

## **I. INTRODUCTION AND REQUEST FOR EXTENSION OF TRADE PROMOTION AUTHORITY**

On August 6, 2002, President Bush signed the Trade Act of 2002 (Trade Act), Title XXI of which contains the Bipartisan Trade Promotion Authority Act of 2002 (TPA Act). The TPA Act provides, in part, for “trade authorities procedures” to apply to bills implementing certain trade agreements that the President enters into before July 1, 2005.

The Act provides for extension of trade authorities procedures to include agreements concluded before July 1, 2007, if the President so requests in a report submitted to the Congress by April 1, 2005.

For the reasons set forth in this report, the President makes the request to which Section 2103(c)(2) of the Trade Act refers. Consistent with that section, this report includes:

- 1) a description of all trade agreements that have been negotiated under Section 2103(b) of the Trade Act and the anticipated schedule for submitting such agreements to the Congress for approval;
- 2) a description of the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives (hereinafter “negotiating objectives”) of the TPA Act, and a statement that such progress justifies the continuation of negotiations; and
- 3) a statement of the reasons why the extension is needed to complete the negotiations.

## **II. OVERVIEW**

### **A. How Trade Promotion Authority Works**

Trade Promotion Authority (TPA) provides a framework for close collaboration between the Congress and the President that has been instrumental in opening markets around the world for America’s workers, farmers, ranchers, and businesses and expanding choices for America’s consumers and industries.

The TPA Act provides for Congress to vote without amendment and within a set period on trade-agreement-implementing legislation that the President submits. The TPA Act also calls for the President to notify, consult with, and report to the Congress on the negotiation of trade agreements that he seeks to implement through trade authorities procedures. The TPA Act also spells out detailed objectives for U.S. multilateral, regional, and bilateral trade negotiations. Broadly speaking, these negotiating objectives call for obtaining more open and reciprocal market access, reducing or eliminating trade and investment barriers, protecting intellectual property rights, strengthening the system of international trading disciplines and procedures, fostering economic growth, protecting the environment, and promoting respect for worker rights.

The detailed notice and consultation requirements set out in the TPA Act ensure that the Administration has the benefit of advice from the Congress, the private sector, and the public before and during negotiations. Specifically, the Act establishes a special Congressional Oversight Group (COG) through which Members of Congress provide timely advice to the Administration on trade negotiations and receive regular briefings from the United States Trade Representative on proposed U.S. negotiating positions. In addition, the Administration's trade negotiators brief and seek advice from Congressional committees before each negotiating round. This process ensures close coordination and a regular exchange of information between the two branches. The Administration also works closely with private-sector advisors who are appointed as part of its official trade advisory system. These advisors play an important role by providing views and recommendations to the Administration before, during, and after the negotiations and by providing advisory opinions to the Congress and to the President on agreements once they are completed.

Once the President strikes an agreement, the Congress and the President continue to work together to draft implementing legislation and a statement by the President on how the agreement will be carried out through regulation. This process includes hearings and informal mark-ups with the full participation of the relevant Congressional committees and ensures that the implementing package, like the trade agreement itself, reflects the views of both the Administration and the Congress.

#### ***i. TPA Strengthens America's Negotiating Hand***

Since 1974, the executive and legislative branches have worked together, on a bipartisan basis, to level the playing field in overseas markets and to conclude and enforce trade agreements that benefit Americans. The specific negotiating objectives and special consultation and legislative procedures reflected in the TPA Act and similar previous laws have fostered and formalized this cooperation in a way that maximizes U.S. negotiating leverage while taking into account Congressional and private-sector views and priorities and ensures a balance of equities among all stakeholders.

TPA – and similar authority enjoyed by five previous presidents – has been employed successfully to open new markets around the world for American workers, innovators, farmers, ranchers, and businesses and to establish a vital legal infrastructure for enforcing the trade commitments other countries make to the United States. Over recent decades, this authority was used to conclude and implement two global trade pacts – the Tokyo Round agreements, under the auspices of the General Agreement on Tariffs and Trade, and the Uruguay Round agreements, which established the WTO and a series of market-opening bilateral and regional free trade agreements (FTAs), including the United States-Israel FTA in 1985, the United States-Canada FTA in 1988, and the North American Free Trade Agreement (NAFTA) in 1992.

In 1994, however, that authority lapsed, and America fell behind as the European Union, Mexico, and many other nations negotiated dozens of trade agreements that set new rules and opened growing markets for their exports, putting the United States at a competitive disadvantage. To restore America's leadership in negotiating agreements, the Bush Administration worked closely with the Congress to forge a new consensus on TPA. Passage of

the Trade Act of 2002 renewed trade promotion authority and established new guidelines and objectives for trade negotiations, including on labor and environmental issues.

The consultative mechanism established under TPA not only ensures that the President has the full benefit of Congressional advice, it also bolsters leverage for U.S. trade negotiators in representing America's interests in trade negotiations. Because it provides clear guidance on negotiating objectives and calls for sustained, meaningful consultations between Congress and the Administration before and during trade negotiations, TPA tells our trading partners that the United States speaks with one voice at the negotiating table.

Under TPA, foreign governments know that Congress will consider completed trade agreements quickly and conclusively. Our trading partners can thus make the decisions necessary to reach agreement with the United States without concern that the agreements they sign will be reopened later. TPA thus greatly increases U.S. bargaining power and leadership in dismantling trade barriers around the world, helping to build democracy, promoting hope and opportunity abroad, and increasing prosperity at home.

## **B. What Congress and the President Have Accomplished with TPA**

In close consultation with Congress, the President has used TPA to initiate a new trade strategy: pursuing mutually reinforcing trade initiatives globally, regionally, and bilaterally. To date, the Administration has implemented that strategy by concluding major trade agreements that open new markets, level the playing field for American workers, farmers, ranchers, and businesses, and expand choices for American consumers and industry. Since August 2002, the Congress has, under TPA, approved groundbreaking FTAs with Chile, Singapore, Australia, and Morocco, with strong bipartisan support in both chambers. And, in close consultation with the Congress, the President has concluded two additional FTAs – one with five Central American countries and the Dominican Republic (CAFTA-DR) and another with Bahrain.

By pursuing TPA negotiating objectives through multiple trade initiatives in key markets in Asia, the Pacific, Latin America, the Middle East, and Africa, the Administration has created a “competition for liberalization.” This strategy involves not only negotiating bilateral and regional FTAs, but also the launch of global trade negotiations in the WTO. This strategy has created strong incentives for trading partners to move forward, while also establishing models for state-of-the-art rules in areas such as e-commerce, intellectual property rights, labor and environmental law enforcement, and anti-corruption. Each FTA that the Administration has negotiated also includes strict enforcement mechanisms that take effect as soon as the agreement enters into force – providing vital means to ensure that other countries live up to their trade obligations.

These accomplishments to date are due in large part to a process of regular interaction and collaboration between the legislative and executive branches under TPA. Since TPA was enacted, the U.S. Trade Representative has met regularly with the COG to discuss the Administration's trade agenda and receive advice from Members of Congress regarding negotiating objectives, strategies, and positions, as well as on compliance and enforcement of trade-agreement commitments.

At the staff level, U.S. trade negotiators have conferred with multiple Congressional committees before and after each round of FTA talks through both formal consultations and informal discussions that address inquiries of committee staff and Members. Consistent with TPA, the Administration has also briefed the committees of jurisdiction on each FTA's agricultural- and textile-related aspects and on how the FTA will relate to the fishing industry. Also in accordance with TPA, the Administration's trade negotiators submit proposed FTA text to relevant committees of jurisdiction in a timely manner before tabling them in FTA talks. The Administration has also followed TPA guidance in providing reports to the Congress on each FTA's potential effects on existing laws, including trade-remedy laws, and on employment, the environment, labor, and state and local governments.

### ***i. Opening Markets and Leveling the Playing Field***

Trade agreements concluded and implemented under the TPA Act are opening new markets for U.S. goods and services around the world and leveling the playing field for American workers, farmers, ranchers, and businesses.

For example, more than 99 percent of U.S. manufactured goods exported to Australia became duty-free immediately when the United States-Australia FTA entered into force on January 1, 2005 – the most significant immediate reduction of industrial tariffs ever achieved in a U.S. FTA. U.S. manufacturers estimate that the elimination of tariffs could result in a \$2-billion-per-year increase in U.S. exports to Australia once the agreement is fully implemented. In addition, all U.S. agriculture exports to Australia – totaling nearly \$500 million in 2004 – received immediate duty-free access under the United States-Australia FTA.

While only two FTAs (with Chile and Singapore) concluded under TPA have been in place for more than a year, they are already delivering results. In 2004, U.S. exports to Chile grew by nearly one billion dollars compared to 2003, an increase of nearly 34 percent. This is nearly double the rate of growth in U.S. exports to other countries in Latin America. U.S. exports to Singapore – the United States' 11<sup>th</sup>-largest export market – rose by more than 18 percent, with exports of U.S.-built information technology equipment alone growing by \$1.7 billion. When implemented, the United States-Morocco FTA will remove tariffs on over 95 percent of consumer and industrial goods on day one. U.S. farmers and ranchers will also enjoy expanded access to Morocco for many of their products, including wheat, beef, poultry, corn, soybeans, and almonds.

America's free trade agreements go far beyond eliminating tariffs. They also establish fair and enforceable trade rules that dismantle unjustified regulatory barriers, eliminate practices that discriminate against U.S. firms, and provide state-of-the-art protection for films, software, technology, recordings, inventions, and other creative products, which are the cornerstone of America's innovation economy.

## ***ii. Solving Problems and Enforcing U.S. Rights***

The high-quality trade agreements concluded and implemented under the TPA Act include strong dispute-settlement procedures and establish an infrastructure for enforcing those agreements. The dispute-settlement provisions of these agreements ensure that American workers, farmers, ranchers, and businesses actually receive the benefits to which they are entitled under the agreements.

The dispute-settlement procedures of the new FTAs also set high standards for openness and transparency, such as by requiring open public hearings, public release of each government's legal submissions, and the opportunity for interested third parties to submit views. In all cases, the emphasis is on promoting compliance through consultation, joint action plans, and trade-enhancing remedies.

The vast majority of enforcement initiatives are brought to successful resolution without the need to resort to formal litigation. Indeed, many problems are resolved in the context of FTA negotiations themselves. Before U.S. trading partners can hope to begin negotiations for an upgraded trading arrangement like an FTA, they must address existing problems. Before completed trade agreements can be submitted for approval by the Congress, FTA trading partners must show continued progress.

For example, at U.S. insistence, Australia eliminated its longstanding barrier preventing imports of U.S. table grapes before formal free-trade negotiations even began. This was worth \$15.4 million in 2004 to U.S. farmers who export this product to Australia. During FTA negotiations with the Dominican Republic, that country committed to providing the United States with ongoing reports of civil and criminal prosecutions it pursues against broadcast pirates.

## ***iii. Driving Economic Growth***

TPA is the linchpin for America's trade strategy that has leveraged both tough market-opening negotiations and vigilant enforcement of U.S. rights to expand opportunities for U.S. workers, farmers, ranchers, and businesses in markets around the world. Today, the United States is the world's greatest trading nation, exporting \$1.15 trillion in goods and services in 2004.

As the United States breaks down trade barriers around the world, trade flows increase, as does American prosperity. In the last two decades, U.S. trade (exports plus imports of goods and services) increased significantly, growing from 18 percent of GDP in 1984 to 25 percent of GDP in 2004. At the same time, the U.S. economy grew by 86 percent and the real per-capita income of Americans rose by 50 percent. Exports help spur economic growth and create higher-paying jobs. U.S. jobs supported by goods exports are estimated to pay wages 13 percent to 18 percent above the U.S. national average, and U.S. exports of goods and services support an estimated 12 million American jobs. In the agricultural sector today, one in three acres planted in the United States produces crops for export.

Open markets also help increase productivity, raise real wages, and lower prices for the goods that American businesses and consumers purchase. Prices for consumer goods and services and

industrial inputs, driven by trade and international competition, tend to drop as trade barriers fall. These inputs in turn help make domestic producers more efficient and internationally competitive, which in turn drives export growth. Consumers find more choices at lower prices. By eliminating foreign tariffs under the FTAs that have already been completed and those currently under negotiation, the Administration and Congress can help American firms who sell products abroad save over \$4 billion a year in foreign duties.

The United States will be better able to sustain the economic growth and prosperity it has enjoyed over the past two decades if the Administration can continue to open foreign markets to U.S. products and services. TPA is an essential component of this strategy. Extending TPA will give the Administration the tools it needs to complete negotiations that will help expand our Nation's prosperity.

#### ***iv. Encouraging Reform***

The Administration's process of negotiating bilateral and regional free trade agreements, followed by continuous monitoring and enforcement, provides the means to trigger and then lock in broader economic reforms abroad. These FTAs require effective environmental and labor law enforcement, government transparency, and anti-corruption efforts and promote market-based reforms and the rule of law.

At its core, the transformational power of trade comes from expanding and strengthening the key constituencies for these reforms, particularly by expanding the middle class and increasing the importance of independent business relative to government.

The Chile, Singapore, Australia, Bahrain, and Morocco FTAs use innovative new mechanisms to meet the environmental and labor objectives set out by Congress in the TPA Act. All the agreements call for cooperative projects to support environmental protection while also requiring each government to effectively enforce its environmental laws – an obligation enforceable through dispute-settlement procedures. The CAFTA-DR goes further with an innovative plan for involving civil society in the implementation of the agreement's environmental obligations. Subsequent FTAs will continue to include this core idea, while each will also be tailored to the particular circumstances of each new FTA partner.

The Administration has used FTA negotiations to promote respect for internationally recognized labor rights by FTA partners. For example, labor-law reform languished in the Moroccan Parliament for 20 years before United States-Morocco FTA negotiations helped provide the momentum for Morocco to update its labor code. The Administration also worked successfully with the CAFTA-DR countries during the FTA negotiations to improve the application and enforcement of their labor laws and to provide an institutional framework for technical cooperation on labor issues in the future.

Another innovative feature of U.S. FTAs is the requirement to spend any monetary assessments levied under the agreements in response to persistent, unremedied failures to enforce domestic labor or environmental laws on programs to address the problems that gave rise to the assessments, putting the emphasis on correcting shortcomings.

FTAs that the Administration has concluded since August 2002 also typically call for U.S. trading partners to treat American companies that operate or seek to establish businesses in their territories in a fair and even-handed way. FTAs generally require, for example, that participating governments ensure that investors are accorded due process of law in court administrative proceedings, refrain from discrimination based on nationality, and allow expropriation of property only on payment of compensation. The FTAs also generally provide investors with a neutral arbitration forum to resolve disputes with host governments.

In addition, all FTAs concluded with developing countries call for participating governments to prohibit bribery of government officials generally and procurement officials specifically. FTAs with the CAFTA-DR countries, Morocco, and Bahrain also spell out the particular features that each government's laws on bribery and corruption in international trade and investment should contain, including appropriate criminal penalties. In addition, each FTA fosters the rule of law and open government by requiring administrative due process and calling for notice and comment rule-making on subjects covered by the agreement.

### **C. Extending TPA is Essential for America's Trade Leadership**

Extending TPA until July 1, 2007, is critical to maintaining U.S. global leadership on trade, furthering the Administration's successful "competitive liberalization" strategy, and concluding negotiations already underway. Under TPA, the Administration is leading the way in ongoing global trade negotiations under the WTO that promise substantial economic gains for the United States and the world. A successful conclusion of these negotiations could mean an annual benefit of \$2,500 for the average American family of four. Moreover, research by the World Bank and the Center for Global Development suggests that the removal of all measurable tariff and non-tariff barriers worldwide could lift up to 500 million people out of poverty.

In consultation with Congress, the Administration has launched and is seeking to conclude free-trade negotiations with partners in Latin America (Panama and the Andean nations of Colombia, Ecuador, and Peru, with Bolivia participating as an observer), Asia (Thailand), Africa (the five nations of the Southern African Customs Union: Botswana, Lesotho, Namibia, South Africa, and Swaziland), and the Middle East (Oman and the United Arab Emirates). In addition, the Administration is working to conclude the Free Trade Area of the Americas (FTAA), encompassing all the democracies of the Western Hemisphere. The Administration considers that the progress that has been made in each of these negotiations in achieving TPA objectives justifies continuing – and completing – the negotiations.

These negotiations promise substantial new opportunities to increase exports of U.S. goods and services, raise standards of living at home and abroad, and help strengthen democratic values and the rule of law around the world. Taken together, the countries with which the Administration has completed or is negotiating free trade agreements constitute America's third-largest export market, drawing \$78 billion in U.S. exports in 2004 and comprising the world's sixth-largest economy. Continued cooperation between Congress and the President through TPA will be critical in bringing current negotiations to a successful conclusion.

### **III. AGREEMENTS CONCLUDED AND NEGOTIATIONS IN PROGRESS**

#### **A. Multilateral Negotiations**

##### ***i. TPA Is Essential to Complete Global Trade Negotiations***

In November 2001, the Administration was instrumental in launching a new round of global trade negotiations under the WTO. The new global negotiating round, referred to as the “Doha Development Agenda” (DDA), offers a real opportunity to expand economic growth and raise incomes in the United States. The negotiations can also be a powerful tool for advancing economic reform and development and reducing poverty worldwide.

In a world where 95 percent of consumers live beyond U.S. borders, achieving an ambitious outcome in the DDA is strongly in America’s interest. The DDA negotiations are extraordinarily complex, involving the economic interests of 148 WTO members. In this environment, U.S. trade leadership – based on TPA – is essential for bringing negotiations to a successful conclusion.

Indeed, U.S. leadership has consistently proven crucial in advancing the negotiations. The Administration, in consultation with Congress, has already introduced close to 100 proposals aimed at significantly improving access to foreign markets for U.S. services, agricultural products, and consumer and industrial goods and at strengthening world trading rules and disciplines. The Administration also led efforts to revive negotiations after the collapse of the Cancun Ministerial in September 2003 and in securing agreement last year on a roadmap for completing the DDA.

The negotiations are now entering a critical stage. WTO members are preparing for the Sixth WTO Ministerial Meeting in December of this year in Hong Kong, China, with the aim of completing negotiations before the end of 2006. The Administration must work closely with other key trade partners from both the developed and developing world to lead the DDA to a successful conclusion. The Administration can achieve that result if the Congress and the President continue to work together under TPA, thus giving our WTO partners confidence that America can carry out the commitments it makes at the negotiating table.

##### ***ii. Completing the DDA Will Create Substantial Economic Opportunities for the United States and the World***

By leading the world to complete the Uruguay Round and establish the WTO, U.S. trade policies have helped this Nation to sustain not only its own domestic economic strength, but also its leadership role within the global economy. The DDA is poised to deliver significant additional benefits for the United States and the world economy. A study by the University of Michigan estimates that a one-third cut in global barriers to goods and services in the DDA would mean \$2,500 a year in increased purchasing power for the average American family of four.

In addition to promoting U.S. exports, spurring innovation and wage growth, and creating job opportunities, an ambitious conclusion to the DDA will yield additional benefits vital to U.S.

interests. Trade and the competition it stimulates promote consumer choice and help restrain inflation. Since the close of the Uruguay Round, U.S. prices on a wide range of consumer goods have fallen. Opening markets also provide a catalyst for global economic development. In 1999, for example, the Council of Economic Advisers reported that the estimated rise in annual global income due to full implementation of the Uruguay Round could be between 0.2 percent to 0.9 percent of GDP or between \$40 billion to \$214 billion (1992 dollars). For the United States alone, the increase was estimated to be between \$27 billion to \$37 billion (1992 dollars) each year, with good prospects for even further gains.

U.S. trade leadership is required if the DDA negotiations are to conclude in 2006. Drawing on the leverage that TPA provides, the Administration has effectively set the market-opening agenda and high ambition for the negotiations. Steady U.S. leadership and the extension of TPA are needed to maintain the momentum and focus of the negotiations in this crucial phase and bring the negotiations to a successful conclusion.

### ***iii. Progress on Overall Negotiations***

The DDA negotiations have achieved considerable progress notwithstanding the roadblocks that emerged at the September 2003 ministerial meeting in Cancun, Mexico. In January 2004, then-U.S. Trade Representative Zoellick sent an open letter to his WTO counterparts urging them to work with the United States to put the Doha negotiations quickly back on track. The USTR's letter was complemented by visits to key capitals and meetings with trade ministers from key developed and developing countries. These efforts generated the momentum necessary to reengage the negotiations.

After several months of intensified negotiations, on July 31, 2004, the WTO General Council, the body that governs the WTO's operations between ministerial meetings, agreed on a framework for putting the DDA negotiations back on track to achieve ambitious results. The July 31 framework, crafted with substantial U.S. leadership, represents an important step in setting the ground rules that WTO members will use to negotiate the elimination, or substantial reduction, of tariff and non-tariff barriers to trade in agricultural products and industrial goods. The framework also provides key direction for progress in opening services markets around the world. In addition, the framework launched negotiations on trade facilitation (reducing costly "red tape" at the border) and provides guidance for other aspects of the DDA negotiations. Work will intensify throughout 2005 as negotiators review outstanding proposals in these areas and seek agreement on how best to address other aspects of the negotiations. At the forthcoming ministerial meeting in Hong Kong, WTO trade ministers are set to direct trade negotiators on how to conclude the DDA.

Consistent with TPA negotiating objectives, the Administration has insisted – and will continue to insist – that the negotiations remain focused on the DDA's mandate of reducing trade barriers and providing a stable, predictable, rules-based environment for world trade.

#### ***iv. Progress in Key Areas of Negotiation***

##### ***1. Agriculture***

The United States is the world's largest agricultural producer and exporter and increasingly looks to foreign markets to expand sales and boost farm incomes. The prospect of agricultural reform in the DDA negotiations holds the promise of substantial new export opportunities for American farmers, ranchers, and food and beverage producers. Exports of U.S. agricultural goods generate economic benefits that ripple through the domestic economy. According to the U.S. Department of Agriculture's Economic Research Service, every dollar of agricultural exports creates another \$1.54 in supporting activities to process, package, ship, and finance agricultural products. This means that agricultural exports, worth approximately \$61.3 billion in 2004, generated an additional \$94.4 billion in supporting economic activities.

Building on the General Council's July 31 framework, the Administration is continuing its leadership role in establishing the parameters for reform and market opening in each of the three major areas of negotiation for removing barriers to agricultural trade. The framework makes important advances in securing U.S. priority objectives, including: the elimination of export subsidies and new disciplines on export state trading enterprises, greater harmonization in allowed levels of trade-distorting domestic support, and a tariff-reduction formula that delivers deeper cuts on higher tariffs. The Administration is insisting on real progress in each of these areas. Governments are seeking to complete the ground rules for negotiations before the December 2005 Hong Kong ministerial meeting so negotiators can begin developing specific offers and requests that will lead to final agreements on individual tariff lines and programs in 2006.

##### ***2. Industrial and Consumer Goods***

By reducing tariffs on industrial and consumer goods, the market-opening agreements concluded in the Uruguay Round greatly benefited American companies and workers that manufacture products for export. Total U.S. exports to the world grew 35.2 percent between 1994 and 2003, while average total U.S. exports of industrial and consumer goods that were subject to Uruguay Round tariff cuts grew more than 55 percent during the same period. Certain key sectors experienced even faster growth. U.S. exports of chemicals grew by 77 percent between 1994 and 2003, and U.S. exports of medical equipment and pharmaceuticals grew by 89 percent and 183 percent, respectively. A priority Administration negotiating objective in the DDA is to build on these results by promoting sectoral initiatives to eliminate tariffs in key sectors.

The Administration is continuing to press for an ambitious outcome in this critical area of the negotiations. The July 31 negotiating framework provides the elements necessary for such an outcome. The framework is currently being used to: develop a tariff-cutting formula that requires deeper cuts for higher tariffs; negotiate agreements on sectoral liberalization; address non-tariff barriers; and give developing countries a degree of flexibility in carrying out commitments in this area. As is the case for agriculture negotiations, WTO members are seeking to set final ground rules for negotiations on industrial and consumer goods in advance of the

Hong Kong ministerial meeting so that governments can begin to present their detailed negotiating proposals and enter the final phase of bargaining early in 2006.

### **3. Services**

Services firms provide more jobs – and more new jobs – than all other sectors of the U.S. economy combined. A successful conclusion to the DDA will require far-reaching market-opening commitments by our trading partners in the services area. Such an outcome would offer significant benefits to U.S. services providers, who already lead the world in export sales by a large margin. In 2004, the United States exported \$339 billion in services and recorded a surplus of \$48 billion.

U.S. interests in these negotiations are broad – ranging from telecommunications services to financial services, express delivery services, energy-related services, distribution services, computer-related services, and audiovisual services – reflecting the fact that America is the world’s leading services exporter. The Administration has pressed for an ambitious market-opening agenda for negotiations on services trade, which the General Council included in its July 31 framework. The framework calls for WTO members to intensify negotiations on services trade by presenting more – and better – market-opening offers as soon as possible.

### **4. WTO Rules**

U.S. negotiators remain focused on ensuring that the DDA negotiations strengthen the global system of trade rules and address the underlying causes of unfair trade practices. American workers need strong and effective trade rules to combat unfair trade practices. The DDA should result in strengthened subsidies disciplines, while preserving the strength and effectiveness of antidumping and countervailing duty trade remedies.

### **5. Trade Facilitation**

Negotiations on trade facilitation are now underway under the DDA, and initial proposals were submitted in early 2005. The negotiations will update and modernize current WTO rules on border procedures. By cutting “red tape” at the border, these negotiations hold the prospect of reducing the cost of selling into some countries by 5-15 percent.

### **6. Dispute Settlement**

WTO trade rules are only as strong as the procedures available to enforce them. For this reason, the Administration has led efforts to strengthen the rules for resolving disputes under WTO agreements and to promote transparency in dispute-settlement proceedings. The Administration has pursued these goals as part of the WTO’s review of the existing Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), which sets procedures for resolving disputes. Although the DSU review is not formally a part of the DDA, changes in dispute settlement rules are expected to be approved as part of the overall package of the DDA results.

## **7. Environment**

The Administration is seeking to promote environmental considerations in the DDA while advancing growth and trade overall. The Administration will continue to pursue a practical approach to the negotiations, identifying opportunities to promote environmental objectives, such as increased market access for environmental goods and services and new disciplines on fisheries subsidies, while working to enhance communication and cooperation between the WTO's secretariat and secretariats for multilateral environmental agreements.

### **B. Regional and Bilateral Agreements and Negotiations**

Since August 2002, the Administration has completed six FTAs under TPA with eleven countries in close collaboration with the Congress (a twelfth during this Administration was completed in 2001 with Jordan). Additional FTAs will build on the commercial opportunities that Congress and the President have created together under TPA, including far-reaching initiatives in Asia, the Middle East, the Americas, and Africa.

All of the FTAs concluded to date have advanced the negotiating objectives that Congress identified in the TPA Act. Annex 1 to this report provides synopses of each such agreement's unique benefits and innovations together with progress achieved in conjunction with the agreement. In addition, Annex 1 describes the progress that the Administration has made in FTA negotiations currently in progress. Annex 2 includes a detailed summary of each FTA that the Administration has concluded under TPA. Annex 3 provides a description of how each such FTA has made progress in achieving TPA negotiating objectives.

While the FTAs concluded under TPA have differed from each other in important respects, they also have much in common. The key common features of the FTAs concluded since August 2002 under TPA are summarized below.

#### ***i. Key FTA Elements***

- *Eliminating Duties on Goods:* Consistent with TPA negotiating objectives, each FTA provides for the phased elimination of duties on goods traded with agreement partners, with tariffs on as many products as possible eliminated on the day the agreement takes effect. Each FTA also takes into account domestic sensitivities, allowing the United States to gradually phase out tariffs on products that are especially sensitive to import competition.
- *Opening Trade in Agricultural Products:* Each FTA includes provisions, called for in the TPA Act, designed to eliminate foreign barriers to trade in U.S. agricultural products, while providing reasonable adjustment periods and safeguards for U.S. producers of import-sensitive agricultural products. Each agreement provides for the elimination of agricultural export subsidies on bilateral trade, unless the exporter believes that a third country is subsidizing its exports into that market. In such cases, special provisions apply. Each FTA includes safeguard procedures to provide relief to certain domestic agriculture producers facing increased imports or imports that fall below a price

threshold. Each FTA reaffirms each government's WTO commitments on the application of sanitary and phytosanitary (SPS) measures and strengthens cooperation on SPS matters.

- *Eliminating Barriers to Trade in Services:* As set out in the TPA Act, each FTA calls for the parties to eliminate unnecessary barriers to cross-border supply of services. Except with respect to specifically identified measures or subject areas, the FTAs prohibit discrimination on the basis of nationality and prohibit local presence requirements. These rules apply on a "negative list" basis, meaning that all services sectors and measures are covered unless the agreement specifically states otherwise. Each FTA contains separate disciplines applicable to financial services.
- *Protecting Investments:* In accordance with TPA guidance, each FTA other than the United States-Bahrain FTA includes substantive and procedural provisions on foreign investment. These provisions reflect a substantial revision of earlier U.S. investment treaties and agreements to draw more directly from U.S. legal principles and practice and enhance transparency in dispute settlement. FTA investment rules include provisions prohibiting nationality-based discrimination with respect to foreign investment, ensuring treatment in accordance with the customary international law minimum standard of treatment, prohibiting barriers to the free transfer of funds related to investments, providing protection against expropriation without compensation, barring certain "performance requirements," and limiting the imposition of nationality-based restrictions on senior managers and boards of directors. These rules apply on a "negative list" basis, meaning that all sectors and measures are covered unless the agreement specifically states otherwise.

FTA investment rules also contain special provisions confirming that governments can pursue important regulatory objectives, such as environmental protection. In addition, the FTAs generally include arbitration procedures that enable investors to seek compensation for breaches of the FTA's investment obligations or of investment agreements with, or investment authorizations from, the host government. The FTAs also call for the participating governments to consider developing an appellate or similar mechanism for reviewing arbitration decisions.

- *Protecting Intellectual Property Rights:* Each FTA clarifies and builds on existing international standards for the protection and enforcement of intellectual property rights (IPR), with an emphasis on new and emerging technologies. As called for in the TPA Act, each FTA contains state-of-the-art provisions for protecting intellectual property, including patents, trademarks (including geographical indications), copyrights, and data submitted to obtain government approval to market pharmaceutical and agricultural chemical products. Each FTA also contains extensive provisions for IPR enforcement, including provisions directed at the protection of intellectual property in the digital environment. Key provisions of each FTA, such as those on preventing circumvention of anti-piracy devices and establishing the scope of liability for copying works on the Internet, are modeled on U.S. statutes.

- *Increasing Regulatory Transparency:* Each FTA includes provisions that call for notice-and-comment procedures in rule-making for matters covered by the agreement as well as other measures to increase regulatory transparency – an important TPA objective. In addition, each FTA contains unique disciplines on regulatory transparency in the service sector, including specialized rules for financial services and telecommunications.
- *Combating Corruption:* Consistent with TPA objectives, each FTA contains provisions specifically addressing bribery and corruption.
- *Protecting Electronic Commerce:* Each FTA includes rules, consistent with TPA objectives, prohibiting duties on and discrimination against digital products, such as computer programs, videos, images, and sound recordings, based on where they are made or the nationality of the firms or persons making them. These provisions create a strong foundation for wider regional and multilateral efforts to bar duties and discriminatory treatment of digital products.
- *Rules of Origin and Customs Procedures:* Each FTA includes rules of origin to ensure that products only from FTA partners benefit from the special preferences that the agreement provides, as well as provisions to address circumvention of those rules. In addition, each FTA provides for customs operations to be conducted with transparency, efficiency, and predictability. These provisions reflect key priorities set out in the TPA Act.
- *Procedures for Settling Disputes:* As envisioned in the TPA Act, each FTA contains strong procedures for settling any disputes that may arise between FTA partners. The procedures set high standards of transparency by providing for hearings to be open to the public, for the governments to release briefs and other filings to the public, and for dispute-settlement panels to have authority to consider submissions from interested non-governmental groups. Each FTA's dispute-settlement rules provide equivalent procedures and remedies for enforcing panel decisions under the agreement, regardless of whether they address the agreement's commercial, labor, or environmental provisions.
- *Safeguard Measures:* Consistent with TPA objectives, each FTA includes a safeguard procedure that is available to provide temporary relief to domestic industries that sustain or are threatened with serious injury due to increased imports resulting from the phase-out of import duties under the FTA. Each FTA also includes a special safeguard to address the possibility that duty elimination under the agreement could result in damaging levels of textile or apparel imports. Consistent with the guidance provided in the TPA Act, the FTAs preserve the ability of the United States to enforce rigorously its trade laws, including the antidumping or countervailing duty laws.
- *Government Procurement:* Each FTA includes rules to ensure that FTA partners follow transparent, non-discriminatory procedures when they make government purchases specified under the agreement, opening new sales opportunities for U.S. firms. This represents a big step forward because, with the exception of Singapore, no government that has concluded an FTA with the United States since 2002 is a party to the

WTO Agreement on Government Procurement, which calls for fair and open contracting rules.

- *Protecting Workers' Rights:* Each FTA includes provisions called for under the labor objectives set out in the TPA Act. Each FTA provides for the governments to reaffirm their obligations as members of the International Labor Organization (ILO) and commitments under the 1998 ILO *Declaration on Fundamental Principles and Rights at Work and its Follow-up*. Each FTA also includes a commitment from each government to strive to ensure that it does not waive or derogate from its domestic labor laws in a manner that weakens or reduces its adherence to internationally recognized labor rights as an encouragement for trade or investment. In addition, each FTA includes a commitment, subject to the agreement's dispute settlement procedures, by each government not to fail to effectively enforce its domestic labor laws on a sustained or recurring basis in a manner affecting trade. Each FTA also recognizes each country's right to establish its own labor laws and exercise discretion in regulatory, prosecutorial, and compliance matters. The United States is alone among the world's trading nations in insisting that its FTAs include provisions such as these.
- *Protecting the Environment:* Each FTA also includes provisions called for under the environmental objectives of the TPA Act. The FTAs commit each government to ensure that its laws provide for high levels of environmental protection and to strive to improve those laws. Each Party also must to strive to ensure it does not waive or derogate from its environmental laws in a manner that weakens or reduces protections under those laws in order to seek investment or encourage trade with the other country. As is the case for labor law enforcement, each FTA contains a binding commitment that each country not fail to effectively enforce its domestic environmental laws, while recognizing each country's right to establish its own environmental laws and exercise discretion in regulatory, prosecutorial, and compliance matters. A linked agreement to cooperate on an ongoing basis regarding environment matters and to establish formal consultative mechanisms to facilitate such cooperation is another key element of each FTA.

#### **IV. CONCLUSION**

For the better part of a century, beginning with the Reciprocal Trade Agreements Act of 1934, the legislative and executive branches have recognized that the negotiation and implementation of trade agreements requires special cooperation. Neither alone can successfully pursue a trade policy that is both internationally effective and domestically acceptable. TPA procedures reflect a special partnership between the Congress and the President essential for the achievement of U.S. trade policy objectives.

Under TPA, Congress and the Administration agree on the goals to be pursued at the negotiating table. The Administration consults with Congress at every step in the process, and Congress reviews the agreements the Administration negotiates. Through TPA procedures, the legislative and executive branches have established an essential partnership in pursuit of policies that

increase U.S. leverage and leadership in dismantling foreign barriers, enforcing commitments, and promoting a world that trades in freedom.

In close consultation with the Congress, the President has used TPA to pursue a bold strategy of global, regional, and bilateral trade negotiations that is opening new markets abroad and leveling the playing field for American workers, farmers, ranchers, and businesses. Extending TPA is essential to further this strategy, maintain U.S. leadership, and complete major ongoing negotiations globally in the WTO and bilaterally with a dozen countries in Asia, the Middle East, Latin America, and Africa.

As the world's leading trading nation, no country stands to gain more from open markets and fair and enforceable global trade rules than the United States. Exports accounted for a quarter of U.S. economic growth in the last decade. Last year alone, the United States exported more than \$1.1 trillion in goods and services to more than 200 foreign markets.

As America strives to build a new century of increased prosperity through international trade partnerships, it must vigorously pursue the opportunities for economic growth and prosperity described in this report. To turn those opportunities into realities, Congress and the Administration must extend the partnership that has been so effective for the American people.