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Agriculture and Fast Track Trade Legislation

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Summary

Senate and House committees in October reported legislation for new fast track authority enabling the Administration to negotiate trade agreements with foreign countries and to submit them to Congress for consideration under expedited procedures. Fast track could be used to negotiate new agreements with trading partners in Latin America and possibly Asia and to improve the agricultural provisions of the Word Trade Organization (WTO) Uruguay Round (UR) agreements. Fast track procedures have been used to negotiate and enact a number of agreements, including the U.S.-Canada Free Trade Agreement (FTA), the North American Free Trade Agreement (NAFTA), and the Uruguay Round. Many agricultural and food industry interests are among the export-dependent enterprises that support new fast track authority, arguing that foreign trading partners will not seriously negotiate with an Administration that lacks it. However, some agricultural groups argue that fast track provides them with inadequate opportunities for dealing with their issues, and that it ultimately will lead to new agreements that benefit foreign more than U.S. producers, at least in some commodity sectors. Neither bill was taken to the floor in 1997 because of insufficient votes for passage in the House. However, the President is expected to seek approval in 1998.

What Is Fast Track Authority?

Fast track authority refers to legislation that explicitly enables the President to negotiate trade agreements with foreign countries and then to submit legislation to implement them to Congress for approval under special, expedited procedures. Fast track was first adopted in the Trade Act of 1974, and, before authority expired in early 1994, 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 FTA, NAFTA, and the UR accords, which included establishment of the WTO.

Under past fast track procedures, the President could negotiate a trade agreement with one or more foreign countries and then submit to Congress the text of the agreement along with draft implementing legislation (to make any "necessary or appropriate" changes in U.S. laws). Senate and House leaders introduced this implementing legislation on the day it was submitted. Congress then generally had a maximum of 60 legislative days to approve or disapprove the complete package, with no amendments permitted. Fast track 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.

Fast track procedures included requirements for advance notification of Congress and advance consultations with relevant House and Senate committees, before an agreement could be concluded. Lawmakers, in effect, 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 97016, *Trade Agreements: Renewing the Negotiating and Fast-Track Implementing Authority*.)

Importance of Trade for Agriculture

Because U.S. agricultural production is increasing more rapidly than domestic consumption, export markets are critical to farmers' prosperity. According to the U.S. Department of Agriculture (USDA), agricultural exports account for 30% of U.S. farm cash receipts, a share that is expected to increase. Crops planted on one out of every three acres are exported. Higher-value U.S. farm products like meats, poultry, fruits, and vegetables are experiencing the most rapid export growth, particularly in many developing countries where economic growth and rising incomes have been greatest.

Most agricultural interests agree that U.S. efforts to open international markets must continue in order to sustain export growth—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. Most also concede 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 food and other agricultural imports can bring more variety and lower prices to U.S. consumers, they also can compete directly with U.S.-produced goods—possibly even jeopardizing the economic survival of producers in some commodity sectors.

Previous Fast Track Trade Legislation and Agriculture

Fast track procedures have been used to implement three free trade agreements and two multilateral trade agreements. Three of them have significant agricultural provisions:

The **U.S.-Canada FTA** provides for the phased elimination of tariffs on all goods traded—including agricultural products—between the two countries within 10 years (by January 1, 1998), in three staging categories depending on the "import sensitivity" of products. The FTA did not, however, address quantitative barriers to trade in dairy, poultry, and eggs, on the basis that those products would be dealt with in then-ongoing multilateral negotiations in the Uruguay Round. Legislation to implement the FTA, the U.S.-Canada Free Trade Agreements Implementation Act (P.L. 100-449, U.S.C. 2112 note.), was signed into law on September 28, 1988. An important change in U.S. law, with implications for agriculture, establishes new binational trade dispute settlement procedures in lieu of judicial review.

NAFTA provides for the phased elimination of all tariffs on trade between the United States, Canada, and Mexico. The Agreement incorporates the tariff reductions agreed to in the 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. For the first time in any trade agreement, NAFTA contains rules on applying animal and plant health and safety measures (termed sanitary and phytosanitary—SPS—measures) to imports, and it spells out procedures for recognizing the "equivalency" of each country's food safety standards for poultry and meat products. 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** are the most comprehensive agreements in the history of multilateral trade negotiations. They cut tariffs by a third and reduce or eliminate many nontariff measures such as quotas or restrictive licensing systems. The series of agreements establish new multilateral rules for trade in services, trade-related investment measures, trade-related intellectual property rights, and government procurement, and dispute settlement, among others. The WTO is established as the international organization that administers trade rules under both the General Agreement on Tariffs and Trade (GATT) and the new rules and disciplines developed in the Uruguay Round. The UR/WTO Agreement on Agriculture strengthens multilateral rules and disciplines for agricultural trade and requires WTO members to reduce import protection, export subsidies, and trade-distorting domestic support.

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. It authorizes the President to convert U.S. quantitative restrictions to tariff quotas for dairy products, sugar, sugar-containing products, peanuts, cotton, and beef; exempts all WTO members from section 22 import quotas; and repeals the Meat Import Act of 1979. The Act provides for the reduction in export subsidies provided by the Export Enhancement Program and Dairy Export Incentive Program as required by the Agreement on Agriculture. The legislation extends the concept of equivalency of meat and poultry inspection standards, developed in NAFTA for Canada and Mexico, to all WTO member countries.

Effects of Trade Agreements on U.S. Agriculture

The support of farmers and agribusinesses for fast track legislation 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, and weather—also influence trade flows.

Total agricultural trade between the United States and its NAFTA partners increased from $17.5 billion in 1993, the year just prior to NAFTA's entry into force, to $22.6 billion in 1996. In 1994, NAFTA's first year, U.S. agricultural exports and the net balance both increased substantially. U.S. agricultural exports to Mexico declined to $3.7 billion in 1995, the year of Mexico's peso devaluation, from around $4.2 billion in 1994, giving Mexico a small agricultural trade surplus with the United States. U.S. agricultural exports to Mexico recovered significantly in 1996, reaching almost $5 billion, while Mexico's exports to the United States declined by $1 billion. U.S. agricultural exports to Canada also increased in 1994 and 1995, but at a significantly slower pace than U.S. agricultural exports to Mexico. In 1996, the U.S. trade balance with Canada turned from a surplus to a negative one: Canada's agricultural exports to the United States increased to $7.3 billion, while U.S. exports declined to $6.4 billion.

U.S. commodity exports to Mexico that have increased most since NAFTA are corn, soybeans, wheat, cotton, barley, and beef and veal. Mexico's largest commodity export increases are for tomatoes, peppers, onions, cucumbers, grapes, and melons. U.S. commodity exports to Canada that have grown are soybean meal, poultry meat, orange juice, corn, oranges, tangerines, and cotton. Canada's agricultural export gains are in cattle, pork, beef and veal, rapeseed oil, hogs, and potatoes.

Some farmers contend that they have been disadvantaged by NAFTA or that their concerns are not being addressed by the agreement. For example, many U.S. cattle producers have raised concerns about large imports of Canadian slaughter cattle and feeder cattle in 1996. U.S. producers maintain that, while Canadian cattle access to the U.S. market is relatively easy, market access for U.S. cattle into Canada is impeded by Canadian health requirements and seasonal restrictions on cattle movements.

U.S. producers of winter vegetables, especially tomatoes, are concerned about increasing imports of fresh produce from Mexico. They have argued that safeguard procedures in NAFTA provided inadequate protection against a surge in Mexican tomato imports following Mexico's peso devaluation, and petitioned the U.S. Commerce Department to undertake an antidumping action against Mexico. The antidumping petition was withdrawn when Mexico and the United States reached an agreement that establishes a minimum selling price for Mexican tomatoes in the United States.

Increasing imports of durum and spring wheat from Canada plus continuing restrictions on access of U.S. wheat to Canada have been sources of controversy about NAFTA. Some U.S. producers contend that the Canadian Wheat Board (CWB), which has a monopoly on export sales, is unfairly trading wheat into the U.S. market and want imports to be restricted. Lack of transparency on the part of the CWB makes it difficult to determine if dumping or countervailable subsidizing is taking place. The lack of transparency of CWB operations may be addressed in WTO agricultural trade negotiations scheduled to begin in 1999.

Also, U.S. dairy, egg, and poultry producers continue to assert that Canada's high tariffs and restrictive import quotas severely limit their access to Canadian markets. Under the WTO agreement, Canada converted its import quotas to very high tariffs and restrictive quotas. The United States challenged these as inconsistent with Canada's NAFTA obligations, but a NAFTA panel rejected the U.S. complaint. U.S. producers will press for improved market access in forthcoming WTO negotiations on agriculture.

Assessments of the impact of the UR/WTO Agreement on Agriculture have focused on implementation of commitments and dispute settlement. The Office of the U.S. Trade Representative (USTR) reports that most countries, including all major trading partners of the United States, are in compliance with their market access and export subsidy reduction commitments. A handful of countries, however, have not met their commitments to open markets to some U.S. agricultural products.

More attention has been paid by farmers and agribusinesses to WTO dispute settlement--and its perceived weaknesses. The United States has either won outright 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. Important examples are Korea's delays in revising inspection procedures for fresh produce imports and the European Union's evident reluctance to implement a WTO ruling against its ban on imports of meat produced with hormones. As a result, some in agriculture have questioned the credibility of multilateral dispute settlement in particular and the value of trade agreements in general. However, most agricultural interests contend that the economic benefits of free trade agreements outweigh these problems, and they express support for the UR Agreement on Agriculture and the new WTO dispute settlement procedures as important steps toward improving prospects for U.S. agricultural trade.

New Fast Track Authority

The President, who submitted his draft fast track bill to Congress on September 16, 1997, wants the authority so that the United States can participate fully in a number of negotiations to create new, or to expand existing, agreements among various countries. The Senate Finance Committee on October 1 approved, by voice vote, its own bill (S. 1269). The House Ways and Means Committee on October 8 voted, 24-12, to adopt its version (H.R. 2621). Neither bill was taken to the floor in 1997 due to insufficient votes for passage in the House. However, the President is expected to seek approval in 1998.

Fast track supporters have pointed out that other nations already have negotiated, or are negotiating, agreements, most notably in Latin America. Unless the United States participates, U.S. agricultural and other exporters will face higher tariff and other trade barriers *vis-a-vis* countries that have signed such arrangements, fast track supporters maintain. Opponents, on the other hand, contend that any potential economic and political advantages of these free trade agreements are outweighed by the prospect of U.S. capital and jobs being exported to countries where wages, labor standards, and environmental requirements are weaker—including those in the agricultural sector.

Agricultural Provisions

The President's proposal included various "principal trade negotiating objectives" that U.S. officials would be required to observe, including one specifically on agriculture: reducing or eliminating trade barriers that harm U.S. agricultural export opportunities; and strengthening international rules dealing with unfair practices that distort world markets. However, Senate and House committees greatly expanded these agricultural (among many other) provisions in order to broaden support for the bills.

For example, H.R. 2621 states, among other things, that: agricultural tariff reductions should be achieved by a "date certain," with priority given to cutting the highest tariffs; reasonable adjustment periods should be provided for "import-sensitive products, in close consultation with the Congress" (in advance); and the targeting of unjustified SPS restrictions should include those "not based on scientific principles in contravention of the UR Agreements." The House bill would include additional provisions for: advance consultations with Congress on agricultural tariff reductions and on other provisions affecting seasonal and perishable agricultural products; creation of a Chief Agricultural

Negotiator under the USTR; new "Section 301" procedures requiring USTR to identify countries that deny agricultural exporters "fair and equitable market access" and to initiate unfair trade practice investigations against some; and more stringent country-of-origin labeling requirements for perishable agricultural products, among other things.

Potential Uses of the New Authority

Under all of the proposed bills, fast track authority would be available until October 1, 2001, and could be extended (unless disapproved by either the House or Senate) until October 1, 2005. Among the negotiations where fast track authority might be used:

Chile. The Administration designated Chile as the next country for negotiating a bilateral FTA. Chile already has agreements with other individual countries including Canada and Mexico, and with the Common Market of the South (MERCOSUR, composed of Argentina, Brazil, Paraguay, and Uruguay). Thus, U.S. products face much higher tariffs, for example, relative to these countries. Negotiations with Chile to join NAFTA started in 1995 but were suspended, largely because Chile wants the United States to renew fast track before discussing what it views as "sensitive" issues. Though Chile is not a major U.S. trading partner—it accounts for about 0.5% of overall U.S. agricultural trade—freer trade is considered a key step toward broader economic integration in the Western Hemisphere (see below). Also, it is argued that an agreement could help to narrow the U.S. agricultural trade deficit with Chile—in 1996 such imports from Chile were valued at $622 million, versus $131 million in U.S. exports there.

Free Trade Area of the Americas. President Clinton was among 34 leaders who agreed, at a December 1994 summit, to complete negotiations for a Free Trade Area of the Americas (FTAA) by 2005. Negotiations on this agreement, also proposed in concept by President Bush in 1990, are to start formally in early 1998, although details on their pace and scope have not yet been determined. In 1996, U.S. agricultural exports to Latin America and the Caribbean totaled $10.5 billion, accounting for 17% of total agricultural exports. Imports from the region were about $11 billion. (For more information on both the Chile and FTAA negotiations, see CRS Issue Brief 95017, *Trade and the Americas*.)

WTO Agriculture Negotiations. WTO members have agreed to open negotiations in 1999 aimed at further liberalizing world agricultural trade. Although many agricultural issues were addressed by the UR agreement, impediments remain. Many contend that certain member countries have not implemented their UR commitments on agriculture and other issues; are not abiding by the newly-established process for resolving disputes expeditiously; or are continuing to unfairly subsidize their agricultural producers through state trading enterprises, domestic support programs, and export subsidies. (See CRS Report 97-965 ENR, *Agriculture in the Next Round of Multilateral Trade Negotiations*.)

Agreements in Asia and the Pacific Rim. More than 60% of all U.S. agricultural exports (value) go to Pacific Rim nations belonging to the Asia-Pacific Economic Cooperation (APEC) forum—the countries of eastern Asia, along with Australia, New Zealand, Papua New Guinea, Canada, Mexico, and Chile. Because many of the economies of this region have experienced rapid growth, consumer demand for U.S. food and farm products was expected to increase significantly here. APEC is seeking to establish free trade and investment arrangements by 2010 for its industrialized economies and by 2020 for developing ones. A general commitment to a comprehensive agreement means that agriculture will be a key element.