

# CRS Report for Congress

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## Trade Legislation in the 108<sup>th</sup> Congress

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

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## Summary

When the 108<sup>th</sup> Congress convened in January 2003, few observers predicted that trade would be a top legislative concern. Congress, just six months earlier, had passed by a narrow margin the Trade Act of 2002 (P.L. 107-210), the first major piece of trade legislation in almost a decade. Nevertheless, trade remained a top-level domestic and foreign policy issue in 2003 and 2004.

The 108<sup>th</sup> Congress completed work on a number of major trade bills. Most notably, bills to implement free trade agreements (FTAs) with Chile, Singapore, Australia, and Morocco, and to enhance trade benefits for the countries of Sub-Saharan Africa were passed and signed by the President. Legislation repealing an export tax benefit long ruled a violation of U.S. World Trade Organization (WTO) obligations passed, thereby moving the European Union closer to ending sanctions on \$4 billion of U.S. exports. In addition, Congress passed a miscellaneous tariff bill that eliminated or suspended tariffs on hundreds of products and repealed the 1916 Antidumping Act, which also had been ruled a violation of WTO provisions.

The implementing bills for the four FTAs were passed by wide margins, running contrary to predictions of some observers that Congress was turning protectionist or anti-trade. All agreements received strong backing from the business community, but encountered resistance from organized labor. They eventually will eliminate tariffs on almost all traded goods, cover trade in services, and provide enhanced protection for intellectual property rights. While the overall effects of any of the agreements on the U.S. economy are expected to be minimal, each agreement provides U.S. exporters and investors with additional market openings and opportunities.

Protection for the U.S. steel industry was a prominent concern of the 108<sup>th</sup> Congress. In 2003, many Members supported the steel industry's efforts to persuade President Bush to extend the import restraint regime he had imposed in 2002, while others supported steel-consuming industries' efforts to roll back the import restraints. The more globalized U.S. economy contributed to rising concerns in Congress about whether U.S. companies were increasingly "offshoring" or relocating service sector jobs to low-wage developing countries, as well as to generalized anxiety about job losses associated with China's growing trade prowess and its policy of pegging its currency to the dollar.

Congress also engaged in an intensive debate generated by growing consumer interest in purchasing more affordable prescription drugs from abroad. The issue was addressed in elements of three bills introduced in the Senate and one bill which passed the House in 2003.

A number of export policy issues were also the subject of legislative activity in the 108<sup>th</sup> Congress. While policies that promote exports through financing and efforts to open foreign markets attracted a limited amount of legislative activity, the restrictive component of export policy, particularly economic sanctions targeting Burma, Cuba, and Syria, received more attention. This report will not be updated.

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# Trade Legislation in the 108<sup>th</sup> Congress

## Introduction

U.S. trade policy encompasses a wide array of government policies and laws that affect trade negotiations, the world trading system, imports, and exports. Negotiations to liberalize trade flows are intended to make the U.S. economy more efficient and productive. The rules of the world trading system are designed to facilitate trade flows by providing a stable and predictable environment. Policies affecting imports through the lowering or raising of tariffs or other barriers determine the relative openness of the U.S. market to goods and services produced abroad. Export policies both increase and restrict the sales and opportunities of specific companies and industries.

Trade policies affect jobs, profits, and investment decisions in the United States and abroad. In the process, some workers and companies gain or lose more than others, thereby increasing the political stakes embedded in the decisions.

The 108<sup>th</sup> Congress completed work on a number of major trade bills. Most notably, bills to implement free trade agreements with Chile, Singapore, Australia, and Morocco and to enhance trade benefits for the countries of Sub-Saharan Africa were passed and signed by the President. Legislation repealing an export tax benefit long ruled a violation of U.S. World Trade Organization obligations passed, thereby moving the EU closer to ending sanctions on \$4 billion of U.S. exports. In addition, Congress passed a miscellaneous tariff bill that eliminated or suspended tariffs on hundreds of products and repealed the 1916 Antidumping Act which also was ruled in violation of WTO rules.

This report provides information and analysis of the major trade bills considered by the 108<sup>th</sup> Congress in three parts. The first section provides an overview of major trade legislation acted on in the 108<sup>th</sup> Congress, including some issues that may be carried over or taken up in 2005. For purposes of analysis, congressional trade policymaking is divided into the categories of trade agreements and WTO rules, import-related legislation, and export-related legislation. This section draws heavily from CRS reports on the myriad trade issues discussed. Readers who seek a full discussion of any particular issue are encouraged to consult these CRS reports and authors cited.

The second section (**Appendix A**) provides in tabular form a more detailed breakdown of the majority of trade bills introduced and acted on in the 108<sup>th</sup> Congress. The bills are divided into twelve categories: (1) trade agreements, (2) World Trade Organization dispute settlement issues, (3) trade and tariff preferences, (4) permanent normal trade relations status, (5) importation of prescription drugs,

(6) “offshoring” of service jobs, (7) trade remedy laws, (8) China, (9) other issues in import policy, (10) export promotion, (11) trade sanctions, and (12) export controls.

A list of congressional trade-related hearings is provided in **Appendix B**. This section illustrates another dimension of congressional interest in trade issues and the numerous committees that play a role in oversight.

It can be noted that Congress influences trade policy in a number of ways beyond the bills that are discussed in this report. The most common are through floor statements and letters sent to the administration that urge a certain course of action, as well as through warnings that specific legislation will be introduced to resolve problems that are not being adequately addressed in negotiations, regulations, or executive actions. In addition to warning the administration, Congress often sends messages directly to U.S. trading partners. Some prominent examples of this form of trade policymaking from the 108<sup>th</sup> Congress follow:<sup>1</sup>

- A group of House Republicans, led by House Speaker Hastert, urged President Bush in a January 29, 2003 letter to initiate a WTO dispute settlement case against the European Union’s biotechnology moratorium. On March 5, 2003, Senate Finance Committee Chairman Charles Grassley expressed his dissatisfaction with the Administration’s decision to delay initiating the WTO case. On August 7, 2003, the Bush Administration initiated a WTO dispute settlement complaint over the moratorium.
- A group of 70 Senators signed a February 4, 2003 letter to President Bush that strongly supported the continued operation of the Continued Dumping and Subsidy Offset Act, better known as the Byrd Amendment, despite an adverse WTO ruling. The letter subsequently has been cited widely as evidence that congressional sentiment is broadly anti-repeal.
- House Republicans from textile states met with trade officials from the Bush Administration on February 7, 2003 in an effort to persuade the Administration to impose safeguard restrictions on Chinese apparel imports as soon as possible. In October and November 2004, the Administration did impose restrictions on selected apparel items under a special China safeguards provision.
- Nineteen senators in an April 4, 2003 letter urged President Bush to begin negotiations with New Zealand on the establishment of a free trade agreement as soon as possible. To date, New Zealand is still under consideration as a potential free trade partner.
- House Ways and Means Chairman Bill Thomas requested the International Trade Commission to prepare a report on the Section 201 steel safeguard’s impact on U.S. steel users, along with the

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<sup>1</sup> Information is gleaned from various editions of *Inside U.S. Trade*.

ITC's mid-term review of the impact of import restraints on the domestic steel industry. Senate Finance Committee Chairman Charles Grassley said on April 4, 2003 that he supports the Thomas request. The report was prepared and its determinations were cited widely in the 2003 debate over the efficacy of lifting the import restraints.

- Concurrent resolutions were introduced in the House and Senate in March 2004 in an effort to convince the Administration to keep auto tariffs out of the FTA negotiations with Thailand. The negotiations currently are still in a preliminary stage.

## Trade Agreements and WTO Rules

When the 108<sup>th</sup> Congress convened in January 2003, few observers predicted that trade would be a top legislative concern. Congress, just six months earlier, had narrowly passed, in a contentious vote, the Trade Act of 2002 (P.L. 107-210), the first major piece of trade legislation in almost a decade. This comprehensive trade bill ended eight years of stalemate over whether to re-authorize fast-track authority, now called trade promotion authority (TPA). Trade promotion authority allows the President to submit to Congress legislation implementing new trade agreements under special legislative procedures that limit debate, prohibit amendments, and require an up or down vote.<sup>2</sup> The Trade Act of 2002 also renewed trade preference programs for Andean and African countries, as well as the U.S. Generalized System of Preferences.<sup>3</sup> In addition, it mandated tighter congressional oversight of trade negotiations by requiring the president to report all potential trade agreements to Congress 180 days before they were signed and provide an explanation of why any changes to existing trade laws would be necessary.<sup>4</sup>

Contrary to some expectations, trade remained a top-level domestic and foreign policy issue in 2003 and 2004. Part of the reason is that the Bush Administration used the TPA to promote an ambitious trade negotiating agenda. By early 2003 the administration was actively promoting global negotiations in the WTO (the Doha Agenda), working towards a Free Trade Area of the Americas (FTAA), completing free trade agreements with Chile and Singapore, and beginning five new sets of FTA negotiations (Morocco and five Central American countries in January 2003, Australia in March, five members of the South African customs union in June, and Bahrain in August), and proposing a regional trade strategy to deepen U.S. trade and economic relationships in Southeast Asia and the Middle East.<sup>5</sup>

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<sup>2</sup> CRS Report RL31844, *Trade Promotion Authority (Fast-Track Authority for Trade Agreements): Background and Developments in the 107<sup>th</sup> Congress*, by (name redacted).

<sup>3</sup> CRS Report 97-389, *Generalized System of Preferences*, by (name redacted).

<sup>4</sup> CRS Report RL31974, *Trade Agreements: Requirements for Presidential Consultations, Notices, and Reports to Congress Regarding Negotiations*, by (name redacted).

<sup>5</sup> CRS Issue Brief IB10123, *Trade Negotiations in the 108<sup>th</sup> Congress*, by (name redacted) and (name redacted).

The Administration's strategy of pursuing multiple trade initiatives, dubbed "competitive liberalization," holds that simultaneous multilateral, regional, and bilateral trade negotiations reinforce and catalyze one another. However, when the Doha Round of the World Trade Organization stalled at Cancun in September 2003<sup>6</sup> and the regional Free Trade Area of the Americas incurred a comparable fate at the November 2003 Summit of the Americas in Miami<sup>7</sup>, much of the Administration's attention turned towards completing ongoing FTAs and initiating new ones with three Andean countries (Colombia, Ecuador, and Peru), the Dominican Republic, Panama, and Thailand.<sup>8</sup>

While Congress supported the Administration's overall competitive liberalization strategy, a few Members did question the choice of FTA partners on the grounds that commercial considerations were being given short shrift. Senator Max Baucus, Ranking Senate Finance Committee member, for example, reportedly publically maintained that the Administration's strategy of picking FTA partners is "mostly motivated by abstract foreign policy concerns" rather than pursuing the greatest market opportunities.<sup>9</sup>

## FTA Implementing Legislation

Possible criticism of the choice of FTA partners notwithstanding, the 108<sup>th</sup> Congress approved implementing legislation for all four FTAs the Administration sent to Capital Hill for consideration: for the Chile and Singapore FTA's in July 2003;<sup>10</sup> for the Moroccan FTA in July 2004; and for the Australian FTA in August 2004.<sup>11</sup>

The implementing bills were passed by wide margins, running contrary to predictions of some observers that Congress was turning protectionist or anti-trade.<sup>12</sup>

<sup>6</sup> CRS Report RL32060, *World Trade Organization Negotiations: The Doha Development Agenda*, by (name redacted).

<sup>7</sup> CRS Report RL20864, *A Free Trade Area of the Americas: Status of Negotiations and Major Policy Issues*, by (name redacted).

<sup>8</sup> CRS Report RL32540, *The Proposed U.S.-Panama Free Trade Agreement*, by (name redacted), and CRS Report RL32314, *U.S.-Thailand Free Trade Negotiations*, by (name redacted) and (name redacted).

<sup>9</sup> *Inside U.S. Trade*, "Baucus Says Business Afraid to Criticize USTR FTA Strategy," July 16, 2004.

<sup>10</sup> CRS Report RL31144, *The U.S.-Chile Free Trade Agreement: Economic and Trade Policy Issues*, by (name redacted), and CRS Report RL31789, *The U.S.-Singapore Free Trade Agreement*, by (name redacted).

<sup>11</sup> CRS Report RS21464, *Morocco-U.S. Free Trade Agreement*, by (name redacted), and CRS Report RL32375, *The U.S.-Australia Free Trade Agreement: Provisions and Implications*, by (name redacted).

<sup>12</sup> The House passed the U.S.-Chile Implementation Act by a vote of 270-156, the U.S.-Singapore Free Trade Implementation Act by a vote of 272-155, the Moroccan Free Trade Implementation Act by a vote of 323-99, and the Australian Free Trade Implementation Act by a vote of 314-109. Senate votes on these agreements were respectively 66-31, 66-32, 85-

All four agreements received strong backing from the business community, but not from organized labor. The FTAs eventually will eliminate tariffs on almost all traded goods, liberalize trade in services, and provide enhanced protection for intellectual property rights. While the overall effects of any of the agreements on the U.S. economy are expected to be minimal, each agreement provides U.S. exporters and investors with additional market openings and opportunities.<sup>13</sup>

These FTAs are also significant because they are the first agreements considered by Congress under the fast-track procedures authorized in the Trade Act of 2002. Other precedents include the fact that the Chile FTA was the first such agreement with a South American country; Singapore was the first such agreement with an Asian country; the Australian agreement was the first FTA between the United States and a developed country since the U.S.-Canada Free Trade Agreement in 1988; and the Morocco FTA forms part of the Administration's long-term effort to establish a Middle East Free Trade Area.

Extant opposition and controversy to the FTAs was concentrated mostly on labor and immigration issues in the case of Chile and Singapore, and on agricultural and pharmaceutical trade issues in the case of Australia. The labor provisions contained in the Chile and Singapore agreements were criticized by some Members (mostly House Democrats) on the grounds that basic worker rights obligations such as freedom of association, the right to form unions and bargain collectively, and limitations on child labor were not subject to as rigorous a dispute settlement process as was provided in the U.S.-Jordan FTA.<sup>14</sup>

While the salience of the treatment of labor rights in the Chile and Singapore FTAs may have been tempered by these countries' relatively strong labor rights laws and records, the issue is likely to be much more divisive in congressional consideration of the U.S.-Central American FTA (CAFTA), which the Administration concluded in December 2003. CAFTA reportedly is opposed by many more Members, some of whom say it does not go far enough in promoting stronger labor laws and enforcement in the region. Faced also with opposition from sugar and textile interests, the Bush Administration decided not to send implementing legislation to Congress this year, but a battle over the implementation legislation can be expected in the 109<sup>th</sup> Congress.<sup>15</sup>

Immigration provisions were also controversial in the Chile and Singapore FTAs. Both agreements created separate categories of entry for citizens of each country to engage in a wide range of business and investment activities on a temporary basis, that is, as non-immigrants. These FTA provisions on the temporary

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13, and 80-16.

<sup>13</sup> CRS Report RL31356, *Free Trade Agreements: Impact on U.S. Trade and Implications for U.S. Trade Policy*, by (name redacted).

<sup>14</sup> CRS Report RS20968, *Jordan-U.S. Free Trade Agreement: Labor Issues*, by (name redacted).

<sup>15</sup> CRS Report RL31870, *The U.S.-Central America Free Trade Agreement (CAFTA): Challenges for Sub-Regional Integration*, by (name redacted).



entry of business personnel and professional workers raised concerns among many in Congress, who have jurisdiction over immigration, that the USTR negotiated these provisions without any authority or direction from Congress. The Bush Administration countered that the temporary entry of professionals falls within TPA objectives regarding the opening of foreign country markets for U.S. services and investment, in particular reduction or elimination of barriers that restrict the operations of service suppliers or the establishment or operations of investments.<sup>16</sup>

Agricultural issues were among the most difficult issues in the consideration of the Australian FTA. In the end each side acceded to very sensitive demands of the other in order to bring the negotiations to a close. This meant that Australia acceded to the U.S. objective not to liberalize trade in sugar and to only a gradual opening of dairy and beef, while the U.S. acceded to Australia's position on maintaining monopolies for the export of wheat, barley, and rice.<sup>17</sup> A number of Members of Congress, however, were highly critical of the sugar exclusion, arguing that the exclusion of any product or industry should not be repeated in future FTAs.<sup>18</sup>

Trade and the health care policies of foreign trading partners became an issue for the first time in the negotiation of the Australian FTA. During these negotiations, the United States complained that the way the Australian government subsidizes the costs for pharmaceuticals may disadvantage a number of newer, innovative drugs produced in the United States. The issue exposed fundamental differences between the U.S. and Australian healthcare systems and how each treats costs of pharmaceutical products borne by their citizens.<sup>19</sup> In congressional consideration of the agreement, this issue was widely debated, perhaps foreshadowing U.S. trade policy efforts to confront foreign price controls on pharmaceutical products.

## WTO Compliance Legislation

As an international organization intended to ensure that trade between countries flows more easily, predictably, and freely, the World Trade Organization (WTO) serves as a forum for international trade negotiations and the settlement of disputes. The Dispute Settlement Understanding or DSU provides the procedures to settle disputes and is key to the enforcement of U.S. rights under the WTO.<sup>20</sup>

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<sup>16</sup> CRS Report RL30498, *Immigration: Legislative Issues on Nonimmigrant Professional Specialty (H-1B) Workers*, by Ruth Ellen Wassem.

<sup>17</sup> CRS Report RL32375, *The U.S.-Australia Free Trade Agreement: Provisions and Implications*, by (name redacted), and CRSebagr78, *Agriculture in the Australia-U.S. Free Trade Agreement*, by (name redacted).

<sup>18</sup> The House Report (108-597) on the U.S.-Australian Free Trade Agreement provides that the "Committee [Ways and Means] notes with particular disappointment the exclusion of sugar liberalization in the FTA and expects that this omission will not be reflected in future FTAs brought before the Committee."

<sup>19</sup> CRS Report RL32375, by (name redacted).

<sup>20</sup> CRS Report 98-928, *The World Trade Organization: Background and Issues*, by (name redacted).

Since the DSU became effective in 1995, the United States has been heavily involved as both a complainant and defendant in slightly more than half of the 300-plus cases filed. As a complainant, the U.S. has used the DSU to ensure that U.S. exporters receive open access and fair treatment in foreign markets. As a defendant, some U.S. practices or laws have been found to be inconsistent with our WTO obligations. A WTO Member found to have enacted an inconsistent measure is expected to bring its laws into compliance promptly, but is also granted a reasonable period of time to do so if immediate action is impracticable. While the member country is usually expected to withdraw the offending measure, compensation and temporary retaliation are available to the prevailing party as alternative remedies if the member has not complied by the established deadline.<sup>21</sup>

Although the United States has complied with adverse rulings in several past WTO disputes, there are some outstanding cases in which WTO rulings have not yet been implemented. Among these cases, the 108<sup>th</sup> Congress inherited several disputes where compliance required legislative action. The most prominent cases involved a U.S. export tax benefit, the Extraterritorial Income Tax Exclusion (ETI), and its predecessor — the Foreign Sales Corporation (FSC); the 1916 Antidumping Act; and the Continued Dumping and Subsidy Offset Act of 2002 (CDSOA), also known as the Byrd Amendment.<sup>22</sup>

**FSC/ETI Export Benefit.** The U.S. tax code's Foreign Sales Corporation (FSC) provisions provided a tax benefit for U.S. exporters. But in 1997 the European Union (EU) filed a complaint before the WTO that the provision was an unacceptable export subsidy. The WTO upheld the complaint, and to avoid retaliatory tariffs, Congress in 2000 replaced the FSC with a new export benefit, the "extraterritorial income" (ETI) provisions. The EU again complained to the WTO that the ETI benefit was also an export subsidy, and the WTO again backed the EU charge. While the EU indicated it would not impose retaliatory tariffs as long as the Congress was making progress on achieving WTO compliance, it began imposing punitive tariffs on \$4 billion of U.S. exports, beginning at 5%, on March 1, 2004 and increasing by 1 percentage point each month thereafter.<sup>23</sup>

After considering repeal legislation for more than two years, the Congress replaced the export subsidy with an assortment of new corporate tax breaks that may be acceptable under WTO rules. The House and Senate approved a conference agreement on the legislation in October 2004 (P.L.108-357).<sup>24</sup> As a result of the repeal, the EU is expected to lift the sanctions effective January 1, 2005 although its

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<sup>21</sup> CRS Report RS21763, *WTO Dispute Settlement: Stages and Pending U.S. Activity Before the Dispute Settlement Body*, by (name redacted).

<sup>22</sup> CRS Report RL32014, *WTO Dispute Settlement: Status of Compliance in Pending Cases*, by (name redacted).

<sup>23</sup> CRS Report RS20746, *Export Tax Benefits and the WTO: The Extraterritorial Income Exclusion and Foreign Sales Corporations*, by David L. Brumbaugh, and CRS Report RS21742, *European Trade Retaliation: The FSC-ETI Case*, by (name redacted).

<sup>24</sup> CRS Report RL32652, *The 2004 Corporate Tax and FSC/ETI Bill: The American Jobs Creation Act of 2004*, by David L. Brumbaugh.

trade officials have complained to the WTO that the statute's grandfathering provisions may be WTO violations.

**1916 Antidumping Act.** The 1916 Antidumping Act allows U.S. parties to sue foreign producers or importers in federal court if they dump their products with the intent to injure a U.S. producer, and awards treble damages in successful cases. While this statute has been seldom used, suits were brought against European and Japanese steel producers in the 1990s. Subsequently, the EU and Japan challenged the law in the DSU. In 2002, the DSU determined that the law violated U.S. WTO obligations because it provided remedies for dumping in excess of the antidumping duties and other price measures that are permitted under the WTO's Antidumping Agreement.<sup>25</sup>

In response to this ruling, the conference report of the miscellaneous tariff bill included a provision that repeals the 1916 Antidumping Act prospectively. The legislation, however, does not appear to affect pending cases filed under the law. It is, thus, uncertain whether this form of repeal will end all WTO litigation on the statute, particularly due to Japan's continuing insistence that the repeal end all current court proceedings.<sup>26</sup>

**Byrd Amendment.** The third high profile compliance case involved the Byrd Amendment, which requires annual disbursement of antidumping and countervailing duties to petitioners and interested parties (instead of to the U.S. Treasury) in the underlying trade remedy proceedings. A WTO panel in 2002 ruled that the CDSOA violates WTO obligations, in part because it provides an extra protection to industries already benefitting from imposition of dumping and countervailing duty orders.

When Congress did not comply with eliminating or changing the act to conform to WTO obligations by the year-end 2003 deadline, a WTO arbitrator was appointed and in August 2004 ruled that eight complaining countries could impose retaliatory duties on U.S. exports in a given amount. The WTO on November 26, 2004 authorized seven of the countries to retaliate, but no restrictions on U.S. exports have been imposed to date.

Unlike the ETI case, there does not appear to be a congressional consensus in favor of repeal. While the Bush Administration proposed repeal of the CDSOA in its FY2004 and FY2005 budgets and repeal legislation was introduced in 108<sup>th</sup> Congress, predominant congressional sentiment appears to be against repeal. For example, 70 Senators in 2003 wrote President Bush urging negotiations with U.S. trading partners aimed at recognizing a right to disburse antidumping and countervailing duties in the manner prescribed by the statute "prior to any attempt to change our laws." In addition, the Consolidated Appropriations Act of 2004 (P.L.108-199), included a directive to the United States Trade Representative to initiate WTO negotiations aimed at allowing such disbursements. The United States

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<sup>25</sup> CRS Report RL32014, pp. 15-19.

<sup>26</sup> *Inside U.S. Trade*, "Japan Insists 1916 Repeal Must End Pending Cases, Quiet on Retaliation," October 22, 2004.

submitted such a proposal as part of the Doha Round of negotiations on April 26, 2004.<sup>27</sup>

**Congressional Support for the WTO.** The ETI and CDSOA disputes illustrate tension in congressional views towards the WTO. Some Members of Congress have charged that some of the WTO dispute settlement rulings infringe on U.S. sovereignty by undermining domestic tax and trade remedy laws. Bush Administration trade officials have expressed concerns that some of the panel rulings go too far in determining how WTO members should comply with adverse rulings. Others believe that the U.S. should not implement the adverse rulings until the EU fully lifts its moratorium on biotechnology approvals.

Supporters of the WTO dispute resolution process argue that the United States was the chief proponent of creating a stronger and more binding dispute settlement process. They also claim that the system works in keeping markets open to U.S. exports, and that complaints only arise when the system chips away at some of the vestiges of U.S. protection. Were the United States or other leading WTO members to ignore WTO findings, they argue that the dispute resolution process could be severely weakened.

Congress' mixed views on the WTO could affect consideration of a resolution withdrawing the United States from the Agreement establishing the World Trade Organization. Section 125 of the Uruguay Round Agreements Act (the law that implemented changes negotiated in the last round of multilateral trade negotiations) permits any Member of Congress to introduce such a resolution within 90 days after the Administration submits a report analyzing the costs and benefits of U.S. participation in the WTO. By statute the Administration is required to submit this report to Congress by March 1, 2005. While such a resolution may not attract majority support in either house, it could serve as a focal point for debate on outstanding bilateral trade disputes that are being settled under the aegis of the WTO.

## Import-Related Legislation

U.S. policies affecting imports tend to be shaped largely by a mixture of economic principles and practical political considerations. Unanticipated events and broader foreign policy considerations also serve to influence the development of specific policies from year to year.<sup>28</sup>

The case for maintaining a relatively open market for the purchase of foreign goods and services rests on the view that imports provide multiple economic benefits. For consumers, imports provide goods that are often available at lower prices or simply not produced in the United States. Foreign goods also can benefit U.S.

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<sup>27</sup> CRS Report RL32014, *WTO Dispute Settlement: Status of U.S. Compliance in Pending Cases*, by (name redacted).

<sup>28</sup> For full discussion, see Cohen, Stephen D., Joel R. Paul, and Robert A. Becker. *Fundamentals of U.S. Foreign Trade Policy*. Westview Press, 2003.

companies by providing needed inputs at lower prices and by encouraging cost-cutting and innovation.<sup>29</sup>

Decisions to deviate from the economic rationale for maintaining relatively open policies towards imports usually rest on practical political considerations. Although consumers and many producers benefit from having access to imported goods and services, some workers can lose their jobs and some companies can go out of business due to rapid increases in imports that compete head-to-head with domestic production. To address displacement, international as well as domestic rules have been established to provide temporary relief to those hurt or injured by import competition. These rules also stipulate various measures or barriers governments may employ, depending in large part on whether the import competition being curbed is considered “fair” or “unfair.”<sup>30</sup>

U.S. government policies that affect the relative receptivity or openness of the U.S. market to imports are also affected from year to year by unanticipated events. The large and growing U.S. merchandise trade deficit, for example, may increase demands for protection from import competition as the number of companies and workers hurt by imports increases relative to those helped by exports. When the increase in the trade deficit is being accounted for disproportionately by one country, much more scrutiny is likely to be given to that country’s trading practices.<sup>31</sup>

Foreign policy objectives can also affect import policies. Efforts, for example, to forge closer economic and political ties with specific regions or countries can lead to more open or less restrictive policies via the extension of preferential access to the U.S. market.

Congressional actions in 2003 and 2004 reflected the interaction of these cross-cutting pressures in five legislative categories: (1) protection of American workers and industry from import competition; (2) offshoring or outsourcing of service jobs; (3) trade with China, (4) extension of tariff preferences generally, as well as for specific regions/countries, and (5) importation of prescription drugs.

## **Jobs and Import Competition**

As trade’s share of U.S. production (exports and imports of goods and services as a percent of GDP) has risen from around 9% in the early 1960s to around 24% today, more firms, communities, and workers benefit as well as are hurt by trade. Because the benefits of trade are diffused across the economy and the costs are concentrated and localized, groups hurt by trade are often much more concerned and active about the development of U.S. trade policies. As a result, numerous Members of Congress are often under intense pressure to respond to demands for protection

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<sup>29</sup> CRS Report RL32059, *Trade, Trade Barriers, and Trade Deficits: Implications for U.S. Economic Welfare*, by (name redacted).

<sup>30</sup> CRS Report RL32371, *Trade Remedies: A Primer*, by (name redacted).

<sup>31</sup> CRS Report RL31032, *The U.S. Trade Deficit: Causes, Consequences, and Cures*, by Craig Elwell.

from import competition as the number of companies and workers hurt by imports increases.

Protection for the U.S. steel industry was a prominent concern of many members of Congress in the 108<sup>th</sup> Congress. Many Members in 2003 actively supported the steel industry's efforts to persuade President Bush to extend the import restraint regime he had imposed in March 2002, while others supported steel-consuming industries' efforts to roll back the import restraints.<sup>32</sup> A large number of Members also worked to insure that U.S. anti-dumping and countervailing duty laws are not weakened in the on-going Doha multilateral negotiations. At a time of increasing competition, a rising trade deficit, and greater openness to foreign products than ever before, such trade remedy tariffs are viewed by some as the only viable form of protection for U.S. domestically-based producers. While not acted on, several bills designed to strengthen these laws were introduced.<sup>33</sup>

Other industries such as sugar, beef, and dairy lobbied Congress for exclusion from various FTAs the Administration was negotiating. While some of these industries were successful, a number of Members actively lobbied the Administration to adopt a policy of no product or industry exclusions in FTAs.

The textile and apparel and steel industries backed efforts in the House to strengthen and expand both the "Buy American" and "Berry" provisions in the FY2004 and 2005 Department of Defense (DOD) authorization and appropriations bills. The Buy American Act is the major domestic preference statute governing procurement by the federal government by providing a preference for American goods in government purchases. The Berry Amendment is a more specific Buy American-type provision that requires the DOD to give preference to domestically produced, manufactured, or home grown products, notably food, clothing, fabrics, and speciality metals.<sup>34</sup>

In the 108<sup>th</sup> Congress, Representative Duncan Hunter, Chairman of the House Armed Services Committee sought to expand the scope of Buy America and establish reciprocity in defense trade, especially by restricting the practice of off-sets. The Bush Administration, large defense contractors and key members of the Senate Armed Services Committee opposed the House effort to expand these provisions, and for the most part, were successful.<sup>35</sup>

With the elimination of global quotas on textile and apparel products beginning in January 2005, U.S. producers, workers, and retailers are expecting a flood of

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<sup>32</sup> CRS Report RL31748, *The American Steel Industry: A Changing Profile*, by Stephen Cooney.

<sup>33</sup> CRS Report RL30461, *Trade Remedy Law Reform in the 108<sup>th</sup> Congress*, by (name redacted).

<sup>34</sup> CRS Report 97 — 765A, *The Buy American Act: Requiring Government Procurements to Come from Domestic Sources*, by John Luckey.

<sup>35</sup> CRS Report RL31236, *The Berry Amendment: Requiring Defense Procurement To Come From Domestic Sources*, by (name redacted).

imports, especially from China. Many Members of Congress are expected to urge the Bush Administration to impose import restraints in order to ensure a less disruptive adjustment process. Other legislative proposals are also likely to be considered.<sup>36</sup>

Legislation dealing with more prescriptive country-of-origin labeling requirements for certain food products was also considered in the 108<sup>th</sup> Congress. The House Agriculture Committee approved on July 21, 2004 a bill (H.R. 4576) to make country-of-origin labeling (COOL) requirements for certain food products voluntary. Previous legislation (the 2002 farm bill as modified by FY2004 agricultural appropriation bill (P.L. 108-199) had established a mandatory labeling program for fresh produce, red meats, and peanuts starting September 30, 2006 and for seafood starting September 30, 2004. The 108<sup>th</sup> Congress adjourned without change in this position. Some lawmakers support a mandatory program as a health and safety issue and others counter that COOL is a marketing issue and should be voluntary.<sup>37</sup>

### **“Offshoring” of Service Jobs**

A new wrinkle brought about by globalization was growing alarm about whether U.S. multinationals were increasingly “offshoring” or relocating service sector jobs to low-wage countries such as India and China. The *Economic Report of the President*, released by the Council of Economic Advisors in February 2004, set off a heated debate by calling “offshoring” a “good thing for the economy in the long run.” The report added that “offshoring” was just a new way of doing international trade as the information and communications revolution enables companies to outsource a wider array of services, ranging from routine call center work to higher-value software programming, medical diagnosis, and research and analytical activities.

Many Members of Congress, anxious that “offshoring” might lead to a reduction in U.S. output and a corresponding loss of jobs amidst an economic recovery with unusually low job creation, were openly critical of the report. Some responded by offering amendments that would prohibit government agencies from outsourcing work abroad. Some called for an examination of the U.S. tax code to determine if U.S. tax policy encourages “offshoring.” Others called for improving the data the government collects on “offshoring” so that policymakers can obtain a more accurate understanding of this phenomenon. Still other proposals addressed the dislocation faced by workers in the services sector through amendments to Trade Adjustment Assistance Program that would give service workers such as software programmers the same extended unemployment insurance and retraining benefits established for trade-impacted manufacturing workers.<sup>38</sup>

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<sup>36</sup> CRS Report RS20889, *Textile and Apparel Quota Phaseout: Some Economic Implications*, by (name redacted).

<sup>37</sup> CRS Report 97-508, *Country-of-Origin Labeling for Foods*, by (name redacted).

<sup>38</sup> CRS Report RL32292, *Offshoring (a.k.a. Offshore Outsourcing) and Job Insecurity Among U.S. Workers*, by (name redacted).

While much of the debate about outsourcing died down after the presidential primary season ended, the flurry of concern does point up underlying anxiety about globalization's impact on jobs, particularly during a 3-4 year period where the economy has lost an estimated 2.4 million manufacturing jobs.<sup>39</sup>

## China Trade Challenge

Anxiety about job losses to foreign competitors also focused substantially on China. Public and congressional concerns, prompted in part by a large and growing bilateral trade deficit, pointed directly to China's increasing ability to manufacture an array of products that could displace U.S. workers in industries ranging from textiles and apparel to auto parts and advanced technology goods. In response, several bills were introduced to pressure China to eliminate the pegging of its currency to the dollar — a policy deemed by many as currency manipulation designed, in part, to keep China's exports valued at artificially low prices.<sup>40</sup> In addition, many Members pressured the Administration to take strong action enforcing trade remedy laws in the area of textiles and apparel. With the scheduled lifting of all import quotas on textiles and apparel on January 1, 2005, U.S. companies and labor unions representing textile and apparel workers have been petitioning the Administration to provide import protection before disruption occurs.<sup>41</sup> While the Administration has imposed some safeguards on certain textile products, it is under pressure from some in Congress to do more. Many analysts have predicted that China could capture as much as 70 percent of the American textile and apparel market over the next two years.<sup>42</sup>

Taking a harder line towards China, however, may endanger other U.S. interests. U.S. exports to China are also rising sharply, making China the sixth largest export market for U.S. products. A sizeable portion of U.S. imports from China (some estimates are as high as 40%) also are accounted for by U.S. companies that are producing in China. In addition, China's central bank helps finance the U.S. trade deficit by investing its growing reserves of U.S. dollars in U.S. government securities. This puts U.S. policymakers in the difficult position of pressuring a country that has become an important source of capital for the U.S. economy.<sup>43</sup>

## Trade and Tariff Preferences

The 108<sup>th</sup> Congress acted on a number of proposals to change U.S. trade and tariff preferences for certain countries and products. Measures that extend and

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<sup>39</sup> CRS Report RS21883, *Outsourcing and Insourcing Jobs in the U.S. Economy: An Overview of Evidence Based on Foreign Investment Data*, by (name redacted).

<sup>40</sup> CRS Report RS21625, *China's Currency Peg: A Summary of the Economic Issues*, by (name redacted) and (name redacted).

<sup>41</sup> CRS Report RL32168, *Safeguards on Textile and Apparel Imports from China*, by (name redacted).

<sup>42</sup> CRS Report RL31723, *Textile and Apparel Trade Issues*, by (name redacted).

<sup>43</sup> CRS Issue Brief IB91121, *China-U.S. Trade Issues*, by (name redacted).



enlarge tariff preferences for a number of sub-Saharan African countries, that temporarily suspend duties on several hundred products, and that extend normal trade relations status to Laos and Armenia were approved. In addition, legislation that would establish tariff preferences for various Middle Eastern countries and for Haiti was considered.<sup>44</sup>

**AGOA Acceleration Act of 2004.** Legislation to amend the African Growth and Opportunity Act (AGOA) of 2000 (Title I, P.L. 106-200) passed the House and Senate in June 2004 and was signed by President Bush on July 13, 2004 (P.L. 108-274). AGOA seeks to spur economic development and help integrate Africa into the world trading system by granting trade preferences (duty-free and quota free access to the U.S. market for selective products) and other benefits (such as technical assistance) to Sub-Saharan African countries that meet certain criteria relating to market reform and human rights. The AGOA Acceleration Act of 2004 extends the AGOA program to 2015, as well as amends several existing provisions in order to spur investment in beneficiary countries.<sup>45</sup>

By extending the preference program to 2015, supporters hope to expand gains for the beneficiary countries (37 of the 48 Sub-Saharan countries are currently eligible for benefits) by improving the stability of the investment climate in Africa. The AGOA Acceleration Act of 2004 also extends to 2007 a rule allowing beneficiary lesser developed countries to receive preferential treatment on apparel exports regardless of the country of origin of the fabric and yarn, and seeks to improve African agricultural market access to the United States by providing assistance to African countries to enable them to meet U.S. technical agricultural standards. Support for approval was spearheaded by a number of Members of Congress, a coalition of business groups, religious groups and a number of non-governmental organizations focused on poverty reduction.

**Miscellaneous Tariff Bill.** Since about 1981, each Congress has considered a miscellaneous tariff suspension and technical corrections bill designed to grant temporary duty reductions on certain products, and to make technical corrections to certain trade laws. Products deemed eligible by the relevant congressional committees for duty suspension or reduction in this manner are generally non-controversial (roughly 90% are chemicals) because they are not produced in the United States, or are produced overseas by a U.S. multinational corporation and are imported into the United States by a corporation for its own domestic use. Congressional rationale for gaining these reductions is that (1) they enable U.S. manufacturers to reduce costs thus making the downstream production industries more competitive, (2) they do not jeopardize any domestic manufacturer and (3) they

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<sup>44</sup> CRS Report RL32638, *Middle East Free Trade Area: Progress Report*, by (name redacted), and CRS Report RS21839, *Haitian Textile Industry: Impact of Proposed Trade Assistance*, by (name redacted).

<sup>45</sup> CRS Report RS21772, *AGOA III: Amendment to the African Growth and Opportunity Act*, by (name redacted).

do not represent a substantial loss of tariff revenue (duty suspension bills are targeted to cost \$5,000,000 or less for each year they are in force).<sup>46</sup>

The 108<sup>th</sup> Congress approved a miscellaneous tariff act (P.L. 108-429) in a November 2004 post-election session. The bill (H.R. 1047) had been held up in 2003 by opposition from one Senator concerned about textiles trade and in 2004 by two Senators opposed to providing Laos with permanent normal trading relations status. The act temporarily reduces or eliminates duties on approximately 400 products, mainly chemicals, and grants normal trade relations status to Armenia and Laos. For Laos, the change will reduce tariffs on its exports to the United States from an average level of 45% to roughly 2.5%.<sup>47</sup> The act also provides additional textile trade benefits to Mauritius and includes a provision repealing the 1916 Antidumping Act.

## Importing Prescription Drugs

The 108<sup>th</sup> Congress engaged in an intense debate generated by rising prices for prescription drugs. As prices have risen, so too has consumer interest in purchasing more affordable medications from abroad where prices are estimated to be anywhere from 35% -55% lower. These price disparities have encouraged U.S. consumers — two million by one Canadian estimate —, as well as growing numbers of state and local governments, to attempt to import comparable medications from abroad to realize savings.<sup>48</sup>

However, under current law, only the manufacturer of a prescription drug may legally bring it into the United States. U.S. pharmacists and wholesalers are only allowed to do so if the Secretary of Health and Human Services (HHS) first certifies that those drugs would be safe and that the program significantly reduced drug costs to U.S. consumers. Because, at this writing, HHS has never taken this step, consumers, pharmacists, and wholesalers are prohibited from importing prescription drugs.<sup>49</sup>

This issue was addressed in elements of three bills introduced in the Senate and one bill which passed the House in 2003 (H.R. 2427). All four would allow

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<sup>46</sup> CRS Report RS21406, *Tariff Modifications: Miscellaneous Duty Suspension Bills*, by (name redacted).

<sup>47</sup> CRS Report 96-663, *Country Applicability of the U.S. Normal Trade Relations (Most Favored Nation) Status*, by (name redacted), and CRS Report RS20931, *Laos: Background and U.S. Relations*, by (name redacted).

<sup>48</sup> CRS Report RL32511, *Importing Prescription Drugs: Objectives, Options, and Outlook*, by (name redacted) and (name redacted). See also CRS Report RL32191, *Prescription Drug Importation and Internet Sales: An Overview*, by (name redacted).

<sup>49</sup> CRS Report RL32271, *Importation of Prescription Drugs Provisions in P.L. 108-173, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003*, by (name redacted) and (name redacted).

commercial and personal-use imports and replace the need for certification by the HHS Secretary with different ways to ensure safety and effectiveness.<sup>50</sup>

The Bush Administration has generally opposed the legislation, asserting that it cannot vouch for the safety and effectiveness of imported drugs that come from unregistered and uninspected facilities in foreign countries. The administration has also asserted that allowing drug imports, at least in the case of Canada, would do little to solve the underlying problem. This is not only because Canada does not have enough drugs to supply the U.S. market, but also because U.S. drug companies would probably respond to such a move by reducing shipments to Canada for importation to the United States. At the same time, President Bush stated in October 2004 in the second presidential debate that his administration was carefully studying the issues to see if the government could ensure the safety of imported drugs in other ways.

## Export-Related Legislation

U.S. export policy usually entails a contradictory mix of policies that both promotes as well as restricts exports. Export promotion efforts are touted on the basis of their contribution to job creation and a healthy economy. Export promotion advocates commonly emphasize the number of jobs associated with the production of goods for export and that they tend to be higher-wage and higher-skilled jobs than average. The United States tends to promote or expand exports through the provision of subsidized trade financing, insurance, and guarantees to potential customers of U.S. goods, through efforts to reduce trade barriers that restrict access of U.S. exports to foreign markets, and through provision of trade information and counseling.

In contrast to export promotion efforts, a variety of sanctions, restrictions, and controls are placed on U.S. exports to achieve a wide variety of foreign policy and national security goals. The basic framework for restricting or controlling most commercial dual-use exports is the Export Administration Act (EAA) of 1979. The EAA has been employed to control goods and technology whose sales and use abroad could be detrimental to U.S. national security. In addition, trade and other economic sanctions have been used to promote the protection of human rights, and to punish certain countries for objectionable behavior (for example, state-sponsored terrorism, military aggression, and proliferation). Exporters whose economic interests are adversely affected by the imposition of export controls or trade sanctions have repeatedly attempted to lessen their utilization as a policy option, particularly where the controls or sanctions are imposed unilaterally. Export controls, while disproportionately affecting some sectors, account for 1-2% of U.S. exports.

Some of these export policy issues were the subject of legislative activity in the 108<sup>th</sup> Congress. U.S. export promotion efforts attracted a limited amount of legislation in the areas of export financing and market access. The restrictive component of export policy was the subject of considerably more legislative activity,

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<sup>50</sup> CRS Report RL32568, *Senate Prescription Drug Importation Legislation: A Side-by-Side Comparison of Current Law, S. 2307, S. 2328, and S. 2493*, by (name redacted) and (name redacted).

particularly regarding economic sanctions and the countries of Belarus, Burma, Cuba, and Syria.

## **Export Promotion**

Currently, over a dozen federal agencies promote U.S. exports directly or indirectly. The U.S. Department of Agriculture and the Export-Import Bank are the main agencies promoting U.S. exports through the provision of subsidized financing, insurance, and guarantees. Other agencies such as the Overseas Private Investment Corporation (OPIC), the Department of Commerce, and the Trade and Development Agency undertake activities that can indirectly facilitate U.S. exports. By providing financing, investment insurance and other services for U.S. investors in 144 developing countries, OPIC can help promote economic growth that stimulates demand for U.S. exports. The Office of the U.S. Trade Representative by negotiating reductions in foreign trade barriers also has the capacity to indirectly facilitate U.S. exports.

Recently, these activities have not been controversial, although some Members of Congress argue that funding for export promotion activities represent corporate welfare and should be cut back or abolished. Nevertheless, Congress approved FY2005 requests from the Bush Administration for increases in federal spending on export promotion and extended the operating authority of OPIC through FY2007 (P.L. 108-158). Several bills designed to help trade officials negotiate better access to foreign markets were introduced; none were acted on.

## **Economic Sanctions**

The objective of expanding U.S. exports collides with a variety of sanctions, restrictions, and controls placed on U.S. exports. As in the past, the use of trade to promote foreign policy objectives was an important part of congressional activity in 2003 and 2004. Unilateral trade sanctions were one tool utilized in legislation that became law to deal with oppressive or rogue regimes in Burma, Syria and Belarus. A trade-financing sanction imposed against Libya was lifted and numerous provisions affecting U.S. trade sanctions towards Cuba were the subject of considerable congressional activity.

In May 2003, Congress reacted to the Burmese junta's crackdown on democratic opposition by passing the Burmese Freedom and Democracy Act of 2003 (P.L. 108-61). The act bans imports from Burma and affects mainly textiles and garments. The ban is to remain in effect until the President certifies to Congress that the Burmese government has made major progress in ending human rights violations and in taking steps towards the establishment of a more democratic government.<sup>51</sup>

In the fall of 2003, Congress passed the Syria Accountability Act and Lebanese Sovereignty Restoration Act (P.L. 108-175). The act imposes additional sanctions

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<sup>51</sup> CRS Report RS20749, *Burma-U.S. Relations*, by Larry Nicksch. The Burmese Freedom and Democracy Act of 2003 was extended by the 108<sup>th</sup> Congress with enactment of H.J.Res. 97 as P.L. 108-272.

against Syria unless it halts support for terrorism and international terrorist groups, among other activities. On May 11, 2004, President Bush implemented the provisions of P.L. 108-175 by banning the export of military and dual use items, the export of all items except food and medicines, and Syrian aircraft landing or overflight rights in the United States. However, Libya remains on the terrorist list pursuant to sec. 6(j) of the Export Administration Act of 1979.<sup>52</sup>

Congressional concerns about human rights abuses in Belarus culminated in the passage of sanctions legislation in the fall of 2004. The Belarus Democracy Act, which became law (P.L.108-347) on October 20, 2004, mandates a variety of sanctions on Belarus. These include prohibitions on strategic exports, financial assistance, and a sense of the Congress that the United States should oppose multilateral assistance to Belarus. These restrictions are to remain in place until Belarus meets specific democratic and human rights criteria.<sup>53</sup>

Due to the thaw in U.S.-Libya relations brought about by Libya's renunciation of weapons of mass destruction and payment to families who lost relatives in the downing of Pan Am 103, some U.S. sanctions have been relaxed. The Consolidated Appropriations Act of 2005 (P.L. 108-447) authorized the president to lift the ban on Export-Import Bank financing of U.S. exports to Libya. The act left in place the current ban on OPIC activities in Libya.<sup>54</sup>

Since the early 1960s, U.S. policy toward Cuba has consisted largely of isolating this communist state through comprehensive economic sanctions. While there appears to be broad agreement in Congress on bringing democracy to the island, Congress remains divided on how to achieve that objective. In the 108<sup>th</sup> Congress, several FY2005 appropriations measures — Commerce, Justice, and State; Agriculture; and Transportation/Treasury — contained provisions that would have eased Cuba sanctions. The Bush Administration had threatened to veto bills if they contained provisions weakening Cuba sanctions. Ultimately, all the Cuba provisions easing sanctions were stripped out of the FY2005 omnibus appropriations measure (P.L. 108-447; H.Rept. 108-792). (The omnibus bill also contains several other trade provisions, including one that requires Mexican and Canadian trucks to comply with U.S. safety rules and another that outlines priorities for a U.S. council designed to combat intellectual property violations). As in past Congresses, numerous free-standing bills were also introduced to either tighten or weaken the Cuba sanctions regime, but no action was taken on these measures.<sup>55</sup>

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<sup>52</sup> CRS Issue Brief IB92075, *Syria: U.S. Relations and Bilateral Issues*, by (name redacted).

<sup>53</sup> CRS Report RL32534, *Belarus: Background and U.S. Policy Concerns*, by (name redacted).

<sup>54</sup> *BNA International Trade Reporter*, "Congress Authorizes President to Lift Ban on Ex-IM Bank Programs for Libya," November 25, 2004.

<sup>55</sup> CRS Report RL31740, *Cuba: Issues for the 108<sup>th</sup> Congress*, by (name redacted); CRS Report RL31139, *Cuba: U.S. Restrictions on Travel and Remittances*, by (name redacted); and CRS Issue Brief IB10061, *Exempting Food and Agricultural Products from U.S. Economic Sanctions: Status and Implementation*, by (name redacted).

## Export Controls

In the 108<sup>th</sup> Congress, legislation (H.R. 55) was again introduced, but not acted on, to rewrite and reauthorize the Export Administration of 1979 (EAA). The EAA provides the statutory authority for export controls on sensitive dual-use goods and technologies, items that have both civilian and military applications including those items that can contribute to the proliferation of nuclear, biological and chemical weaponry.

For many years now, efforts to renew the act have been complicated by continued tension between national security and commercial concerns. Some observers contend that current export controls hurt U.S. business by subjecting technology exports to what they consider a cumbersome and ineffective licensing process that costs sales and loses markets to overseas competitors. Others maintain that current controls are not strong enough to prevent the spread of dual-use technologies to adversaries or potential proliferators, and that the EAA legislation, as introduced in the 108<sup>th</sup> Congress, would further weaken the system. Congressional interest in EAA reform has been heightened by questions about the efficacy of export controls in the fight against terrorism.<sup>56</sup>

## Implications for the 109<sup>th</sup> Congress

The 109<sup>th</sup> Congress can be expected to face a trade agenda that will be at least as extensive as the 108<sup>th</sup> Congress. Much of the legislation that died in committee may be re-introduced in the 109<sup>th</sup> Congress to address persisting challenges and problems affecting trade negotiations, WTO rules, imports, and exports. New legislation may also be introduced to deal with statutory requirements and changes in the U.S. political and economic landscape.

Early in 2005, President Bush is expected to request that his authority to negotiate trade agreements under expedited congressional approval (trade promotion authority) be extended for two years beyond its June 30, 2005 expiration date. The extension would happen automatically unless either chamber passes a resolution of disapproval. In addition, the President is expected to send to Congress legislation to implement the U.S. free trade agreement with Bahrain early in the first session and may also send legislation to implement the FTA with five Central American countries (CAFTA) and possibly the Dominican Republic if a dispute over a recent tax placed on high fructose syrup drinks can be resolved. The Bush Administration will likely complete FTA negotiations with several other countries and launch negotiations with still others this year.

Before the end of its first session, the 109<sup>th</sup> Congress will face a decision on whether to introduce and act on a joint resolution to disapprove continued U.S.

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<sup>56</sup> CRS Report RL31832, *The Export Administration Act: Evolution, Provisions, and Debate*, by (name redacted).

participation in the WTO. Furthermore, the 109<sup>th</sup> Congress may consider whether to comply with a WTO dispute resolution against the “Byrd Amendment,” especially if U.S. exports become subject to retaliatory tariffs. Anxiety about job losses from foreign competition and the growing U.S. trade deficit are also likely to focus considerable congressional attention on China’s trading practices, including its undervalued currency. Congress again may consider legislation that allows an easing of longstanding restrictions on the importation of prescription drugs. In addition, if history is a guide, Congress again may consider sanctions legislation to target and affect the behavior of rogue or oppressive states.

## Appendix A. Major Trade Legislation Introduced in the 108<sup>th</sup> Congress<sup>57</sup>

### Table 1. Trade Agreements Legislation

Legislation	House	Senate	Final Action
<b>U.S.-Chile FTA.</b> Legislation (H.R. 2738) to implement the U.S.-Chile Free Trade Agreement.	House passed the U.S.-Chile Implementation Act (H.R. 2738) on July 24, 2003 by a vote of 270-156.	Senate passed the companion bill on July 31, 2003 by a vote of 66-31.	President Bush signed the bill into law (P.L.108-77) on September 3, 2003, and the agreement went into effect on January 1, 2004.
<b>U.S.-Singapore FTA.</b> Legislation (H.R. 2739) to implement the U.S.-Singapore Free Trade Agreement.	House passed the U.S.-Singapore Implementation Act (H.R. 2739) on July 24, 2003 by a vote of 272-155.	Senate passed the companion bill on July 31, 2003 by a vote of 66-32 .	President Bush signed the bill into law (P.L. 108-78) on September 3, 2003, and the agreement went into effect on January 1, 2004.
<b>U.S.-Australian FTA.</b> Legislation (H.R. 4759) to implement the U.S.-Australian free trade agreement.	House passed the U.S.-Australian Free Trade Agreement Implementation Act (H.R. 4759) on July 14, 2004 by a vote of 314-109.	Senate passed the companion bill on July 15, 2004 by a vote of 80-16.	President Bush signed the bill into law (P.L.108-286) on August 3, 2004. Implementation anticipated on January 1, 2005.
<b>U.S.-Morocco FTA.</b> Legislation (H.R. 4842 and S. 2677) to implement to implement the U.S.-Morocco free trade agreement.	House passed H.R. 4842 on July 22, 2004 by a vote of 323-99.	Senate passed the companion bill on July 21, 2004 by a vote of 85-13.	President Bush signed the bill into law (P.L.108-302) on August 17, 2004. Implementation anticipated on January 1, 2005.

<sup>57</sup> Prepared by Richard Giles II, Congressional Fellow, Foreign Affairs, Defense, and Trade Division.



**Table 2. WTO Dispute Settlement Legislation**

Legislation	House	Senate	Final Action
Tax legislation (H.R. 4520, S. 1637) that would <i>repeal the Extraterritorial Income Tax Exclusion Act</i> , ruled an illegal export subsidy by the WTO, and replace it with a mix of tax relief for domestic manufacturing and the overseas operations of U.S. multinationals.	H.R. 4520 (Thomas) was introduced June 4, 2004, reported as amended by the House Ways and Means Committee June 16, 2004 (H.Rept. 108-548, Part I), and passed the House June 17, 2004.	S. 1637 (Grassley/Baucus), was introduced September 18, 2003, and reported November 7, 2003 (S.Rept. 108-192), passed the Senate in amended form May 11, 2004.	Conference report (H.Rept. 108-755) filed on October 7, 2004 and bill was signed by the President on October 22, 2004 (P.L. 108-357).
Legislation (H.R. 3933, S. 1299) to <i>repeal the Continued Dumping and Subsidy Offset Act of 2000</i> , also known as the Byrd Amendment, which requires the distribution of anti-dumping and countervailing duties to petitioners and interested parties in underlying trade remedy cases. WTO ruled that the United States must repeal or modify the law by December 27, 2003.	H.R. 3933 (Ramstad/Crane), introduced March 10, 2004, would repeal the CDSOA and transfer all amounts remaining in CDSOA special accounts to the Treasury.	S. 1299 (Snowe), introduced June 19, 2003, would repeal the CDSOA, and direct the Secretary of Commerce to provide financial and technical assistance to communities determined to be “negatively impacted by trade.”	Repeal bills died in committee. In the WTO, seven of the countries party to this complaint were authorized on November 26, 2004 to impose retaliatory of U.S. exports. No retaliation imposed to date.
Legislation (H.R. 1073 and S. 1155) to <i>repeal the Antidumping Act of 1916</i> . This act, which creates a private right of action and criminal penalties against dumping, was found by the WTO on August 28, 2000 to be in violation of the WTO Antidumping Agreement.	H.R. 1073 (Sensenbrenner), which would repeal the act but not affect current legislation, was introduced May 19, 2003 and reported on February 6, 2004 (H.Rept. 108-415).	S. 1080 (Hatch/Leahy), which would repeal the act but would apply retrospectively, was introduced May 19, 2003. S. 1155 (Grassley), which would repeal the act but not apply to current legislation, was introduced May 23, 2003.	Conference report of the Miscellaneous Tariff Act (H.Rept. 108-771) contains a provision that repeals the 1916 act prospectively; P.L. 108-429 signed December 3, 2004.

Legislation	House	Senate	Final Action
<p>Legislation (H.R. 188, H.R. 1698, H.R. 2494, H.R. 4225, S. 403, S. 2002, and S. 2373) to <i>repeal section 211 of the Omnibus Appropriations Act of 1998</i>. This case involves a trademark exclusion involving property confiscated by the Cuba.</p>	<p>H.R. 1988 (Serrano) and H.R. 1698 would repeal section 211 in connection with removal of the U.S. trade embargo of Cuba. H.R. 2494 (Rangel) would repeal section 211 and make other changes in U.S. law regarding trademarks with Cuba. H.R. 4225 (Smith) would amend section 211 and extend its prohibition on judicial recognition of trademark rights to rights asserted by nationals of all countries.</p>	<p>S. 403 (Baucus) would repeal section 211 in connection with removal of the U.S. trade embargo of Cuba. S. 2002 (Baucus/Craig) is identical to H.R. 2494 and S. 2373 (Domenici) is identical to H.R. 4225.</p>	<p>Bills died in committee.</p>
<p>Legislation ( S. 1258) to create a <i>special commission to review dispute findings by the WTO that were adverse to U.S. law</i>. If the commission found that the WTO acted improperly three times within a five-year period, the administration would be required to propose changes in WTO Dispute Settlement procedures. H.R. 2365 establishes a <i>Congressional Advisory Commission to review all WTO panel findings that are adverse to the U.S. position</i>.</p>	<p>H.R. 2365 (English) was introduced on June 5, 2003. Cosponsors: 17. Referred to the Ways and Means Subcommittee on Trade on June 12, 2003.</p>	<p>S. 1258 (Bayh) was introduced on June 12, 2003. Referred to Finance Committee on June 12, 2003.</p>	<p>Bills died in committee.</p>

**Table 3. Trade and Tariff Preferences**

Legislation	House	Senate	Final Action
<p><b>AGOA III.</b> Legislation to extend and amend trade preferences and other benefits for Sub-Saharan African countries.</p>	<p>H.R. 4103 (Thomas) passed the House by voice vote on June 14, 2004.</p>	<p>S. 2529 (Grassley), identical to H.R. 4103, passed the Senate on June 24, 2004 by voice vote, obviating the need for a conference. S. 1900 (Lugar) was introduced on November 20, 2003.</p>	<p>AGOA III signed into law (P.L. 108-274) on July 13, 2004.</p>
<p><b>Miscellaneous Trade and Technical Correction Act of 2003.</b> The bill renews already expired duty suspensions and includes new duty suspensions for approximately 400 products, many specialty chemicals and other items that are not made in the United States but that are used by U.S. manufacturers, as well as other trade provisions.</p>	<p>H.R. 1047 (Crane) passed the House on March 5, 2003 by a vote of 415-11.</p>	<p>S. 671 (Grassley), passed the Senate on March 4, 2004 in lieu of S. 671 with an amendment by unanimous consent.</p>	<p>Conference Report (H.Rept. 108-771) filed on October 8, 2004 and approved by the House on October 8, 2004 and the Senate on November 19, 2004. Signed into law (P.L.108-429) on December 3, 2004.</p>
<p><b>Haiti Trade Preferences.</b> Legislation introduced in the second session (S. 2261 and H.R. 4889) would increase duty-free access to the U.S. market for Haitian apparel products. Two identical bills introduced in the first session (H.R. 1031 and S. 489) were more restrictive with regard to country of origin rules for sourcing eligible fabric.</p>	<p>H.R. 4889 (Shaw) was introduced on July 21, 2004. Cosponsors:11. Referred to Ways and Means Committee. Ways and Means Trade Subcommittee held a hearing September 22, 2004 on H.R. 4889.</p>	<p>S. 2261 (DeWine) was introduced on March 30, 2004. Cosponsors: 18. Passed the Senate on July 16, 2004 with an amendment by unanimous consent.</p>	<p>Bills died in committee.</p>

Legislation	House	Senate	Final Action
<p><b>Middle East Trade Preferences.</b> Legislation (H.R. 2267, H.R. 2467 and S. 1121) to authorize certain trade benefits to countries of the greater Middle East.</p>	<p>H.R. 2267 (Adam Smith) was introduced May 22, 2003, and referred on June 6, 2003 to Ways and Means Subcommittee on Trade. H.R. 2467 (Adam Smith) was introduced on June 12, 2003 and referred on June 19, 2003 to Ways and Means Subcommittee on Trade.</p>	<p>S. 1121 (Baucus) was introduced on May 22, 2003 and referred on May 22, 2003 to Finance Committee. Cosponsors: 5. Finance Committee held a hearing on S. 1121 on March 10, 2004.</p>	<p>Bills died in committee.</p>

**Table 4. Permanent Normal Trade Relations Status**

Legislation	House	Senate	Final Action
<b>Armenia.</b> Legislation (H.R. 528 and S. 1557) to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Armenia.	H.R. 528 (Knollenberg) was introduced on February 4, 2003. Cosponsors: 13. Referred on February 6, 2003 to Ways and Means Trade Subcommittee.	S. 1557 (McConnell) was introduced on August 1, 2003. Cosponsors: 23. Referred to Finance Committee on August 1, 2003.	Provision added in conference report to H.R. 1047 which was agreed to by the House on October 8, 2004 and by the Senate on November 19, 2004. Signed into law (P.L. 108-429) on December 8, 2004.
<b>Laos.</b> Legislation (H.R. 3195, H.R. 3943, and S. 2200) to extend normal trade relations treatment to the products of Laos. Legislation (S. 3000) to postpone the extension of normal trade relations to the products of Laos.	H.R. 1031 (McCollum) introduced on February 27, 2003. Cosponsors: 4. Referred on September 30, 2003 to Ways and Means Subcommittee on Trade H.R. 3943 (Crane) introduced on March 11, 2004. Cosponsors: 11. Referred on March 11, 2004 to the Ways and Means Committee.	S. 2200 (Baucus) introduced on March 11, 2004. Cosponsors: 2. Referred on March 11, 2004 to Finance Committee. S. 3000 (Coleman) was introduced on November 18, 2004. Cosponsors: 3. Referred on November 18, 2004 to the Committee on Finance.	Provision added in conference report to H.R. 1047 which was agreed to by the House on October 8, 2004 and by the Senate on November 19, 2004. Signed into law (P.L. 108-429) on December 3, 2004.
<b>Russia.</b> Legislation (H.R. 1224, S. 580, S. 624) to authorize the extension of non-discriminatory treatment (normal trade relations treatment) to the products of the Russian Federation.	H.R. 1224 (Rangel) introduced on March 12, 2003. Cosponsors: 3. Referred on March 12, 2003 to Committees on Ways and Means, International Relations, and Rules.	S. 580 (Lugar) introduced March 10, 2003. Cosponsors: 4. Referred on March 10, 2003 to Finance Committee. S. 624 (Baucus) introduced March 13, 2003. Cosponsors: 1. Referred to Finance Committee on March 13, 2003.	Bills died in committee.

Legislation	House	Senate	Final Action
<p><b>Ukraine.</b> Legislation (H.R. 3906, H.R. 3958, H.R. 4619, S. 2205) to authorize the extension of nondiscriminatory treatment (permanent normal trade relations treatment) to the products of Ukraine.</p>	<p>H.R. 3906 (Miller, C.) was introduced on March 3, 2004. Referred on March 4, 2004 to Ways and Means Committee.</p> <p>H.R. 3958 (Levin) was introduced on March 11, 2004. Referred on March 11, 2004 to the Ways and Means, International Relations, and Rules Committees.</p> <p>H.R. 4619 (Gerlach) was introduced on June 18, 2004. Referred on June 18, 2004 to Ways and Means Committee.</p>	<p>S. 2205 (Levin) was introduced on March 11, 2004. Referred on March 11, 2004 to Finance Committee.</p>	<p>Bills died in committee.</p>

**Table 5. Importing Prescription Drugs**

Legislation	House	Senate	Final Action
H.R. 2427 (Gutknecht), the <i>Pharmaceutical Market Access Act of 2003</i> . A bill to authorize the Secretary of Health and Human Services to promulgate regulations for the reimportation of prescription drugs, and for other purposes.	H.R. 2427 (Gutknecht) passed House (243-186) on July 25, 2003, without amendment. Sent to the Senate.	Related bills: S. 1781, S. 2137.	Received in the Senate, but no action taken.
S. 2307 the <i>Reliable Entry for Medicines at Everyday Discounts through Importation with Effective Safeguards (REMEDIES) Act of 2004</i> . A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs by importers, and by individuals for personal use, and for other purposes.		S. 2307 (Grassley) introduced on April 8, 2004. Referred on April 8, 2004 to Finance Committee.	Bill died in committee.
S. 2328, the <i>Pharmaceutical Market Access and Drug Safety Act of 2004</i> . Requires the Secretary of Health and Human Services to promulgate regulations allowing the importation of prescription drugs by registered exporters or importers.		S. 2328 (Dorgan) introduced on April 21, 2004. Cosponsors: 31. Referred on April 21, 2004 to Health, Education, Labor and Pensions Committee and to Judiciary Committee. Judiciary Committee hearing held on July 14, 2004.	Bill died in committee.

Legislation	House	Senate	Final Action
<p>S. 2493, the <i>Safe Importation of Medical Products and Other Rx Therapies (IMPORT) Act of 2004</i>. Amends the Federal Food, Drug, and Cosmetic Act to protect the public health from the unsafe importation of prescription drugs from counterfeit prescription drugs, and for other purposes.</p>	<p>Related bill H.R. 4923 (Bradley).</p>	<p>S. 2493 (Gregg) introduced on June 2, 2004. Cosponsors: 8. Referred on June 2, 2004 to Committee on Health, Education, Labor, and Pensions.</p>	<p>Bill died in committee.</p>



**Table 6. Trade Remedy Legislation**

Legislation	House	Senate	Final Action
<p><b>Trade Law Reform Act of 2003.</b> H.R. 2365 amends the Tariff Act of 1930 to revise factors that the International Trade Commission must consider in making material injury determinations in countervailing duty and antidumping proceedings, among other provisions.</p>	<p>H.R. 2365 (English) was introduced June 5, 2003. Cosponsors: 17. Referred on June 12, 2003 to Ways and Means Subcommittee on Trade.</p>		<p>Bill died in committee.</p>
<p><b>Expedited Remedy for Persistent Dumping Act of 2003.</b> S. 136 amends the Tariff Act of 1930 to provide for an expedited antidumping investigation when imports increase materially from new suppliers after an antidumping order has been issued, and to amend the provision relating to adjustments to export price and constructed export price.</p>		<p>S. 136 (Lincoln) was introduced January 1, 2003. Cosponsors: 5. Referred on January 9, 2003 to Finance Committee.</p>	<p>Bill died in committee.</p>
<p>S. 219 amends the Tariff Act of 1930 to clarify the adjustments to be made in determining export price and constructed export price.</p>		<p>S. 219 (Craig) was introduced January 28, 2003. Cosponsors: 13. Referred on January 28, 2003 to Finance Committee.</p>	<p>Bill died in committee.</p>
<p>A bill (H.R. 3716, S. 2212) that amends the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket economies. Related bill: (H.R. 2938)</p>	<p>H.R. 3716 (English) was introduced January 21, 2004. Cosponsors: 64. Referred on January 21, 2004 to Ways and Means Committee.</p>	<p>S. 2212 (Collins) was introduced on March 12, 2004. Cosponsors: 18. Referred on March 12, 2004 to Finance Committee.</p>	<p>Bill died in committee.</p>

**Table 7. Other Issues in Import Policy**

Legislation	House	Senate	Final Action
<p><b>Buy American Act.</b> HR. 3017 amends title 49, United States Code, to clarify certain Buy America provisions. Responding to criticism about lax enforcement and too many waivers, H.R. 3017 would modify how the Federal Transit Agency (FTA) implements certain provisions of the Buy American Act.</p> <p><b>Buy American Act.</b> S. 1480 amends the Buy American Act to increase the requirement for American-made content, to tighten waiver provisions, and for other purposes.</p>	<p>H.R. 3017 (Kilpatrick) was introduced September 5, 2003. Referred on September 8, 2003 to House Transportation and Infrastructure Subcommittee on Highways.</p> <p>S. 1480 (Feingold) was introduced on July 29, 2003. Referred on July 29, 2003 to Governmental Affairs Committee.</p>		<p>Bill died in committee.</p> <p>Bill died in committee.</p>
<p><b>Milk Import Quota.</b> H.R. 1160 and S. 560) impose tariff-rate quotas on certain casein and milk protein concentrates.</p>	<p>H.R. 1160 (Sherwood) was introduced March 6, 2003. Cosponsors: 199. Referred on March 17, 2003 to House Ways and Means Subcommittee on Trade.</p>	<p>S. 560 (Craig) was introduced on March 6, 2003. Cosponsors: 36. Referred on March 6, 2003 to the Finance Committee.</p>	<p>Bills died in committee.</p>
<p><b>Country of Origin Labeling (COOL).</b> H.R. 4576 establishes a voluntary program for the provision of country-of-origin labeling information with respect to certain agricultural products.</p>	<p>H.R. 4576 (Goodlatte) was introduced on June 15, 2004. Cosponsors: 31. The House Committee on Agriculture reported by voice vote H.R. 4576 on July 22, 2004.</p>		<p>No floor action taken.</p>

Legislation	House	Senate	Final Action
<p>Several bills (H.R. 3732, H.R. 3993, and S. 2451) were introduced to accelerate the implementation of the mandatory labeling (COOL) program.</p>	<p>H.R. 3732 (Rehberg) was introduced on January 27, 2004. Referred to the House Committee on Agriculture on January 29, 2004.</p> <p>H.R. 3993 (Bono) was introduced on March 18, 2004. Referred to the House Committee on Agriculture on March 18, 2004.</p>	<p>S. 2451 (Daschle) was introduced on May 20, 2004. Cosponsors: 6. Placed on Senate Legislative Calendar on May 21, 2004.</p>	<p>Bills died in committee.</p>

**Table 8. China**

Legislation	House	Senate	Final Action
<p><b>Currency peg.</b> A resolution (H.Res. 414) that encourages China to fulfill its commitments under international trade agreements, and establish monetary and financial market reforms.</p> <p><b>Currency peg.</b> A resolution (S.Res.219) to encourage China to establish a market-based valuation of the yuan.</p> <p><b>Currency peg.</b> Legislation (H.R. 3058/S. 1758) would require the U.S. Secretary of the Treasury to analyze and report on China's exchange rate policies, and would require additional tariffs to be assessed on Chinese products imported into the United States if the Secretary determined that China manipulates its currency.</p> <p><b>Currency peg.</b> H.R.3364/S. 1586 would impose an additional duty of 27.5% on Chinese goods imported into the United States if China refused to make its currency freely convertible.</p> <p>H.R. 3058/S. 1758, H.R. 3269, H.R.</p>	<p>H.Res 414 (English) introduced on October 28, 2003. Cosponsors: 47.</p> <p>H.R. 3058 (English) was introduced on September 10, 2003. Cosponsors: 87. Referred on September 23, 2003 to Ways and Means Subcommittee on Trade.</p> <p>H.R. 3364 (Myrick) was introduced on October 21, 2003. Cosponsors: 4. Referred on October 21, 2003 to Committee on Ways and Means.</p>	<p>S.Res. 219 (Graham, L) was introduced on September 9, 2003. Cosponsors: 16.</p> <p>S. 1758 (Voinovich) was introduced on October 10, 2003. Cosponsors: 2. Referred on October 20, 2003 to Committee on Finance.</p> <p>S. 1586 (Schumer) was introduced on September 5, 2003. Cosponsors: 12. Referred on September 5, 2003 to Finance Committee.</p>	<p>H.Res. 414 passed the House on October 29, 2003 by a 411-1 vote.</p> <p>S.Res. 219 passed without amendment by unanimous consent on September 26, 2003.</p> <p>Bills died in committee.</p> <p>Bills died in committee.</p>

Legislation	House	Senate	Final Action
4896, S.Res. 219, S. 1586/H.R. 3364, and S. 1592) to encourage China to appreciate its artificially undervalued currency in order to make Chinese exports to the U.S. more expensive and U.S. exports to China less expensive.			
<b>Textiles.</b> Legislation (H.R. 5026) to require the President to take certain actions to enforce the textiles and apparel safeguard with respect to imports from China.	H.R. 5026 (Levin) introduced on September 8, 2004. Cosponsors: 8 Referred to House Committee on Ways and Means on September 8, 2004.		Bill died in committee.

**Table 9. "Offshoring" Service Jobs**

Legislation	House	Senate	Final Action
<p>S.Amdt. 2660 to S. 1637. Amendment to the Office of Federal Procurement Policy Act to <i>limit the offshoring of Federal or state government contracts</i> for the procurement of goods and services. S. 1637 to amend the Internal Revenue Code of 1986 to comply with WTO rulings on the FSC/ETI benefit. (See Title V, Sec. 501 for offshoring language).</p>		<p>S.Amdt. 2660 (Dodd) was submitted on March 3, 2004. Cosponsors: 5.</p>	<p>Amendment as modified agreed to in Senate by 70-26 vote on March 4, 2004. S. 1637 passed the Senate on May 11, 2004 by a 92-5 vote.</p>
<p>H.R. 3820 to <i>limit off-shore performance of federal and state contracts</i> for the procurement of goods and services.</p>	<p>H.R. 3820 (DeLauro) was introduced on February 24, 2004. Cosponsors: 41. Referred to the House Committee on Government Reform.</p>		<p>Bill died in committee.</p>
<p>S.Amdt. 3109 to, in part, provide <i>trade adjustment assistance program to service workers</i>.</p>		<p>S.Amdt. 3109 (Wyden) was submitted on May 3, 2004 as an amendment to S. 1637.</p>	<p>S.Amdt. 3109 to S. 1637 was ruled out of order by the chair after the motion to waive the Budget Act was rejected by a 54-45 vote.</p>
<p>Legislation (H.R. 3881, H.R. 3957, H.R. 4090, H.R. 5030, S. 2143, and S. 2157) to amend the Trade Act of 1974 to extend the <i>trade adjustment assistance program to workers in the service sector</i>.</p>	<p>H.R. 3881 (Smith) was introduced on March 3, 2004. Cosponsors: 111; H.R. 3957 (King) was introduced March 11, 2004; H.R. 4090 (Camp) was introduced on March 31, 2004. Cosponsors: 10; and H.R. 5030 (Michaud) introduced on September 8, 2004; House bills referred to Ways and Means Committee.</p>	<p>S. 2143 (Durbin) was introduced on February 27, 2004. Cosponsors: 4; and S. 2157 (Baucus) was introduced on March 2, 2004. Cosponsors: 27. Senate bills referred to Finance Committee.</p>	<p>Bills died in committee.</p>

**Table 10. Export Promotion**

Legislation	House	Senate	Final Action
<b>OPIC.</b> Legislation extending the operating authority of the Overseas Private Investment Corporation.	Passed House on November 19, 2003.	Passed Senate on November 14, 2003.	Signed into law (P.L. 108-158) on December 3, 2003.
<b>Export-Import Bank.</b> Eximbank, the chief U.S. government agency that finances U.S. exports, was reauthorized in 2002 (P.L. 107-189) for four years.			
<b>Section 301.</b> Legislation to establish procedures for identifying countries that deny market access for agricultural products of the United States, and for other purposes.	H.R. 2579 (Camp) was introduced on June 24, 2003. Cosponsors: 63. Referred on June 27, 2003 to Ways and Means Trade Subcommittee.	S. 1324 (Grassley) was introduced on June 24, 2003. Cosponsors: 4. Referred on June 24, 2003 to Finance Committee.	Bills died in conference.
<b>Super 301.</b> Legislation to amend the Trade Act of 1974 regarding identifying trade expansion priorities.	H.R. 4120 (Rangel) was introduced on April 1, 2004. Cosponsors: 5. Referred on April 1, 2004 to Ways and Means Committee.	S. 2372 (Corzine) was introduced on April 29, 2004. Cosponsors: 6. Referred on April 29, 2004 to Finance Committee. S. 2786 (Bayh) was introduced on September 10, 2004. Referred on September 10, 2004 to Finance Committee.	Bills died in committee.

**Table 11. Trade Sanctions**

Legislation	House	Senate	Final Action
<p><b>Libya.</b> FY2005 omnibus spending bill (H.R. 4818) contained a provision (Division J, Title I, sec. 113) authorizing the President to lift the current ban on government support for U.S. exports to Libya provided by the Export-Import Bank.</p>	<p>H.R. 4818 passed by House by a vote of 344-51 on November 20, 2004.</p>	<p>H.R. 4818 passed the Senate by a vote of 65-30 on November 20, 2004.</p>	<p>P.L. 108-447 was signed by President Bush on December 8, 2004.</p>
<p><b>Burma.</b> Legislation (H.R. 2330) to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes. Burmese Freedom and Democracy Act bans U.S. imports from Burma affecting mainly textiles and apparel. Ban to remain in effect until the President certifies that progress is being made in eliminating human rights violations.</p>	<p>H.R. 2330 (Lantos) introduced on June 4, 2003. Cosponsors: 51. Reported by the Committee on International Relations on June 17, 2003 and reported (as amended) by the Committee on Judiciary on July 11, 2003. Passed by the House on July 15, 2003 under suspension of the rules by a vote of 418-2.</p>	<p>H.R. 2330 passed the Senate without amendment on July 16, 2003 by a vote of 94-1.</p>	<p>Became law (P.L. 108-61) on July 28, 2003. H.J.Res. 97 (Lantos) renewed the import restrictions contained in the Burmese Freedom and Democracy Act and became law (P.L.108-272) on July 7, 2004.</p>



Legislation	House	Senate	Final Action
<p><b>Cuba.</b> Legislation to lift the trade embargo against Cuba and to require congressional renewal of trade restrictions to Cuba. Several FY2005 appropriations bills — Commerce, Justice and State; Agriculture; and Transportation/Treasury — had provisions easing Cuba sanctions. Numerous free-standing bills were also introduced to either tighten or weaken the Cuban sanctions regime, but no action was taken.</p>	<p>The House-approved version of the FY2005 Transportation/Treasury appropriations bill, H.R. 5025, had three provisions that would have eased Cuban sanctions.</p>	<p>The Senate version of the FY2005 Agriculture appropriations bill, S. 2803, as reported by the Senate Appropriations Committee, had a provision (Section 776) that would have directed the Secretary of the Treasury to promulgate regulations allowing for travel to Cuba under a “general license” when it was related to the commercial sale of agricultural and medical products.</p>	<p>Under the threat of presidential veto, none of the provisions easing Cuban sanctions were included in the FY2005 omnibus appropriations measure (P.L. 108-447, H.R. 4818, H.Rept. 108-792.).</p>
<p><b>Belarus.</b> Legislation (H.R. 854 and S. 700) to provide for the promotion of democracy, human rights, and rule of law in the Republic of Belarus and for the consolidation and strengthening of Belarus sovereignty and independence.</p>	<p>H.R. 854 (Smith) was introduced on February 13, 2003. Referred to the Committees on International Relations, Judiciary, and Financial Services. Passed the House on October 4, 2004 on motion to suspend the rules by voice vote.</p>	<p>S. 700 (Campbell) was introduced on March 25, 2003. Referred to Committee on Foreign Relations. Passed H.R. 854 without amendment by unanimous consent on October 6, 2004.</p>	<p>H.R. 854, as amended, became law (P.L. 108-347) on October 20, 2004.</p>
<p><b>Syria.</b> Legislation (H.R. 1828/S. 982) to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, and for other purposes.</p>	<p>H.R. 1828 (Engel) was introduced April 12, 2003. Cosponsors: 297. Referred on April 12, 2003 to Committee on International Relations. Reported by the committee (as amended) on October 15, 2003. Passed on the house floor on October 15, 2003 by a vote of 398-4. Measure sent to the Senate on October 16, 2003.</p>	<p>S.Amdt. 2148 (Lugar) agreed to by Voice vote. Passed Senate with an amendment by a 89-4 vote on November 11, 2003. House agreed to Senate amendment on November 20, 2003.</p>	<p>H.R. 1828, as amended, became law (P.L.108-175 on December 12, 2003.</p>

**Table 12. Export Controls**

Legislation	House	Senate	Final Action
<p><b>Export Administration Act.</b> Legislation to rewrite export control laws.</p>	<p>H.R. 55 (Dreier) introduced January 7, 2003. Cosponsors: 2. Referred on January 7, 2003 to Committee on International Relations.</p>		<p>Died in committee.</p>
<p><b>Defense Department FY2005 Authorization Bill.</b> H.R. 4200 contains a number of provisions affecting the Arms Export Control Act and bilateral exchanges and trade in defense items. Some of the provisions would make it more difficult to implement bilateral defense export control agreements, subject a range of new of goods to new export licensing requirements, and impose new penalties and licensing requirements for certain defense trade with China.</p>	<p>H.R. 4200 (Hunter) introduced on May 22, 2004. Passed by the House on May 20, 2004. Conference report (H.Rept. 108-767) filed on October 8, 2004. Conference report agreed to in the House on October 9, 2004.</p>	<p>S. 2400 (Warner) introduced on May 11, 2004. Passed the Senate on June 23, 2004. This bill provided waivers necessary to implement bilateral export control agreements with the United Kingdom and Australia, which was included in the conference report (H.Rept. 108-767).</p>	<p>House-Senate conference agreed to on October 8, 2004 (H.Rept. 108-767) requires the Secretary of State, in consultation with the Defense Department, to ensure that any applications for a license to export defense articles or services to the United Kingdom and Australia are “expeditiously processed.” Other provisions from H.R. 4200 that would have made export control regime more restrictive were dropped from the conference report. Became law (P.L. 108-375) on October 28, 2004.</p>

## **Appendix B. Trade-Related Hearings in the 108<sup>th</sup> Congress<sup>58</sup>**

### **House of Representatives**

#### **Committee on Agriculture**

*Agricultural Trade Negotiations*, Serial 108-29, May, 19, 2004 and April 28, 2004.

*Mandatory Country of Origin Labeling*, Serial 108-12, June 26, 2003, and Serial 108-17, October 1, 2003.

*Multilateral and Bilateral Agricultural Trade Negotiations*, June 18, 2003.

*Review of Artificial Barriers to U.S. Agricultural Trade and Foreign Food Assistance*, Serial 108-1, March 26, 2003.

*The Status of the World Trade Organization Negotiations on Agriculture*, Serial 108-5, July 22, 2003, June 18, 2003, and May 21, 2003.

#### **Committee on Appropriations**

*Trade Capacity Building*, Round Table Discussion, July 21, 2003.

#### **Committee on Energy and Commerce**

*South Florida's Access to Affordable Prescription Drugs: Cost and Benefits of Alternative Solutions*. Serial 108-9, March 3, 2003.

*System Overwhelmed: The Avalanche of Imported, Counterfeit, and Unapproved Drugs into the U.S.*, Serial 108-29, June 24, 2003.

*U.S.-China Trade: Preparation for the Joint Commission on Commerce and Trade*, Serial 108-74, March 31, 2004.

Subcommittee on Commerce, Trade, and Consumer Protection, *Trade in Services and E-Commerce: The Significance of the Singapore and Chile Free Trade Agreements*, Serial 108-19, May 8, 2003.

#### **Committee on Financial Services**

*Annual testimony of the Secretary of the Treasury regarding the State of the International Financial System*, March 25, 2004.

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<sup>58</sup> Prepared by Richard Giles II, Congressional Fellow, Foreign Affairs, Defense, and Trade Division.

*China's Exchange Rate Regime and its Effects on the U.S. Economy*, Serial 108-56, October 1, 2003.

*Opening Trade in Financial Services — The Chile and Singapore Examples*, Serial No. 108-16, April 1, 2003.

*The US-EU Regulatory Dialogue and its Future*, Serial 108-86, May 13, 2004.

Domestic and International Subcommittee, *Oversight of the Export - Import Bank of the United States*, May 6, 2004.

### **Committee on Government Reform**

*Canadian Prescription Drug Importation: Is There A Safety Issue*, Serial 108-59, June 12, 2003.

*International Prescription Drug Parity: Are Americans Being Protected or Gouged*, Serial 108-12, April 3, 2003.

### **Committee on International Relations**

*Burmese Freedom and Democracy Act of 2003*, Serial 108-22, June 10, 2003.

*Economic Ties with China*, October 21, and October 30, 2003.

*Enforcement of the Iran-Libya Sanction Act and Increasing Security Threats from Iran*, Serial 108-59, June 25, 2003.

*Intellectual Property Crimes: Are Proceeds from Counterfeited Goods Funding Terrorism*, Serial 108-48, July 16, 2003.

*Overview of U.S. Policy Toward the Western Hemisphere*, Serial 108-8, February 27, 2003.

*Renewing OPIC and Renewing Its Role in Support of Key U.S. Objectives*, Serial 108-57, June 10, 2003.

*Trade Policy toward Sub-Saharan Africa*, February 5, 2003.

*U.S. Priorities in Europe*, Serial 108-75, March 3, 2004.

Subcommittee-Africa, *African Growth and Opportunity Act: Building Trade Capacity*, Serial 108-98, May 11, 2004.

*Boosting Africa's Agricultural Trade*, Serial 108-30, June 24, 2003.

*Boosting Africa's Agricultural Trade*, Serial 108-30, June 24, 2003.

Subcommittee on Asia and the Pacific, *U.S. Trade and Commercial Policy in Southeast Asia*, Serial 108-37, June 25, 2003.

Subcommittee on Europe, *Issues Affecting U.S. Political and Economic Relations with Europe*, Serial 108-7, March 13, 2003, and Serial 108-34, June 17, 2003.

Subcommittee on Western Hemisphere, *Closed hearing with Central American Ministers of Trade and Labor*, July 13, 2004.

### **Committee on Judiciary**

*Markup of H.R. 2738* (H.Rept. 108-224, part 2), the “U.S.-Chile Free Trade Agreement Implementation Act,” H.R. 2739 (H.Rept. 108-225, part 2), and the “U.S.-Singapore Free Trade Agreement Implementation Act,” H.R. 49 (H.Rept. 108-234), July 16, 2003.

*Trademarks Controlled by Companies Seized in the Cuban Revolution*, July 13, 2004.

### **Committee on Small Business**

*Challenge to FSC/ETI Rules and the Effect on America’s Small Business Owners*, Serial 108-14, May 14, 2003.

*Effect of Foreign Currency Manipulation on Small Manufacturers and Exporters*, Serial 108-21, June 25, 2003.

*Globalization of White-Collar Jobs: Can America Lose These Jobs and Still Prosper*, Serial 108-20, June 18, 2003.

*Offshoring of High-skilled Jobs*, Serial 108-42, October 20, 2003.

*Small Business Exporting and the Southern California Economy*, Serial 108-33, August 28, 2003.

*The WTO’s Challenges to the FSC/ETI Rules and the effects on America’s Small Business*, Serial 108-38, September 10, 2003.

*US-Chile Free Trade*, June 12, 2004.

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