

# CRS Issue Brief for Congress

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## Trade Negotiations During the 109th Congress

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Ian F. Fergusson  
Foreign Affairs, Defense, and Trade Division

Lenore M. Sek  
Foreign Affairs, Defense, and Trade Division

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## Trade Negotiations During the 109<sup>th</sup> Congress

### SUMMARY

The Bush Administration has made bilateral and regional free-trade agreements (FTAs) more important elements of U.S. trade policy, a strategy known as “competitive liberalization.” This strategy, 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. Some 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 United States is participating in several regional and bilateral trade negotiations. Agreements were concluded and became effective during the 108<sup>th</sup> Congress with Australia, Chile, Morocco, and Singapore. Agreements have been signed with the five countries of the Central American Common Market (CACM) and the Dominican Republic, and with Bahrain. Negotiations are underway with the Southern African Customs Union (SACU), Panama, and Thailand. Talks with the Andean nations of Colombia, Peru, and Ecuador began in May 2004. Negotiations are expected to begin with the United Arab Emirates and Oman early in 2005. 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. Negotiators have released drafts of an agreement-in-progress. Trade ministers met in Miami in November 2003 and announced a blueprint for negotiations, but the talks have now stalled.

The broadest trade initiative now 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, WTO institutional rules, and developing-country issues. A framework agreement on future negotiations was concluded in Geneva on August 1, 2004, but a new deadline must be set for the talks.

Most of the current trade negotiations began after trade promotion authority (fast-track authority) legislation was enacted in 2002. That legislation covers agreements signed before June 30, 2005 and provides for the possibility of extension for an additional two years. The 109<sup>th</sup> Congress may consider such a two-year extension. 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**

- USTR Zoellick met with the five trade ministers of the Southern African Customs Union on December 10, 2004, seeking to reinvigorate the U.S.-SACU FTA talks.
- On December 7, 2004, the Senate of the Dominican Republic repealed a tax on beverages made with corn syrup. The United States had threatened to drop consideration of its proposed FTA if this tax was retained.
- The sixth round of U.S.- Panama negotiations were held on December 6-9 in Washington, D.C.
- The sixth round of negotiations on the U.S.-Andean Free Trade Agreement took place in Tucson, Arizona, between November 30 and December 4, 2004.
- On November 15, the Administration notified Congress of its intent to negotiate an FTA with Oman and the United Arab Emirates.

## **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 108<sup>th</sup> Congress, U.S. officials negotiated and Congress approved four bilateral free-trade agreements with Australia, Chile, Morocco, and Singapore.<sup>1</sup> 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.<sup>2</sup>

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 must pass implementing legislation to enact any statutory changes 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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<sup>1</sup> 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).

<sup>2</sup> 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 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.<sup>3</sup>

Others argue that the accent on regional and bilateral negotiations will undermine the World Trade Organization (WTO) and increase the risk of trade diversion. Trade diversion occurs when the lower tariffs under a trade agreement cause trade to be diverted away from a more efficient producer outside the trading bloc to a producer inside the bloc. What results from the plethora of negotiated FTAs, according to one article, “is a ‘spaghetti bowl’ of rules, arbitrary definitions of which products come from where, and a multiplicity of tariffs depending on source.”<sup>4</sup> Nonetheless, in the aftermath of the failure of the WTO Ministerial meeting in Cancún, Mexico in 2003, 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.<sup>5</sup>

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 many 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, USTR Zoellick enumerated several factors used to evaluate countries seeking to negotiate trade agreements with the United States, but he said there were no

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

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

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

formal rules or procedures to make the determination.<sup>6</sup> A GAO study released in January 2004 reports that an interagency process has been established to assess FTA partners using 6 factors. These factors include a country's readiness in terms of trade capabilities, the maturity of its political and legal system, and the will to implement reforms; the economic benefit to the United States; the country's support of U.S. trade liberalization goals; a partner's compatibility with U.S. foreign and economic policy interests; congressional or private sector support, and U.S. government resource constraints.<sup>7</sup>

Some Members of Congress have questioned the manner in which potential FTA partners are chosen. Senator Max Baucus has criticized the Administration for overlooking as FTA partners high volume trading partners in Asia and has stated that "this Administration's trade policy is dictated largely by its foreign policy, not by economics."<sup>8</sup> 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.<sup>9</sup> One trade lobbying group reportedly is engaged in an internal analysis to identify FTAs that would benefit U.S. manufacturers.<sup>10</sup>

The Administration has also equated the concept of free trade with national security. It cites the negotiation of free trade agreements in multilateral, regional, and bilateral settings as an integral part of its strategy to enhance prosperity and freedom for the rest of the world. In 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.<sup>11</sup>

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

<sup>7</sup> 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.

<sup>8</sup> "Baucus Proposes FTAs in Asia to Offset Chinese Influence," *Inside U.S. Trade*, December 10, 2004.

<sup>9</sup> "Filling Up with Appetizers," *Congress Daily AM*, June 11, 2003.

<sup>10</sup> "NAM Analyzing Twenty-One Countries for Most Suitable FTA Partners," *Inside U.S. Trade*, October 29, 2004.

<sup>11</sup> 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, some 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 over 140 countries are participating in the Doha Development Agenda under the auspices of the World Trade Organization. Regionally, the United States is meeting with 33 other countries in the western hemisphere in an effort to create a Free Trade Area of the Americas, and has started 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. The United States has concluded FTAs with Bahrain, the Dominican Republic and the countries of the Central American Common Market (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua). Agreements with Singapore and Chile entered into force on January 1, 2004 and agreements with Australia and Morocco enter into force of January 1, 2005.

## 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, 2005, with a possible two-year extension. The 109<sup>th</sup> Congress may become involved in deciding whether or not to allow this extension. If the Administration meets the notification requirements, consults as required, and satisfies other conditions in the TPA legislation, the legislation calls on Congress to consider implementing legislation for a trade agreement under expedited ("trade promotion" or "fast-track") procedures.<sup>12</sup> The following briefly reviews the notification and consultation requirements.

**Before the Start of Negotiations.** Before starting negotiations, the Administration must notify Congress at least 90 calendar days in advance. (This requirement was waived for certain negotiations that were underway before enactment of the TPA legislation.) Before and after submitting this notice, the Administration must consult with the relevant congressional committees and the Congressional Oversight Group (COG).<sup>13</sup> The

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<sup>12</sup> 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.

<sup>13</sup> 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 (continued...)

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 and Awaiting Congressional Consideration**

**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.<sup>14</sup> U.S. trade with the region totaled \$22.7

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<sup>13</sup> (...continued)

(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.

<sup>14</sup> For further information, see CRS Report RL31870, *The U.S.-Central America Free Trade Agreement (CAFTA): Challenges for Sub-Regional Integration*, by J.F. Hornbeck.



billion in 2003. The United States imported \$12.4 billion (primarily apparel items, bananas, coffee, and integrated circuits) and exported \$10.3 billion (led by apparel, textiles, electrical generating equipment, and electrical components for assembly).

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

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

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. The Dominican Republic is the largest economy in the Caribbean. Two-way trade between the United States and the Dominican Republic was valued at \$8.6 billion in 2003, with \$4.6 billion in imports and \$4.0 billion in exports. Leading exports include electrical circuitry, ignition and generating parts, computers, heavy construction equipment, cotton, and apparel. Leading imports are apparel, medical instruments, circuit breakers, electrical equipment, and jewelry.

Negotiations between the United States and the Dominican Republic began on January 12, 2004, and concluded on March 15, 2004. On March 25, 2004, the President notified Congress of his intent to sign the FTA with the Dominican Republic. The Agreement was signed by the parties in Washington, D.C., on August 5. 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.

In the United States, opposition has formed against liberalizing trade rules for Central America’s major exports, apparel and agricultural goods. There is also considerable resistance to the agreement from labor groups, although many industry groups have come out in favor of the agreement. Further, U.S. officials have threatened to abandon the agreement with the Dominican Republic over a tax implemented on beverages containing high-fructose syrup. This tax was repealed by the Senate of the Dominican Republic on December 7, 2004, and consideration is pending in the other chamber.

**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.<sup>15</sup> On September 14, 2004, the two countries signed an agreement. Implementing legislation has not yet been submitted.

The Administration has praised the economic and commercial environment of the sheikhdom. The proposed FTA is touted by the Administration as a first step in the creation of the Middle East Free Trade Area by 2013 and foresees the possibility that other nations in the gulf region could link in to this agreement as they reform their economies and develop their trade potential. Bahrain is a kingdom of 640,000 persons, 40% of whom are guest workers, with a GDP of \$7.9 billion in 2001. Bahrain was a founding member of the WTO in 1995 and signed a Bilateral Investment Treaty (BIT) with the United States in 2001 and a Trade and Investment Framework Agreement (TIFA) in 2002. The nation has diversified its economy away from dependence on petroleum and has created a services hub for information technology, telecommunications and health care. U.S. merchandise trade with Bahrain totaled \$875 million in 2003: imports of \$378 million included apparel, textiles, fertilizers, chemicals, and aluminum and exports of \$497 million were led by aircraft and aircraft parts, military equipment, passenger vehicles, machinery, and, not surprisingly, air conditioning equipment.

## Agreements Under Negotiation

### Multilateral Trade Negotiations

At the 4<sup>th</sup> 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.<sup>16</sup> 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. This framework was the goal of the unsuccessful 5<sup>th</sup> Ministerial, held in Cancún, Mexico, in September 2003. The framework provides a

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<sup>15</sup> For further information, see CRS Report RS21846, *Proposed U.S.-Bahrain Free Trade Agreement*, by Martin A. Weiss.

<sup>16</sup> For further information, see CRS Report RL32060, *World Trade Organization Negotiations: The Doha Development Agenda*, by Lenore Sek and CRS Report RS21905, *The Agricultural Framework Agreement in the Doha Round Negotiations*, by Charles Hanrahan.

blueprint for future negotiations on agriculture, non-agricultural market access, and services. Ministers also agreed to begin negotiations on trade facilitation, however 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. Negotiators announced that the 6<sup>th</sup> Ministerial would occur in December 2005 in Hong Kong.

## 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.<sup>17</sup> The United States traded \$715.5 billion worth of goods with the FTAA countries in 2003: 277.7\$ billion in exports and \$437.8 billion in imports.

Formal negotiations commenced in 1998, and 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, and have 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. A follow-up meeting in Puebla, Mexico, was unable to clarify the details of this arrangement and subsequent efforts have been inconclusive, leaving the future of the FTAA unclear.

Progress on the FTAA still depends on Brazil and the United States agreeing on the 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 much of 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. This picture is still unclear and how it develops may depend on whether the U.S. Congress passes implementing legislation for the DR-CAFTA, Panama, and Andean agreements, as well as whether progress on agriculture issues outlined in the Doha Work Programme (framework agreement) adopted by the WTO on August 1, 2004, changes Brazil’s negotiating position in the FTAA.

**U.S.-Southern African Customs Union FTA.** On November 4, 2002, the USTR notified Congress of the intent to negotiate an FTA with the Southern African Customs

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<sup>17</sup> 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.

Union (SACU).<sup>18</sup> The first round of talks began in Johannesburg on June 3, 2003. SACU is a customs union composed of South Africa, Botswana, Lesotho, Namibia, and Swaziland. A large degree of economic integration exists among the SACU states led by South Africa, the dominant economic power. U.S. exports to SACU totaled \$2.8 billion in 2003, led by aircraft, vehicles, construction and agricultural equipment, and computers. U.S. imports from SACU totaled \$5.6 billion, composed of minerals such as platinum, diamonds, and titanium, textiles and apparel, vehicles, and automotive parts. Potential problems include competition issues concerning the South African telecommunications industry and government procurement, especially South Africa's Black Economic Empowerment Program, U.S. textile tariffs and quotas, and intellectual property rights with regard to access to HIV/AIDS medicines. While all the SACU states are eligible for the tariff preferences under the Africa Growth and Opportunity Act (Title I, P.L. 106-200), the negotiation of an FTA would "lock-in" and potentially expand such tariff advantages. The future of the negotiations has reportedly been clouded by the SACU countries desire for an "early harvest" agreement on market access, leaving other issues such as IPR protection, investment, and services to a later phase of negotiations.<sup>19</sup> SACU trade ministers met with USTR Zoellick on December 10, 2004, and acknowledged the talks were stalled. They announced that the parties would create a framework to re-invigorate the negotiations.<sup>20</sup>

**U.S.-Andean FTA.** On November 18, 2003, the Administration formally notified Congress of the intent to initiate negotiations for an FTA with Colombia, Peru, Ecuador, and Bolivia. The negotiations began on May 18-19 between Colombia, Peru, and Ecuador in Cartagena, Colombia, and six rounds have been held so far. Negotiators anticipate an agreement in the spring of 2005. In 2003, the United States imported \$11.6 billion from the four Andean countries and exported \$6.5 billion, for a total of \$18.1 billion in trade. Colombia and Peru accounted for 71% of that total. Leading U.S. imports in 2003 from the four countries were crude and refined petroleum oils, which were primarily from Colombia and Ecuador; bananas; copper; coffee; and cut flowers. About 10% of U.S. imports from the region came in under existing Andean trade preferences. Leading U.S. exports were machinery parts, data processing machines, corn, wheat, and telecommunications transmission apparatus such as cell phones. Negotiators have had difficulty resolving issues concerning agricultural market access, data exclusivity for pharmaceutical patents, "second-use" patent provisions, and attempts to protect IPR rights of Andean origin biodiversity.

**U.S.-United Arab Emirates-Oman FTA.** On November 15, 2004, the USTR sent formal notification to Congress that the Administration intended to pursue FTA negotiations with the United Arab Emirates (UAE) and Oman. Talks might begin in early 2005. The USTR said that an FTA would be a move toward the President's plan for a Middle East Free Trade Area. (See "Other Potential Trade Agreements" below.) The USTR also said that an FTA with the UAE and Oman would build on FTAs already in effect with Israel, Jordan, and

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<sup>18</sup> For further information, see CRS Report RS21387, *United States-Southern African Customs Union (SACU) Free Trade Agreement Negotiations: Background and Potential Issues*, by Ian F. Fergusson.

<sup>19</sup> "Administration, Business Pressure SACU for Comprehensive FTA," *Inside U.S. Trade*, December 10, 2004.

<sup>20</sup> "U.S.-SACU Free Trade Negotiations Put on Hold; New Mechanism Being Created," *International Trade Reporter*, December 16, 2004.

Morocco and an FTA signed with Bahrain, and that an FTA would encourage the members of the Gulf Cooperation Council to take measures to promote trade and investment. The USTR stated that FTAs with Middle Eastern countries were consistent with the 9/11 Commission recommendation that the United States encourage development in the Middle East by expanding trade. Worker protections in the UAE and Oman might be a controversial issue in the negotiations. In 2003, the United States imported \$1.7 billion from both the UAE and Oman (\$1.1 billion - UAE; \$0.6 billion - Oman) and exported \$3.6 billion to both countries (\$3.3 billion - UAE; \$0.3 billion - Oman). The leading U.S. import by far was crude petroleum. Leading U.S. exports were aircraft, cars, and machinery.

## Bilateral Negotiations

**U.S.-Panama FTA.** During the FTAA summit in Miami on November 18, 2003, USTR Zoellick announced that the Administration had formally notified Congress of its intent to begin negotiations for an FTA with Panama. 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, antiterrorism, and anti-money laundering efforts. Panama was the 63rd largest trading partners of the United States in 2003 with imports of \$290 million, lead by shrimp, fresh fish, precious or semi-precious metals, refined petroleum, and sugar, exports of \$1.7 billion, comprised of refined petroleum, aircraft, medicaments, corn, computer parts and accessories and telecommunications equipment. Total trade (exports + imports) amounted to nearly \$2 billion. 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 will seek greater access to its largest market, the United States, which purchased 47% of its exports in 2002 and is also seeking maritime concessions.

**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.<sup>21</sup> 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.<sup>22</sup> It also emphasized Thailand's importance on military, security and political issues. Thailand is the 18<sup>th</sup> largest U.S. trading partner. Two-way trade in 2003 was \$20.5 billion — \$15.1 billion in U.S. imports, \$5.4 billion in U.S. exports. Leading U.S. imports were computers and parts, television receivers, and jewelry, and leading exports were integrated circuits, semiconductors, computers and computer parts. The continuation of a 25% U.S. tariff on light trucks and Thailand's enforcement of intellectual property rights are expected to be issues in the negotiations.

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<sup>21</sup> For further information, see CRS Report RL32314. *U.S.-Thailand Free Trade Agreement Negotiations*, by Raymond J. Ahearn and Wayne M. Morrison.

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

## 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 the World Trade Organization<sup>23</sup> and subsequently by concluding Bilateral Investment Treaties (BIT) and Trade and Investment Framework Agreements (TIFA) with the United States.<sup>24</sup> As domestic reforms progress, countries would then negotiate FTAs with the United States, possibly linking to other existing or planned FTAs, such as with Jordan, Morocco or Bahrain. As mentioned above, on November 15, 2004, the Administration notified Congress of its intent to negotiate an FTA with the UAE and Oman. Qatar and Kuwait have also been mentioned as a near-term FTA candidates.

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

On May 22, 2003, the Middle East Trade and Engagement Act (S. 1121-Baucus/H.R. 2267- Smith) was introduced to provide duty-free access for import-sensitive goods that are currently excluded from the U.S. Generalized System of Preferences (GSP). According to Senator Baucus, this legislation would be modeled on the existing African Growth and Opportunity Act (AGOA) and Andean Trade Preference Act, and that the legislation could serve as an interim step before these countries join FTAs with the United States.<sup>26</sup> The proposal includes a declaration by Congress that bilateral free trade agreements should be negotiated, where feasible, with interested countries or political entities in the greater Middle East, in order to increase U.S. trade with the region and increase private sector investment in the region. The Administration has not taken a position on the legislation.

**Enterprise for ASEAN.** This initiative, announced by President Bush on October 26, 2002, provides the impetus for the negotiation of bilateral FTAs with individual countries of the Association of Southeast Asian Nations, or ASEAN (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam). The first stage of this process is expected to be the negotiation of a region-wide trade and investment framework agreement (TIFA), which is seen as the first step in the process of negotiating individual FTAs with ASEAN member states. Thailand is the first candidate for an FTA under this initiative (see earlier section on Thailand). As seen by the Administration, the

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<sup>23</sup> In the Middle East region, Afghanistan, Algeria, Iran, Iraq, Libya, Lebanon, Saudi Arabia, Syria, and Yemen are not members of the WTO.

<sup>24</sup> "President Bush Lays Out Broad Plan for Regional FTA with Middle East by 2013," *International Trade Reporter*, May 15, 2003.

<sup>25</sup> Edward Gresser, "Blank Spot on the Map: How Trade Policy Is Working Against the War on Terror," *Progressive Policy Institute Policy Report*, February 2003.

<sup>26</sup> Remarks of Senator Baucus, *Congressional Record*, May 22, 2003, S. 7005.

principal benefits to the United States of FTAs with ASEAN member states are the potential to reduce high tariffs on agricultural products and to eliminate restrictive tariff-rate quotas on other U.S. exports, while the major benefit to ASEAN countries would be improved access to the U.S. market. The initiative is also seen as a way of countering growing Chinese influence in the region. Two-way trade with ASEAN reached \$122.5 billion in 2003, with exports of \$41.9 billion and imports of \$80.6 billion.

**New Zealand.** During the 108<sup>th</sup> Congress, there has been congressional interest in launching FTA negotiations with New Zealand. Fifty House members wrote to President Bush in January 2003 advocating the initiation of negotiations, as did 19 Senators in March 2003. Proponents claim an FTA with New Zealand would be a natural complement to 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.<sup>27</sup> 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 49<sup>th</sup> largest trading partner of the United States in 2003 with two-way trade slightly greater than \$4 billion. U.S. exports of \$1.8 billion were led by machinery, aircraft and parts, electronic equipment and vehicles; U.S. imports of \$2.4 billion were led by meat, dairy products, wood products, and machinery.

**Taiwan.** An FTA with the Republic of China on Taiwan has been advanced by proponents in the last several years. In the 108<sup>th</sup> Congress, H.Con.Res. 98 (Ramstad) calls for a free trade agreement with Taiwan, and House Majority Leader Tom DeLay lent support to an FTA with Taiwan in a speech to the American Enterprise Institute on June 2, 2003.<sup>28</sup> Taiwan is the 8<sup>th</sup> largest U.S. trading partner with total two-way trade in 2003 equal to \$47.6 billion in 2003; the United States is now Taiwan's second largest trading partner after mainland China. The U.S. imported \$31.5 billion in merchandise from Taiwan with computers, circuitry, vehicle parts, television transmission, and telecommunications equipment leading. U.S. exports to Taiwan, which totaled \$16.1 billion, include integrated electronic circuits, electrical machinery, aircraft parts, corn, and soybeans. While the Bush administration has indicated support for the concept of a U.S.-Taiwan FTA, 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.<sup>29</sup> 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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<sup>27</sup> "Zoellick Says Relationship with New Zealand Makes FTA a Challenge," *Inside U.S. Trade*, May 23, 2003.

<sup>28</sup> Available at [[http://www.aei.org/include/news\\_print.asp?newsID=17544](http://www.aei.org/include/news_print.asp?newsID=17544)].

<sup>29</sup> U.S. Trade Representative, *2003 National Trade Estimate Report on Foreign Trade Barriers*, p. 358.

**Egypt.** Egypt is the 54<sup>th</sup> largest trading partner of the United States with U.S. exports of \$2.6 billion, imports of \$1.1 billion, and two-way trade totaling \$3.7 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 recently led to speculation that the United States would seek to launch FTA negotiations. In 2003, 27 Senators wrote to President Bush advocating the commencement of FTA negotiations with Egypt. At that time, USTR Zoellick commented on the need for Egypt to pursue further reforms, especially in the area of customs modernization, before FTA negotiations would be considered.<sup>30</sup> While a House Ways and Means Committee delegation led by Chairman Thomas in November 2004 found reforms in customs administration, tariff reduction and tax reform encouraging, they cited continuing intellectual property rights violations and Egyptian restrictions on U.S. agricultural imports as impediments to an agreement.<sup>31</sup> At a Cairo news conference on December 14, 2004, USTR Zoellick announced that the two sides would conduct "in-depth discussions on all aspects of the agreement" in January 2005 and that he was "pleased with the follow-through" on U.S. concerns.<sup>32</sup> The USTR was in Cairo to sign an agreement between the United States, Israel, and Egypt creating qualified industrial zones (QIZs) in Egypt. Goods manufactured and assembled in these zones, using a certain percentage of Israeli inputs, could then enter the United States duty free.<sup>33</sup> Egypt has viewed these QIZs as a first step in the negotiation of an FTA with the United States.<sup>34</sup>

## FOR ADDITIONAL READING

### *The WTO*

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

CRS Report RL32060. *The World Trade Organization: The Doha Development Agenda*, by Lenore M. Sek.

CRS Report RL32645. *The Doha Development Agenda: The WTO Framework Agreement*, coordinated by Ian F. Fergusson.

CRS Report RS20448. *Foreign Investment Issues in the WTO*, by James K. Jackson.

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<sup>30</sup> "Zoellick Criticism Sets Back Egypt Hopes on Free Trade Deal," *Financial Times*, June 24, 2003.

<sup>31</sup> 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>]

<sup>32</sup> "Zoellick Says U.S. Moving More Quickly Toward Free Trade Agreement with Egypt," *Daily Report for Executives*, December 16, 2004.

<sup>33</sup> See CRS Report RS22002, *Qualifying Industrial Zones in Jordan: A Model for Developing Peace and Development in the Middle East?*, by Mary Jane Bolle, Alfred Prados, and Jeremy Sharp.

<sup>34</sup> "U.S., Egypt, Israel Reach Agreement on Free Trade Zones," *Inside U.S. Trade*, December 10, 2004.



- CRS Report RS21492. *Services Negotiations at the WTO: An Overview of the U.S. Offer*, by James K. Jackson.
- CRS Report RS21569. *Geographical Indications and WTO Negotiations*, by Charles E. Hanrahan.
- CRS Report RS21609. *The WTO, Intellectual Property Rights, and the Access to Medicines Controversy*, by Ian F. Fergusson.
- CRS Report RS21610. *WTO: Trade Remedies in the Doha Round*, by Vivian C. Jones.
- CRS Report RS21905. *The Agricultural Framework Agreement in the Doha Round Negotiations*, by Charles Hanrahan

### ***Free Trade Area of the Americas***

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

### ***Proposed Regional and Bilateral FTAs***

- CRS Report RL32110. *Agricultural Trade in a U.S.-Central American Free Trade Agreement (CAFTA)*, by Remy Jurenas.
- CRS Report RL32322. *Central America and the Dominican Republic in the Context of the U.S.-Central America Free Trade Agreement (CAFTA)*, coordinated by K. Larry Storrs.
- CRS Report RS21464. *Morocco - U.S. Free Trade Agreement*, by Raymond J. Ahearn.
- CRS Report RL32375. *The Proposed 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.
- CRS Report RL32540. *The Proposed U.S.-Panama Free Trade Agreement*, by J. F. Hornbeck.
- 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 U.S.-Central America Free Trade Agreement (CAFTA): Challenges for Sub-Regional Integration*, 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 RS21868. *U.S.-Dominican Republic Free-Trade Agreement*, by Lenore Sek.
- 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, Developing Country Preferences and the WTO*, by Jeanne J. Grimmett.
- CRS Report RL31356. *Free Trade Agreements: Impact on U.S. Trade and Implications for U.S. Trade Policy*, by William H. Cooper.
- CRS Report RL31974. *Trade Agreements: Requirements for Presidential Consultations, Notices, and Reports to Congress Regarding Negotiations*, by Vladimir N. Pregelj.

CRS Report RL31932. *Trade Agreements: Impact on the U.S. Economy*, by James K. Jackson.

CRS Report RL31844. *Trade Promotion Authority (Fast-Track Authority for Trade Agreements): Background and Developments in the 107<sup>th</sup> Congress*, by Lenore Sek.

## Trade Negotiations During the 109<sup>th</sup> Congress

(Total trade is defined as domestic exports, Fas value, plus imports for consumption, Customs value, in 2003.)

\* Agreements concluded and awaiting congressional consideration.

Agreement	U.S. Total Trade (\$ bill.)	Status	Sensitive Areas
Doha Development Agenda of the WTO	\$1,842	A work program was produced at the trade ministerial meeting in Doha in Nov. 2001. On August 1, 2004, negotiators reached a framework agreement on the conduct of future negotiations. Ministers also put off the December 31, 2004 deadline to complete the round.	Agriculture, industrial market access, trade facilitation, services, development issues
Free Trade Area of the Americas	\$715.5	Formal negotiations began in 1998. Trade ministers met in Miami on November 20-21, 2003, where the third draft text of the agreement was presented. Talks are at a crossroads, with no date for the next ministerial meeting.	Agriculture, antidumping, textiles and apparel, worker rights, IPR
U.S.-Andean FTA	\$37.5	On November 18, 2003, the Administration notified Congress of intent to begin negotiations with Colombia, Peru, Ecuador, Bolivia. On May 18-19, 2004 the United States began FTA talks with Colombia, Peru, and Ecuador.	IPR, agriculture, investment
U.S.-Central America FTA*	\$22.7	Talks were formally launched on Jan. 8, 2003. An agreement was reached among the U.S. and four Central American (CA) countries on Dec. 17, 2003. A fifth CA country joined the agreement, and the text was released, on Jan. 25, 2004. The agreement was signed on May 28, 2004.	Textiles and apparel, rules of origin, worker rights, agriculture, environment.
U.S.-Thailand FTA	\$20.5	The Administration officially notified Congress of its intent to negotiate an FTA on February 12, 2004. Negotiations formally began on June 28, 2004.	Agriculture, trucks, telecommunications, IPR
U.S.-Dominican Republic FTA*	\$8.5	Talks formally began Jan. 12, 2004. An agreement was concluded on March 15, 2004. On March 25, 2004, the President notified Congress of the intent to sign the pact, and the parties signed the agreement on August 5, 2004.	Agriculture, IPR, textiles and apparel
U.S.-SACU FTA	\$8.4	Talks began on June 3, 2003. Talks extended beyond end-2004 deadline.	procurement, textiles, pharmaceuticals
U.S.-United Arab Emirates-Oman FTA	\$5.4	On November 15, 2004, the Administration formally notified Congress of the intent to begin negotiations on an FTA. Talks might begin early in 2005.	Worker rights, investment, services
U.S.- Panama	\$2.0	On November 18, 2003, the Administration formally notified Congress of intent to begin negotiations with Panama. Talks began formally on April 25, 2004.	Agriculture, services, maritime services
U.S.-Bahrain FTA*	\$0.88	Talks began on Jan. 26, 2004. An agreement was announced on May 27, 2004, and signed on Sept. 14, 2004.	Serve as hub for Middle East FTA