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Trade and the 108th Congress: Major Legislative and Oversight Initiatives

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Summary

Trade will continue to be an active topic for the 108th Congress. However, with the passage of the Trade Act of 2002, it is not expected that the 108th Congress will consider comprehensive legislation that might alter the basic foundation of U.S. trade statutes. Nevertheless, several legislative initiatives and active oversight of a growing number of specific issues can be expected.

Legislatively, the Bush Administration later this year is expected to ask Congress to approve free trade agreements (FTAs) it has concluded with Chile and Singapore. If the Administration this year or early next year concludes FTA negotiations with Central America, Morocco, Australia, and the South African Customs Union, it could submit implementing legislation to Congress in 2004.

The 108th Congress inherits several disputes where the World Trade Organization (WTO) has ruled that U.S. laws violate world trade obligations and the periods for U.S. compliance have ended or will end in 2003. Barring abolition or significant modification of the several statutes in question, the European Union (EU) could decide to retaliate against U.S. exports this year or next. The largest threat involves a WTO ruling that a U.S. export tax benefit is an illegal subsidy. At the same time, the EU remains in non-compliance with its WTO obligation to allow imports of beef treated with growth hormones.

President Bush has asked the 108th Congress to extend permanent normal trade relations (PNTR) status to Russia. While the lack of PNTR has no direct impact on U.S.-Russian trade flows, many policymakers see existing the existing Jackson-Vanik emmigration requirements as a legacy of the Cold War and not appropriate for today's relationship. However, agricultural trade disputes are complicating efforts to move in this direction. Congress will continue efforts of the 107th Congress to rewrite and reauthorize the Export Administration Act of 1979 (EAA). The EAA provides the statutory authority for export controls on sensitive dual-use goods and technologies, items that have both civilian and military applications. Trade preference programs may also receive legislative action this year. Bills to extend and possibly enhance tariff preferences for African countries may be considered.

In terms of oversight, Congress is expected to monitor closely an unprecedented number of trade agreements - bilateral, regional, and multilateral – that the Bush Administration is currently negotiating, or is proposing to negotiate. Considerable attention also is expected to be devoted to the two broadest trade agreements being negotiated – the Western Hemisphere's Free Trade Area of the Americas and the WTO Doha Development Agenda. Both negotiations are on-going and scheduled to be concluded by January 2005. This report will be updated to reflect legislative and other major developments. For further information, see the CRS reports listed after each section.

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Overview

Raymond J. Ahearn, Specialist in International Trade and Finance (7-7629)

With narrow passage last summer of the Trade Act of 2002 (P.L. 107-210), Congress ended eight years of debate over whether to re-authorize trade promotion authority (TPA), formerly called fast-track authority. This authority allows the President to submit to Congress legislation implementing new trade agreements under special legislative procedures that do not allow for amendment. While there is unlikely to be trade legislation over the next two years that will be of the magnitude or divisiveness of the Trade Act of 2002, particularly given the power shift in the mid-term elections, the 108th Congress will have a busy trade agenda. The Bush Administration is expected to ask Congress to approve free trade agreements (FTAs) with Chile and Singapore and perhaps other countries. In considering whether to approve FTAs submitted by the Administration, Congress will evaluate how these agreements affect the often divergent interests of exporters, import-competing industries, consumers, and workers, as well as the progress of two broader trade negotiations that are scheduled to be concluded by 2005 – the Free Trade Area of the Americas (FTAA) and the WTO Doha Development Agenda. As U.S. dependence on trade has grown along with record trade deficits, controversy concerning the costs and benefits of agreements that accelerate the economic integration of the United States with the rest of the world has continued.

The 108th Congress will likely take up a number of other trade issues. Importantly, Congress faces the challenge of bringing varied U.S. laws into conformity with World Trade Organization (WTO) rules. Absent compliance, the European Union and other trading partners could impose sanctions on U.S. exports. Congress is also expected to consider legislation that would provide Russia with permanent normal trade relations status (PNTR). Efforts again will be made to re-authorize the Export Administration Act where the main controversy concerns the efficacy of loosening export controls on sensitive goods given today's terrorist threats. In addition, trade preference issues that may receive legislative attention include programs affecting Turkey and African countries.

Trade Agreements and Negotiations

Introduction

Raymond J. Ahearn, Specialist in International Trade and Finance (7-7629)

The Bush Administration has completed, is negotiating, or is proposing to negotiate an unprecedented number of trade agreements. The negotiations include bilateral, regional, and multilateral trade liberalizing agreements. Bilaterally, the United States has completed negotiations on an agreement to establish a free trade area (FTA) with both Chile and Singapore. President Bush notified Congress on January 30, 2003, of his intent to sign these agreements, setting in motion a 90-day period of congressional review. In January the Administration also launched FTA negotiations with Morocco and with five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua). In addition, the Administration notified Congress in November 2002 of its intent to negotiate FTAs with the South African Customs Union (South Africa, Botswana, Lesotho, Namibia, and Swaziland) and Australia. Egypt, New Zealand, and Taiwan are among a growing list of potential FTA partners that are being proposed or considered. In addition, the United States announced in October 2002 the Enterprise for ASEAN Initiative, a new trade effort with the Association of Southeast Asian Nations. This initiative would offer the prospect of bilateral free trade agreements with those ASEAN countries that are committed to economic openness and reforms. Negotiations for two broader agreements – the Western Hemisphere's FTAA and the WTO Doha Development Agenda – are ongoing and scheduled to be concluded by January 2005.

The 108th Congress will likely face the question of whether to approve one or more free trade agreements. It is also expected to closely monitor negotiations on other free trade agreements and on the WTO Doha Development Agenda. The agreements and negotiations raise several important policy questions:

- Do the agreements and the ongoing negotiations serve U.S. interests?
- Is the Administration fulfilling its obligations under the new Trade Promotion Authority?
- Are bilateral and regional free trade agreements and negotiations, on the one hand, and the U.S. multilateral agenda in the Doha Development Agenda, on the other hand, mutually supportive or in conflict?
- How are FTA partners chosen and what economic or foreign policy criteria must be met?

In deciding whether to approve bilateral free trade agreements, Members of Congress may weigh potential costs and benefits to their constituents and to the U.S. economy as a whole. Pointed concerns may focus on how specific agreements differentially affect the interests of exporters, import-competing industries, consumers, and workers, as well as achieve negotiating objectives concerning labor and environmental standards. For example, the Chile and Singapore agreements are characterized as primarily opening up new markets for U.S. exporters without making any significant reduction in U.S. import protection. Agreements with

Morocco and Central America, however, could produce strong competition for the U.S. textile and apparel sector, possible raising labor and industry opposition. Committees with jurisdiction over trade agreements, particularly the House Ways and Means and Senate Finance Committees, may raise questions regarding the Administration's FTA strategy as well: How are FTA partners chosen? What economic or strategic criteria must be met? Does the strategy complicate or support efforts to negotiate larger regional and global agreements?

Some critics maintain that bilateral FTAs offer limited economic benefits to the United States. Some question the Administration's choice of FTA partners. Some are concerned they will further limit economic opportunities for Americans who do not have higher levels of education. Others worry that they could undermine efforts to conclude broader regional and global trade agreements. While the larger agreements offer greater market opening opportunities for U.S. exporters and service providers, they also would require the United States to cut farm subsidies, and open up still-protected sectors, such as textiles, faster. The American public's reaction to some free trade agreements, such as NAFTA, has been chilly.

The Bush Administration maintains that FTAs support larger foreign policy goals, such as bolstering democratic regimes. The Administration also views bilateral FTA's as springboards for concluding more ambitious regional and global pacts. Agreements with Chile and Central America are seen putting pressure on South American countries, particularly Brazil, to negotiate on the Free Trade Area of the Americas. Progress in the FTAA, in turn, is seen as pressuring the European Union and others to make progress in the WTO trade negotiations.

Congressional Role in Trade Agreements

Lenore Sek, Specialist in International Trade and Finance (7-7768)

Through its constitutional responsibility for the conduct of foreign commerce, Congress has a decisive role in whether and how the United States participates in these and other trade negotiations. It decides whether or not changes under trade agreements, which are negotiated by the executive branch, will be implemented in domestic law.

In 2002, the 107th Congress passed and the President signed the Trade Act of 2002 (P.L. 107-210), which, among other things, granted the President so-called Trade Promotion Authority (TPA), previously known as fast-track authority. TPA allows the President to submit certain trade agreements for a limited time period to Congress for approval under special legislative procedures. These provide that the Congress must accept or reject the total results of a trade agreement under strict timetables, and without amendment, provided that the Administration follows rules set out by Congress regarding negotiating objectives, consultations, and other matters. By increasing the likelihood that Congress will approve trade agreements as negotiated, TPA bolsters the negotiating leverage and credibility of U.S. trade negotiators. At the same time, Congress limits its ability to amend implementing legislation under TPA, and critics argue that this ties Congress to trade agreements negotiated by the executive branch.

If Congress determines that the executive branch is not observing the provisions of the trade legislation that it approved last year, it could consider several responses. It could withdraw expedited procedures for implementing legislation for trade agreements, thus allowing amendment of the legislation. Members also might insist on more active participation through access to negotiating documents and as observers at negotiating sessions. The executive branch probably would not favor or would even oppose both of these responses.

Implementing legislation for the Chile and Singapore FTA agreements is likely to be submitted to Congress this year. Implementing legislation for other bilateral agreements could be submitted in 2004. Regarding the FTAA and Doha Agenda, implementing legislation is not expected to be submitted, assuming agreements are reached, until the 109th Congress or later. But the 108th Congress, having an expanded oversight authority as defined in the Trade Act of 2002, will play a crucial role both through consultations and oversight. Some Members might participate as observers at negotiating meetings as well.

U.S.-Chile FTA

J.F. Hornbeck, Specialist in International Trade and Finance (7-7782)

Completed on December 11, 2002 after two years and 14 rounds of negotiations, this is the FTA likely to see the most immediate congressional consideration. As required under the Trade Act of 2002 (P.L. 107-210), President Bush formally notified the 108th Congress on January 30, 2003, of his intention to sign the agreement. This initiated a legally required 90-day review period prior to congressional consideration of implementing legislation. As proposed, the FTA would allow 85% of all consumer and industrial goods to be traded duty free immediately. Also, 75% of tariffs on farm goods and Chile's luxury tax on automobiles would be eliminated within the first four years, and tariffs on sensitive goods traded between the two countries would be phased out over a period of up to 12 years. Chile's rules governing investment, services trade, intellectual property rights, labor, environment, dispute resolution, and other issues critical to the United States would also be clarified and made more transparent. Importantly, there was no chapter on antidumping and countervailing duties, a trade issue of chief concern for Chile and Latin America in general. Because this is the first U.S. FTA with a Latin American country in nearly a decade and also because it broached new ground in some areas, it will be an important document in the context of other FTAs being considered, particularly the region-wide Free Trade Area of the Americas. To date no significant opposition to the agreement has emerged in the United States.

U.S.-Singapore FTA

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The United States and Singapore launched negotiations on a bilateral FTA in December 2000, and negotiations were concluded in January 2003. The agreement would (with a phase-in period) eliminate tariffs on all goods traded between the two countries, provide greater access for U.S. business to Singapore's service sectors, and protect intellectual property rights. On January 30, 2003, the White House notified Congress of its intent to enter into the FTA. This was done 90 days prior to the

projected May 2003 signing of the agreement. After the agreement is signed, the Bush Administration intends to work with Congress to develop appropriate legislation to approve and implement the FTA (under TPA or fast-track procedures). The Bush Administration reportedly has negotiated language acceptable to it for environmental and labor provisions. Two contentious issues in the negotiations dealt with textiles (the length of the phase-in period and rules of origin) and capital flows (the ability of Singapore to curb outflows of capital in a financial crisis). The U.S. Trade Representative claims that the FTA has broken new ground in electronic commerce, competition policy, and government procurement and has achieved major advances in intellectual property protection, environment, labor, transparency, customs cooperation, and transshipments. To date no significant opposition to the agreement has emerged in the United States.

U.S.-Moroccan FTA

Raymond J. Ahearn, Specialist in International Trade and Finance (7-7629)

The Bush Administration formally notified Congress of its intent to negotiate an FTA with Morocco on October 1, 2002. The notification letter states that the proposed agreement would support the Administration's commitment to promote more tolerant, open, and prosperous Muslim societies. While the proposal has a strong foreign policy rationale, the FTA would also seek to support U.S. economic objectives. These include allowing U.S. agricultural products to compete more effectively against European agricultural products, which currently benefit from preferential access. U.S. textile and apparel interests, as well as citrus producers, however, have voiced concerns about potential negative effects the agreement could have on their companies and workers. From Morocco's perspective, the FTA could lead to an increase in U.S. foreign direct investment and provide preferences for textile and apparel exports to the United States. The first round of negotiations began in January 2003 and both sides believe that an agreement can be finalized by the end of the year.

U.S.-Central American FTA

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On January 8, 2003, the Bush Administration announced that the United States would begin negotiating an FTA with the five Central American Common Market (CACM) nations – Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. The first of nine scheduled negotiation rounds began January 27, 2003 in San Jose, Costa Rica and both sides have expressed optimism that an agreement can be concluded by year end. The U.S.-Central American Free Trade Agreement, or CAFTA, presents a complicated challenge to bilateral negotiations because the five republics must agree among themselves to bring unified positions to the negotiating table. Although the CAFTA countries currently qualify as beneficiaries under the Caribbean Basin Initiative (CBI), an FTA with the United States would potentially allow for further reduction in trade barriers, make permanent benefits in CBI legislation that requires periodic reauthorization, and provide a more conducive environment for U.S. foreign investment. In the United States, proponents of the agreement see CAFTA as supporting U.S. exports and providing less expensive imports, while also advancing the FTAA agenda and solidifying regional political

and economic reforms that strengthen democracy and promote stability. Opposition could emerge from a number of import-sensitive industries, including textile and apparel, depending on how the negotiations evolve.

U.S.-Australian FTA

William H. Cooper, Specialist International Trade and Finance (7-7749)

On November 13, 2002, the Bush Administration notified the Congress that it would begin negotiations with Australia on an FTA 90 days from that date. The first round of negotiations are scheduled to take place the week of March 17, 2003, in Canberra. Australian officials lobbied U.S. policymakers for several years for consideration as an FTA partner, and Prime Minister John Howard raised the issue in meetings with President Bush. The Bush Administration expressed interest but, until recently, had not committed to begin negotiations. Underlying the hesitation were U.S. concerns about Australian sanitary and phytosanitary controls that U.S. farmers claim act as barriers to U.S. agricultural exports to Australia. While the U.S. business community strongly supports the negotiations, the American agricultural community remains skeptical.

U.S.-South African Union FTA

Ian F. Fergusson, Analyst in International Trade and Finance (7-4997)

On November 4, 2002, the United States Trade Representative (USTR) notified Congress of the administration's intention to negotiate a FTA with the Southern African Customs Union (SACU). These talks are scheduled to begin in April 2003. SACU is a customs union composed of South Africa, Botswana, Lesotho, Namibia, and Swaziland. A large degree of economic integration exists among the SACU states because of the customs union agreement, perhaps accounting for the U.S. decision to negotiate an FTA with SACU, rather than just South Africa. Potential obstacles to an FTA with SACU include competition issues related to the South African telecommunications industry and government procurement, U.S. textile tariffs and quotas, and intellectual property issues especially with regards to access to HIV/AIDS medicines. South Africa currently has a free trade agreement with the European Union that, while not including the other members of SACU, has been characterized as putting U.S. firms at a competitive disadvantage compared to their European counterparts.

Free Trade Area of the Americas

J.F. Hornbeck, Specialist in International Trade and Finance (7-7782)

The Free Trade Area of the Americas is a regional trade proposal among 34 nations of the Western Hemisphere that would promote economic integration by creating a comprehensive (WTO-plus) framework for reducing tariff and nontariff barriers to trade and investment. Formal negotiations commenced in 1998 and the first draft of the agreement was adopted at the Third Summit of the Americas in Quebec, Canada in April 2001. The second draft text was accepted on November 1, 2002 at the seventh trade ministerial in Quito, Ecuador. The negotiating schedule calls for a final agreement to be adopted by January 2005, with its entry into force to occur no later than year end.

Market access negotiations, which involve five separate groups, are on-going. Initial market access offers were due by February 15, 2003. The United States made its offers on February 11, 2003, making "differentiated offers" in which tariff phase outs would be quicker for various parts of Latin America based on the development level of each country. The Mercosur countries, and particularly Brazil, expressed deep dissatisfaction with the U.S. proposal asserting that it isolated their countries and offered little trade barrier relief for their exports in the first five years of the agreement. This is an opening offer, however, with final revised offers to be completed by July 15, 2003. Brazil has also expressed unhappiness with the understanding reached in Quito that the sensitive agricultural negotiations will have to be done with an eye on parallel discussions being undertaken by the WTO, which also have a completion deadline of January 2005. Although the 108th Congress is not expected to deal with implementing legislation on the FTAA, the relevant committees will oversee this last phase of the negotiations. In this respect, the 108th Congress will play an important role in determining if the FTAA is to be brought to completion by 2005.

Multilateral Negotiations: The WTO Doha Development Agenda

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From November 9-14, 2001, trade ministers from 142 member countries of the World Trade Organization (WTO) met in Doha, Qatar to decide whether or not to launch a new round of multilateral trade negotiations. At the end of that meeting, they agreed on a work program for a new round, called the Doha Development Agenda. Under the work program, negotiators will continue ongoing agriculture and services trade talks, and also address industrial tariffs, intellectual property issues, topics of interest to developing countries, and other areas.

At Doha, trade ministers agreed that the negotiations would be carried out under the Trade Negotiations Committee (TNC), which includes all WTO members and countries negotiating membership. WTO members later agreed on a negotiating structure and chairpersons. They missed end-of-year deadlines for some issues of importance to developing countries. There is also concern whether countries will meet a deadline of March 31, 2003 for agreement on formulas and other modalities in the agriculture negotiations, as well as for initial offers of market access for the services negotiations. The trade ministers agreed at Doha that they would take stock and make several interim decisions at the next ministerial meeting, which is scheduled for September 10-14, 2003 in Cancun, Mexico. They set a deadline of January 1, 2005, for a final comprehensive trade agreement.

The potential economic benefit of successful multilateral negotiations is projected to be significant. A University of Michigan study, based on numerous assumptions, estimated that a one-third reduction of current barriers to trade would result in over $574 billion in worldwide economic benefits. (Discussion Paper No. 489 available on The Worldwide Web at: [http://www.spp.umich.edulrsie/workingpapers/wp.html]. While the possible economic gains from multilateral negotiations could be substantial, reaching agreement on even a one-third reduction of current barriers among so many countries

is extremely difficult. In particular, many developing countries seeing little benefit from the Uruguay Round are cynical about further negotiations .absent provisions specifically addressing such issues as better access in industrialized countries for agricultural and textile products. Countries are also pursuing more limited economic gains through bilateral or regional agreements, which are often easier to negotiate.

CRS Products on Trade Agreements and Negotiations

CRS Report RS21373, *Trade Negotiations During the 108th Congress*, by Ian Fergusson and Lenore Sek.

CRS Report RS20755, *Singapore-U.S. Free Trade Agreement*, by Dick K. Nanto.

CRS Report RL31144, *A U.S.-Chile Free Trade Agreement: Economic and Trade Policy Issues*, by J.F. Hornbeck.

CRS Report RL31356, *Free Trade Agreements: Impact on U.S. Trade and Implications for U.S. Trade Policy*, by William H. Cooper.

CRS Report RS20864, *A Free Trade Area of the Americas: Status of Negotiations and Major Policy Issues*, by J. F. Hornbeck.

CRS Issue Brief IB95017, *Trade and the Americas*, by Raymond J. Ahearn.

CRS Report RL31206, *The WTO Doha Ministerial: Results and Agenda for a New Round of Negotiations*, coordinated by William H. Cooper.

CRS Trade Briefing Book, *The World Trade Organization: The Doha Ministerial*, by Lenore Sek. [http://www.congress.gov/brbk/html/ebtra41.html]

CRS Report RS21085, *Agriculture in WTO Negotiations*, by Charles E. Hanrahan.

World Trade Organization (WTO): Compliance Issues

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The 108th Congress inherits several disputes in which the WTO has ruled that U.S. laws violate world trade obligations and the periods for U.S. compliance have either ended or will end in 2003. Barring abolition or significant modification of the statutes in question, the European Union and other trading partners could decide to retaliate on U.S. exports this year or next.

The largest threat involves a WTO ruling that a U.S. export tax benefit, the Extraterritorial Income Exclusion (ETI), and its predecessor – the Foreign Sales Corporation (FSC) – is an illegal subsidy. Pursuant to the case and the inability of the United States to repeal the subsidy or find a WTO compatible substitute, the WTO in August 2002 granted the EU the right to impose 100% tariffs on $4 billion of U.S. exports to Europe. Some fear that a decision by the EU to retaliate on such a large volume of trade – the largest sanction in the history of the WTO – could

ignite a transatlantic trade war and deal a devastating blow to the ongoing round of global trade negotiations.

The threat of foreign retaliation against U.S. exports is also a possibility in several other cases in which the United States has been on the losing side of WTO dispute panel rulings. These include cases involving the Antidumping Act of 1916, which provides a private right of action and criminal penalties against dumping, a copyright dispute where the U.S. was found to violate royalty rights of EU musicians, and a dispute involving the protection of trademarks owned by businesses confiscated by the Cuban government. The compliance period in the trademark dispute ends June 30, 2003. In addition, the United States has until the end of the 1st session of the 108th Congress to comply in a dispute with Japan over antidumping measures on hot-rolled steel products. Japan agreed to an extension of an earlier compliance deadline to allow for a legislative amendment of the U.S. antidumping statute involved.

Another dispute with legislative implications entered into the compliance phase of the WTO dispute process in January 2003, when the WTO adopted panel and appellate rulings against the Continued Dumping and Subsidy Offset Act of 2000 (also known as the Byrd Amendment). The statute requires the distribution of antidumping and countervailing duties to petitioners and interested parties in the underlying domestic proceedings. The panel in the case recommended that the United States repeal the statute, the WTO Appellate Body made only the general recommendation that the United States bring the law into conformity with WTO obligations. The United States is currently seeking a reasonable period of time to comply.

Critics, including a number of Members of Congress, have charged that some of these WTO dispute settlement rulings infringe on U.S. sovereignty by undermining domestic tax and trade remedy laws. Bush Administration trade officials have expressed concerns that some panel rulings go too far in determining how [WTO] members should comply with adverse panel rulings. Others question why the United States should comply with its WTO obligations when the EU remains in non-compliance with its obligation concerning imports of beef treated with growth hormones. Still others believe that the U.S. should not implement the adverse rulings until the EU lifts its moratorium on biotechnology approvals.

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

Legislation was introduced in the 107th Congress to settle a number of these disputes, but none of the bills was brought to the floor. On the ETI dispute, House Ways and Means Committee Chairman Bill Thomas introduced legislation (H.R. 5095) that would have repealed the ETI and replaced it with a series of tax benefits that would primarily help companies with overseas operations. Reintroduction of a

modified version of the bill may occur this spring. In addition, a bipartisan, bi-cameral working group is trying to reach a common set of recommendations on how to proceed. Most recently, President Bush proposed repeal of the ETI statute along with revision to the U.S. international tax rules in his FY2004 budget. EU officials have repeatedly stated that they only want the United States to amend or repeal the ETI in a WTO-consistent manner.

Three different bills were introduced to repeal the 1916 Antidumping statute, but were not acted on. While two of the bills would have terminated pending litigation, the third would have grandfathered existing court cases, all of which involve EU or Japanese companies. The United States was to have originally complied by mid-2001, but received extensions from the EU and Japan, the most recent lasting until the adjournment of the past session of Congress. The EU recently warned that it would resume retaliation procedures in the WTO if the United States failed to repeal the law in a way that would end all existing court cases.

In the EU's successful challenge of U.S. music licensing legislation, the United States agreed to pay arbitrated compensation of $3.3 million to the EU, though the EU still seeks a change in U.S. law. Congress authorized $50 million in the Trade Act of 2002 for a fund for the payment of settlements in WTO disputes, but has not appropriated the funds.

While the Bush Administration has proposed repealing the Byrd Amendment in its FY2004 budget request, considerable congressional opposition has been expressed to the WTO ruling and to removing the measure at this time. Seventy Senators wrote to the President on February 4, 2003, stating that the panel ruling was incorrect and that consequently the United States should seek negotiations within the WTO on the issue of distributing revenue in the manner required under the statute "prior to any attempt to change our law," and the Administration should add the statute to the Executive Branch strategy for dealing with WTO rulings of concern mandated in the Trade Act of 2002.

CRS Products on WTO Dispute Settlement

CRS Trade Briefing Book, *WTO Dispute Settlement: Procedures and Pending U.S. Cases*, by Jeanne J. Grimmett.
[http://www.congress.gov/brbk/html/ebtra56.html]

CRS Report RL31660, *A History of the Extraterritorial Income (ETI) and Foreign Sales Corporation (FSC) Export Tax-Benefit Controversy*, by David L. Brumbaugh.

CRS Report RL31474, *Steel and the WTO: Summary and Timelines of Pending Proceedings Involving the United States*, by Jeanne J. Grimmett and Stephen Cooney.

CRS Report RL31740, *Cuba: Issues for The 108th Congress*, by Mark Sullivan.

Russia: Permanent Normal Trade Relations Status

William H. Cooper, Specialist in International Trade and Finance (7-7749)

During the November 13-15, 2001 summit meeting with Russian President Putin in Washington, D.C. and Crawford, Texas, President Bush stated that his Administration would work with the Congress to extend permanent normal trade relations (PNTR) status to Russia. President Bush reiterated his intent to President Putin during their late November 2002 summit meeting in St. Petersburg, Russia. While the lack of PNTR has no direct impact on U.S.-Russian trade flows, President Putin and many Russians see the Jackson-Vanik restrictions as a legacy of Cold War and not appropriate for the new relationship that the United States and Russia have been forging since the fall of the Soviet Union in 1991.

Granting Russia PNTR status would require a change in law. Russia is prohibited from receiving unconditional and permanent NTR under Title IV of the Trade Act of 1974, which includes the so-called Jackson-Vanik amendment. Russia currently has NTR status, but it is conditioned on the President declaring semiannually that Russia is in full compliance with the free emigration requirements of Jackson-Vanik.

The Bush Administration requested the 107th Congress to move expeditiously to pass the appropriate legislation. Two bills were introduced in the 107th Congress– H.R. 3553 (Thomas) and S. 1861 (Lugar) but did not receive action. Action may have been held up because of several concerns. On March 10, 2002, the Russian government imposed a ban on poultry imports from the United States because of the possible presence of salmonella and avian flu. Poultry producers in the United States argued that Russia took the measures to protect domestic producers from competition. After months of negotiations the issue was resolved. Some Members and agricultural exporters remain skeptical about Russian trade policy.

In addition, some Members of Congress raised concern about proceeding too rapidly on PNTR for Russia. They argued that, as in the case with PNTR for China, Congress should act in conjunction with Russia's accession to the World Trade Organization (WTO) and only grant PNTR when the Congress is satisfied that Russia would be entering the WTO under conditions that are in U.S. interests. Other Members are reportedly concerned about continued Russian economic ties with Iraq and Iran.

U.S. firms that do business with Russia support the legislation and consider it a priority. Representatives of the American Jewish community support the concept of removing Russia from the Jackson-Vanik restrictions but want assurances that U.S. policy will continue to protect human rights in Russia.

President Bush has asked the 108th Congress to make the issue a priority. Legislation has not yet been introduced in the 108th Congress to grant PNTR to Russia.

CRS Product on Russian PNTR

CRS Report RS21123, *Permanent Normal Trade Relations (PNTR) Status for Russia and U.S. -Russian Economic Ties,* by William H. Cooper.

Export Administration Act

Ian F. Fergusson, Analyst in International Trade and Finance (7-4997)

In the 108th Congress, there will be continued efforts to rewrite and reauthorize the Export Administration Act of 1979 (EAA). The EAA provides the statutory authority for export controls on sensitive dual-use goods and technologies, items that have both civilian and military applications including those items that can contribute to the proliferation of nuclear, biological and chemical weaponry.

Efforts to renew the Act have been complicated by continued tension between national security and commercial concerns. Some observers contend that current export controls hurt U.S. business by subjecting technology exports to what they consider a cumbersome and ineffective licensing process that costs sales and loses markets to overseas competitors. Others maintain that current controls are not strong enough to prevent the spread of dual-use technologies to adversaries or potential proliferators, and that EAA legislation, as introduced in the 107th Congress, would further weaken this system. Congressional interest in EAA reform has been heightened by questions about the efficacy of export controls in the fight against terrorism and by revelations about the unauthorized transfer of sensitive items to nations restricted by current regulations, including China.

The EAA, which originally expired in 1989, periodically has been reauthorized for short periods of time, with the last incremental extension expiring in August 2001. At other times and currently, the export licensing system created under the authority of EAA has been continued by the invocation of authorities under the International Emergency Economic Powers Act (IEEPA).

In the 107th Congress, two competing versions of EAA emerged. The Senate version (S. 149) was passed by the Senate on September 6, 2001. Both the House International Relations Committee and the House Armed Services Committee substantially amended the House version (H.R. 2581) which, as introduced, was substantially similar to S. 149. To different degrees, the House versions conferred additional authority on the Department of Defense to block license applications and decontrol decisions, tightened the criteria for decontrol of certain items, and mandated the denial of licenses for certain exports. The Administration supported S. 149 and opposed the competing House versions. Negotiations between the Administration, Senate, and House participants to reconcile differences between the versions of the legislation continued for the remainder of the session without success.

Because the substance of this debate has not been predominantly partisan in nature, the change in party composition of the 108th Congress is not expected to alter the dynamics of the debate. Many expect bills similar to those offered in the 107th Congress to be reintroduced in the 108th Congress. In addition to the reauthorization

legislation, the 108th Congress may tackle such issues as the nature and scope of export controls on high performance computers, whether commercial communications satellites will remain under the licensing authority of the Department of State or be transferred to the Department of Commerce, and the regulation of "deemed exports" – the release of sensitive technology to foreign nationals within the United States.

CRS Products on The Export Administration Act

CRS Report RL30689, *The Export Administration Act: Prospects and Controversy*, by Ian F. Fergusson.

CRS Report RL30169, *Export Administration Act of 1979 Reauthorization*, coordinated by Ian F. Fergusson.

CRS Report RL31175, *High Performance Computers and Export Control Policy: Issues for Congress*, by Glenn McLoughlin and Ian F. Fergusson.

Trade Preferences

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U.S. trade statutes provide for a variety of trade preferences to achieve varied economic and foreign policy objectives. The Generalized System of Preferences (GSP) and the Andean trade preference are two examples of trade preference programs that were reauthorized in the 107th Congress in the Trade Act of 2002. Trade preference issues that are expected to receive legislative attention during the 108th Congress include a miscellaneous duty suspension and technical corrections bill, which as passed by the House last session included a proposed amendment of the Qualifying Industrial Zone program to include zones between Israel and Turkey, and oversight of the African Growth and Opportunity Act implementation.

Miscellaneous Tariff Bill

Since about 1981, each Congress has considered a miscellaneous tariff suspension and technical corrections bill designed to grant temporary or permanent duty reductions on certain products, and to make technical corrections to certain trade laws. Products deemed eligible by the relevant congressional committees for duty suspension or reduction in this manner are generally non-controversial (roughly 90% are chemicals), because they are not produced in the United States, or are produced overseas by a multinational corporation and are imported into the United States by the corporation for its own domestic use. Congressional rationale for granting these reductions is that (1) they enable U.S. manufacturers to reduce costs, thus making the downstream product industries more competitive, (2) they do not jeopardize any domestic manufacturer, and (3) they do not represent a substantial loss of tariff revenue (duty suspension bills are targeted to cost $500,000 or less for each year they are in force).

Additionally, these bills seek to make technical corrections (eliminate redundancies, add punctuation where necessary) to trade laws that have passed earlier in the session, or to make conforming amendments to previously existing trade laws that have been affected by the recently passed legislation. In general, measures included in these bills (as introduced) are intended to be non-controversial; however, at times, the bills may be amended by either house to include more controversial provisions.

Legislation. On March 4, 2003, H.R. 1047 (Crane), the Miscellaneous Trade and Technical Corrections Act of 2003 was introduced. The bill proposes to grant approximately 300 duty suspension and 100 extensions to duty suspensions already in force. The bill was debated under suspension of the rules on March 5, 2003, and passed by a vote of 415 to 11.

Other tariff-related provisions in H.R. 1047 include granting duty-free treatment under the Generalized System of Preferences (GSP) for hand-knotted or handwoven carpets, a provision that would benefit GSP countries including Pakistan, Nepal, Egypt, and Morocco. The bill also proposes to amend the Caribbean Basin Economic Recovery Act (CBERA) to allow duty-free treatment for certain (non-import sensitive) types of footwear, in order to grant similar trade benefits to the Caribbean region that have already been provided under prior legislation to the Andean and Sub-Saharan African regions. The legislation also seeks to restore normal trade relations status to Serbia and Montenegro.

On February 27, 2003, the Senate Finance Committee approved a similar bill. One provision in the Senate bill not included in the House version is an intellectual property provision that would clarify that compliance with the WTO's Trade-Related Aspects of Intellectual Property Rights standards does not necessarily meet the "adequate and effective" standard of protection in the various U.S. trade preference programs.

Israel and Turkey QIZ

A qualifying industrial zone (QIZ) is a specific type of foreign trade zone, or foreign industrial park that supports the production of products that can be exported to the United States. QIZs were first authorized by the U.S. Congress in P.L. 104-234, which amended the U.S.-Israel Free Trade Implementation Act (P.L. 99-47) to allow the President to eliminate or modify tariffs on certain products (as well as provide other trade concessions) if the article is wholly the product of a qualifying industrial zone. As currently defined in U.S. law, QIZs must (1) encompass geographic territory between Israel and Jordan or Israel and Egypt; (2) have been designated by local authorities as enclaves where merchandise may enter without payment of duty or excise taxes; and (3) have been designated by the President as a qualifying industrial zone.

In the 107th Congress, H.R. 5385, the Miscellaneous Trade and Technical Corrections Act of 2002, as passed by the House on October 7, sought, in part, to further amend the definition of QIZ to include portions of territory between Israel and Turkey. The provision was introduced, in part, to reward Turkey for its role in the Middle East peace process and the war on terrorism, to stimulate new economic

growth in Turkey and Israel, and to promote peace in the Middle East by creating industrial ties between Israel and its neighbors. H.R. 5385 was not considered by the Senate, in part, because of a lack of agreement on which "import sensitive" commodities should be excluded from duty-free consideration in an Israel-Turkey QIZ. Whether similar legislation is introduced in the 108th Congress could depend on the status of U.S. relations with Turkey, including cooperation in any possible war against Iraq.

African Growth and Opportunity Act (AGOA)

U.S. trade with Africa was the focus of major legislation in the 106th Congress (Title I of P.L. 106-200, the Trade and Development Act of 2000). The law provides trade benefits for sub-Saharan African nations that meet certain criteria. Benefits include increased market entry under the Generalized System of Preferences and participation in a high-level U.S.-sub-Saharan African economic forum. The law was amended further in the 107th Congress to increase the cap on certain duty-free apparel imports and to clarify other provisions.

Since the enactment of AGOA, the Administration has identified eligible countries and has implemented several technical cooperation provisions of the Act. The first AGOA-mandated high-level meeting of U.S. and sub-Saharan African officials was held in October 2001, and a second took place January 2003 in Mauritius. A sizable portion of U.S. imports from sub-Saharan Africa have entered under AGOA, but it remains to be seen how AGOA will affect long-term trade between the United States and sub-Saharan Africa and whether AGOA will have a measurable effect on the economic well-being of sub-Saharan Africa. Supporters of U.S. trade with Africa may seek to introduce a bill in the 108th Congress to build on AGOA, possibly proposing to create tax incentives for U.S. firms that invest in Africa, and focusing on the financial services, transportation, and tourism sectors.

CRS Products on Trade Preferences

CRS Report RS21406, *Miscellaneous Duty Suspension Bills,* by Vivian C. Jones.
CRS Report RL31723, *Textile and Apparel Trade Issues,* by Bernard A. Gelb.