WHITE & CASE

June 2007

Japan External Trade Organization
WTO and Regional Trade Agreements Monthly Report

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House Foreign Affairs Subcommittee on Terrorism, Nonproliferation and Trade Holds Hearing on KORUS FTA

On June 13, 2007, the House Committee on Foreign Affairs Subcommittee on Terrorism, Nonproliferation and Trade held a hearing on the foreign policy implications of the Korea-US (KORUS) Free Trade Agreement (FTA). Witnesses included Deputy United States Trade Representative (DUSTR) Karan K. Bhatia and Assistant Secretary of State for East Asian Affairs Christopher Hill, who testified on the agreement's economic and security implications, respectively. In their opening statements and questions to the witnesses, Subcommittee Members from both parties expressed concern about a number of issues including the FTA's treatment of Korean automobile tariff and non-tariff barriers (NTBs), agricultural products and products manufactured in the Kaesong Industrial Complex.

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We would like to alert you to the following Free Trade Agreements developments:

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Multilateral Highlights

We would like to alert you to the following Multilateral developments:

- Commerce Secretary Blames India for Doha Failure; USTR Schwab, Indian Commerce Minister Willing to Work Past Differences
- Antigua and Barbuda Seeks to Impose Trade Sanctions Against US Over Internet Gambling Restrictions
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Reports in Detail

United States

Senate Finance Committee Explores US Trade Enforcement

Summary

On June 12, 2007, the Senate Finance Committee held a hearing on US trade enforcement. Finance Committee Chairman Max Baucus (D-MT) and Ranking Member Charles Grassley (R-IA) along with other Finance Committee members listened to the **on-the-record** testimony of witnesses from the private sector. We review below Committee members' statements and witness testimony on the issue of US trade enforcement.

Analysis

According to its press release, the Senate Finance Committee held the June 12 hearing to assess US trade enforcement and to discuss what capacity and tools Congress can provide the Administration in an effort to strengthen enforcement of US trade laws.

- **Chairman Max Baucus (D-MT)** opined that US export competitiveness depends on how effective the US government enforced trade rules, and that US exporters cannot compete successfully abroad if US trading partners "do not play by the rules of our trade agreements." Baucus believes that the United States is "falling behind" on enforcing US trade agreements and domestic trade remedy laws. According to Baucus, the Bush Administration "spends far more time negotiating new deals than enforcing those already in place." Baucus criticized the Office of the United States Trade Representative (USTR) for not filing more cases at the World Trade Organization (WTO), noting that "650 pages worth of [trade] barriers [in USTR's 2007 National Trade Estimate of Foreign Trade Barriers report] makes it hard to believe that only a handful merit action." He also opined that the United States must do more to enforce US antidumping, safeguards and other domestic trade remedy laws. Baucus stated that Congress "must provide the capacity and the tools that will allow the Administration to respond to our concerns and rebuild trust in America's trade policy."
- **Ranking Member Charles Grassley (R-IA)** opined that US trade remedy laws "reflect a balance" between US consumers and producers. According to Grassley, the United States possesses strong trade remedy laws. Grassley stated that the US Department of Commerce (DOC) and the

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International Trade Commission (ITC) perform their obligations seriously and strongly enforce US trade laws. Grassley opined that because "trade remedies are only allowed when US industries either suffer or are threatened with material injury," the current strength of the US economy makes it difficult to demonstrate material injury or threat of material injury. This in turn, according to Grassley, would result in a decline in trade remedy cases, a small reason to rewrite US trade laws. Grassley also urged caution and careful consideration of any proposals to change US trade laws because "any action [the United States takes] invites reciprocal action by [its] trading partners."

- **Dan Glickman, Chairman and CEO, Motion Picture Association of America (MPAA),** stated that "trade negotiations, agreements, and even favorable WTO decisions work only to the extent they are enforced" and opined that enforcement of US trade agreements and trade remedy laws includes "making sure the other government complies . . . [and] making sure the trade agreements we negotiate are fully and faithfully implemented." According to Glickman, effective trade enforcement is "specifically vital to the well being of the US motion picture industry." Glickman stated that the MPAA urges Congress to: (i) continue the US Free Trade Agreement (FTA) agenda; (ii) ensure adequate resources for overseas training and education; (iii) ensure that the US agencies charged with negotiating and enforcing trade agreements have sufficient resources; (iv) improve US laws to require foreign governments to improve their compliance, especially if they are the beneficiaries of US preferential treatment; and (v) increase congressional oversight of trade enforcement.
- **Jennifer Hillman, Distinguished Fellow, Institute of International Economic Law, Georgetown Law School,** stated that enforcement of trade remedies against unfairly traded imports or import surges, as well as of rights for access to foreign markets and the protection of intellectual rights, face major challenges. According to Hillman, basic US laws and tools for trade enforcement have not been substantially changed since the Uruguay Round Agreements Act in 1994. Amb. Hillman stated that since the Uruguay Agreements, "numerous court cases and WTO rulings, shifts in trade patterns, particularly the rise of China and India, the growth of trade in services and the need for better enforcement of intellectual property rights have all placed constraints and pressures on the trade enforcement system." She urged Congress to make adjustments to the US trade enforcement system in order to address the changes that have occurred to the US trading system in the last decade while simultaneously ensuring that the United States fully utilizes the tools that it already has available to it.
- **Erik Autor, Vice President and International Trade Counsel, National Retail Federation,** opined that the United States should not create a trade remedies system "that, under the guise of a quasi-

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judicial proceeding, becomes essentially an arbitrary, results-driven, and politically-influenced means to provide a few favored industries automatic relief from import competition." He noted that such a system becomes an instrument of protectionism that undermines US competitiveness and hurts American consumers. Autor stated that in order support a modern, globally competitive US economy, the United States needs trade remedy rules that are balanced and fair, inclusive of the participation of all affected parties, and compatible with commercial practices. According to Autor, this objective would not weaken US trade remedies laws and it would actually improve them.

Outlook

The Senate Finance Committee's exploration of US trade enforcement indicates that certain key members of Congress – such as Chairman Baucus and Ranking Member Grassley – are closely focused on the future of the US trade agenda. The witness list also highlights the basic conflict between US producers and consumers over the role of domestic and international enforcement of trade laws and rules. The recent Congressional-Administration agreement on US trade policy does not address trade enforcement but did open the door for increased Congressional oversight of the Administration's handling of trade policy. Congress will likely continue its exploration of US trade enforcement in light of Democrats' congressional majorities and increased US WTO dispute settlement activity. With the future of Presidential Trade Promotion Authority (TPA) uncertain and with current FTA negotiations on hold, the Administration is limited in its trade activities to trade enforcement and compliance. Administration action or inaction in these two areas will likely encourage Congressional oversight and response.

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Cato Institute Explores TPA Renewal

Summary

On June 18, 2007, the Cato Institute hosted a panel on the renewal of Presidential Trade Promotion Authority (TPA). **Director of the Cato Institute's Center for Trade Policy Studies Daniel Griswold** and discussed the June 30, 2007 expiry of TPA and the prospects of Congressional renewal of TPA.

Analysis

On June 18, 2007, the Cato Institute hosted a panel on TPA renewal. TPA is scheduled to expire on June 30, 2007, and Congressional analysts predict that the prospects for TPA's Congressional renewal by end-June are poor. Indeed, several key US legislators – such as Senate Finance Committee Chairman Max Baucus (D-MT) – have already indicated that, given Congress' packed floor schedule, it may be difficult to introduce legislation between now and June 30 that would renew TPA.

- **Daniel Griswold, Director of the Cato Institute's Center for Trade Policy Studies**, opined that TPA is an essential trade tool for the Administration and stated that TPA is necessary for the completion of both the ongoing World Trade Organization (WTO) Doha Round of multilateral negotiations and future US bilateral/regional Free Trade Agreements (FTAs). Griswold also rebutted several commonly-raised objections to TPA. On the argument that TPA infringes on US sovereignty, Griswold opined that TPA is "actually an exercise of US sovereignty" that ensures free trade. On the argument that FTAs promote deindustrialization and a race-to-the-bottom, Griswold countered that FTAs promote economic development in developing countries. He also stated that a common misperception is that FTAs promote an increased US trade deficit; according to Griswold, the investment into the United States explains the increased US trade deficit, not increased imports from US trading partners. Griswold reiterated that US trade agreements are made possible by TPA and urged Congress to renew TPA and approve all pending FTAs. Griswold noted that without TPA, the United States would have a more difficult time securing future trade agreements and would likely watch its global competitors take advantage of the United States' absence by securing their own FTAs with potential US trading partners. He stated that the "United States can sit on the sidelines as the rest of the world moves toward more openness" or it could renew TPA. When asked what the United States can achieve without TPA, Griswold opined that the Administration could focus on: (i) the Farm Bill; (ii) unilateral trade liberalization; (iii) US preference programs; and (iv) permanent normal trade relations (PNTR) for other potential US trading partners.

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- **Hon. Cal Dooley, President and CEO of the Grocery Manufacturers/Food Products Association**, opined that the United States must increase market access to the rest of the world because US trading partners "present tremendous market opportunities" for US manufacturers and consumers. He opined that TPA is a critical component of US leadership, and that if Congress does not renew TPA, it is "withdrawing the United States from having a seat at the table" to effectively secure increased market access. Dooley stated that if Congress does not renew TPA, the rest of the world will continue trade liberalization. According to Dooley, the EU, Japan and other global competitors will capitalize on the vacuum left by the United States in the event that Congress does not renew TPA, and he noted that increased competition from the rest of the world to secure trade deals should compel Congress to renew TPA. Dooley opined that if the Administration does not have TPA, it is sacrificing the economic interests of the United States as well as sacrificing a way to engage least-developed countries (LDCs) on economic development. He also opined that FTAs can serve as a catalyst and a tool for further economic development in LDCs as well as labor and environmental development among US trading partners. Dooley opined that TPA is not "absolutely essential," but that non-renewal is a "significant setback." According to Dooley, non-renewal of TPA is giving a license to some countries to maintain trade barriers and protectionism."

Outlook

The Cato Institute's briefing on TPA renewal comes days before TPA is scheduled to expire. There has been relatively little discussion on Capitol Hill regarding TPA renewal, and key legislators, including Sen. Baucus, have indicated that the prospects of Congress' consideration and renewal of TPA before June 30 are slim. Many Congressional analysts have stated that Congress could renew or extend TPA if they see positive and sufficient movement in the Doha Round negotiations. On June 21, however, Doha talks between members of the Group of Four (G-4) countries (i.e., the United States, the EU, Brazil, and India) in Potsdam, Germany stalled after G-4 members made it clear that they were unwilling to move beyond their current offers. Congressional insiders had predicted that a breakthrough in Potsdam could have provided Congress with the impetus to extend TPA, if only to complete a final Doha agreement. The G-4 impasse indicates that members of Congress are unlikely to introduce legislation to extend a "Doha-only" TPA. There is a small chance that, between now and June 30, members of Congress could introduce legislation extending TPA, but given Congress' busy floor schedule and the absence of TPA discussion on Capitol Hill, it is unlikely that Congress will consider such legislation any time soon.

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United States Highlights

Congress Passes Andean Trade Preferences Legislation to Extend Program for Additional Eight Months

On June 28, 2007, the Senate unanimously approved a bill (H.R. 1830) to extend the Andean Trade Promotion and Drug Eradication Act (ATPDEA) for eight months, *i.e.*, until February 29, 2008. The ATPDEA was scheduled to expire on June 30, 2007. On June 27, the House had passed H.R. 1830 by a margin of 365 to 59: 188 Democrats and 177 Republicans voted in favor of ATPDEA extension, and 40 Democrats and 19 Republicans voted against the measure. The House considered H.R. 1830 under suspension of rules, under which a two-thirds majority is needed to pass proposed legislation. President Bush signed the extension before the Act's June 30 expiration.

ATPDEA renewal consideration was delayed because of Senate Finance Committee Ranking Member Charles Grassley's (R-IA) opposition to ATPDEA extension. However, Sen. Grassley and Senate Finance Committee Chairman Max Baucus (D-MT) along with Chairman Rangel and Rep. McCrery were able to agree on an appropriate extension timeframe: Chairman Rangel had initially proposed a two-year extension of the ATPDEA but Congressional sources indicated that Sen. Grassley was only willing to accept the eight month extension period. Sen. Grassley, however, remains concerned that ATPDEA extension could "take pressure off Congress" to consider the pending Peru and Colombia Free Trade Agreements (FTAs). He also objects to the policies of the Bolivian and Ecuadorian governments.

Reaction to the Senate's passage of H.R. 1830 was positive. Sen. Baucus stated that he was pleased that the Senate "has voted to continue providing the opportunities for growth and development to emerging markets to the south" and he noted that "a strong and prosperous relationship with Latin America is in the best interest of the American people and of the American economy." Senate Majority Leader Harry Reid (D-NV) echoed Sen. Baucus' sentiments and expressed hope that once the eight month extension expires, Congress will consider a multiyear extension of the ATPDEA. President and CEO of the American Apparel & Footwear Association (AAFA) Kevin Burke commended Congress for renewing the ATPDEA and stated that if Congress had not approved ATPDEA renewal, there would have been "considerable disruption for US textile and apparel firms that do business with the Andean countries."

The benefits of a short-term extension may be limited because the United States and Peru might be unable to implement their bilateral agreement before March 2008. US businesses also fear that Congress will be too busy to consider a longer-term ATPDEA extension when it expires after the eight

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months because 2008 is an election year. On the other hand, Congress extended ATPDEA in the last US election year (2006), although after the November 2006 elections.

USTR Announces Changes to GSP Program as Part of Annual Review

On June 28, 2007, United States Trade Representative (USTR) Susan Schwab announced changes to the US Generalized System of Preferences (GSP) program as part of the Bush Administration's 2006 Annual GSP Review. USTR Schwab stated that as a result of the review, the Administration will terminate GSP eligibility for 21 products from specific beneficiary countries and continue GSP eligibility for 115 exports from specific countries whose trade exceeded statutory limits in 2006 (i.e., products receiving *de minimis* waivers) "in order to advance a more targeted and effective program to promote economic development." In announcing the changes, USTR Schwab stated that "Congress created the GSP program to serve as a bridge for developing countries as they increase their participation in the global trading system."

I. Background

USTR conducts an annual review of the GSP program to determine if there are certain imports currently eligible for benefits that could compete effectively in the US market if imported at normal tariff rates. USTR considers petitions to continue duty-free treatment, holds public hearings, and reviews US International Trade Commission (ITC) analyses of the economic impact of eligibility decisions on domestic industries in making its decisions on product eligibility. The 2006 GSP Annual Review focused on: (i) the continuance of GSP eligibility for products from specific countries that exceeded statutory competitiveness limitations; (ii) the termination of GSP eligibility for products that USTR considers competitive enough or meet other pertinent statutory criteria; and (iii) petitions challenging the continued eligibility of certain beneficiary countries for the GSP program.

II. Products Revoked from GSP Program

Consistent with the statutory provisions concerning product competitiveness and after extensive analysis, USTR has determined that 21 products from beneficiary countries can compete effectively in the US market, and that these products thus are no longer eligible for duty-free treatment under the GSP program. According to USTR Schwab, the statute indicates that "well-established, globally competitive industries based in developing countries should compete on a level playing field with their counterparts." She added that the 21 products removed from the GSP program demonstrate "the ability of these industries to compete in global markets, [a] testament to the success of the GSP program in helping to

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cultivate competitive industries in a number of developing countries." Imports that have been removed from GSP eligibility are:

- Brake and brake parts and ferrozirconium from Brazil;
- Kola nuts from Cote d'Ivoire;
- Gold jewelry and brass lamps from India;
- Wiring harnesses from the Philippines;
- Gold jewelry from Thailand; and
- Methanol from Venezuela.

According to USTR, in 2006, US imports from beneficiary developing countries under the GSP program totaled USD 32.6 billion; imports of the products removed from the GSP program were valued at USD 4.8 billion, approximately 15 percent of the total value of US imports from GSP-eligible countries in 2006.

III. Products Receiving GSP Redesignation

As part of its annual review, USTR also redesignated certain products under the GSP program. The redesignated products are imported from the Andean countries – Peru, Colombia, Bolivia, and Ecuador – and include, but is not limited to, products such as:

- Cut flowers, sweet potatoes, hats, and lead from Colombia;
- Lima beans, dried potatoes, pecans, mercury, and gold jewelry from Peru;
- Tungsten concentrates from Bolivia; and
- Hats and hat forms from Ecuador.

IV. Petitions to Withdraw or Limit Country's GSP Eligibility

The 2006 GSP Annual Review also involved an analysis of petitions to withdraw or limit a country's GSP benefits for not meeting GSP eligibility criteria. USTR conducted a review of a worker rights petition regarding Uganda but closed the petition without altering Uganda's GSP eligibility. USTR Schwab noted that USTR based its decision not to alter Uganda's GSP status because of Uganda's recently passed legislation facilitating organization of labor unions and its other reforms. USTR is still reviewing petitions on intellectual property rights (IPR) in Lebanon, Uzbekistan and Russia; and a petition involving worker rights in Niger.

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V. Competitive Need Limitations

The GSP statute includes two CNLs on the GSP-eligibility of a product: (i) if the annual trade of a product from a specific country exceeds a value-based threshold (USD 125 million in 2006); or (ii) if the annual trade of a product from a specific country exceeds 50 percent of total US imports of that product; the GSP statute also authorizes the President to waive the application of these CNLs if certain statutory conditions are met.

USTR Schwab announced that in the 2006 GSP Annual Review, the Administration granted competitive need limitation (CNL) waivers to certain products to ensure continued to receive GSP duty-free benefits. As part of its review, USTR also accepted petitions for CNL waivers for certain products from GSP-eligible countries. After reviewing the petitions, USTR granted CNL waivers for the following products:

- New pneumatic bus and truck tires from Thailand;
- Hand-hooked carpets and floor coverings from India; and
- Lithium carbonates from Argentina.

After reviewing the petitions, USTR denied CNL waivers for the following products:

- Cucumbers and color televisions from India;
- Calcium silicon ferroalloys from Argentina; and
- Copper cathodes and copper wire from Brazil.

Products newly subject to CNL exclusions include:

- Prepared meat products from Argentina;
- Retreaded pneumatic tires from Jordan;
- Beef and wood products from Brazil;
- Color televisions and ammonium perrhenate from Thailand;
- Copper cathodes and ammonium perrhenate from Kazakhstan; and
- Wind-powered electric generating sets from India.

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USTR Schwab Urges Congress to Renew TPA, Although All Signs Indicate Decreased Likelihood of Congressional Consideration

On June 26, 2007, United States Trade Representative (USTR) Susan Schwab urged Congress to renew Presidential Trade Promotion Authority (TPA), which will expire on June 30. USTR Schwab stated that without TPA, the United States would be "sitting on the sidelines while trade partners negotiate sweetheart deals with each other." USTR Schwab made her statements on Capitol Hill at the launch of the Congressional Caucus on Services. She also stated that US legislators should not "tie TPA renewal" to further movement in the World Trade Organization (WTO) Doha Round. (Several members of Congress have asserted that Congress will only renew TPA only if WTO Members make further positive movement in the multilateral negotiations.) USTR Schwab warned that WTO Members will likely seek to further their own bilateral and regional agreements because of the stalled WTO negotiations. She noted, however, that the United States has not given up on the Doha Round and opined that WTO Members could reach a final comprehensive agreement by end-2007, although she noted that negotiations will continue to be "tough."

USTR Schwab's calls for TPA come just several days before the "fast-track" authority is scheduled to expire. It seems unlikely that Congress will consider renewing TPA between now and its June 30 expiry, given its packed floor schedule and consideration of other issues, such as the Senate's prolonged debate on immigration reform. Over the past year, the Administration lobbying effort for TPA renewal has dwindled greatly, thus undermining the chances for Congressional renewal of TPA. Both the Administration's lack of focus on trade and the power shift in Congress help to explain TPA's demise. With a year and a half left to his Presidency, President Bush has shifted his attention to other matters, such as immigration and the United States' presence in the Middle East. With trade not one of its top priorities, the Administration has been unwilling to expend the political capital necessary to push TPA through a Congress controlled by a Democratic majority suspicious of – and even hostile towards – US trade liberalization in its current form. The stalled WTO Doha Round has further undermined any efforts to renew TPA because, following US-Korea FTA's completion, a Doha agreement was the only remaining incentive that Members had to renew TPA. If Congress does not consider TPA by the end of this week, it seems they could pick up TPA again in the Fall, but that remains uncertain.

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Sens. Dodd, Shelby Introduce Currency Misalignment Bill Similar to Baucus-led Legislation

On June 21, 2007, Senate Banking Committee Chairman Christopher Dodd (D-CT) and Ranking Member Richard Shelby (R-AL) along with five other Senators – including Sens. Debbie Stabenow (D-MI) and Jim Bunning (R-KY) – introduced legislation aimed at foreign exchange rate misalignment, with a particular focus on China. The Currency Reform and Financial Markets Access Act of 2007 (bill number not yet available) comes one week after Senate Finance Committee Chair Sens. Max Baucus (D-MT), Ranking Member Charles Grassley (R-IA), Sen. Charles Schumer (D-NY), and Sen. Lindsey Graham (R-SC) released the Currency Exchange Rate Oversight Reform Act of 2007 (S. 1607) that would require the Treasury Department to identify countries with "fundamentally misaligned currencies" and to take specific action to correct the misalignment.

According to Sens. Dodd and Shelby, their bill would strengthen Treasury's ability to address exchange rate issues: if in its annual report Treasury determines that a country manipulates exchange rates, it is required to establish a specific plan of action and engage the International Monetary Fund to consult with the offending country. If the country has not reached the benchmarks set in the plan after nine months, Treasury is directed to file a case with the World Trade Organization (WTO). The bill also requires Treasury to report to Congress on the US-China Strategic Economic Dialogue's progress on financial services issues and on international barriers to US financial services.

There are several similarities between the Baucus-led legislation and the Dodd-led legislation. Both bills include provisions by which the President can waive any requirement determined to have a serious impact on US national and economic security. Both bills also seek to redefine the manner in which the Treasury cites countries as "currency manipulators." The Baucus-led legislation, however, would repeal the current process and lower the standard to "currency misalignment" whereas the Dodd-led legislation would maintain the current standard but remove the necessity for Treasury to find that there was "intent" by a country manipulating the exchange rate to affect trade.

Congressional insiders say that the Baucus-led legislation has little chance of passage. Given the similarity between the two bills, it seems likely that the Dodd-led legislation will suffer the same fate. The Administration has consistently favored dialogue and diplomacy instead of "tougher" actions such as those proposed in the bills. The Administration's recent attempts to assuage Congress' concerns about China – such as the Commerce Department's recent decision to apply US countervailing duty law to imports of Chinese coated free sheet paper, and the Office of the United States Trade Representative's

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request for WTO consultations with China over intellectual property rights (DS362) and market access for certain publications and audiovisual products (DS363) – seem to be doing little to dissuade members of Congress from introducing further watchdog legislation.

DOC Publishes Final Rule on High-Technology Exports to China

On June 19, 2007, the US Department of Commerce (DOC) published the final version of its rule on high-technology exports to China in the Federal Register (72 Fed. Reg. 33646). The high-technology exports rule addresses controls on certain high-technology exports and restrictions on certain defense-related exports to China. According to DOC, the "update to US licensing policy for dual-use exports to the People's Republic of China removes license requirements for exports to trusted customers while imposing new restrictions on a targeted list of items that could enhance China's military capabilities."

Key elements of the high-technology exports rule include:

- **"Validated End User" (VEU) Program.** Under the VEU program, DOC will allow "trusted customers" in China to receive certain items without individual export licenses. In order for DOC to qualify a Chinese company under the VEU program, that company must posses a track record of responsible civilian use of US-controlled technology. The regulations also establish clear procedures for companies to apply for the VEU program and outlines how the US government End-User Review Committee will decide on applications, considering such factors as the applicant's record of engagement in civil end-uses, compliance with US export controls, agreement to allow on-site reviews by US Government officials, and relationships with US and foreign companies.
- **New Restrictions on Dual-Use Technologies Destined for Military End-Use.** Under the rule, the definition of "military end-use" is similar to one already in US export regulations. The updated regulations impose new controls on a list of items if they are destined for military end-uses in China. The list covers 20 products and related technologies and software. According to DOC, licenses are required for these items if the exporter knows that they are destined for a military end-use in China (e.g., the use, development or production of military weapons systems). When DOC first proposed the rule in July 2006 (71 Fed. Reg. 38,313), the rule would have imposed new controls on exports of 47 categories of high-technology products, including certain machine tools, software, computers, and telecommunications equipment. According to DOC, it reduced the number of categories from 47 to 20 after working closely with the Departments of Commerce, Defense, and State "to target militarily useful items not widely available on world markets."

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- **No Incremental Administrative Burden for US Exporters.** The rule requires exporters to obtain an End-User Statement from China's Ministry of Commerce (MOFCOM) for certain licensed exports. According to DOC, this will facilitate US government end-use checks for certain controlled items exported to China. The rule also raises the dollar threshold for obtaining such Statements for most controlled items from USD 5000 to USD 50,000. According to DOC, "the higher dollar threshold means that there should be no net increase in the number of End-User Statements issued by MOFCOM as a result of this update."

DOC announced that it expects to publish in the Federal Register an initial list of VEUs as early as July. According to DOC, sectors likely to benefit from the VEU program include electronics, semiconductors, and chemicals.

Administration and Congress Square-off On China Trade Policy

On June 13, 2007, the Bush Administration and Congress issued a series of announcements that reflect the growing tension between the two government branches over the United States' trade policy toward China. The United States Treasury Department began with the release of its semi-annual "Report to Congress on International Economic and Exchange Rate Policies." Although the report recognizes China's "heavy foreign exchange market intervention" and acknowledges that its currency, the Yuan (or RMB), is "undervalued," it states that China did not meet the necessary requirements to be designated a "currency manipulator" under Section 304 of the Omnibus Trade and Competitiveness Act of 1988. Treasury's latest report denies allegations by several Members of Congress that China deliberately undervalues its currency to grant its exports an unfair competitive advantage. The report reasons that the Department could not determine that China implemented its exchange rate management policy "for the purpose…of gaining unfair competitive advantage in international trade."

Shortly after the Treasury Department released its report, Senate Finance Committee Chair and Ranking Member Sens. Max Baucus (D-MT) and Charles Grassley (R-IA) and Sens. Charles Schumer (D-NY) and Lindsay Graham (R-SC) released the text of a bill (bill number not yet available) that would require the Treasury Department to identify countries with "fundamentally misaligned currencies" and to take specific action to correct the misalignment. The "Currency Exchange Rate Oversight Reform Act of 2007" would require the Secretary of the Treasury to submit to Congress by March and September 15 semi-annual reports that contain a list of currencies designated as "fundamentally misaligned." The bill would also require the Secretary to designate such currencies as requiring "priority action" if the issuing country meets certain requirements such as "protracted large-scale" foreign exchange intervention or "excessive"

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reserve accumulation. If consultations with these countries fail to result in their adoption of "appropriate policies" to correct their currencies' fundamental misalignment within 180 days after Treasury's designation, the bill would require actions including: (i) reflection of the currency's misalignment in any antidumping cases against the issuing country's products; (ii) prohibition of federal procurement of the country's goods and services; (iii) a request to the International Monetary Fund (IMF) to take action to correct the misalignment; and (iv) a freeze on the approval of any new Overseas Private Investment Corporation (OPIC) funding to projects in the country or any multilateral bank financing to the country's government for a project located in that country. If the country fails to correct its currency's fundamental misalignment within 360 days of Treasury's designation, the bill would require the Office of the United States Trade Representative (USTR) to request World Trade Organization (WTO) consultations with the country regarding its exchange rate policy.

Following the Senate bill announcement, USTR announced that it had rejected a request from 42 House Members that the Administration take action to end the Chinese government's alleged undervaluing and manipulation of its currency. The Members filed the request under Section 301 of the Trade Act of 1974 (19 U.S.C. § 2411), which requires USTR to take action against any foreign country that denies the United States' rights under any trade agreement or adopts an act, policy or practice that denies these rights or places unjustifiable burdens on or restricts US commerce. The petition also called on the Administration to request WTO consultations with China regarding its exchange rate policy and to file a formal WTO complaint if the consultations fail to address the issues after 60 days. USTR previously rejected two similar Section 301 requests from Congress in September 2004 and April 2005.

Congressional sources indicate that the new China currency legislation has little chance of passage, but the June 13 exchanges between the Administration and Congress underscore the growing tension between the two branches over how to approach China trade. With few exceptions, the Administration has favored an approach based on dialogue, diplomacy and the market and has rejected Congressional demands that it take "tougher" action (such as citing China as a currency manipulator or requesting WTO consultations with China over its currency policy) against Chinese trade and currency practices. On the other hand, China's rising bilateral trade surplus and constituent demands on particular US Congressmen over the perceived effects of this surplus have created an atmosphere of political pressure – and opportunity – in Congress, leading to increasingly hostile rhetoric from many on Capitol Hill. According to many observers, the Administration has attempted to assuage Congressional vitriol on China trade through several recent measures. On March 30, the Commerce Department announced its decision to apply US countervailing duty (CVD) law to imports of Chinese coated free sheet (CFS) paper, and in April

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USTR requested WTO consultations with China over intellectual property rights (DS362) and market access for certain publications and audiovisual products (DS363). However, the Members' reaction to the Treasury report indicates that previous Administration actions have done little to satisfy them, and that the tension between Congress and the Administration over US-China trade will continue indefinitely.

South Korea to Reopen Market to Imports of Certain US Beef Products

On June 8, 2007, the Korean Ministry of Agriculture announced that it would "lift its suspension of issuing quarantine certificates" for imports of certain US beef products. Korea effectively suspended imports of all US beef products on June 5 after South Korean inspectors discovered two shipments of US beef unauthorized for export to Korea. The Ministry made the announcement after the United States Department of Agriculture provided it with requested information that verified that all other shipments of US beef approved for export to Korea, except for the 66.4 tons of beef contained in the two discovered shipments, met Korean import standards. According to a Ministry of Agriculture statement, at least one of these two shipments contained chuck short ribs, a bone-in beef product. Prior to the suspension, Korea had since September 2006 allowed imports of US boneless beef from cattle under 30 months of age. Korea instituted a ban on all other US beef products in December 2003, following the discovery of a cow in the United States that tested positive for Bovine Spongiform Encephalopathy (BSE).

Since Korea imposed this ban, the United States government has pressed Korea to reopen its market fully to US beef imports. The ban has also become a major obstacle to Congressional approval of the recently completed Korea-US (KORUS) Free Trade Agreement (FTA). A number of Members of Congress, including Senate Finance Chair Sen. Max Baucus (D-MT), have stated that they will withhold approval and seek to block passage of the Agreement until and unless Korea removes its ban on all US beef products. Baucus also stated that Korea's June 5 suspension of imports "raises questions about Korea's willingness to abide by scientific standards" and added that "the time is long past for Korea to follow international standards." The United States has recently increased pressure on the Korean government to lift the ban following the World Animal Health Organization's (OIE) May 22 formal announcement that it had granted the United States "controlled risk" status for BSE. The United States claims that this designation verifies that US beef is safe by international standards. The Korean government has indicated that it will consider the OIE ruling in its decision on whether to reopen its market to all US beef products but has not stated when or if it might do so.

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Commerce Undersecretary for International Trade Franklin Lavin to Leave ITA in July

Undersecretary of Commerce for International Trade Franklin Lavin announced that he will leave the Department of Commerce (DOC) in mid-July to become Managing Director and Chief Operating Officer of Cushman & Wakefield Investors Asia. Lavin made the announcement in a June 5 email circulated to the staff of the International Trade Administration. Lavin was sworn in as Undersecretary of Commerce for International Trade on November 2, 2005. Prior to that, from 2001-2005, Lavin served as the US Ambassador to Singapore. From 1996 to 2001, Lavin worked in senior banking and management positions at Citigroup and Bank of America in Asia. Lavin served as Deputy Assistant Secretary of Commerce for Asia and the Pacific during the George H.W. Bush Administration. During the Reagan Administration he served in the White House as Director of the Office of Political Affairs, assisting the management of domestic political issues. He also served as Deputy Executive Secretary of the National Security Council and held staff positions at the White House and the US Department of State.

DOC Proposes New Rule on Entity List

On June 5, 2007, the US Department of Commerce (DOC) published a proposed rule in the Federal Register (72 Fed. Reg. 31,005) meant to "expand the criteria used to target foreign entities subject to strict US export controls." The new rule would expand DOC's Entity List, which, according to DOC's Bureau of Industry and Security (BIS), imposes license requirements for transactions involving certain "listed" entities and specifies the license requirements that it imposes on each listed entity. Currently, the list is limited to entities whose activities could lead to the diversion of US exports or re-exports to programs related to weapons of mass destruction (WMD). There are approximately 60 entities on the current list from countries including China, India, and the United Arab Emirates (UAE). The proposed rule would expand the grounds under which BIS may add parties to the Entity List and authorize BIS to "impose foreign policy export and re-export license requirements, limit the availability of License Exceptions, and set license application review policy for exports and re-exports of items subject to the Export Administration Regulations (EAR)" to entities that BIS believes pose a risk of being involved in activities that are contrary to US national security or foreign policy interests. DOC officials state that the proposed rule will expand the criteria for adding entities to the Entity List including "support for terrorism, enhancing the military capability of a state sponsor of terrorism, engaging in conventional weapons proliferation contrary to US national security interests, failing to comply with a US request for an 'end-use' check of exports, and engaging in conduct that poses an 'imminent risk' of violating US export control

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regulations." DOC will subject the proposed rule to a 60-day comment period during which time it will seek public comments from the private sector. Comments are due by August 6, 2007.

US Steel Manufacturers Urge US Government to Impose Antidumping and Countervailing Duties on US Pipe Imports from China

Several US steel manufacturers have requested that the US International Trade Commission (ITC) and US Department of Commerce (DOC) investigate the imposition of countervailing duties (CVD) and antidumping (AD) duties on US imports of steel pipe from China. On June 7, 2007, Allied Tube & Conduit, IPSCO Tubulars, Inc., Northwest Pipe Company, Sharon Tube Company, Western Tube & Conduit Corporation, Wheatland Tube Company, and the United Steelworkers sent a letter to the ITC requesting that the ITC conduct an investigation under sections 701 and 731 of the Tariff Act of 1930, as amended, regarding the imposition of CVD/AD duties on US imports of circular welded carbon quality steel pipe from the People's Republic of China.

The petition covers welded carbon quality steel pipes and tubes used for: (i) low-pressure conveyance of water, steam, natural gas, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler units, and other related uses; (ii) light load-bearing and mechanical applications; and (iii) construction applications. The steel products covered in the petition are classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90.

Injury. The petitioners allege that the US domestic industry is materially injured by imports of the subject merchandise from China. The petitioners note that imports from China of the subject merchandise have dramatically risen since 2002. According to the petition, imports of the subject merchandise rose by 142.9 percent from 2004 to 2006 and another 21.8 percent from the period January-March 2006 to the period January-March 2007. The petitioners allege that the increase in imports from China is "huge" and that the United States is the primary export market for Chinese producers of the subject merchandise. The petitioners also allege that prices for the subject merchandise imported from China are 30 percent lower than domestic producer prices of the subject merchandise (e.g., Chinese producers' price of 640-660 USD per ton versus US producers' price of 950-970 USD per ton).

Subsidization. The petitioners also allege that the US domestic industry is threatened with material injury by dumped and subsidized imports of the subject merchandise from China. The petitioners allege that imports of the subject merchandise are rapidly increasing and that they will continue to do so due to: (i) Chinese producers' "unused and growing production capacity"; (ii) the Chinese producers' export focus

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on the United States; and (iii) Chinese government subsidies to Chinese producers of the subject merchandise.

The petitioners allege that the Chinese government has "spurred the creation of the world's largest steel industry through the provision of massive subsidies and other support" including, but not limited to, the following industry-wide subsidies and support measures:

- Transfers of ownership interests on terms inconsistent with commercial considerations;
- Conversion of debt to equity in steel companies;
- Grants to pay for energy and raw materials;
- Debt forgiveness and inaction regarding non-performing loans;
- Tax incentives;
- Targeted infrastructure development;
- Control over raw material prices and exports;
- Manipulation of the value of the Chinese currency to make Chinese exports artificially cheap;
- Preferential loans and directed credit;
- Import barriers; and
- Barriers to foreign investment.

The petitioners allege that certain Chinese producers of the subject merchandise also benefit from other countervailable subsidies including:

- Income Tax Exemption Program for Export-Oriented Foreign Invested Enterprises;
- Corporate Income Tax Refund Program for the Reinvestment of Foreign Invested Enterprise Profits in Export-Oriented Enterprises;
- Export Incentive Payments Characterized as "VAT Rebates";
- Program to Rebate Antidumping Legal Fees in Shenzhen and Zheijiang Provinces;
- Funds for "Outward Expansion" of Industries in Guangdong Province;
- Export Interest Subsidy Funds for Enterprises Located in Chenzhen or Zhejiang Province; and
- Currency Manipulation.

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Dumping. The petitioners allege that the estimated dumping margins on circular standard and structural pipe from China are: (i) between 81.67 and 88 percent based on CV to price margins for black plain end pipe; and (ii) between 70.89 and 76.02 percent based on CV to price margins for galvanized plain end pipe.

The steel pipe petition is the first CVD case against China since the DOC decided to change longstanding US policy and to apply CVD law to a non-market economy (NME), *i.e.*, China in late March; that decision was made in the context of an ongoing CVD case against imports of Chinese glossy paper. On May 30, 2007, DOC announced its affirmative preliminary determinations in the AD investigations on coated free sheet paper (glossy paper) from China, Indonesia, and Korea. DOC preliminarily determined that Chinese, Indonesian, and Korean producers and exporters have sold glossy paper in the United States at 23.19 to 99.65 percent, 10.85 percent, and 0.00 to 30.86 percent less than fair value (LTFV), respectively. Analysts predicted that DOC's preliminary determination could present more opportunities for US manufacturers and producers to urge DOC to apply AD and CVD duties to other Chinese products. The 701 and 731 petitions on quality steel pipe from China seem to support such predictions.

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Free Trade Agreements

House Foreign Affairs Subcommittee on Terrorism, Nonproliferation and Trade Holds Hearing on KORUS FTA

Summary

On June 13, 2007, the House Committee on Foreign Affairs Subcommittee on Terrorism, Nonproliferation and Trade held a hearing on the foreign policy implications of the Korea-US (KORUS) Free Trade Agreement (FTA). Witnesses included Deputy United States Trade Representative (DUSTR) Karan K. Bhatia and Assistant Secretary of State for East Asian Affairs Christopher Hill, who testified on the agreement's economic and security implications, respectively. In their opening statements and questions to the witnesses, Subcommittee Members from both parties expressed concern about a number of issues including the FTA's treatment of Korean automobile tariff and non-tariff barriers (NTBs), agricultural products and products manufactured in the Kaesong Industrial Complex.

Analysis

On June 13, the House Subcommittee on Terrorism, Nonproliferation and Trade held a hearing on the foreign policy implications of the KORUS FTA. Korea and the United States concluded negotiations on the FTA on April 1, 2007, and President Bush is expected to sign the agreement on June 30. USTR released the full text of the agreement on May 24, and Subcommittee member's opening statements reflected concerns that Congress has since expressed over certain of the agreement's provisions. Members from both parties have criticized the agreement's alleged failure to open Korea's domestic automobile market to US automobile exports, its exclusion of rice from the Agriculture Chapter, and its alleged potential to grant preferential tariff treatment to goods produced by North Korean workers in outward processing zones such as the Kaesong Industrial Complex. Annex 22c of the agreement establishes a Committee for Outward Processing Zones on the Korean Peninsula that would determine areas that may be designated as outward processing zones and establishes criteria that any goods produced in these zones must meet to receive preferential tariff treatment under the FTA. These criteria include, among others, environmental, labor and wage standards and practices in the zones. The Annex states that the United States and Korea are "responsible for seeking approval for any amendments to the Agreement" regarding outward processing zones as a result of a unified Committee decision. In a June 11 letter to USTR Susan Schwab, House Trade Subcommittee Chairman Sander Levin (D-MI) stated that application of "lesser or different" standards to goods produced in outward processing zones in North

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Korea is "wholly inconsistent" with a recent agreement between Congress' Democratic leadership and the Administration on FTAs' inclusion of basic international labor standards. Levin concluded that USTR should remove Annex 22c from the agreement's text and requested an "early response" from USTR Schwab on the matter.

During the hearing on the FTA, the Subcommittee heard testimony from DUSTR Bhatia, who addressed the agreement's economic implications including its benefits for US businesses in key sectors and emphasized the agreement's importance to the United States' commercial position in East Asia. The Subcommittee also heard testimony from Assistant Secretary of State for East Asian Affairs Christopher Hill, who addressed the agreement's foreign policy implications including its ability to strengthen the US-South Korea partnership and ensure the United States' strategic position in East Asia. We summarize below the Subcommittee member's opening statements and witnesses testimony related to the agreement's economic implications.

- **Subcommittee Chair Rep. Brad Sherman (D-CA)** opined that the FTA would worsen the US-Korea trade balance and cited studies by the Korea Institute for Industrial Economics and the Peterson Institute for International Economics that predict annual growth in the bilateral trade deficit of USD 750 million and 880 million, respectively. Sherman stated that the majority of this imbalance would result from imports of Korean automobiles and noted that in 2006 Korean automobile imports to the United States outnumbered US automobile exports to Korea by a factor of one hundred. Sherman also criticized Annex 22c as a "Trojan Horse" for North Korean goods and a potential source of hard currency that North Korea could use to fund its nuclear program. Sherman demanded that USTR Schwab and Secretary of State Condoleezza Rice guarantee in a letter to the Subcommittee that Congressional approval is "absolutely a necessary precursor" for any goods to enter into the United States under Annex 22c.
- **Subcommittee Ranking Member Rep. Edward R. Royce (R-CA)** stated that no US constituency favors the agreement's inclusion of goods produced in Kaesong and noted that the current text of the agreement grants the United States a vote over whether such goods could be included. Royce called attention to the agreement's economic benefits, notably its opening of Korean markets to US goods and services. He cited the agreement's elimination of Korean tariffs and NTBs on automobiles and its inclusion of a "snapback" provision that would allow the United States to re-impose pre-agreement tariff levels on Korean automobile imports if the FTA's dispute settlement procedure finds that Korea has failed to meet its commitments under the FTA. Royce also noted the World Organization for Animal Health's (OIE) May 22 formal announcement of the United States' "controlled risk" status for

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bovine spongiform encephalopathy and called on Korea to apply scientific-based standards to imports of US beef.

- **Rep. David Scott (D-GA)** stated that despite free trade's importance to the US economy, the KORUS FTA is a "bad deal" for the United States. Scott opined that the United States' failure to win labor concessions in past FTAs has negatively impacted a number of US industries such as steel, information technology and textiles. Scott added that these industries have fled the United States for US trade partners with relaxed wage and labor standards. Scott opined that if Congress ratifies the KORUS FTA as drafted, US industry will continue to face negative impacts and flee abroad. Scott also expressed concern that the agreement's provisions related to Kaesong could help fund North Korea's pursuit of nuclear technology. He added that North Korean workers in Kaesong are not protected under international labor standards.
- **Rep. Donald A. Manzullo (R-IL)** emphasized his past record of supporting all FTAs in Congress but expressed concern that the KORUS FTA's automobile provisions inadequately address or fail to address Korean automotive NTBs. Manzullo cited Korea's environmental standards, insurance discrimination against drivers of foreign automobiles and engine displacement tax as examples of NTBs that "must go" but were not addressed adequately in the agreement. He added that the agreement's "snapback" mechanism excludes Korean small truck exports and expires ten years after the agreement's entry into force, limiting its effectiveness as a tool to pressure Korea to open its markets to US automobiles. Manzullo also criticized USTR for repeatedly refusing his requests to meet during the course of the agreement's negotiation to discuss the agreement's automobile provisions.
- **DUSTR Karan K. Bhatia** testified that the KORUS FTA would provide a number of benefits to US companies, workers, farmers and services providers including market access for goods and services, reduced tariffs and the elimination of NTBs, and protection for investment and intellectual property rights (IPR). Bhatia noted that the agreement eliminates tariffs on 95 percent of bilateral trade in consumer and industrial goods within 3 years of entry into force and eliminates immediately tariffs on over half of US farm exports to Korea. On services, Bhatia noted that the agreement will within two years allow US-controlled telecommunications companies to own 100 percent of Korean operators and will secure benefits for US financial services providers. He added that the agreement's automobile provisions will overhaul Korea's tax based on cars' engine displacement, ensure that Korean technical or safety standards do not act as discriminatory barriers to US automobiles and establish a dispute settlement process that will deter Korea from violating its obligations under the

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agreement. He also noted that the agreement extends protection to "all forms" of investment and enhances protection and enforcement of trademarks, copyrights and patents. Bhatia concluded that the agreement was also vital to ensuring the United States' commercial position in East Asia. He added that the region's growing number of FTAs were not always high-quality, comprehensive agreements and could disadvantage the United States in its access to regional markets.

Outlook

The Subcommittee member's remarks underscore growing concern among many Democratic Members of Congress regarding the FTA's provisions on issues such as automobiles and labor and their frustration with the Bush Administration's failure to grant Congress a larger voice in determining US trade policy. Despite having reached an agreement with the Administration on May 10 regarding the inclusion of labor rights and other provisions sought by Democrats in pending and all future FTAs, it remains unclear what demands Congressional Democratic leadership might seek to impose on the KORUS FTA. Although Korea's labor and environmental provisions meet international standards, many Democrats, including Rep. Levin, have criticized Annex 22c for potentially undermining Congress' agreement with the Administration, and Levin has called for its removal from the FTA's text. Democrats and some Republicans have also criticized the agreement's automobile provisions as failing to open Korea's domestic automobile market. Most recently, Presidential hopeful Sen. Hillary Clinton (D-NY) announced publicly on June 9 that she opposed the agreement's passage due to "inherently unfair" provisions on automobiles and other issues that she alleged would "hurt the US auto industry, increase our trade deficit, cost us good middle-class jobs and make America less competitive." However, according to the Administration and some congressional Republicans, the FTA includes concrete provisions on market access and NTBs aimed at opening Korea's automobile market. It would eliminate immediately Korea's eight percent tariff on US automobile imports and would require Korea to limit or reduce taxes based on vehicle engine displacement. USTR also claims that the agreement's dispute settlement mechanism and tariff "snapback" provision will act as a "powerful deterrent" to Korea's violation of its automobile commitments under the agreement. However, the agreement also eliminates immediately a 2.5 percent US tariff on Korean small-sized passenger cars, phases out the same tariff on large-sized passenger cars over 3 years and phases out a 25 percent tariff on Korean truck imports over 10 years. Many members of Congress thus might oppose the FTA's treatment of automobiles because the agreement further liberalizes the US auto market (thus exposing US automobiles to greater international competition) or for simple political reasons.

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Although the Korean government has expressed hesitation at renegotiating the agreement following the April 1 conclusion of formal negotiations, Congressional passage of the agreement appears uncertain without such renegotiation. According to Korean press reports, on June 17 USTR officially notified the Ministry of Foreign Affairs and Trade (MOFAT) of its request to reopen negotiations on the agreement's labor, environmental, security, pharmaceutical, government procurement, harbor safety and investment provisions. It remains unclear whether the Korean government will agree to the request. The two sides would need to complete any renegotiation before President Bush signs the agreement and Presidential Trade Promotion Authority (TPA) expires on June 30.

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Free Trade Agreements Highlights

United States and Korea Sign FTA Ahead of TPA Deadline

On June 30, 2007, the United States and Korea signed a Free Trade Agreement (FTA) meant to expand bilateral trade and investment ties and create new economic opportunities for the United States and Korea. United States Trade Representative (USTR) Susan Schwab signed the US-Korea (KORUS) FTA on behalf of the United States. Korean Trade Minister Kim Hyun-chong signed on behalf of Korea in a ceremony on Capitol Hill. USTR Schwab stated that she is looking forward "to continuing to work with Members of Congress of both parties on the approval of this important agreement." She added that the agreement meant to safeguard workers' right and environmental protections, consistent with internationally recognized standards and principles, and ensure access to legal mechanisms, a result of the May 2007 bipartisan agreement between the Bush Administration and Congressional leadership. According to trade officials, In exchange for fully accepting additional commitments on labor and environment in the bilateral agreement, the United States accepted Korea's demand for a delay in implementing the obligation for a patent linkage system. USTR officials report that the United States agreed that Korea will not have to implement a patent linkage system until the FTA has been in force for 18 months; during this 18-month period, the United States will only consult with Korea, and refrain from launching dispute settlement, for any patent linkage noncompliance. Under a patent linkage system, the Korean Food and Drug Administration would not grant marketing approval for a drug unless it can certify that it does not infringe on a patent.

According to USTR, the KORUS FTA will create new export opportunities for American agricultural producers by eliminating and phasing out tariffs and quotas on a broad range of agricultural products. Under the KORUS FTA, close to 64 percent of Korea's agriculture imports from the United States will be immediately duty-free, with the remainder of tariffs and quotas phased out over the first ten years that the agreement is in force. On industrial goods, USTR states that close to 95 percent of bilateral trade in consumer and industrial products will be duty-free within three years of entry into force of the Agreement, and all remaining tariffs will be eliminated within ten years. According to USTR, the KORUS FTA also eliminates the tariffs and non-tariff barriers that US auto makers have identified as the "impediments to their success in Korea's large market." USTR also states that the KORUS FTA will protect US investors that invest in Korea, and will also expand market access and investment opportunities in a number of service sectors.

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Korea is the world's tenth largest economy and has a GDP of approximately USD 1 trillion. Korea is the United States' seventh largest goods trading partner, with two-way goods trade in 2006 valued at approximately USD 78 billion. The Administration concludes that the KORUS FTA is "the most commercially significant free trade agreement the United States has concluded in nearly 20 years."

USTR has been kept busy over the past week in its attempts to have the President sign the KORUS FTA before Presidential Trade Promotion Authority (TPA) expired on July 1. It thus appears that Congress will consider the KORUS FTA and all three pending Latin American FTAs – Peru, Colombia and Panama – under TPA. Congressional sources opine that Congress could consider the KORUS FTA after the August recess, sometime in the fall. Congress will certainly scrutinize the bilateral agreement closely, especially its automobile, labor, and environmental provisions. House leaders, including House Speaker Nancy Pelosi (D-CA), Majority Leader Steny Hoyer (D-MD), Ways and Means Committee Chairman Charles Rangel (D-NY), and Ways and Means Trade Subcommittee Chairman Sander Levin (D-MI), have already stated that they will not approve the KORUS FTA once Congress considers it because "the agreement does not address in an effective manner the persistent problem of non-tariff barriers, particularly those blocking access of US manufactured products in South Korea's market." The Representatives further stated that there are "deep-seated and fundamental problems in market access and a heavily one-sided trading relationship that can be expected only to undercut support for the agreement far beyond the automotive sector." It thus seems likely that when the Administration delivers the KORUS FTA's implementing legislation to Congress, US legislators will closely explore the provisions of the agreement and debate each in fine detail.

United States and Panama Sign FTA; USTR Announces Amendments to US-Colombia FTA Reflective of Congress-Administration Agreement on US Trade Policy

On June 28, 2007, the United States and Panama signed a Free Trade Agreement (FTA) meant to eliminate tariffs and other barriers to the trade in goods and services between the United States and Panama. United States Trade Representative (USTR) Susan Schwab and Panamanian Minister of Commerce and Industry Alejandro Ferrer signed the United States–Panama Trade Promotion Agreement. USTR Schwab stated that the US-Panama FTA is "an historic agreement between two countries that for over a century have been joined by bonds of shared values, community, and friendship." She added that the agreement includes important commitments on market access as well as "ground-breaking labor and environment provisions, a result of the bipartisan agreement between the Bush Administration and Congressional leadership." According to a USTR press release, the agreement will promote increased

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economic growth; generate economic opportunities for US and Panamanian workers, consumers, manufacturers, farmers and ranchers; and serve as a catalyst "to further develop and diversify Panama's economy and promote investment between the two countries." USTR Schwab also urged Congress to "quickly approve this agreement."

The United States, Panama's largest trading partner, had a goods trade surplus with Panama of USD 2.3 billion in 2006. In 2006, total goods trade between the United States and Panama was USD 3.1 billion, and US goods exports to Panama increased 25 percent from 2005 to 2006. According to USTR, "the Panama Canal is the focal point of Panama's economy, with much of the country's economic activity tied to the canal's infrastructure and to the logistics and financing of international shipping." USTR states that the US-Panama FTA will provide US exporters "significant opportunities to participate in the USD 5.25 billion expansion plan for the Panama Canal, which is due to begin in 2008 and is expected to be completed by 2014."

Also on June 28, USTR Susan Schwab stated that the United States and Colombia had reached an agreement on legally binding amendments to the US-Colombia FTA provisions on labor, the environment. and other matters. These amendments reflect the May 2007 bipartisan agreement on US trade policy between the Administration and Congressional leadership. In announcing the amendments to the bilateral agreement, USTR Schwab stated that the agreement will "contribute to our countries' longstanding collaborative efforts to promote economic opportunity and development, peace, human rights, the rule of law, and security in this important region." As with the recent amendments to the US-Peru FTA, the amended US-Colombia FTA does not require another signature by the President; the bilateral agreement will thus be considered under Presidential Trade Promotion Authority (TPA). Because the agreement was completed and signed before TPA's June 30 expiry, Congress can only conduct a straight up-or-down vote on the FTA.

USTR has been kept busy over the past week in its attempts to complete amendments to the Peru and Colombia FTAs and have the President sign the Panama FTA before TPA's June 30 expiry. It thus appears that Congress will consider all three pending Latin American FTAs under TPA. Congressional sources note that Congress will likely approve the Peru and Panama FTAs; USTR Schwab is pushing Congress to consider the Peru agreement before the Congressional August recess, Congress will likely do so. There has also been some speculation that Congress could consider the Panama FTA before the August recess, although Congressional sources state that Congress will likely consider that agreement in the fall. Even though the Colombia FTA falls under TPA, Congressional sources state that it will face stiffer resistance in Congress; US legislators are still concerned with the violence against labor union

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leaders in Colombia and will likely focus on that issue during Congress' consideration of the agreement. It thus appears likely that Congress will pass the Peru and Panama FTAs; the Colombia FTA's future is uncertain.

USTR Schwab Announces Amendments to US-Peru FTA Reflective of Congress-Administration Agreement on US Trade Policy

On June 25, 2007, the Office of the United States Trade Representative (USTR) announced that the United States and Peru had reached an agreement on legally binding amendments to the US-Peru Trade Promotion Agreement's provisions on labor, the environment and other matters. These amendments reflect the May 2007 bipartisan agreement on US trade policy between the Administration and Congressional leadership. In announcing the amendments to the bilateral agreement, USTR Schwab stated that the "Peru agreement offers an important opportunity to expand economic opportunities for US farmers, ranchers, manufacturers, and service providers and to encourage the economic reforms in Peru that are helping to alleviate poverty in that country." USTR Schwab also indicated that USTR is in consultations with the Governments of Colombia, Panama, and Korea regarding similar amendments to their respective Free Trade Agreements (FTAs). USTR Schwab announced the amendments to the Peru agreement at the same time as her announcement that USTR has finalized the text of the May 2007 bipartisan agreement on US trade policy between the Administration and Congress. The text of the Congressional-Administration agreement has not yet been released. The text of this agreement includes specific amendments that Democrats would like to see reflected in the pending FTAs. The agreement will also serve as a guide for the Administration and for Congress when dealing and consulting on future trade agreements.

According to USTR, the amended US-Peru FTA does not require another signature by the President; the bilateral agreement will thus be considered under Presidential Trade Promotion Authority (TPA). Because the agreement was completed and signed before TPA's June 30 expiry, Congress can only conduct a straight up-or-down vote on the FTA. USTR Schwab expressed hope that Congress would consider and vote on the US-Peru FTA in July, before Congress recesses for the summer in August.

Also on June 25, Peruvian Trade Minister Mercedes Araoz signed the set of amendments to the US-Peru FTA that Peru agreed to renegotiate and accept. Minister Araoz announced that the Peruvian Congress would immediately receive the amendments in order to approve the changes in the bilateral agreement, and would likely vote on the amendments on June 27-28.

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USTR Schwab's announcement on amendments to the labor and environmental provisions of the US-Peru FTA gives the bilateral agreement an added boost in Congress and makes it more likely that US legislators will approve the agreement once it reaches the voting floor. The Administration's willingness to renegotiate the labor and environmental provisions of the agreement and the Government of Peru's agreement to accept such amendments also strengthen prospects for Congressional approval.

USTR has released the draft text of the amended US-Peru Trade Promotion Agreement, and it is available at: http://www.ustr.gov/Trade_Agreements/Bilateral/Peru_TPA/Final_Texts/Section_Index.html.

United States and Georgia Sign TIFA

On June 20, 2007, the United States and the Republic of Georgia signed a Trade and Investment Framework Agreement (TIFA) meant to strengthen trade and investment relations between the two countries. Deputy United States Trade Representative (DUSTR) John Veroneau and Georgian Minister of Economic Development George Arveladze signed the agreement. Upon signing the agreement, DUSTR Veroneau stated that "increased trade and investment between [the] two countries will strengthen Georgia's efforts to reform and develop its economy and assist in its efforts to expand export markets."

According to USTR, the TIFA will establish a forum for discussion of bilateral trade and investment relations. The TIFA also mandates the formation of a joint US-Georgia Council on Trade and Investment which will address trade and investment issues including trade capacity building, intellectual property, labor, and environmental issues. The Council will also identify and work to remove impediments to trade and investment flows between the United States and Georgia. The first meeting of the Council took place on June 21 in Washington, DC.

TIFAs are limited trade agreements that establish joint councils of trade and economic officials to discuss trade issues. Under US trade policy, TIFAs are usually the first step towards the initiation of formal bilateral or regional Free Trade Agreement (FTA) negotiations. The next step in the process would be for the countries to enter into a Bilateral Investment Treaty (BIT), which protects the rights of foreign subsidiaries and investors in the countries' home markets. According to USTR, total goods trade between the United States and Georgia totaled USD 369 million in 2006, and US foreign direct investment in Georgia was valued at USD 70 million in 2005.

USTR has not made an announcement that it plans to pursue a formal FTA with Georgia in the future. The TIFA, however, indicates that the United States is, at minimum, exploring the option of increased and strengthened trade ties with the former Soviet state. The US focus on Georgia has grown over the past several years: according to USTR, the United States and other international donors are assisting with

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Georgia's transition to democracy, creation of a functioning market economy, and poverty reduction. The United States has provided Georgia USD 1.7 billion in assistance since 1991; US assistance is targeted to support Georgia's democratic, economic, and security reform programs. Although the June 30 expiry of Presidential Trade Promotion Authority (TPA) prevents USTR from pursuing formal FTA negotiations with Georgia in the short term, the newly-signed TIFA allows the United States to begin FTA talks when the US political climate again allows for them. With TPA renewal unlikely in 2007, a US FTA with Georgia is likely a long-term goal, and is a sign that USTR will likely pursue more TIFAs and BITs with US trading partners in the absence of TPA and FTA negotiations.

United States and Vietnam Sign TIFA

On June 21, 2007, the United States and Vietnam signed a Trade and Investment Framework Agreement (TIFA) that is meant to expand and deepen bilateral trade and investment ties between the two countries. Deputy United States Trade Representative (DUSTR) Karan Bhatia Vice Minister of Trade Nguyen Cam Tu signed the agreement. Under the TIFA, the United States and Vietnam will discuss implementation of the 2001 US-Vietnam Bilateral Trade Agreement (BTA) and Vietnam's World Trade Organization (WTO) commitments, as well as explore new initiatives to increase trade in industrial and agricultural products and services, and to encourage further investment between the two countries.

At the signing ceremony, DUSTR Bhatia stated that "the TIFA signing marks another important step forward for both countries in the steady expansion of our economic relations" and noted that the TIFA will support Vietnam's domestic economic reform agenda and create new opportunities for US and Vietnamese businesses. According to USTR, two-way goods trade between Vietnam and the United States totaled USD 9.7 billion in 2006, an increase of 23 percent from 2005. In 2006, the United States exported USD 1.1 billion worth of goods to Vietnam.

US and Vietnamese officials signed the TIFA prior to a White House visit by Vietnamese President Nguyen Minh Treit. The United States and Vietnam launched TIFA negotiations in March 2007. According to USTR, the TIFA was negotiated under the Enterprise for ASEAN Initiative (EAI); President Bush launched the EAI to further strengthen ties with countries in Southeast Asia. Under the EAI, the United States has also signed TIFAs with Brunei, Cambodia, Indonesia, Malaysia, Philippines, and Thailand, and an FTA with Singapore. Although the June 30 expiry of Presidential Trade Promotion Authority (TPA) prevents USTR from formally pursuing an FTA with Vietnam in the short-term, the TIFA indicates that United States favors exploring a future FTA with Vietnam. Under the EAI, the United States has taken steps to increase its economic presence in the growing Southeast Asian region, and Vietnam

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would serve as a commercially-viable trading partner. The United States and Vietnam have already laid a firm foundation for a future FTA: the two countries enjoy a strong economic relationship and the United States has praised Vietnam for the "substantial progress" that Vietnam has made to implement its bilateral and WTO commitments and to reform and open its economy. A BIT with Vietnam followed by an FTA are likely longer-term USTR initiatives, particularly considering that the United States Department of Commerce still designates Vietnam a "non-market economy" under US trade laws.

Members of Congress Sound Off on Labor, Automobile Provisions in KORUS FTA

Members of Congress continue to voice their opposition to the US-Korea (KORUS) Free Trade Agreement (FTA) over labor and automobile provisions within the agreement. On June 13, 2007, several US legislators and labor leaders held a press conference at which they expressed their opposition to the KORUS FTA. Rep. Dan Lipinski (D-IL) stated that Congress should not approve the KORUS FTA because it is another US trade agreement in a "long line of trade agreements where the US government doesn't stand up for workers." Rep. Bruce Braley (D-IA) added that "irresponsible trade policies have cost American jobs" and that "agreements like the [KORUS FTA] that permit barriers to American agriculture and manufacturing are not fair." Rep. Braley opined that "it is time for a new direction on trade that ensures American workers are able to compete under the same set of rules as their foreign counterparts." Korean labor leaders and the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) also expressed their opposition to the bilateral agreement. AFL-CIO global economic specialist Jeff Vogt said that the FTA does not provide worker rights protection in Korea. Vice President of the Korean Confederation of Trade Unions Young Koo Heo echoed Vogt's opinion that conditions for workers in Korea will not be protected by the bilateral agreement.

Legislators have also voiced their opposition to the KORUS FTA based on the automobile provisions of the agreement. Rep. Phil Hare (D-IL) has argued that "completely opening up our markets to Korean automakers while their government continues to take steps to deny US imports is a slap in the face to struggling US autoworkers." Rep. Mike Michaud (D-ME) has stated that the FTA "will put thousands of good-paying U.S. manufacturing jobs at risk, particularly in the auto industry." Sen. Hillary Clinton (D-NY) has already announced that she will oppose the KORUS FTA once it reaches the Senate floor because she believes the agreement will harm the US automotive industry. On June 13, 2007, Democratic and Republican members of the House Foreign Affairs Committee stated that the KORUS FTA would lead to a further opening of the US market to Korean automobile imports without eliminating Korean trade barriers to increased US market access in the Korean automobile sector. Committee member Rep.

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Donald A. Manzullo (R-IL) stated that “the [KORUS] agreement's got problems." Committee member Rep. Brad Sherman (D-CA) agreed that the KORUS FTA automobile provisions must be addressed. The legislators made their statements at a June 13 committee hearing on the KORUS FTA and called on the Bush Administration to renegotiate the automotive provisions of the KORUS FTA.

Legislative opposition to the KORUS FTA over the agreement’s automobile provisions comes as no surprise. During the FTA negotiations, trade officials from both sides grappled with automobile trade, a fairly contentious issue in the trade talks. Opposition to the agreement from numerous members of Congress indicates the pressure they are receiving from the US automobile industry; US automakers have already announced that the agreement does not create a level playing field and instead opens the US market to increased Korean auto imports without granting US auto manufacturers increased access to the Korean market.

These Congressional concerns come on the heels of the May agreement between the Bush Administration and Congress to include new labor and environmental provisions in all US FTAs. The statements regarding labor provisions in the KORUS FTA likely echo broader Democratic calls to ensure that all US FTAs include language on labor reflective of the trade policy agreement.

United States and Rwanda Initiate Bilateral Investment Treaty Negotiations

The United States and Rwanda have begun negotiations for a Bilateral Investment Treaty (BIT). On June 14, 2007, the Office of the United States Trade Representative (USTR) and the US Department of State announced that the United States and Rwanda have begun formal negotiations toward a BIT meant to strengthen investor protections and encourage the continuation of market-oriented economic reforms in Rwanda. In announcing the negotiations, Deputy USTR Karan Bhatia stated that “foreign direct investment can be a powerful tool to stimulate economic development, even in the least developed economies, where government is committed to protect and encourage such investment.” He noted that Rwanda has opened its economy, improved its business climate, and “is capturing the attention of a growing number of US companies.” According to Bhatia, a US-Rwanda BIT will help enhance “the confidence of current and prospective US investors in Rwanda and, ultimately, help promote the new investment that is essential to Rwanda’s future.” Assistant Secretary of State for Economic, Energy, and Business Affairs Daniel Sullivan added that “an investment treaty would complement the progress Rwanda has already made on economic reform ... [and] would demonstrate Rwanda's commitment to an open investment policy and deepen our economic relationship."

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According to USTR, the BIT negotiations with Rwanda will be the first bilateral investment treaty talks the United States has held with a sub-Saharan African country in nearly a decade. Bhatia stated that the BIT negotiations will continue over the coming weeks. USTR and the State Department will co-lead the US-Rwanda BIT negotiations. According to USTR, a BIT would strengthen the existing bilateral economic relationship between the United States and Rwanda. In 2006, two-way United States-Rwanda goods trade was valued at USD 21 million. US imports from Rwanda were valued at USD 8.9 million in 2006 whereas US exports to Rwanda totaled USD 12 million in 2006.

BITs have three main purposes: (i) to protect investment abroad in countries where investor rights are not already protected through existing agreements; (ii) to encourage the adoption of market-oriented domestic policies that treat private investment in an open, transparent, and non-discriminatory way; and (iii) to support the development of international law standards consistent with these objectives. USTR notes that BITs also provide investors six core benefits: (i) requiring that investors and their "covered investments" be treated as favorably as the host party treats its own investors and their investments or investors and investments from any third country (non-discrimination); (ii) establishing clear limits on the expropriation of investments and provide for payment of prompt, adequate, and effective compensation when expropriation takes place; (iii) providing for the transferability of investment-related funds into and out of a host country without delay, using a market rate of exchange; (iv) restricting the imposition of performance requirements as a condition for the establishment, acquisition, expansion, management, conduct, or operation of an investment; (v) giving covered investments the right to engage the top managerial personnel of their choice, regardless of nationality; and (vi) giving investors from each party the right to submit to international arbitration an investment dispute with the other party's government.

The announcement of BIT negotiations comes one year after the United States and Rwanda signed a Trade and Investment Framework Agreement (TIFA). On June 7, 2006, the United States and Rwanda signed a TIFA meant to improve trade and investment ties between the two economies. Deputy USTR Bhatia and Rwandan Minister of Commerce, Industry, Investment Promotion, Tourism, and Cooperatives Protais Mitali signed the TIFA. Under the TIFA, both countries created a US-Rwandan Council on Trade and Investment that addressed trade and investment issues, including trade capacity building, intellectual property rights, labor, investment, and environmental issues. According to USTR, the idea of a United States-Rwanda BIT arose out of the TIFA discussions.

The US-Rwanda BIT is indicative of USTR's strategy in sub-Saharan Africa. On June 5, 2006, Deputy USTR Bhatia stated that the United States plans to explore new BITs and TIFAs with African countries, but that the United States is not yet ready to initiate formal Free Trade Agreement (FTA) negotiations with

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these countries. US BITs and TIFAs typically indicate that the United States is considering future FTAs with its BIT and TIFA partners, but as Bhatia noted, the United States will not likely initiate formal bilateral or regional FTA negotiations in the near future. The United States currently has five BITs in force in sub-Saharan Africa: Cameroon, the Democratic Republic of Congo, Mozambique, the Republic of Congo, and Senegal.

USTR Begins "Outreach" Strategy to Congress on Completed FTAs

The Office of the United States Trade Representative (USTR) has called on members of Congress to approve several completed Free Trade Agreements (FTAs), including the US-Colombia FTA and the US-Korea (KORUS) FTA. On June 5, 2007, USTR Susan Schwab called on Congress to approve the US-Colombia FTA despite the violence against trade unions in Colombia. Schwab stated that the Bush Administration is just as concerned as members of Congress are on the violence but added that the Administration will work with Colombia President Alvaro Uribe to address the violence. Schwab also stated that of the three completed Latin American FTAs – including the US-Peru and the US-Panama FTAs – the US-Colombia FTA would provide the United States with the most significant commercial benefits. Schwab, however, asserted that the Peru and Panama FTAs were also commercially significant and called on Congress to approve these agreements.

USTR's outreach to legislators comes in the midst of criticism from members of Congress over the violence in Colombia. On June 7, 2007, five Democratic Representatives – Reps. Jan Schakowsky (D-IL), Jim McGovern (D-MA), Linda Sanchez (D-CA), Betty Sutton (D-OH) and Phil Hare (D-IL) – stated that the high rate of violence against trade unionists in Colombia makes Colombia "an unfit FTA partner for the United States." The legislators, joined by labor and human rights leaders, made their statements at a press conference. Rep. Schakowsky urged Colombian President Alvaro Uribe to return to Washington in 2008; between now and 2008, Schakowsky opined that Congress could assess the progress Uribe's administration makes in fighting anti-union violence.

Regarding the Peru FTA, Schwab stated that Congress could consider the bilateral agreement before members recess in August. Schwab noted that the Administration is finalizing language in the US-Peru FTA that reflects the trade policy deal that the Administration and members of Congress reached in May. She also noted that the Administration is finalizing language in the US-Panama FTA and will complete its work on the agreement before the end of June, at which time President Bush will sign the agreement.

USTR officials have also held private meetings with legislators to discuss the completed KORUS FTA, and Deputy USTR Karan Bhatia has organized meetings with members of Congress who are

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"sympathetic to the [KORUS] trade pact to lay the groundwork" for Congressional passage. Bhatia noted that the FTA enjoys support among US businesses but added that the United States must work with Korea on the FTA's new provisions on labor, the environment and other issues that reflect the Congressional-Administration deal on US trade policy.

USTR's outreach efforts on these four completed FTAs comes as Congress considers extending Presidential Trade Promotion Authority (TPA). TPA is scheduled to expire on June 30, 2007, and Congressional leaders – such as Senate Finance Committee Chairman Max Baucus (D-MT) – have already indicated that the likelihood of Congressional extension of TPA is slim. With TPA in jeopardy, USTR thus is focusing on ensuring Congressional approval of completed agreements. Congress could consider the less controversial Peru FTA before the August recess, and it thus could serve as a "warm-up" to Congressional consideration of other FTAs. Congressional sources opine that the US-Panama FTA does not contain contentious issues that would prevent Congress from approving it, and it therefore might follow the Peru FTA through Congress.

The KORUS and the Colombia FTAs will likely take longer. In order to garner approval for the KORUS FTA, the Administration will have to demonstrate to members of the Congress that the FTA addresses specific legislator concerns, including automobile trade provisions. The US auto industry has expressed its dismay with the auto provisions of the KORUS FTA and key members of Congress – such as House Ways and Means Trade Subcommittee Chair Sander Levin (D-MI) – have indicated that they will not approve the agreement until it addresses their concerns. The US-Colombia FTA seems to be even more contentious; members of Congress have expressed their concern with the violence in Colombia, and it will likely take more than USTR assurances to appease Congress.

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Multilateral

Multilateral Highlights

Commerce Secretary Blames India for Doha Failure; USTR Schwab, Indian Commerce Minister Willing to Work Past Differences

On June 27, 2007, United States Trade Representative (USTR) Susan Schwab urged members of the Group of Four (G-4) countries (United States, the EU, Brazil, and India) and the World Trade Organization (WTO) Members to continue Doha negotiations and to "commit [themselves] now to turning dialogue into action." Schwab made her statements at a meeting of the US-India Business Council. She also stated that the breakdown between members of the G-4 at the June 21 meeting in Potsdam, Germany could be attributed to "temporary" differences in negotiating positions. The G-4 countries blamed each other for the impasse at the Potsdam talks. Although US officials signaled significant progress with the EU, the two parties blamed the failure on India and Brazil's alleged unwillingness to agree to further concessions on non-agricultural market access (NAMA). India and Brazil, meanwhile, blamed the talks' collapse on US and EU unwillingness to cut farm subsidies. Schwab expressed her hope that WTO Members would be able to get "negotiations back on track" and she called on India to resume its role as a leader for developing countries in the Doha Round, stating that India should act in developing countries' best interests.

However, at the same US-India Business Council meeting, US Secretary of Commerce Carlos Gutierrez blamed India for the stalled multilateral negotiations and stated that India must undertake more commitments in order for the Doha Round to advance. In his speech, Gutierrez stated that the United States is "prepared to do its part to help ensure the success of the Doha Round" but added that developing countries – including India and Brazil – must "step up" and work with developed economies in reaching an agreement on agriculture and non-agricultural market access (NAMA), the two most contentious issues in the Doha talks.

Indian Commerce Minister Kamal Nath also spoke at the US-India Business Council meeting and noted that India was prepared to engage in "renewed talks" with the United States, the EU and other WTO Members. Nath added that developed economies at the WTO must undertake "preparatory work in order to understand and respect the sensitivities of millions of subsistence farmers in India."

The breakdown in the G-4 talks in Potsdam further stalled a Doha Round that was already moving at a slow pace and made it clear that gaps between WTO Members' negotiating positions – especially

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between developed and developing economies – are still large enough to derail multilateral talks. Following the finger-pointing in Potsdam, G-4 trade officials have softened their rhetoric somewhat to indicate that they are still willing to work towards the conclusion of the Doha Round but that they expect more from their trading partners. The contrast in positions between Amb. Schwab and Sec. Gutierrez likely reflects not an internal rift among the Bush Administration but rather the different roles that each must play within the government: Gutierrez speaks only through the narrow prism of US business interests, whereas Schwab must have a broader, more diplomatic view that balances US business concerns with the goal of a successful Doha Round.

Regardless, the G-4 members' "wait-and-see" approach may prove intractable: developed economies such as the United States and the EU are unwilling to move until developing economies afford them more NAMA whereas developing economies such as India and Brazil will not move unless developed economies offer to cut their agriculture subsidies and support. Unless either side makes concessions and decides to improve their offer based on other WTO Members' demands, then it is likely that WTO Members will continue to play the "blame game" and not offer any new proposals in the short-term.

Antigua and Barbuda Seeks to Impose Trade Sanctions Against US Over Internet Gambling Restrictions

On June 20, 2007, Antigua and Barbuda announced that it will seek authorization from the World Trade Organization (WTO) to impose USD 3.4 billion in annual trade sanctions against the United States for its failure to comply with a WTO ruling (DS285) against US restrictions on Internet gambling. Antigua and Barbuda will submit its request at the July 24 meeting of the WTO Dispute Settlement Body (DSB). Antigua and Barbuda alleges that the sanctions it seeks stem from "the lost trade opportunities its online gambling firms report arising from continued US restrictions." Antigua and Barbuda also stated that it would impose the sanctions by lifting copyright, patent trademark, and other intellectual property protection on US goods; it would not impose additional duties on US goods because it wishes not to increase the cost to consumers of goods imported to the island nation.

Antigua and Barbuda's request to the WTO centers on US restrictions on Internet gambling and whether the United States has complied with a WTO Appellate Body (AB) ruling that the United States' restrictions violated its obligations under the WTO's General Agreement on Trade in Services (GATS). Antigua claims that the United States has failed to implement the April 2005 AB ruling. The WTO gave the United States until April 3, 2006, to bring its measures into compliance with the AB report. On May 4, 2007, the United States announced that it will modify its GATS schedule to rule out any market access

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commitments on gambling services; the United States contends that this scheduling change was the only way in which the United States could fully comply with the WTO dispute ruling and maintain its ban on Internet gambling. Under the GATS, any WTO member that proposes to modify its schedule of services commitments must enter into negotiations with any WTO Member affected by the changes, "with a view to reaching agreement on any necessary compensatory adjustment" in market access for services. If the WTO Members cannot reach an agreement on proper compensation for the changes in the services schedule, then affected WTO Members can request that the WTO determine the amount of compensation in arbitration proceedings. Thus, Antigua and Barbuda has also requested consultations with the United States to discuss compensation for US changes to its services schedule.

Antigua and Barbuda is not the only WTO Member to find the United States at fault in the gambling dispute. On June 22, 2007, Australia requested consultations with the United States to discuss compensation for the United States' decision to alter its WTO services schedule in order to rule out concessions on cross-border Internet gambling services. Joining Antigua and Barbuda and Australia in their requests for compensation consultations with the United States are the EU, India, Japan, Costa Rica, and Canada. Under WTO rules, the requesting parties will have until September 22, 2007, (i.e., three months) to reach an agreement with the United States; if further time is needed to continue discussions, the WTO Members can agree to an extension of time.

G-4 Ends Potsdam Talks, Members Blame One Another for Impasse

The Group of Four (G-4) talks in Potsdam, Germany have abruptly ended, further stalling the conclusion of World Trade Organization (WTO) Doha Round. Attending Ministers – including United States Trade Representative (USTR) Susan Schwab, EU Trade Commissioner Peter Mandelson, Indian Commerce Minister Kamal Nath, and Brazilian Foreign Minister Celso Amorim – ended the talks after little progress was achieved in reaching a breakthrough on agriculture and non-agricultural market access (NAMA).

The G-4 countries blamed one another for the impasse. US officials stated that they made significant progress with the EU, and the two parties blamed India and Brazil for the failure, stating that India and Brazil were unwilling to agree to open further their markets to manufactured goods. India and Brazil, meanwhile, blamed the talks' collapse on US and EU unwillingness to cut farm subsidies. USTR Schwab and US Agriculture Secretary Mike Johanns issued a statement in which they noted that "the United States is not giving up on the Doha Round" and suggested that Indian and Brazilian officials had walked out of the G-4 talks. Commissioner Mandelson stated that "it emerged from the discussion on NAMA that we would not be able to point to any substantive or commercially meaningful changes in the tariffs of the

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emerging economies, as a reasonable return on what [the EU is] paying into the round." Minister Amorim stated that "it was useless to continue the discussions based on the numbers that were on the table."

Reaction to the breakdown was swift. WTO Director General Pascal Lamy stated that "convergence among [G-4] Members would have been helpful to pave the way towards multilateral convergence . . . but helpful does not mean indispensable." Lamy added that the Doha negotiation "is an endeavor among the 150 Members of the WTO . . . [and] I now call on the members of the G-4 to contribute to the multilateral negotiating process." In the United States, Senate Finance Committee Chairman Max Baucus (D-MT) applauded USTR Schwab for "not accepting a bad Doha deal" and added that "India and Brazil offered nothing of substance to US farmers, ranchers, manufacturers, and services suppliers." Senate Agriculture Committee Chairman Tom Harkin (D-IA) expressed "disappointment that discussion among trade ministers broke down, particularly since it now looks unlikely that an agreement will be reached any time soon." He further opined that "it is crucial that the US proposal in domestic agricultural support be matched by similar improvements in offers from [US] trading partners in market access and export competition." In a press release, the National Association of Manufacturers (NAM) stated that "the United States has always stood for ambitious goals in trade negotiations but only for a deal that creates genuine, new market access," and that it "hopes that upon reflection, all countries will decide that the time for reciprocal negotiations has come." The Global Services Coalition urged WTO Members to "consider the gravity of this moment and ensure that meaningful discussions continue in Geneva and substantively address the three main pillars; services, agriculture and NAMA in the coming weeks." The US Chamber of Commerce stated that it was disappointed at the news from Potsdam and that "the United States was almost alone in putting a serious offer on the Doha negotiating table . . . [and] US ambitions have not been matched."

Initial optimism at the possibility of a breakthrough in the Potsdam talks quickly dissipated when the G-4 members made clear that they were unwilling to move beyond some aspects of their current offers. Rhetoric following the breakdown mirrored earlier Doha failures. WTO Direction General Lamy expressed unwarranted optimism that a breakthrough is "imminent," while each side blamed the other for the talks' failures, publicly supported future negotiations, yet refused to offer any real concessions to motivate the Doha negotiations. Although the G-4 members again indicated a willingness to continue the Doha talks, this latest impasse is unlikely to be resolved within the next several days, especially before the June 30 deadline of Presidential Trade Promotion Authority (TPA). Congressional insiders had predicted that a breakthrough in Potsdam could have provided Congress with the impetus to extend TPA, if only to complete a final Doha agreement. The breakdown in G-4 talks, however, indicates that large gaps still

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exist between WTO Members' offers and that more time is needed to resolve the contentious issues on which these gaps lie, namely agriculture subsidies and NAMA. The abrupt end to the G-4 talks in Potsdam thus further impairs the Doha Round's prospects for completion in the near future. The G-4 is scheduled to continue its meetings through the end of the week and WTO Director General Lamy has tentatively scheduled a ministerial meeting for all WTO Members in mid-July. At this point, however, it remains unclear what good further talks will do. Each important deadline has come and gone with little progress, indicating that few WTO Members, if any, are truly interested in completing the Round any time soon.

G-8 Meetings Result in Little Movement as G-4 Readies for Further Talks on Agriculture, NAMA

Senior trade officials from the Group of Eight (G-8) have urged World Trade Organization (WTO) Members to accelerate trade negotiations as part of the Doha Round and reach a final comprehensive agreement by the end of 2007. Following a three-day meeting in Germany, on June 8, G-8 officials issued a public statement in which they reasserted that the success of the WTO round is crucial. The G-8 includes Germany, the United States, Canada, the United Kingdom, France, Italy, Japan, and Russia. G-8 officials also pledged "to work with a high level of ambition in all areas of the [Doha Development Agenda] and call on all WTO members to demonstrate constructive flexibility to bring these negotiations to a prompt successful conclusion." The officials also acknowledged that agriculture remains the most contentious issue.

Meanwhile, trade officials from the Group of Four (G-4) met in Paris from June 12-15 and finalized a draft agriculture paper that describes cuts in tariffs and farm subsidies. That paper serves as the basis for current G-4 ministerial discussions in Potsdam, Germany. Attending the June 19-22 G-4 meetings are United States Trade Representative (USTR) Susan Schwab, EU Trade Commissioner Peter Mandelson, Brazilian Foreign Minister Celso Amorim, and Indian Commerce Minister Kamal Nath. The officials have set themselves an informal end-June deadline to come to reach a consensus so that WTO Members can secure a final Doha agreement by end-July. G-4 officials have stated that engagement among one another has been positive but analysts opine that the G-4 has not made enough concrete progress needed to ensure a breakthrough by the end of June.

Separately, at a June 8 meeting of the WTO non-agricultural market access (NAMA) negotiating group, trade officials from developed and developing countries squared off over tariff cuts. WTO Members have agreed to use the Swiss harmonization formula for tariff cuts on manufactured products: under the Swiss

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formula, the lower the coefficient, the higher the tariff cuts. Higher tariffs would also be subject to deeper cuts. Thus, if a country has a 15 coefficient, it would not be allowed to maintain tariffs on industrial goods above 15 percent. At the June 8 meeting, an alliance of developing countries called "NAMA-11" proposed that developed countries accept a 10 coefficient for reducing their tariffs whereas developing countries should be granted a 35 coefficient. The NAMA-11 also demanded that developing countries be offered additional flexibilities beyond the 35 coefficient to exclude certain products from the tariff cuts or subject them to smaller tariff cuts. On the other side, developed countries including the United States and the EU insisted that developed countries accept a 10 coefficient for reducing their tariffs whereas developing countries should be granted a 15 coefficient. The lack of consensus between developed and developing counties has forced the Chair of the NAMA Negotiating Group Don Stephenson to draft a negotiating text that will serve as the basis for negotiations in Geneva meant to produce a breakthrough agreement on NAMA by end-July.

WTO Members seem to be working under an end-June deadline for the completion of negotiations followed by an end-July agreement on a final Doha accord. The timeline is an ambitious one, given that gaps still exist between WTO Members on agriculture and NAMA support. With little consensus in both these areas, it seems unlikely that WTO Members can achieve a final agreement during the summer. G-8 and G-4 members seem committed to achieving consensus as soon as possible. The rhetoric, however, is far from actual commitments. Without further movement or new offers from key WTO players (e.g., the United States and the EU), it remains to be seen whether trade officials can band together and reach a final Doha agreement.

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