

CRS Report for Congress

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Agriculture and Fast Track or Trade Promotion Authority

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Summary

New “fast track,” or trade promotion, authority (TPA) cleared the 107th Congress, and was signed into law (P.L. 107-210) on August 6, 2002. Such authority enables the Administration to submit negotiated foreign trade agreements to Congress for consideration under expedited procedures. Many agricultural and food industry interests were among the export-oriented enterprises that supported TPA, arguing that foreign trading partners would not seriously negotiate with an Administration that lacked it. However, some farm groups argued that fast track ultimately will lead to new agreements that have adverse effects on U.S. producers, at least of some commodities. This report will be updated if events warrant.

What Is Fast Track (Trade Promotion) Authority?

Fast track, or trade promotion, authority (TPA), refers to legislation explicitly enabling the President to negotiate trade agreements with foreign countries and then to submit implementing legislation to Congress for approval under special, expedited procedures. First adopted in the Trade Act of 1974, this authority was used to negotiate and implement several bilateral and multilateral agreements, including agreements in the Tokyo Round of multilateral trade negotiations, the U.S.-Canada Free Trade Agreement (FTA), the North American Free Trade Agreement (NAFTA), and the Uruguay Round (UR) accords, which included establishment of the World Trade Organization (WTO). Fast track authority, which expired in 1994, is intended to strengthen the President’s negotiating authority and credibility by reassuring foreign trading partners that agreements will be considered promptly by Congress and not subjected to changes that would force a return to the bargaining table.

Past fast track procedures have included requirements for advance notification of Congress and consultations with relevant committees, before an agreement could be concluded. Lawmakers, in effect, have used these consultative requirements as informal mark-ups to address, in advance, the various policy issues that otherwise might be debated during the votes on the implementing legislation. (For more information, see CRS Issue Brief IB10084, *Fast-Track Authority for Trade Agreements (Trade Promotion Authority)*.)

Background and Developments in the 107th Congress, and Trade Promotion Authority (Fast-Track Authority for Trade Agreements) in the CRS Trade Electronic Briefing Book.

Importance of Trade for Agriculture

Export markets are critical to U.S. farmers' prosperity. According to the U.S. Department of Agriculture (USDA), agricultural export value is equivalent to about 20% of the value of farm production and 25% of farm income. It is estimated that major crops planted on one out of every three acres are exported.

Most agricultural interests contend that U.S. efforts to open international markets must continue in order to sustain farm exports – including the negotiation of new or enhanced trade agreements that reduce tariff and nontariff import barriers and curtail the use of trade-distorting domestic and export subsidies. Now underway are a new round of WTO multilateral negotiations to further reform trade, including agriculture; and negotiations to create several new bilateral or regional FTAs (see page 6).

Most acknowledge that free trade cannot be a one-way street: the United States also is expected to open its own borders to the products of other countries. While increased agricultural imports bring variety and lower prices to U.S. consumers, they also can compete directly with U.S.-produced goods and force adjustments on U.S. producers.

Previous Fast Track Trade Legislation and Agriculture

Fast track procedures were used to implement three free trade agreements and two multilateral trade agreements. Those with significant agricultural provisions include:

NAFTA, which provides for the phased elimination of all tariffs on trade between the United States, Canada, and Mexico. The agreement incorporates the phased tariff reductions (by 1998) agreed to in the earlier (1988) U.S.-Canada FTA and all of its agricultural provisions. As for U.S.-Mexico bilateral trade, most tariffs will be eliminated by 2004, while tariffs for import-sensitive items, including a number of agricultural products, will not be completely eliminated until 2009. The North American Free Trade Agreement Implementation Act (P.L. 103-182, approved December 8, 1993, 19 U.S.C. 3301 note) includes the changes in U.S. law that affect U.S.-Mexican agricultural trade.

The **Uruguay Round/WTO Agreements**, the most comprehensive multilateral trade agreements in history. The UR Agreement on Agriculture (URAA) strengthens rules and disciplines for agricultural trade and requires WTO members to reduce import protection, export subsidies, and trade-distorting domestic support. Other UR agreements set new multilateral rules for trade in services, trade-related investment measures, trade-related intellectual property rights, and government procurement, and dispute settlement. The Uruguay Round Agreements Act (P.L. 103-465, approved December 8, 1994, 19 U.S.C. 3511) has a number of important agricultural provisions.

Effects of Trade Agreements on U.S. Agriculture

NAFTA. The support of agricultural groups for TPA depends in large part on their perceptions of how they have been affected by previous agreements. Comparing trade

flows before and after NAFTA's entry into force, most analyses report that NAFTA has had a positive overall effect on U.S. agricultural trade. Of course, factors other than trade liberalization—including population and economic growth, national agricultural policies, exchange rates, geographic proximity, and weather—also influence trade flows.

Canada and Mexico are, respectively, the second and third largest U.S. agricultural export markets, together accounting for about one-fourth of the value of our farm exports worldwide. Total agricultural trade between the United States and its two NAFTA partners increased from \$17.5 billion in 1993, the year just prior to NAFTA's entry into force, to an estimated \$30 billion in 2001. The United States was exporting slightly more than it was importing from these two countries combined.

U.S. agricultural exports to Mexico reached \$7.4 billion in FY2001, while Mexico's exports to the United States were \$5.3 billion. In FY1996, the U.S. trade balance with Canada turned from a surplus to a negative one. For FY2001, U.S. agricultural exports to Canada were \$8 billion, and Canada's exports to the United States were \$9.5 billion.

U.S. commodity exports to Mexico with substantial gains since NAFTA include coarse grains, wheat, cotton, processed fruits and vegetables, and red meats. Mexico has made significant gains in tomatoes, peppers, onions, cucumbers, grapes, and melons. U.S. commodity exports to Canada that have grown include soybeans, corn, poultry meat, dairy and egg products, fresh vegetables, citrus, cotton, and wine and beer. Canada's export gains include cattle, hogs, red meats, dairy products, rapeseed oil, and potatoes.

Some U.S. farmers contend that they have been disadvantaged by NAFTA or that their concerns are not being addressed by the agreement, often leading to lingering trade tensions and/or formal actions to obtain import relief. Commodities that have been the focus of such frictions include imports of Canadian wheat, live animals, potatoes, and stuffed molasses (a sugar-containing product); and of Mexican cattle, tomatoes and other winter vegetables, and (prospectively) sugar. Often such complaints revolve around the contention that foreign products are unfairly subsidized or "dumped" here at less than the cost of production. Moreover, a June 2001 report by Public Citizen's Global Trade Watch asserts that NAFTA has harmed individual farmers and consumers while benefitting only large agribusinesses (*Down on the Farm: NAFTA's Seven-Years War on Farmers and Ranchers in the U.S., Canada, and Mexico*).

Meanwhile, some U.S.-exported agricultural products have come under similar scrutiny by Mexico and Canada – e.g., complaints by Mexico about U.S. meat products and high-fructose corn syrup; and by Canada about U.S. corn, among others.

URAA/WTO. Fast track and free trade advocates also have been promoting the success of the URAA by citing USDA estimates of its economic benefits for farmers. For example, USDA has stated that the URAA and other WTO agreements will increase U.S. agricultural exports by a projected \$4.7 billion to \$8.7 billion by 2005, and raise farm income by as much as \$2.5 billion by the same year. Others challenge such assertions, contending that it is difficult to separate the agreement's effects from other factors that influence world trade, and that the numbers are speculative and overly optimistic.

The Office of the U.S. Trade Representative (USTR) reports that most countries generally are in compliance with their market access and export subsidy reduction

commitments. A few, however, have not fulfilled their obligations. For example, since China joined the WTO in December 2001, the Administration and private U.S. agricultural interests have expressed growing concerns that the country has not adhered to its market-opening commitments, has issued confusing and possibly protectionist rules affecting imports of genetically-modified farm products like soybeans, has effectively blocked meat imports, and may be violating its WTO commitment not to subsidize corn exports.

Much attention has been paid by farmers and agribusinesses to the WTO dispute settlement process—and its perceived weaknesses. The United States has won most of the agricultural cases it has brought to the WTO or reached favorable settlements before the cases were adjudicated by WTO panels. But concerns have arisen about the pace of implementation of panel decisions in the U.S.'s favor. A prominent example is the European Union's (EU's) continuing reluctance to implement a WTO ruling against its ban on imports of meat produced with hormones.¹ However, other agricultural interests contend that the economic benefits of free trade agreements outweigh such problems.

Congressional Action

Previous fast track authority had expired in 1994. In the 107th Congress, President Bush and congressional Republican leaders made restoration of TPA a trade priority. Democrats who support trade reform also expressed interest in TPA, but warned that Congress must address longstanding concerns about trade agreements' impacts on the environment and labor, among other issues, if a measure were to win widespread, bipartisan support.

On December 6, 2001, the House narrowly passed, largely along party lines, a TPA bill (H.R. 3005) that had been approved October 9, 2001, by its Ways and Means Committee. The Senate Finance Committee cleared its version of H.R. 3005 on December 18, 2001. This version was folded, as Title XXI, into a much broader trade measure [an expanded version of H.R. 3009, to extend the Andean Trade Preference Act, that also includes expansion of trade adjustment assistance (TAA) legislation, including a section on TAA for farmers potentially enabling those adversely affected by agricultural imports to receive up to \$10,000 in payments annually]. The full Senate cleared this measure, with more bipartisan support, on May 23, 2002.

A conference committee completed work in late July on a compromise version of H.R. 3009, including language authorizing fast-track procedures for trade agreements reached by June 1, 2005 (with a 2-year extension possible). The House and Senate gave final approval to the conference report, respectively, on July 27 and August 1, 2002.

TPA enjoys support among much, but not all, of U.S. agriculture. However, key House Members with agricultural constituencies had threatened earlier to withhold support if the Administration continued to oppose increases in U.S. farm subsidies. The Administration had been criticizing the omnibus farm bill for its cost and potential for undermining trade. However, House Agriculture Committee leaders ultimately pledged their support for TPA after receiving assurances that the Administration would agree to

¹ For background, see CRS Report RS20142, *The European Union's Ban on Hormone-Treated Meat*, December 19, 2000.

the new spending in the bill. (The farm bill, now estimated to add \$52 billion in new spending over its 6 years, was signed into law as P.L. 107-171 on May 13, 2002.)

Agricultural Provisions

In part to shore up support for TPA among agricultural groups and to address their specific trade concerns, proponents have included extensive language on negotiating objectives and consultation requirements for agriculture.² (The measure also contains negotiating objectives for other economic sectors and issues.) The principal agricultural negotiating objective is “to obtain competitive opportunities for U.S. agricultural commodities in foreign markets and to achieve fairer and more open conditions of trade in bulk, specialty crop, and value-added commodities by” (among other things):

- ! Reducing or eliminating, by a date certain, tariffs and other charges that decrease U.S. export opportunities, and reducing tariffs to levels that are at or below U.S. tariffs;
- ! Reducing or eliminating subsidies that harm U.S. exports or unfairly distort markets;
- ! Allowing for the preservation of (non trade-distorting) programs that support family farms and rural communities;
- ! Developing disciplines for domestic farm support so that production in excess of domestic food security needs is sold at world prices, and eliminating policies that create price-depressing surpluses;
- ! Eliminating when possible state trading enterprises (STEs);
- ! Strengthening dispute settlement mechanisms in order to eliminate practices (including STE activities; “unjustified” labeling, sanitary and other technical barriers to trade; and restrictive administration of tariff rate quotas, or TRQs) that impair U.S. market opportunities;
- ! Eliminating practices that adversely affect trade in perishable or cyclical products and addressing their trade problems; and ensuring that import relief mechanisms for such products are as accessible and useful to U.S. growers as they are to producers in other countries;
- ! Taking into account whether other countries have not lived up to existing trade agreements, and the impacts of such agreements on U.S. agriculture;
- ! Maintaining bona fide food assistance programs, and preserving U.S. market development and export credit programs;
- ! Recognizing the effect that simultaneous sets of negotiations may have on U.S. import-sensitive commodities (including those subject to TRQs).

There also are provisions for extensive consultation with Congress with respect to the agricultural (and other sectoral) negotiations. For example, the USTR is required, in the course of negotiations, to “consult closely and on a timely basis with, and keep fully apprized of the negotiations,” all congressional committees with jurisdiction over affected laws – as well as with the new Congressional Oversight Group (to include the chairmen and ranking members of the two Agriculture Committees). This Group must receive regular, detailed briefings, have access to pertinent negotiating documents, and be

² The Trade and Development Act of 2000 (P.L. 106-200) already contained a list of explicit U.S. objectives and consultation requirements for agriculture in WTO negotiations.

accorded “the closest practicable coordination” throughout the negotiations. The House and Senate Agriculture Committees are singled out in the TPA law for close and timely consultations including immediately before an agreement is initialed by trade officials.

Also to garner more support from agricultural members, the bill’s sponsors added language limiting the President’s authority to proclaim, without congressional approval, modifications in tariffs on import sensitive products, specifically including those subject to minimum TRQs. Import-sensitive products are those subject to the minimum 15% reduction required under the URAA. This provision likely encompasses more than 200 specific items ranging from cheese and many other dairy products to various fresh fruits and vegetables, sugar and other sweeteners, beef and lamb, oilseeds, wine, tobaccos, cotton, wool, and chocolate.

Some analysts note that several negotiating objectives in the measure (along with the extensive new subsidies in the U.S. farm bill) could make it more, not less, difficult for the President to achieve desirable results for agriculture. In particular, these analysts say, the requirement to consult in advance with Congress before negotiating cuts in tariffs on import-sensitive products, make negotiating tariff reductions more difficult and prevent negotiations of trade-offs between sectors. Similarly, making preservation of U.S. export credit programs a principal negotiating objective, may render negotiations on export subsidy reduction or elimination more difficult. The Administration has countered that while the bills pose additional hurdles for lowering tariffs on import-sensitive products, TPA in the long-run will, overall, provide a “better basis” for negotiations.

Potential Uses of the New Authority

Even before TPA passage, U.S. officials were active in various trade negotiations; officials contend that TPA will expedite the negotiations. Among them:

WTO. At the WTO Fourth Ministerial Conference in Doha, Qatar, November 9-14, 2001, trade ministers agreed on a declaration to begin a new round of multilateral trade negotiations, including on agriculture. The Doha declaration gives new impetus to sectoral negotiations on agriculture, which had been underway since early 2000, by effectively incorporating them into a comprehensive trade round and by setting an agreed negotiating mandate for agriculture. The deadline for concluding the negotiations in the new round, including those on agriculture, is January 1, 2005. (See CRS Report RS21085, *Agriculture in WTO Negotiations*.)

Free Trade Area of the Americas (FTAA). Negotiation of an agreement to remove all trade barriers within the Western Hemisphere would go well beyond NAFTA to cover 34 countries. Some of them want more access to U.S. beef, sugar, citrus and vegetable markets; U.S. groups in turn want additional openings for an array of products plus more assurance that these countries will abide by SPS and other trade rules. At the third Summit of the Americas in April 2001, President Bush and other hemispheric leaders agreed to conclude negotiations and implement an agreement by 2005.

Bilateral FTAs. Meanwhile, the Administration has been negotiating bilateral FTAs with Chile, where the United States has a growing agricultural trade deficit, and with Singapore, where the United States has a substantial agricultural trade surplus. FTAs with Jordan and Vietnam already have been negotiated, and approved by Congress in 2001. Others could be negotiated, e.g., with Taiwan, Australia, New Zealand, southern Africa.