

CRS Report for Congress

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Agriculture and Fast Track or Trade Promotion Authority

Geoffrey S. Becker and Charles E. Hanrahan
Specialist and Senior Specialist in Agricultural Policy
Resources, Science, and Industry Division

Summary

New “fast track” (or, trade promotion) authority (TPA) is at issue in the 107th Congress. Such authority could enable the Administration to submit negotiated foreign trade agreements to Congress for consideration under expedited procedures. Efforts to renew this authority, which expired in 1994, have not succeeded since then. Many agricultural and food industry interests are among the export-oriented enterprises that support TPA, arguing that foreign trading partners will not seriously negotiate with an Administration that lacks it. However, some farm groups argue that fast track ultimately will lead to new agreements that could have adverse effects on U.S. producers, at least in some commodity sectors. This report will be updated if events warrant.

What Is Fast Track Authority?

Fast track authority, which the Administration and other supporters are calling “Presidential 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, the 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 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 consultations with relevant 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 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 at [<http://www.congress.gov/brbk/html/ebtra9.html>].)

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. (For more data, see CRS Report 98-253, *U.S. Agricultural Trade: Trends, Composition, Direction, and Policy*.)

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 negotiations to: further reform multilateral agricultural trade under the aegis of the WTO; join with Chile in a FTA; and create a Free Trade Area of the Americas (FTAA) (see page 6).

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 agricultural imports can 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. 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 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**, which established the WTO and are 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. 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, among other things.

Effects of Trade Agreements on U.S. Agriculture

The support of agricultural groups 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, 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 are estimated to have reached more than \$7 billion in FY2001, while Mexico's exports to the United States were estimated at more than \$5 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 estimated at about \$8 billion, and Canada's exports to the United States at more than \$9 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 limit import relief. Commodities that have been the focus of such frictions include imports of Canadian wheat, live animals, potatoes, and stuffed molasses; 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 attempts to document the harm that, it asserts, NAFTA has caused to 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.

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 highly speculative and overly optimistic (particularly in light of the September 11 terrorist attacks and their aftermath).

Other assessments of the impact of the URAA 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, generally are in compliance with their market access and export subsidy reduction commitments. A few countries, however, have not met their commitments to open markets to some U.S. agricultural products.

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. Despite frequent comments by the USTR that the dispute settlement is in fact working, some in agriculture have questioned its credibility—and the value of trade agreements in general. However, other agricultural interests contend that the economic benefits of free trade agreements outweigh these problems, and they express support for the URAA and the WTO dispute settlement procedures as important steps toward improving prospects for U.S. agricultural trade.

New Fast Track (Trade Promotion) Authority

In the 105th Congress, a fast track bill (H.R. 2621) reported by the House Ways and Means Committee was defeated in the full House on September 25, 1998. An omnibus Senate trade bill (S. 2400), incorporating a fast track bill (S. 1269) passed earlier by the Senate Finance Committee, was not put to a floor vote.

Subsequently, no serious attempts were mounted to move a fast track bill in the 106th Congress. However, near the end of 2000, lawmakers did include, with the USDA appropriations act for FY2001 (P.L. 106-78), a sense of the Congress that the President should formally request fast track authority for future U.S. trade negotiations.

In the 107th Congress, President Bush and congressional Republican leaders have indicated that renewal of TPA is a trade policy priority. Democrats who support trade reform also have expressed interest in TPA-fast track, although they have warned that Congress must address longstanding concerns about trade agreements' impacts on the

environment and labor, if the measure is to win widespread support. No bipartisan consensus has yet emerged, making prospects for passage unknown at this time.

Nonetheless, on October 9, 2001, the Ways and Means Committee approved, 26-13, H.R. 3005, sponsored by Committee Chairman Thomas. H.R. 3005 would authorize the President to negotiate trade agreements reached by June 30, 2005 (with a 2-year extension possible). During its deliberations, the committee voted against an alternative measure (H.R. 3019), sponsored by Representatives Rangel, the committee's ranking minority member, and Levin, the ranking minority member of the Trade Subcommittee.

A number of other bills have been offered on new negotiating authority, including S. 599 (Roberts); S. 136 (Gramm); H.R. 1446 (English); H.R. 2149 (Crane); and S. 1104 (Graham). S. 333 (Lugar) and H.R. 627 (Boehner), both broader agricultural measures, include a title to extend trade negotiating authority. Negotiating objectives and consultation requirements for agriculture are included in many of the bills, including in the Ways and Means and the Rangel-Levin measures (see "Agricultural Provisions," below).

Fast track (trade promotion) authority supporters have pointed out that other nations already have negotiated, or are negotiating, free trade agreements with important U.S. trading partners. Unless the United States is engaged, 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. Many agricultural interests believe that TPA will encourage the initiation of more comprehensive multilateral trade negotiations, where, they assert, agricultural trade concessions are more likely to be made by other countries seeking, as trade-offs, gains in other economic sectors. For example, some 80 producer, agribusiness, and related organizations signed a June 18, 2001 letter to the President pledging their active support of TPA.

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. Members who advocated stronger labor and environmental provisions in trade agreements opposed both the Senate and House committee bills in the 105th Congress, and, joining with those who opposed any fast-track authority, forged the majority that defeated the House bill. These concerns have not dissipated. Several agricultural groups do oppose renewal of fast track; the National Farmers Union and nearly 50 labor, environmental, consumer, and allied organizations, signed a June 19, 2001, letter to Members of Congress to oppose the Crane measure (then a leading Republican alternative), for example.

Agricultural Provisions

H.R. 3005 states that the principal agricultural negotiating objective is to obtain competitive, fairer, and more open market opportunities for U.S. agricultural exports by (among other things):

- Reducing or eliminating tariffs and other charges by a date certain, and reducing foreign ones to levels the same as or lower than U.S. levels;
- 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, technical, sanitary and other technical barriers to trade; and restrictive administration of tariff rate quotas) that impair U.S. market opportunities;
- Recognizing “the unique characteristics” of 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;
- Considering whether other countries have not lived up to existing trade agreements, and how such agreements have impacted U.S. agriculture;
- Maintaining bona fide food assistance programs, and preserving U.S. market development and export credit programs.

The bill calls on U.S. negotiators to establish, as the base year for calculating each country’s “Aggregate Measurement of Support” (i.e., level of most potentially trade-distorting domestic agricultural subsidies), to be the end of its UR implementation period. There is also explicit language regarding certain studies and consultations with Congress over the agricultural negotiations.¹

Potential Uses of the New Authority

Even lacking TPA, U.S. officials have been active in various trade negotiations; officials contend that TPA will expedite the negotiations toward a successful conclusion. The following negotiations are currently among the most prominent.

WTO. In March 2000, WTO members opened sectoral negotiations aimed at further liberalizing agricultural trade; these talks are proceeding. Some are looking toward the next WTO Ministerial Conference, in Qatar in November 2001, for possibly launching a more comprehensive round of multilateral trade negotiations. (See CRS Report 98-254 ENR, *Agriculture in the Next Round of Multilateral Trade Negotiations.*)

Free Trade Area of the Americas (FTAA). A high priority for President Bush, 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, hemispheric leaders agreed to conclude negotiations and implement an agreement by 2005.

Other FTAs. Meanwhile, the Administration is negotiating bilateral FTAs with Chile and Singapore. FTAs with Jordan and Vietnam already have been negotiated, and have been approved by Congress in 2001. Others could be negotiated, e.g., with Australia.

¹ The Trade and Development Act of 2000 (P.L. 106-200) already contains a list of explicit U.S. objectives and consultation requirements for agriculture in WTO negotiations.