded in deflecting this issue off the table. Recent movement by Panama on a bilateral tax information sharing treaty and labor rights issues could influence the U.S. timetable for taking up the Panama FTA. Colombia's handling of labor union violence and human rights is viewed by the Administration and some Members as the main issues that still need to be resolved before that FTA is submitted to Congress for a vote.

Some Members disagree with the Administration on the timing of when Congress should take up these trade agreements. Republican leaders argue that all three FTAs should be either voted on as one package or in quick succession. Some also have suggested that their support for other trade programs awaiting congressional renewal depends on the White House making clear its strategy for moving these agreements. The Administration has stated it will submit the KORUS FTA soon in order to secure congressional approval by mid-2011, and will forward the Panama and Colombia FTAs when the pending issues are resolved.

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Recent Developments

On February 9, 2011, U.S. Trade Representative Ron Kirk testified that President Obama "has directed [him] to immediately intensify engagement with Colombia and Panama with the objective of resolving the outstanding issues as soon as possible this year" so that both FTAs can be brought "to Congress for consideration immediately thereafter."[1]

On January 25, 2011, the President in his State of the Union address, noting that his Administration had just finalized the U.S.–South Korea Free Trade Agreement (KORUS FTA), asked "Congress to pass it as soon as possible." He added his intent is to "only sign [trade] deals that keep faith with American workers, and promote American jobs … as we pursue agreements with Panama and Colombia …"

On January 25, 2011, Senator Johanns introduced S.Res. 20 expressing the sense of the Senate that the United States should immediately approve the FTAs with Korea, Colombia, and Panama. S. 98, introduced by Senators Portman and Lieberman, expresses the sense of Congress that the President submit these three agreements and renew existing trade promotion authority through mid-2018 with respect to trade negotiations already underway and to those yet to be begin.

On January 25, 2011, the House Ways and Means Committee held a hearing on the three pending free trade agreements with Colombia, Panama, and South Korea. Among those that testified, Bob Stallman, President of the American Farm Bureau Federation—a general farm organization, noted that the additional trade generated by these three FTAs would benefit U.S. agriculture.

On January 24, 2011, a coalition of agricultural groups and food companies in a letter to congressional leaders urged Congress to approve the KORUS FTA "at the earliest possible opportunity." They emphasized the "extremely serious" risks for U.S. agriculture if this trade agreement is not implemented, stating that if rejected, the United States will "relinquish export sales" to other countries that have implemented, or soon will, their FTAs with South Korea. The letter highlighted the prospect of U.S. agricultural exports being "put … at a severe [competitive] disadvantage" when Korea's FTA with the European Union takes effect in mid-2011 if the United States fails to implement the KORUS FTA.

Background

The 112th Congress may consider free trade agreements (FTAs) with Colombia, Panama, and South Korea. The timing of the White House submission of each agreement will depend on the resolution with each country of outstanding issues (e.g., labor protections, tax reporting, automobile provisions). Some of these are not directly related to the signed text of an FTA. While the terms of U.S. beef access to South Korea's market may receive continued attention from some policymakers, the agricultural provisions in each FTA largely have been received positively by most U.S. agricultural organizations and food industry associations.

[1] USTR, "Testimony of Ambassador Ron Kirk Before The House Ways and Means Committee," February 9, 2011, available at http://www.ustr.gov/about-us/press-office/speeches/transcripts/2011/february/testimony-ambassador-ron-kirk-house-ways-an.

U.S. farmers and ranchers, agribusiness firms, and food manufacturers view efforts to expand commodity and food exports as vital to improving farm income and business profitability. For this reason, many U.S. policymakers since the mid-1980s have viewed negotiating trade agreements as a way of creating opportunities to increase agricultural sales overseas, primarily by seeking to lower and/or eliminate other countries' trade barriers (e.g., tariffs and quotas). To accomplish this, the United States has had to reciprocate by lowering similar forms of border protection on farm and food products imported from prospective trading partners. Because of the import sensitivity of some U.S. commodity sectors (e.g., beef, dairy, and sugar, among others) to the prospect of increased competition from foreign suppliers, the executive branch has had to take the concerns of producers of these commodities into account during negotiations, in order to secure congressional approval of concluded trade agreements.

The 1994 Uruguay Round Agreement on Agriculture negotiated under the structure of the multilateral institution that preceded the World Trade Organization (WTO) created substantial export opportunities for U.S. agriculture and agribusiness by partially lowering then-existing trade barriers worldwide. However, the U.S. FTAs that took effect with Canada in 1989 and with Mexico in 1994 (when both were combined into the North American Free Trade Agreement (NAFTA)) were more ambitious than the Uruguay Round in reducing barriers to bilateral agricultural trade. With these two trade agreements setting into motion a process that removed most forms of border protection by the end of 10- or 15-year transition periods, respectively, Canada and Mexico have become two of the fastest-growing markets for U.S. agricultural exports.

The United States has also entered into FTAs with 15 other, smaller trading partners. Most of these have only taken effect in the last six years.[2] Three FTAs negotiated and signed by the Bush Administration with Colombia, Panama, and South Korea await congressional consideration. Under the trade promotion authority (TPA) that applies, President Obama has discretion on when to submit each to Congress for a vote. TPA details the process for submitting implementing legislation to Congress for these FTAs, and the expedited legislative procedures to be followed that limit debate, prohibit amendments, and require a simple up or down vote. Before an FTA can take effect, Congress must approve the implementing bill.[3]

The timing of when each pending FTA might be submitted by the White House to Congress will depend on how issues of concern identified by the Obama Administration and Members of Congress are addressed in bilateral discussions to be held with each country. Accordingly, agriculture as covered in each pending trade agreement is examined in this report in the order that Congress may take them up, based upon recent statements made by Obama Administration officials and Members of Congress.

[2] These include, by date of entry, Israel (1985), Jordan (2001), Singapore (2004), Chile (2004), Australia (2005), Morocco (2006), El Salvador (2006), Honduras (2006), Nicaragua (2006), Guatemala (2006), Bahrain (2006), Dominican Republic (2007), Costa Rica (2009), Oman (2009), and Peru (2009). For more information on the agricultural provisions in these FTAs, see archived CRS Report RL34134, *Agriculture in U.S. Free Trade Agreements: Trade with Current and Prospective Partners, Impact, and Issues*, by Remy Jurenas.

[3] For background, see CRS Report RL33743, *Trade Promotion Authority (TPA) and the Role of Congress in Trade Policy*, by J. F. Hornbeck and William H. Cooper.

Key Agricultural Issues in FTAs

FTAs negotiated by the United States are generally comprehensive in scope. In addition to addressing market access for agricultural and food products, they cover trade in all other goods (including textiles and apparel), improved market access commitments for services and government procurement, and protections for investment and intellectual property rights. They also include provisions on dispute settlement, labor, the environment, customs administration, among other matters.

FTAs establish a framework for liberalizing trade in agricultural commodities and food products between partners within an agreed-upon time period. The primary objective in negotiating an FTA is to achieve preferential access to each other's market, to secure a competitive edge over other countries that sell into either partner's market. Accomplishing this requires that negotiators work to reduce and eventually eliminate tariffs and quotas on most agricultural goods. Because the United States and each prospective FTA partner have some agricultural products that benefit from high levels of border protection, negotiators spend much of their time wrestling with how to reduce barriers for these import-sensitive products.[4]

While U.S. negotiators sought to eliminate high tariffs and restrictive quotas imposed on U.S. agricultural exports to these three country markets, they also faced pressures to protect U.S. producers of import-sensitive commodities (beef, dairy products, and sugar, among others). FTA partner country negotiators faced similar pressures. One Bush Administration policy objective was for FTAs to be comprehensive (i.e., cover all products). For the more import-sensitive agricultural commodities, negotiators agreed on long transition periods, temporary additional protection in the case of import surges, or indefinite protection of a few commodities. To illustrate the latter, because of political sensitivities for the United States or its partners, negotiators agreed to retain in perpetuity quantitative import limits and prohibitively high tariffs on some of the most import-sensitive commodities. In one exception, though, the United States agreed to Korea's insistence that rice be completely excluded from their FTA.

Conversely, each pending FTA partner would have additional access to the U.S. market for those agricultural commodities that are now protected by restrictive U.S. import quotas. Of these, the U.S. sugar sector would face some competition from increased imports of sugar from Colombia and Panama. The small increase in additional imports from South Korea would likely be in the form of primarily ethnic foods. Also, because these three countries consume most of the beef and dairy products that they produce, any additional export sales to the United States would likely be accommodated by the large U.S. market with little effect.

The United States also has sought to address other non-tariff barriers (particularly those dealing with food safety and animal/plant health—commonly referred to as sanitary and phytosanitary (SPS) measures) on a separate, but parallel, track. Although U.S. negotiators assert that resolution of outstanding bilateral SPS disputes is not on the formal FTA negotiating agenda, the negotiating process has witnessed U.S. and partner country negotiators seeking to resolve such disputes and using them as leverage to achieve other FTA negotiating objectives. Further, resolving these

[4] A country's designation of certain agricultural commodities as "sensitive" usually reflects high levels of border protection (e.g., high tariffs, restrictive quotas, price bands) to preclude competition from lower-priced imports and/or the political strength of producers of these commodities that benefit financially from such border protection.

disputes is viewed as essential to ensure that FTA partners do not resort to using these barriers to undercut the openings created for U.S. exporters in market access talks.

South Korea

Expanding export opportunities for U.S. agriculture to the large South Korean market was the main goal pursued by U.S. agricultural officials in negotiating the U.S.-Korea Free Trade Agreement (KORUS FTA). Their objective reflected the interests of the U.S. agricultural sector, which eyes potential for further export gains in a major food importing country with a high level of border protection. U.S. exporters in particular see opportunities for increasing sales of higher-value food products to an expanding middle class. Compromises on the final package, reached in the final hours before the April 1, 2007, deadline,[5] would provide for much improved market access for all U.S. agricultural products (except for rice) to the Korean market. Trade ministers formally signed the agreement on June 30, 2007. However, numerous Members of Congress then signaled that their support for the KORUS FTA depends on South Korea fully reopening its market to U.S. beef (see "Korea's Rules for U.S. Beef Imports" below). The Bush Administration had hoped that the subsequent 2008 bilateral agreement on the terms of U.S. access to Korea's beef market would open doors to submission of the KORUS FTA to Congress for a vote that year. However, differences with the Democratic leadership over the agreement's automobile provisions and with some of the beef agreement's terms halted further movement. In late June 2010, President Obama directed Administration officials to begin to work with their Korean counterparts to resolve the outstanding auto and beef issues with South Korea by the time he met the Korean President in November 2010 at the G-20 meeting in Seoul. Missing that target, negotiators in early December 2010 reached a supplemental agreement that secured Korean changes to automobile and truck provisions in return for a U.S. concession on pork. Korean negotiators, though, held firm on not negotiating the beef issue.

Overview of Agricultural Trade

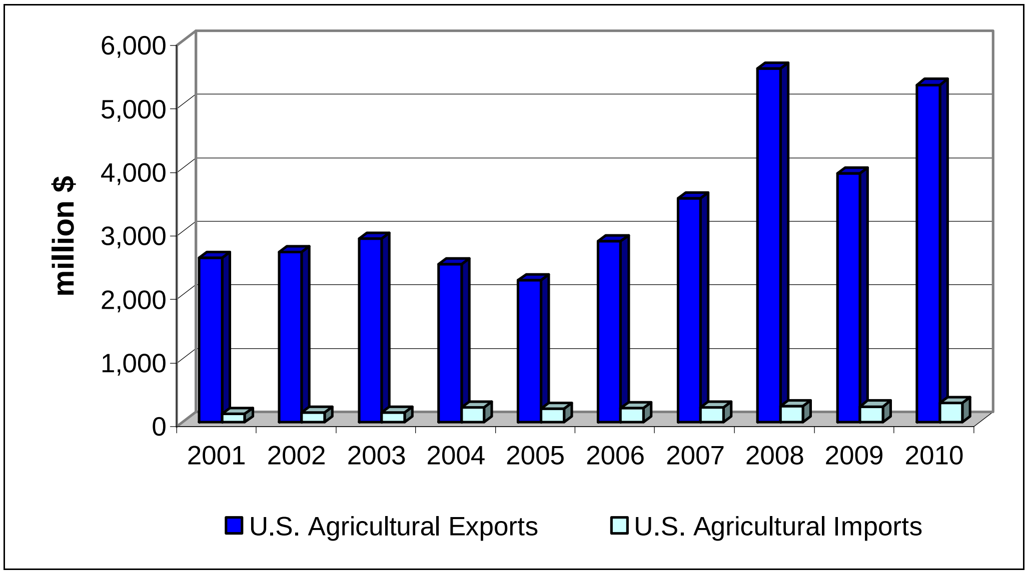
The United States runs a strong positive agricultural trade balance with South Korea. In 2009, South Korea was the 6th largest market for U.S. farm products in the world, as U.S. export sales totaled $3.9 billion. Shipments in 2009 were 30% lower than in 2008, largely due to the decline in trade worldwide caused by the economic recession. Exports rebounded 35% in 2010, reaching $5.3 billion (**Figure 1**). Leading exports were corn, soybeans, wheat, beef, and pork (**Table 1**). Agricultural shipments accounted for more than 14% of all U.S. merchandise exports to South Korea, up from about 10% in 2000.

In 2009, U.S. sales accounted for 28% of South Korea's $15 billion agricultural import market. The other major competitors in South Korea's commodity and food import market (China, Australia, the European Union, and Brazil) accounted for another 41% of this total.

U.S. agricultural imports from South Korea in 2009 were small—$245 million—consisting primarily of ethnic foods, and do not appear to compete directly with U.S. agricultural and processed-food products. South Korea ranked 38th as a source of U.S. agricultural imports.

[5] This was the last day that the Executive Branch could conclude a trade agreement under 2002-enacted trade promotion authority (TPA) and notify Congress of its intent to sign it.

Figure 1. U.S. Agricultural Trade with South Korea



Source: U.S. Department of Agriculture (USDA), Foreign Agricultural Service (FAS), Global Agricultural Trade System Online.

Table 1. Composition of Agricultural Trade with South Korea, 2009

Leading U.S. Exports			Leading U.S. Imports		
Product	**Value** ***million $***	**Share of Total**	**Product**	**Value** ***millior $***	**Share of Total**
Corn	1,107.4	28.3%	Pasta Products[a]	35.C	14.3%
Soybeans	276.0	7.0%	Nonalcoholic Beverages	27.5	11.2%
Wheat	270.7	6.9%	Fresh Pears	23.4	9.5%
Beef & Veal, Fresh-Chilled-Frozen	208.3	5.3%	Food Preparations	21.8	8.9%
Pork, Fresh-Chilled-Frozen	182.2	4.6%	Baked Products & Pastries	20.3	8.3%
Cattle Hides	151.1	3.9%	Fruit & Edible Plants, Preserved	12.1	4.9%
Hay & Related Forage Products	149.1	3.8%	Sauces & Condiments	10.9	4.4%
Food Preparations	107.2	2.7%	Photo Gelatin	6.5	2.7%
Soybean Meal	106.1	2.7%	Soups & Broth	5.4	2.2%
Cotton	84.5	2.2%	Ginseng	3.9	1.6%
Subtotal, Top 10	2,642.6	67.5%	**Subtotal, Top 10**	166.8	67.9%
All Other Agricultural Products	1,274.9	32.5%	All Other Agricultural Products	78.7	32.1%
Total	3,917.4	100.0%	**Total**	245.4	100.0%

Source: Derived by CRS from trade data available at USDA's FAS Global Agricultural Trade System Online.

a. Large portion likely is ramen noodles.

b. Likely edible foods

Leading imports were pasta products , fresh pears, nonalcoholic beverages, food preparations, and various baked products (**Table 1**). In recent years, agricultural imports accounted for one-half of 1% of all U.S. merchandise imports from South Korea.

Agricultural Provisions

In 2009, South Korea's average applied tariff on agricultural imports was almost 49%. Average tariffs are highest for vegetable products (over 100%). Tariffs on pistachios and shelled walnuts are 30%, on pork either 22.5% or 25%, on poultry and egg products from 18% to 27%, on beef 40%, on oranges 50%. Also, Korea extensively uses tariff-rate quotas (TRQs) [6] with prohibitive over-quota tariffs to limit imports of oranges (50%), various dairy products (89% to 176%), potatoes (304%), onions (135%), non-malting barley (300% or 324%), corn starch (226%), and numerous other agricultural products.[7]

The KORUS FTA would eliminate tariffs and quotas on most agricultural products traded bilaterally. The United States would receive immediate duty-free access to Korea for almost two-thirds of current U.S. agricultural exports once it takes effect. This would apply, among other products, to wheat, corn, soybeans for crushing, whey for feed use, hides and skins, cotton, cherries, pistachios, almonds, orange juice, grape juice, and wine. Tariffs and import quotas on most other U.S. agricultural goods would be phased out within 10 years. However, longer transition periods would apply to Korea's more sensitive commodities. This means tariffs, quotas, and safeguards to protect against import surges would be phased out in various stages ranging up to 23 years. Tariffs on beef [8] and potatoes for chipping would be removed in 15 years, on fresh grapes in 17 years, on ginseng products and fresh pears in 20 years, and on fresh apples in 23 years. TRQs with long phase-out periods (10 to 18 years) would apply to other sensitive products as cheeses, butter, dairy-based infant foods, barley, whey for food use, animal feed supplements and hay, corn starch, and ginseng. However, seven U.S. agricultural products (skim and whole milk powders, evaporated milk, in-season oranges, potatoes for table use, honey, and identity-preserved soybeans for food use) would be subject to Korean TRQs that slowly expand in perpetuity. Shipments against these quotas would enter duty-free, but over-quota amounts would indefinitely face prohibitively-high tariffs. USDA notes that these TRQs ensure access for U.S. exporters that South Korea could have easily changed under its multilateral trade commitments. Also, because of the sensitivity of marketing during harvest, quotas and/or tariffs and phase-out schedules would vary, depending on the season of the year that U.S. oranges, table grapes, and potatoes for chipping enter Korea's market.[9]

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[6] A TRQ is a two-part tool used by countries to protect their more sensitive agricultural and food products, often while transitioning over time to free trade. The quota component provides for duty-free access of a specified quantity of a commodity, which in an FTA usually expands over time. Imports above this quota are subject to a prohibitive tariff that in an FTA frequently declines over time. At the end of a product's transition period to free trade under an FTA, both the quota and tariff no longer apply (unless an exception is agreed to), allowing for its unrestricted access to the partner's market.

[7] WTO, Country Profiles, October 2010; and WTO, *Trade Policy Review – Report by the Secretariat – Republic of Korea*, September 3, 2008, p. 44.

[8] Though South Korea would completely phase out its 40% tariff on beef muscle meats in 15 years, a separate bilateral agreement on the terms of access for U.S. beef into Korea's market that addressed Korean food safety concerns was not concluded until June 2008 (see "Korea's Rules for U.S. Beef Imports").

[9] The agreement's agricultural provisions are summarized in USDA's "Fact Sheet - U.S.-Korea Trade Agreement," December 2010, available at http://www.fas.usda.gov/itp/KORUS%20One-Page%20Fact%20Sheet.pdf. A detailed description of the commodity-specific market access provisions (tariff reduction schedules, transition periods, TRQ (continued...)

Unique to this FTA, South Korea secured the right to specify the state entities and trade associations that would administer each TRQ under either an auction or licensing system. Safeguards (e.g., in the form of special add-on tariffs applied in case of import surges) would be triggered if imports from the United States of some sensitive agricultural products exceed specified levels. Korea succeeded in excluding rice and rice products from the agreement—its main objective in negotiating agricultural issues. This outcome reflected the prevailing view that rice is vital to maintaining, and inseparable from, Korea's national identity, and the political reality that rice farming preserves the basis for economic activity in the countryside. However, the United States will continue to be able to sell rice under quotas created to meet South Korea's multilateral WTO commitments.

The late 2010 negotiations to address outstanding FTA issues resulted in only one change to the agreement's agricultural provisions. South Korea requested a concession involving U.S. pork in return for changes that USTR sought in the automobile and truck provisions. The United States accepted a two-year extension in the phasing out of Korea's tariff on the largest category of pork imports from the United States. As modified by the supplemental agreement, the KORUS FTA would phase out South Korea's 25% tariff on 90% of the U.S. pork (primarily frozen product) now shipped to that market by January 1, 2016. This is two years longer than what both sides had agreed to in the 2007 text (i.e., January 1, 2014).[10] This concession appears to largely maintain a competitive balance for U.S. pork exporters compared to what the EU secured for its pork sector in its FTA with South Korea scheduled to go into effect in mid-2011. The National Pork Producers Council acknowledged that even with this late change, the KORUS FTA is "good deal." It expects the agreement to "be one of the most lucrative for the U.S. pork industry," with a substantial increase projected in exports to South Korea, live hog prices, and direct jobs."[11]

Because U.S. agricultural imports from South Korea are small and largely complementary, there was little controversy in negotiating Korean access to the U.S. market. The United States agreed to phase out tariffs and quotas on all agricultural imports from South Korea in stages ranging up to 15 years. This longest period would apply to imports from Korea of beef, some dairy products, rice, and malt extract.

Geographical Indications for Dairy Products

The U.S. dairy sector has expressed concern that the geographical indications (GI) provisions that apply to various European cheeses in the FTA negotiated by South Korea with the European Union (KOREU FTA) would undercut the potential benefits negotiated under the KORUS FTA for U.S. cheeses with identical names that sell into the Korean market. GIs (similar to a trademark) refer to marks that "identify a good as originating in the territory of a country, or a

(...continued)

amounts and growth rates, and safeguards) is found in USDA's fact sheet "U.S. - Korea Free Trade Agreement Benefits for Agriculture," December 2010, available at http://www.fas.usda.gov/itp/KoreaTA/KORUS%20Detailed%20Fact%20Sheet%202010.pdf. Additional fact sheets on the agreement's commodity provisions and the impacts for agriculture in 45 states are available at http://www.fas.usda.gov/info/factsheets/Korea/us-koreaftafactsheets.asp.

[10] South Korea's 22.5% tariff on other U.S. pork products (e.g., fresh pork bellies and miscellaneous fresh cuts) would be eliminated over 10 years as agreed to in 2007. It also secured a safeguard to protect against import surges from the United States of these fresh pork products, which would expire at the end of 10 years.

[11] NPPC, "U.S.-South Korea FTA Remains A Good Deal For U.S. Pork Producers," December 3, 2010.

region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin."[12] To illustrate, "champagne" and "Idaho potatoes" are examples of GI designations. Products so designated are eligible for relief from acts of infringement and/or unfair competition under a country's trademark laws and regulations. Because GIs are commercially valuable in the international trade of agricultural products, wines, and spirits, the EU in negotiating its bilateral trade agreements has sought to secure additional protection for its GI-designated agricultural and beverage products in FTA-partner country markets beyond what multilateral trading rules currently provide.

More than 50 Members of the House requested the USTR to ensure that as South Korea develops regulations to implement the KOREU FTA's GI provisions, those rules "do not undercut the dairy market gains secured" in the KORUS FTA. They expressed concern that the U.S. dairy industry will not be able to increase cheese exports if: (1) the United States does not "combat European efforts to carve out the sole right for their producers to use … cheese names most familiar to consumers around the world (e.g., feta, gorgonzola, munster, parmesan, provolone)," and (2) act to safeguard against possible threats to the use of such generic terms as cheddar and mozzarella "that could arise as a result of recent EU legal precedents" to protect the names of some EU wines and spirits. USTR has held separate talks on this matter with South Korean officials, and reportedly is still working on a solution to address these concerns.[13]

Potential Impact on U.S. Agricultural Trade

With the immediate elimination and phase out over time of much of South Korea's relatively high agricultural trade barriers under the KORUS FTA, the U.S. agricultural and food processing sectors would noticeably benefit from additional exports. The U.S. International Trade Commission (USITC) estimated that the increase in U.S. exports of agricultural commodities and processed foods would account for up to one-third of the entire projected increase in total U.S. merchandise exports to South Korea's market once the KORUS FTA's provisions are fully implemented. U.S. sales of agricultural products would be from $1.9 billion to $3.8 billion (44% to 89%) higher than exports under a no-agreement scenario. Almost half of this export increase would accrue to the U.S. beef sector, based on the USITC's assumption that U.S. beef exports recover to the 2003 level before South Korea imposed for human health reasons its restrictions on U.S. beef imports. About 20% of the export increase would benefit U.S. producers and exporters of pork, poultry, and other meat products.[14] The American Farm Bureau Federation (AFBF) projected that U.S. agricultural exports by the end of the transition period (2027) would be more than $1.5 billion (45%) higher under the KORUS FTA than would be the case otherwise. Sales of beef, poultry, and pork would account for $644 million (or 42%) of this increase.[15]

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[12] Uruguay Round Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), Article 22.1.

[13] Letter from Congressional Dairy Farmers Caucus to USTR Ron Kirk, September 27, 2010; World Trade Online, "Dairy GI Issue Related To Korea FTA Still Unresolved Despite Auto Deal," December 8, 2010.

[14] Derived by CRS from Table 2.2 in USITC, *U.S.-Korea Free Trade Agreement: Potential Economy-wide and Selected Sectoral Effects*, September 2007, pp. 2-8 and 2-9.

[15] Derived by CRS from American Farm Bureau Federation's (AFBF) *Implications of a South Korea-U.S. Free Trade Agreement on U.S. Agriculture*, July 2007, p. 17. To be consistent with the agricultural and food product categories used to derive the USITC's estimate, AFBF's exports of fish products are not included in the estimated increase in agricultural exports and agriculture's share stated above. The AFBF assumed the KORUS FTA would have taken effect in 2007 in developing its projections for 2027.

The wide disparity in projected U.S. agricultural export estimates under the KORUS FTA presented in these two analyses reflects the use of different methodologies and assumptions.[16] One major factor that accounts for the difference is that the AFBF projects that U.S. beef sales would be much lower than the USITC-estimated level.

Only the USITC looked at the impact of the KORUS FTA on U.S. agricultural imports. It projects that U.S. imports of primarily processed food products from South Korea would be from $52 million to $78 million (12% to 18%) higher than such imports under a no-agreement scenario.[17]

Of the five FTAs that South Korea has entered into to date, the ones with Chile (2004) and ASEAN – Association of Southeast Asian Nations (2007) are considered to be the more significant for U.S. agricultural interests. South Korea's FTA with the European Union (a competitor of the United States in some agricultural products) is expected to take effect on July 1, 2011. Negotiations are continuing to conclude this year an FTA with Australia, another major agricultural exporting country.

Korea's Rules for U.S. Beef Imports

By the time that negotiators concluded the KORUS FTA on April 1, 2007, they had not reached a breakthrough on the separate but parallel issue of how to resolve differences on the terms of access for all U.S. beef in a way that would address Korea's human health concerns. In 2003, South Korea had been the third-largest market for U.S. beef exports. However, in late December 2003, Korea's government imposed an import ban after a Canadian-born cow was discovered to be infected with mad cow disease, or BSE (*bovine spongiform encephalopathy*), in Washington state.[18] Though the then-South Korean President stated in April 2007 that his government would soon recognize international scientific standards as they applied to U.S. beef, little movement occurred until after the Korean presidential elections later that year.

Talks on resolving this outstanding issue concluded just before newly-elected South Korean President Lee met with President Bush at Camp David on April 18, 2008. Earlier that day, U.S. and Korean negotiators reached agreement on the rules that Korea will apply to beef imports from the United States. It allows for imports of all cuts of U.S. boneless and bone-in beef and other beef products from cattle, *irrespective of age*, as long as specified risk materials known to transmit mad cow disease are removed and other conditions are met. However, candlelight vigils held by thousands protesting this agreement, calls by opposition parties that these terms be renegotiated, and President Lee's apologies for how his government mishandled this matter, prompted the Korean government to secure additional changes to allay public concerns about the safety of U.S. beef. Subsequent difficult negotiations led to the announcement of a "voluntary private sector arrangement" on June 21, 2008, that limits sales to U.S. beef only from cattle *less*

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[16] For an explanation of these differences, see Appendix A in CRS Report RL34134, *Agriculture in U.S. Free Trade Agreements: Trade with Current and Prospective Partners, Impact, and Issues*, by Remy Jurenas.

[17] This range is derived by CRS using the USITC report referenced in footnote 14, pp. 2-8 and 2-9.

[18] BSE is a fatal, neurodegenerative disease of cattle thought to arise from the consumption of animal-derived protein supplements added to feed. Scientists believe that this disease can be transmitted to humans who eat the brain, spinal cord, or other high-risk tissues of BSE-infected cattle, which causes a variant form of Creutzfeldt-Jakob disease (vCJD). This is a very rare and incurable degenerative neurological disorder (brain disease) that is ultimately fatal. Since then, there have been only two other discoveries of BSE in cattle in the United States—in June 2005, in a U.S.-born cow on a Texas farm, and in March 2006, in another U.S-born cow in Alabama. To date, no persons have been reported to have contracted vCJD in the United States.

than 30 months old. Both countries view this as a transitional step intended to improve Korean consumer confidence in U.S. beef.

U.S. beef exporters have since worked to recapture this key overseas market. Exports of U.S. beef (including bone-in cuts) to South Korea resumed in mid-July 2008, and by year-end reached almost $300 million, more than one-third of the record 2003 sales level. In 2009, with the decline in beef sales worldwide due to the economic recession, U.S. beef sales to Korea fell to $216 million. For 2010, sales rebounded substantially to $518 million. Though Australia is the main competitor, U.S. beef exporters have gained noticeable market share since the Korean market reopened. The U.S. share (in quantity terms) rose from 15% in 2008, 26% in 2009, to a projected 34% in 2010 (compared to 69% in 2003). Promotional efforts to rebuild consumer confidence in U.S. beef, aggressive marketing efforts by large store chains, and much lower retail prices for foreign than for Korean beef, account for the continued growth in U.S. beef sales in Korea.

For additional information, see CRS Report RL34528, *U.S.-South Korea Beef Dispute: Issues and Status*.

Outlook for Congressional Consideration

Following the President's June 26, 2010, announcement of his decision to present the KORUS FTA to Congress, Obama Administration officials stated their intent was to resolve the beef and auto issues with South Korea by November 2010 once consultations with Congress and stakeholders were complete. In the negotiations concluded on December 3, 2010, the beef issue received little discussion as both sides focused on revising the auto provisions. President Obama, in discussing the supplemental agreement, indicated that the United States will continue to work toward "ensuring full access for U.S. beef to the Korean market."[19]

Memories of the size and intensity of the 2008 anti-beef agreement protests in South Korea appear to have directly influenced the position taken on the beef issue by Korean negotiators. Reflecting this political sensitivity, they reportedly rejected any discussion on this matter in the negotiations held in early November leading up to the summit between Presidents Obama and Lee and in the final talks leading to the supplemental agreement. Their position was that this issue "did not fall under" the FTA concluded in 2007. Soon after, South Korea's trade minister confirmed that there will be no more discussions on ending the age limits of U.S. cattle slaughtered for exported beef. This stance was more recently affirmed by its ambassador to Washington in late January 2011.[20]

Congressional reaction on the outcome of the beef issue was mixed. Senator Baucus (chairman of the Senate Finance Committee), who has advocated for full access for U.S. beef irrespective of the age of cattle in accordance with international scientific standards, expressed "deep

[19] White House, Office of the Secretary, "Remarks by the President at the Announcement of a U.S.-Korea Free Trade Agreement," December 4, 2010.

[20] *Inside U.S. Trade*, "Korean Negotiators Refused To Engage On Beef Issue In Seoul," November 19, 2010; *Washington Trade Daily*, "The KorUS Supplemental Agreement," December 6, 2010, p. 3; *Washington Post*, Political Economy Blog, "Obama, Lee outlined U.S.-Korea trade deal in Seoul, official says," December 6, 2010; Bloomberg, "South Korea's Kim Rules Out Negotiations on U.S. Beef Imports," December 6, 2010; *Inside U.S. Trade*, "Baucus to Oppose Korea FTA Unless More Progress Made on Beef Issue," December 10, 2010, p. 3; *International Trade Daily*, "Korea Has No Plans to Discuss Beef Prior to Action on FTA, Ambassador Says," February 1, 2011.

disappointment" that the supplemental deal "fails to address Korea's significant barriers to American beef exports." He stated his commitment to "right this wrong" and to work with the Administration to ensure that ranchers "are not left behind." More recently, Baucus said he will not support the KORUS FTA until South Korea opens up its beef market. A few other Senators, though concerned with the lack of progress on beef, viewed the deal positively and welcomed the prospect for considering the KORUS FTA in 2011.[21] Meat industry groups called for its quick consideration, stating that over time it will significantly increase their exports to South Korea. Beef interests called for continued efforts to secure full market access.[22]

On February 10, 2011, U.S. and South Korean negotiators signed the formal legal text of the supplemental agreement that both sides reached in early December 2010. With this step completed, the Obama Administration by early March plans to send a draft of a bill to implement the revised KORUS FTA to the House Ways and Means and Senate Finance Committees. Both committees will then engage in what is called a "mock mark-up," whereby its provisions will be reviewed, amendments offered, and votes held. The Administration does not have to accept any amendments made in committee, nor is it bound by any committee votes. Once the President formally submits the implementing bill to Congress for consideration under trade promotion authority rules (i.e., limited debate with no amendments permitted, and an up or down vote, in each chamber,), a maximum 60-day process starts for Congress to complete action. This would imply a timetable where the White House submits the final bill by early April, the House votes by late May, and the Senate votes in June.[23] This schedule also reflects the high priority the Administration has placed on securing approval by July 1, 2011, when the European Union's FTA with South Korea is scheduled to take effect.

For additional information, see CRS Report RL34330, *The Proposed U.S.-South Korea Free Trade Agreement (KORUS FTA): Provisions and Implications*, CRS Report R41534, *The EU-South Korea Free Trade Agreement and Its Implications for the United States*, and CRS Report R41544, *Trade Promotion Authority and the Korea Free Trade Agreement*.

Panama

On December 19, 2006, after almost a year's hiatus, U.S. and Panamanian negotiators reached agreement on a comprehensive FTA that includes market access provisions for exports of interest to U.S. agriculture. Though separate from this trade agreement, both governments on the next day also signed an agreement detailing how SPS measures and technical standards will be applied to bilateral agricultural trade (see "Sanitary and Phytosanitary Agreement," below.) With these near-simultaneous developments, both sides resolved outstanding differences over Panama's earlier

[21] Senate Finance Committee, "Baucus Deeply Disappointed With Announcement on Korea Trade Deal, Commits to Keep Fighting for American Ranchers," December 3, 2010; Senate Agriculture Committee, "Sen. Chambliss Statement on U.S.-South Korea Free Trade Agreement," December 3, 2010; Senator Grassley, "Conference Call with Farm Broadcasters," December 7, 2010; *Washington Post*, "Senator's objection may slow trade pact," February 3, 2011, p. A4.

[22] Meatingplace.com, "U.S.-Korea FTA deal leaves beef unchanged, phases out tariffs," December 6, 2010; Ibid., National Cattlemen's Beef Association; American Meat Institute, "AMI Statement on Finalized U.S. Free Trade Agreement with South Korea," December 3, 2010.

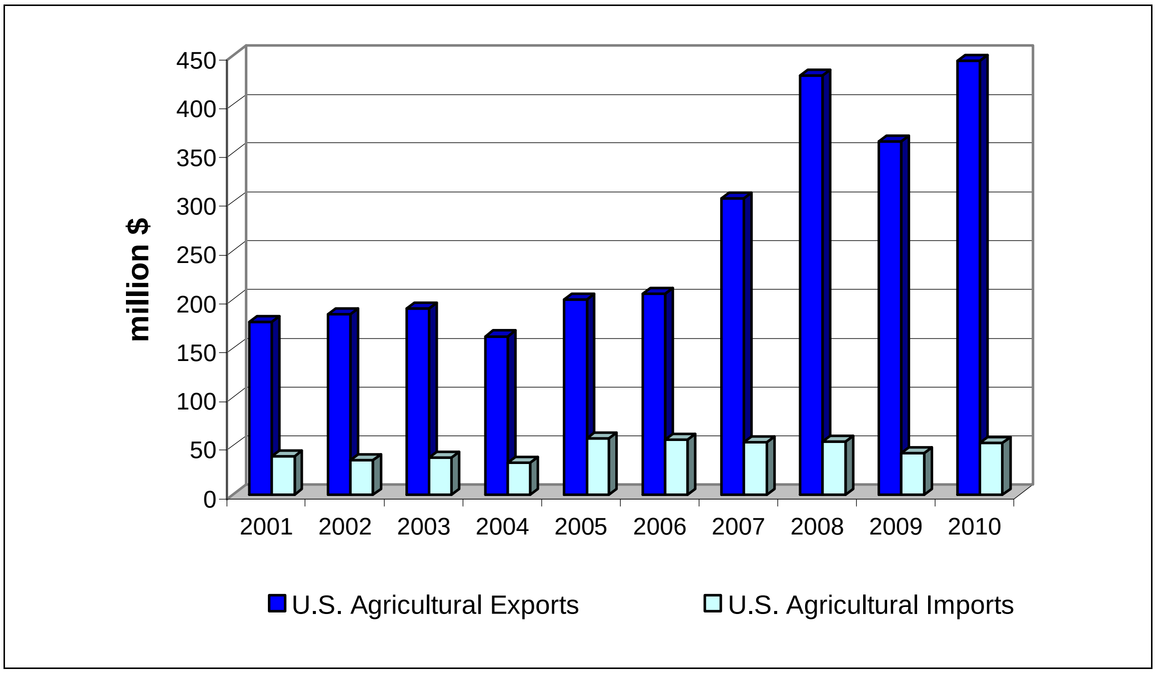
[23] WSJ.com, "Negotiators Finalize Korea-FTA Language," January 27, 2011; *Inside U.S. Trade*, "USTR Circulates Korea FTA Legal Language, Could Submit Draft Bill Soon," January 28, 2011, pp. 1, 22.

unwillingness to accept the equivalency of the U.S. meat inspection system[24] and achieved a balance in bilateral market access for sensitive agricultural products (sugar for the United States; rice, onions, and potatoes for Panama). Both countries signed the U.S.-Panama Trade Promotion Agreement (PTPA) on June 28, 2007. Panama's legislature ratified the PTPA on July 11, 2007. Action by the U.S. Congress depends on when the White House decides to submit implementing legislation.

Overview of Agricultural Trade

The United States runs a strong positive agricultural trade balance with Panama. In 2009, Panama ranked 42nd as an overseas market for U.S. farm products, with U.S. agricultural exports totaling $362 million. Shipments in 2009 fell almost 16% from 2008, largely due to the decline in trade caused by the worldwide economic recession. Exports rebounded 23% in 2010, reaching $445 million (**Figure 2**). Leading U.S. exports were corn, soybean meal, wheat, food preparations, and rice (**Table 2**). Though U.S. agricultural exports have increased noticeably in recent years, agriculture's share of all U.S. merchandise exports to Panama stood at 9% in 2009, down from just over 11% in 2000.

Figure 2. U.S. Agricultural Trade with Panama



Source: U.S. Department of Agriculture (USDA), Foreign Agricultural Service (FAS), Global Agricultural Trade System Online.

[24] The FTA talks collapsed in January 2006, when Panama's Agriculture Minister resigned, stating that the U.S. Trade Representative's request that the trade agreement include a side letter accepting the U.S. Department of Agriculture's safety certification would lower the country's food and health standards and increase the risk of introducing animal diseases. Subsequently, Panama's government changed its position, and agreed to sign this separate SPS agreement.

Table 2. Composition of Agricultural Trade with Panama, 2009

Leading U.S. Exports			Leading U.S. Imports		
Product	Value *million $*	Share of Total	Product	Value *million $*	Share of Total
Corn	69.2	19.1%	Raw Cane Sugar	16.8	39.7%
Soybean Meal	51.8	14.3%	Coffee[a]	7.7	18.2%
Wheat	30.0	8.3%	Fresh Pineapple	6.0	14.3%
Food Preparations	23.3	6.4%	Bakery Products	2.4	5.6%
Rice	16.7	4.6%	Fresh Pumpkins & Squash	1.8	4.3%
Chocolate & Cocoa-Containing Foods	13.0	3.6%	Fresh Melons	1.8	4.1%
Fresh Fruit, Decidious[b]	9.7	2.7%	Beverages, Nonalcoholic	1.6	3.9%
Beer	9.2	2.5%	Fresh Bananas	1.6	3.7%
Pork & Products	7.9	2.2%	Cocoa Beans	0.5	1.2%
Mixtures Oderiferous[c]	5.9	1.6%	Fresh Yams & Dasheens	0.4	1.0%
Subtotal, Top 10	236.6	65.4%	**Subtotal, Top 10**	40.6	96.0%
All Other Agricultural Products	125.3	34.6%	All Other Agricultural Products	1.7	4.0%
Total	362.0	100.0%	**Total**	42.3	100.0%

Source: Derived by CRS from trade data available at USDA's FAS Global Agricultural Trade System Online.

a. Primarily unroasted

b. Primarily fresh grapes and fresh apples

c. Flavoring ingredients for food and drink industries

U.S. sales accounted for 45% of Panama's $905 million agricultural import market in 2009. Imports from major country competitors (Costa Rica, the European Union, Guatemala, and Mexico) accounted for another 27% of this total.

In 2009, U.S. agricultural imports from Panama totaled $42 million. This placed Panama 67th as a supplier of commodities and food products to the United States. Leading imports were raw cane sugar, coffee, pineapple, bakery products, and pumpkins/squash (**Table 2**). Agricultural imports accounted for 14% of total U.S. merchandise imports from Panama that year.

Agricultural Provisions

Currently, less than 40% of U.S. agricultural exports have duty-free access to Panama's market. Other agricultural products face an average 15% tariff, but some key products are subject to much higher rates. Tariffs on meat can reach as high as 70%, and on grain up to 90%. U.S. chicken leg quarters face a 260% tariff. Under the PTPA, almost two- thirds of present U.S. farm exports to

Panama would receive immediate duty-free treatment, according to the U.S. Department of Agriculture (USDA).[25] This would apply to sales of high quality beef, mechanically de-boned chicken, frozen whole turkeys and turkey breasts, pork variety meats, whey, soybeans and soybean meal, crude vegetable oils, cotton, wheat, barley, most fresh fruits (including apples, pears, and cherries), almonds, walnuts, many processed food products (including soups and chocolate confectionery), distilled spirits, wine, and pet food. Panama agreed to establish preferential tariff-rate quotas (TRQs) for U.S. pork, chicken leg quarters, specified dairy products, corn, rice, refined corn oil, dried beans, frozen french fries, fresh potatoes, and tomato paste. Quotas for these import-sensitive commodities would be phased out in 5 to 20 years. The longest transition period (20 years) would apply to rice, Panama's most sensitive agricultural commodity. However, Panama agreed to increase tariff-free access for U.S. rice if needed to cover a shortfall in domestic output. Border protection on U.S. chicken leg quarters would end in year 18. Quotas to be created for fresh onion and fresh potatoes would expand slowly in perpetuity; high tariffs would apply to imports that exceed quota amounts.[26]

Almost all of Panama's agricultural exports to the United States already enter duty free under the Caribbean Basin Initiative trade preference program. Of U.S. commodities subject to quota protection, much attention focused on the additional market access granted to sugar from Panama. Additional sugar would be allowed entry into the U.S. market under preferential quotas that would be in addition to Panama's access for sugar under an existing U.S. multilateral trade commitment. For 30 years, Panama has had a minimum 2.7% share (30,540 metric tons [MT]) of the U.S. raw cane TRQ under U.S. WTO commitments. Under the PTPA, three new preferential quotas for sugar and sugar-containing products would in the aggregate represent a 23% increase over Panama's current access. The largest duty-free TRQ (for raw sugar) would be set initially at 6,000 MT. It would then increase each year by 60 MT (1%) for 10 years, and then be capped at 6,600 MT indefinitely. All sugar product over-quota tariffs would indefinitely remain at high levels (e.g., at an estimated tariff equivalent of 86% for raw cane sugar, using FY2008 data). In the aggregate, these quotas represent most of the sugar surplus that Panama recently has had available to export each year.

To provide another tool to manage U.S. sugar supplies and meet sugar program objectives, negotiators also included a sugar compensation mechanism which the United States would be able to exercise at its sole discretion. If activated, the United States would commit to compensate Panama for sugar that its sugar industry would not be allowed to ship under these sugar TRQ provisions.[27] Other U.S. preferential TRQs would be established for cheeses, condensed and evaporated milk, and ice cream imported from Panama, to be phased out completely in 15 to 17 years.

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[25] USDA, FAS, Fact Sheet summarizing the PTPA's agricultural provisions, December 2010, available at http://www.fas.usda.gov/info/factsheets/Panama/FINAL%20Panama%20One%20Page%20Fact%20Sheet%2012-6-10.pdf.

[26] A detailed description of commodity-specific market access provisions (transition periods, TRQ amounts and growth rates, and safeguards) is found in the USDA fact sheet "U.S.-Panama Trade Promotion Agreement - Detailed Look at Agriculture," December 2010, available at http://www.fas.usda.gov/info/factsheets/Panama/ FINAL%20Panama%20Detailed%20Fact%20Sheet%2012-6-10.pdf. Fact sheets on the PTPA's impacts for major agricultural commodities in 45 states are available at http://www.fas.usda.gov/info/factsheets/Panama/us-PanamaTPAfactsheets.asp.

[27] It is similar to a provision found also in the Dominican Republic-Central America FTA, the Peru FTA, and the pending FTA with Colombia.

Potential Impact on U.S. Agricultural Exports

Because Panama is a small market for U.S. agriculture, gains from additional exports under the PTPA are projected to be small relative to those projected under the FTAs with Colombia and South Korea. Two studies analyzed what these gains might be compared to the no-trade agreement scenario—one issued by the U.S. International Trade Commission (USITC) and another prepared by the American Farm Bureau Federation (AFBF). The USITC estimated that U.S. exports of agricultural commodities and processed foods to Panama would be $46 million higher (or about 20% above the 2006 level) when the agreement is fully implemented, compared to exports under a no-agreement outlook. Exports of corn and rice would be $27 million higher; sales of processed foods—$10 million higher, and sales of meat—$7 million higher.[28] The AFBF study projects that U.S. agricultural exports at the end of the transition period (2027) would be $195 million (46%) higher under the PTPA than would be the case otherwise. Sales of corn and rice would be $66 million higher; sales of poultry, pork and beef—$43 million higher; sales of soybeans and products—$29 million higher.[29] The wide disparity in estimates presented in these two analyses reflects the use of widely different methodologies and assumptions to estimate the projected change in future U.S. agricultural exports under this trade agreement.[30] Neither analysis looked at possible changes in agricultural imports under the PTPA.

Of the seven FTAs that Panama has in effect, those with the five neighboring countries in Central America (2003, 2008, 2009) and Chile (2006) are considered to be the most significant in terms of competition for U.S. agricultural interests. An FTA signed with Canada in May 2010 has not yet been ratified by both countries.

Sanitary and Phytosanitary Agreement

In the separate SPS agreement, Panama agreed to accept the U.S. meat and poultry inspection system "as equivalent to its own." This means that all Panamanian facilities that USDA certifies as meeting U.S. food safety standards are eligible to export meat products to the U.S. market, without the need for further inspection by Panama. The SPS agreement also commits Panama to provide access for all U.S. beef, poultry, and related products, on the basis of accepted international standards. It also streamlines import documentation requirements for U.S. processed foods and affirms Panama's recognition of the U.S. beef grading system. USDA notes that this agreement eliminates "long-standing regulatory barriers faced by a variety of U.S. products" in Panama's market.[31]

Outlook for Congressional Consideration

The Obama Administration has signaled its intent to resolve two outstanding issues with Panama as identified by some Members of Congress before submitting the PTPA for a vote. Concerns on

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[28] Derived by CRS from Table 2.4 in USITC, *U.S.-Panama Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects*, September 2007, p. 2-7.

[29] AFBF, *Implications of a Panama Trade Promotion Agreement on U.S. Agriculture*, 2007, p. 17. The AFBF assumed the PTPA would have taken effect in 2007.

[30] For an explanation of these differences, see Appendix A in CRS Report RL34134, *Agriculture in U.S. Free Trade Agreements: Trade with Current and Prospective Partners, Impact, and Issues*, by Remy Jurenas.

[31]USDA, PTPA detailed fact sheet, p. 2, available at http://www.fas.usda.gov/info/factsheets/Panama/FINAL%20Panama%20Detailed%20Fact%20Sheet%2012-6-10.pdf.

worker rights center on certain provisions of Panama's labor laws that restrict unions and that have been criticized by the International Labor Organization. These include the requirement that a minimum of 40 people are necessary to form a union, and the prohibition on more than one union per business. Currently, Panama is standardizing its labor code so it will apply uniformly nationwide. Plans call for expanding collective bargaining and right to strike provisions. The minimum worker issue (i.e., reducing the number of workers required to form a union to 20, per ILO guidelines, as called for by some Members) may not be addressed, reportedly for its lack of support in Panama, even among labor groups. Also, Panama's bank secrecy laws have raised concerns that the country is serving as a tax shelter. To address this, the United States and Panama signed a tax information exchange agreement on November 30, 2010—a tool that the Treasury Department says will provide it with access to information needed to enforce U.S. tax laws. Some observers view this as a positive development for moving toward congressional consideration of the PTPA. Though House and Senate Republicans have called on the Administration to set a timetable for submitting this agreement for a vote, the White House's position is that outstanding issues must be resolved before the PTPA is submitted to Congress.

For additional information on the PTPA, see CRS Report RL32540, *The Proposed U.S.-Panama Free Trade Agreement*. For background on Panama, see CRS Report RL30981, *Panama: Political and Economic Conditions and U.S. Relations*.

Colombia

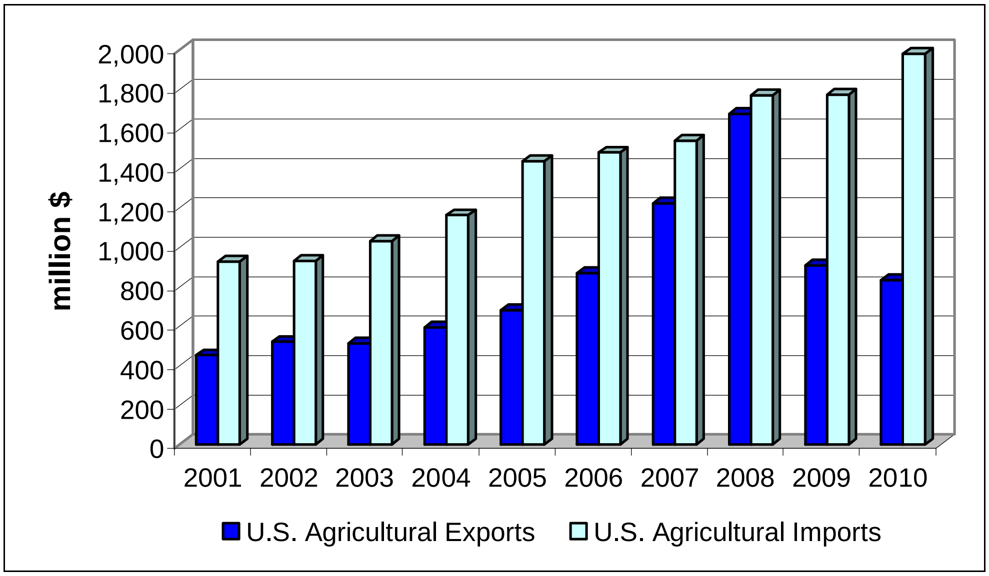
Although U.S.-Colombian negotiators announced on February 27, 2006, that they had concluded an FTA, remaining differences over two agricultural market access issues took another four months (until July 8, 2006) to resolve. Further, the signing ceremony for the U.S.-Colombia Free Trade Agreement (CFTA) was not scheduled until Colombia took steps to fulfill a separate commitment to allow, by no later than October 31, 2006, the entry of U.S. beef imports (see "SPS Side Letter," below). The CFTA was formally signed on November 22, 2006. Colombia's legislature completed the approval process for the CFTA on October 30, 2007. Action by the U.S. Congress depends on when the White House decides to submit implementing legislation.

Overview of Agricultural Trade

Colombia is the third largest market for U.S. farm products in Latin America after Mexico and Venezuela, and ranked as the 20th largest market for U.S. agriculture in 2009. U.S.-Colombian agricultural trade nearly come into balance in 2008, as U.S. agricultural exports since 2006 had increased at about a 40% annual rate. In 2009, U.S. agricultural exports totaled $907 million, down 46% from the $1.7 billion recorded in 2008. This trend continued in 2010, as exports fell another 8% to $832 million (**Figure 3**). Much of the decline is due to increased competition from Argentina and Brazil under preferential trade terms in those commodities that the United States in prior years had exported to Colombia. The top U.S. agricultural commodities shipped to Colombia in 2009 were corn, wheat, soybeans, cotton, and food preparations (**Table 3**). Agriculture's share of all U.S. merchandise exports to Colombia stood at just above 10%, down from 12% in 2001.

In 2009, U.S. agricultural sales accounted for 26% of Colombia's $3.6 billion agricultural import market, compared to a 44% share in 2008. Agricultural imports from other major competitors in this market (Argentina, Brazil, Ecuador, and Bolivia) accounted for another 44% of this total. For comparison, these four countries' share in 2008 was 30%.

Figure 3. U.S. Agricultural Trade with Colombia



Source: USDA, FAS, Global Agricultural Trade System Online.

Table 3. - Composition of Agricultural Trade with Colombia, 2009

Leading U.S. Exports			Leading U.S. Imports		
Product	**Value million $**	**Share of Total**	**Product**	**Value million $**	**Share of Total**
Corn	216.0	23.8%	Coffee Beans[a]	716.2	40.4%
Wheat	141.4	15.6%	Fresh Roses	244.7	13.8%
Soybeans	100.3	11.1%	Fresh Bananas	194.5	11.0%
Cotton	65.9	7.3%	Fresh Cut Flowers	129.7	7.3%
Food Preparations	43.8	4.8%	Fresh Chrysanthemums	75.2	4.2%
Soybean Meal	30.6	3.4%	Coffee Extracts	66.0	3.7%
Corn Gluten Meal	25.3	2.8%	Sugar[b]	55.8	3.2%
Rice	25.3	2.8%	Carnations, Fresh	55.5	3.1%
Chicken Meat[c]	20.0	2.2%	Plantains, Fresh	42.8	2.4%
Animal Feed Preparations	14.8	1.6%	Bakery Products	23.7	1.3%
Subtotal, Top 10	683.5	73.5%	**Subtotal, Top 10**	1,604.2	90.5%
All Other Agricultural Products	223.7	24.7%	All Other Agricultural Products	167.8	9.5%
Total	907.2	100.0%	**Total**	1,772.0	100.0%

Source: Derived by CRS from trade data available at USDA's FAS Global Agricultural Trade System Online.

a. Primarily raw cane sugar

b. Primarily unroasted

c. Frozen and processed

U.S. agricultural imports from Colombia in 2009 reached nearly $1.8 billion, ranking Colombia 12th as a supplier of U.S. agricultural imports (**Figure 3**). Leading imports were coffee beans, roses, bananas, cut flowers, and chrysanthemums (**Table 3**). In 2009, agricultural imports accounted for almost 16% of total U.S. merchandise imports from Colombia, about the same as in 2000.

Agricultural Provisions

Currently, no U.S. agricultural export has duty-free access to Colombia's market. Applied tariffs on agricultural imports range from 5% to 20%, but under WTO rules, Colombia could raise these to bound levels which range from 15% to 388%.[32] The CFTA would eliminate tariffs and quotas on all agricultural products traded bilaterally (except for sugar) and establish long transition periods for the more sensitive commodities. The United States would secure immediate duty-free access to Colombia for more than one-half of its current exports by value. This would apply to high-quality beef, bacon, cotton, wheat, soybeans, soybean meal; apples, pears, peaches, and cherries; and frozen french fries and cookies, among other food products. Also, Colombia agreed to immediately eliminate price bands for some 150 products—a mechanism that added fees onto existing tariffs which fluctuated depending upon world prices. This effectively had resulted in a higher level of border protection than would usually be the case.[33] Colombia's tariffs on most other farm and food products imported from the United States would be phased out in periods ranging from 3 to 15 years. For its most sensitive commodities (including those subject to price bands), Colombia would eliminate quotas and over-quota tariffs for corn and other feed grains in 12 years, for dairy products in 15 years, for chicken leg quarters in 18 years, and for rice in 19 years. Both countries would also commit to consult and review the implementation and operation of provisions on trade in chicken about midway through the long transition period.[34]

Almost all of Colombia's agricultural exports to the United States would continue to benefit from current duty free access under the Andean Trade Preferences Act,[35] which the CFTA would make

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[32] A bound tariff represents the maximum tariff that a country can impose on imports of a particular product, and reflects the outcome of the last set of WTO multilateral negotiations concluded in 1993. Bound rates are incorporated as an integral component of each country's schedule of concessions or commitments to other WTO country members. However, a country can decide to impose a lower, or applied, tariff rate on imports of this particular agricultural commodity (i.e., because of changing supply or demand factors). Just as easily, though, it has the right to increase an applied tariff back up to the bound rate, which could adversely affect trade flows.

[33] Price bands serve to insulate producers and processors from trade competition when the world price for any commodity falls below a calculated reference price (e.g., a price target comparable to a commodity support level). The domestic sector is protected by a variable fee imposed on the imported commodity, which when added to the lower world price or a selected international reference price, raises the importer's cost to this adjusted import price. This fee can fluctuate, depending on changes in the reference price (adjusted for freight, insurance, and other factors) to equal this pre-determined minimum import price. Under the CFTA, Colombia would convert the level of border protection that their price bands provide into a relatively high over-quota tariff—frequently the product's bound rate—which would then be reduced to zero during a specified transition period.

[34] The CFTA's agricultural provisions are summarized in USDA, FAS, "U.S.-Colombia Trade Promotion Agreement - Agriculture Overview," December 2010, available at http://www.fas.usda.gov/info/factsheets/Colombia/FINAL%20Colombia%20One%20Page%20Fact%20Sheet%2012-6-10.pdf. For a detailed description, see USDA "U.S.- Colombia Trade Promotion Agreement – Detailed Look at Agriculture ," December 2010, available at http://www.fas.usda.gov/info/factsheets/Colombia/FINAL%20Colombia%20Detailed%20Fact%20Sheet%2012-7-10.pdf. Fact sheets on the CFTA's impacts for major agricultural commodities in 45 states are available at http://www.fas.usda.gov/info/factsheets/Colombia/us-ColombiaTPAfactsheets.asp.

[35] This trade preference program extends special duty treatment to certain U.S. imports that meet domestic content and other requirements from designated countries in the Andean region. Its purpose is to promote economic growth in the

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permanent. Of those commodities subject to U.S. quota protection, much attention focused on the amount of additional sugar that would be allowed access to the U.S. market. Additional sugar would be allowed entry into the United States under a preferential quota that would be in addition to Colombia's current access for sugar under an existing U.S. multilateral trade commitment. Under the CFTA, the United States would triple Colombia's access to the U.S. sugar market—from its historic 2.3% share of the U.S. raw cane sugar TRQ (25,273 MT)—by an additional 50,000 MT of sugar and specified sugar products in the first year. This new quota would expand in perpetuity each year by 750 MT (1.5%) starting in year 2, while the current high U.S. tariff on over-quota sugar entries would be applied indefinitely.[36] The CFTA also includes a sugar compensation provision designed to protect the operation of the U.S. sugar program. Crafted so that if the United States exercised its sole discretion to activate this mechanism, the U.S. Government would commit to compensate Colombia for sugar that its exporters would not be allowed to ship under the CFTA's preferential access provision. In addition, preferential TRQs would be established for imports from Colombia of beef, specified dairy products, and tobacco. These would expand slowly until phased out in 10, 11, or 15 years.

Potential Impact on U.S. Agricultural Trade

Because Colombia protects its agricultural sector with high tariffs and import quotas, two analyses project that their elimination over time under the CFTA would benefit the U.S. agricultural sector. The U.S. International Trade Commission (USITC) estimated that U.S. agricultural exports to Colombia would be $170 million, or 24% higher, with full implementation of these provisions, compared to a baseline scenario of no policy change. Gains for U.S. agriculture would accrue primarily to the corn, wheat, rice, and soybean sectors. The USITC also projects that sales of beef, pork, and processed foods would increase. Agricultural exports alone would account for 16% of the projected increase in all U.S. merchandise exports to Colombia under this FTA.[37] Separately, the American Farm Bureau Federation (AFBF) estimated that U.S. agricultural exports to Colombia would be $693 million higher in 2026 when the FTA is fully implemented than would occur otherwise. The AFBF study similarly expects that most of the additional exports would be of U.S. corn, wheat, and soybean products.[38] The wide disparity in estimates presented in these two analyses reflects the use of different methodologies and assumptions to estimate the projected change in future U.S. agricultural exports under this trade agreement.[39]

Only the USITC study considered the CFTA's impact on U.S. agricultural imports. It estimated that such imports would be $223 million, or 11% higher, than under the no-agreement scenario. Additional imports of sugar would account for almost half of the estimated increase in farm

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Andean region and to encourage a shift away from dependence on illegal drugs by supporting legitimate economic activities. Congress in late 2010 extended ATPA benefits for Colombia through February 12, 2011 (P.L. 111-344). For additional information, see CRS Report RS22548, *ATPA Renewal: Background and Issues*, by M. Angeles Villarreal.

[37] Derived by CRS from Table 2-4 in USITC, *U.S.-Colombia Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects*, Publication 3896, December 2006, p. 2-11.

[38] AFBF, *Implications of a Colombia Trade Promotion Agreement on U.S. Agriculture*, October 2006, p. 17. The AFBF assumed the CFTA would have taken effect in 2007.

[39] For an explanation, see Appendix A in CRS Report RL34134, *Agriculture in U.S. Free Trade Agreements: Trade with Current and Prospective Partners, Impact, and Issues*, by Remy Jurenas.

product import value. The increased access for Colombian sugar and sugar-containing products to the U.S. market are likely to have only a minor effect on U.S. imports and production, according to the USITC's analysis. Cut flower imports from Colombia could increase if permanent duty-free access stimulates investment in the country's flower sector and diverts trade away from other flower-exporting countries in South America.[40] Agricultural imports from Colombia would account for 46% of the increase in total U.S. merchandise imports from Colombia under this FTA.

Of the five FTAs that Colombia now has in effect, the most significant in terms of competition for U.S. agricultural interests are: (1) the trade agreement with the three other full members of the Andean Community (Bolivia, Ecuador, and Peru), and (2) the preferential trade terms granted to Argentina and Brazil under the Andean Community's framework agreement with these Mercosur countries. Under the latter, both countries in 2009 and 2010 significantly increased their exports of soybean oil and meal, corn to Colombia, and contributed to a major drop in the U.S. share of that country's agricultural import market. Colombia's FTA signed with Canada, a wheat exporting competitor, in November 2010 has not yet been ratified by either country.

SPS Side Letter

Thought to have been resolved at the time negotiators concluded the CFTA, the separate SPS issue dealing with the terms of access under which U.S. beef and beef products would be allowed to enter Colombia was not resolved until later. The Colombian government in a second exchange of letters on August 21, 2006, committed to permit such imports of cattle over 30 months old, by no later than October 31, 2006.[41] In turn, on August 24, President Bush notified Congress of his intent to enter into an FTA with Colombia. Once Colombia issued regulations to fulfill its beef import pledge on October 27, the White House agreed to set November 22, 2006, as a date for the FTA's formal signing.

Though an FTA normally is not used as the mechanism to address the substance of SPS issues, this timeline illustrates how U.S. negotiators exercised leverage to achieve a desired outcome for the domestic beef sector. This likely reflected the Bush Administration's recognition that such efforts were essential to gain support from an agricultural group that may be vital to secure the agreement's approval by Congress.

Outlook for Congressional Consideration

Though U.S. agriculture would gain significant additional market access to Colombia under the CFTA, concerns expressed by some Democratic Members of Congress over violence directed at labor union officials in that country and human rights issues have affected congressional consideration of this trade agreement. Reflecting these concerns, the House on April 10, 2008, voted 224-195 to suspend fast-track rules (H.Res. 1092) in response to President Bush's decision

[40] USITC, *U.S.-Colombia Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects,* Publication 3896, December 2006, pp. 3-1 to 3-3.

[41] Colombia, among many other countries in late 2003, imposed a ban on the import of U.S. beef following the discovery of a cow with *bovine spongiform encephalopathy* (BSE) or mad cow disease in Washington state. To restore beef trade export flows, the U.S. government has pressed trading partners to recognize the U.S. measures taken to address the BSE measures as conforming with internationally recognized scientific guidelines governing meat trade.

to submit the CFTA and implementing legislation (H.R. 5724/S. 2830) to Congress for consideration. The House leadership took the position that the President had submitted this measure without adequately fulfilling the TPA requirement for consultation with Congress.

President Obama in his January 2011 State of the Union address to Congress stated his intent is to pursue the trade agreement with Colombia as part of his agenda to promote American jobs. Though House and Senate Republicans have called on the Administration to set a timetable for submitting this agreement for a vote, the White House position is that outstanding issues must be resolved before the CFPA is submitted to Congress.

For additional information, see CRS Report RL34470, *The Proposed U.S.-Colombia Free Trade Agreement*, and CRS Report RL34759, *Proposed U.S.-Colombia Free Trade Agreement: Labor Issues*. For background on Colombia and its political situation, see CRS Report RL32250, *Colombia: Issues for Congress*, *Colombia: Issues for Congress*.

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