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Free Trade Agreements and the WTO

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GATT (Now the WTO) Created After World War II



Why?

To try to end the anarchy in international trade that existed prior to the War.

- Essentially no international rules prior to 1948
- Tariffs could be changed at will (Smoot Hawley)
- Widespread use of non-tariff barriers (NTB's)
- *Discrimination among countries through preferential trade deals*

GATT Article I



“Most Favored Nation” Principle -- Treat All Other GATT (WTO) Members Alike.

But Article XXIV allows exceptions for Free Trade Agreements (FTA's) and Customs Unions under certain circumstances.

Relatively few FTAs globally prior to 2000. U.S. had just Israel, Canada, and then NAFTA.

US Policy Has Driven Growth in FTAs



- Proliferation of FTAs began in earnest with U.S. policy of “competitive liberalization.”
 - Expand trade policy beyond global trade agreements to regional and bilateral deals and use with WTO to expand trade liberalization.
 - Example: Expand NAFTA ➡ leads to FTAA/APEC
➡ leads to global deal in WTO.
 - At least, that was the theory.

US Started Strong, But Not Much Recently

FTA	Year Negotiations Initiated	Date Entered into Force
Israel FTA	1984	9/1/85
Canada FTA	1986	1/1/89
NAFTA	1991	1/1/94
Jordan FTA	2000	12/17/01
Singapore FTA	2000	1/1/04
Chile FTA	2000	1/1/04
Australia FTA	2003	1/1/05
Morocco FTA	2002	1/1/06
Bahrain FTA	2004	8/1/06
El Salvador - CAFTA	2003	3/1/06
Honduras - CAFTA	2003	4/1/06
Nicaragua - CAFTA	2003	4/1/06
Guatemala - CAFTA	2003	7/1/06
Dominican Rep - CAFTA	2003	3/1/07
Costa Rica - CAFTA	2003	1/1/09
Oman FTA	2005	1/1/09
Peru	2003	2/1/09
Colombia	2004	[signed 2006]
Panama	2004	[signed 2007]
Korea	2006	[signed 2007]

Trade Agreements No Longer in Vogue



- Political opposition to trade agreements in the U.S. limited negotiations: FTAA and APEC lost momentum and died.
- TPA expired in 2007; no serious effort to renew.
- In fact, only current major trade bill would mandate re-negotiation of all existing trade agreements, including the WTO.
- And Doha Round is stuck in neutral.

U.S. Being Left Behind



- WTO estimates that there will be over 600 bilateral or regional trade agreements have in place by 2010. As of the end of 2008, 230 were in force and, of those, the U.S. was a party to 17.
- The WTO also estimates that about 400 new agreements are either pending notification to the WTO, are being negotiated, or are in the proposal stage.

Why Should We Care?



- U.S. export interests put at a competitive disadvantage.
- Many foreign FTAs probably illegal.

GBI Study



- Examined impact of ten non-U.S. trade agreements: EU-Chile, EU-Mexico, Japan-Mexico, Australia-Chile, Japan-Chile, China-ASEAN, China-New Zealand, Korea-Chile, Japan-ASEAN and Canada-Colombia.
- Looked at impact on trade between the parties to the agreements and trade between those parties and the United States.
- Also examined WTO compatibility of those FTAs.
- Study carried out by DTB Associates and Allen F. Johnson and Associates and focused on implications for products of interest to the sponsoring organizations: U.S. Wheat Associates (lead organization), Almond Board of California, National Pork Producers Council, Northwest Horticultural Council, USA Poultry and Egg Export Council, USA Rice Federation, U.S. Apple Association, U.S. Dairy Export Council, U.S. Grains Council, U.S. Meat Export Federation, U.S. Potato Board, U.S. Soybean Export Council.

Implications for U.S. Export Interests



- Impacts on U.S. export ag interests limited so far; two reasons:
 - Most agreements are relatively new and full preferential benefits have not yet taken effect.
 - Many agricultural products are sensitive for the importing country and have been excluded from the agreement.
(Raises WTO legitimacy questions)
- Some findings were noteworthy.

Implications for U.S. Export Interests



- EU-Chile:
 - EU imports of beef, pork and poultry from Chile expanded significantly as a result of TRQ concessions.
 - EU imports of apples, pears, cherries and almonds also expanded with the reduction or elimination of import duties.
 - Chilean imports of EU cheese, pork, potato chips and frozen processed potatoes also expanded as duties were reduced or eliminated.

Implications for U.S. Export Interests



- Japan-Mexico:
 - Japan significantly increased its imports of Mexican beef, pork and beef offal as a result of TRQ concessions and duty cuts.
- China-ASEAN:
 - ASEAN countries significantly increased their imports of apple, pears, and, in at least one of the ASEAN countries, poultry from China.

Implications for U.S. Export Interests



- Korea-Chile:
 - Korean imports of Chilean pork have increased significantly.
- Canada-Colombia:
 - If FTA enters into effect before the U.S.-Colombia FTA, Canadian exporters will gain a significant competitive advantage over the U.S. in the Colombian market for products such as wheat, pork and frozen processed potatoes.

Conclusions on Economic Impacts



- These represent results for a small sample of products from a small sample of FTAs, in which the full effects of the agreements have not yet been felt.
- If these FTAs are not compatible with WTO rules, the preferential duties and TRQs are, themselves, inconsistent with WTO rules.

Legality of FTAs Under the WTO



- Article XXIV.8(b) of the (GATT) defines a WTO-consistent free-trade area as being “a group of two or more customs territories in which duties and other restrictive regulations of commerce . . . are eliminated on substantially all trade” between or among parties.
- “Substantially all trade” not defined in any of the WTO agreements and never properly tested in the dispute settlement system.

Legality of FTAs Under the WTO



- Several Methods for determining whether “substantially all trade” is covered:
 - Measure percentage of pre-agreement trade subject to duty elimination.
 - Measure percentage of tariffs lines subject to duty elimination.
 - Require coverage of all sectors.
 - Coverage of products of significant export interest.
- Study examined all four. Ag sector a key element but all products included.

Legality of FTAs Under the WTO



	WTO Consistency Under Any One of Four Methodologies
EU - Chile	Probably Inconsistent
EU – Mexico	Probably Inconsistent
Japan – Mexico	Probably Inconsistent
Australia – Chile	Probably Consistent
Japan – Chile	Probably Inconsistent
China – ASEAN:	
China – Indonesia	Probably Inconsistent
China – Malaysia	Probably Inconsistent
China – Thailand	Probably Inconsistent
China – Philippines	Probably Inconsistent
China – New Zealand	Probably Inconsistent
Korea – Chile	Probably Inconsistent
Canada – Colombia	Borderline
Japan – ASEAN:	
Japan – Indonesia	Probably Inconsistent
Japan – Malaysia	Probably Inconsistent
Japan - Thailand	Probably Inconsistent
Japan - Philippines	Probably Inconsistent

Example of WTO Compatibility Analysis: Mexico-Japan



Percentage of pre-agreement trade subject to liberalization under the agreement

1. Country	2. Total Imports from Partner	3. Total Imports from Partner, Exempted Products	4. Exempted Products as Percentage of Total Imports	5. Total Agricultural Imports from Partner	6. Total Agricultural Imports from Partner, Exempted Products	7. Exempted Agricultural Products as Percentage of Total Imports
Japan	\$1,851 million	\$256 million	13.8%	\$407 million	\$216 million	53%
Mexico	\$9,059 million	\$94 million	1.0%	\$5,205,486	\$2,950,097	56%

Example of WTO Compatibility Analysis: Mexico-Japan



Percentage of tariff lines exempted from liberalization under the agreement

1. Country	2. Total Number of Tariff Lines	3. Total Number of Exempted Tariff Lines	4. Exempted Lines as Percentage of Total Lines	5. Total Number of Agricultural Tariff Lines	6. Total Number of Exempted Agricultural Tariff Lines	7. Exempted Agricultural Lines as Percentage of Total Agricultural Lines
Eight-Digit HS Level						
Japan	9261	1117	12.06%	1884	992	52.6%
Mexico	12171	902	7.41%	1385	614	44.3%
Six-Digit HS Level						
Japan	5113	469	9.2%	680	359	52.8%
Mexico	5113	393	7.7%	680	331	49%

Example of WTO Compatibility Analysis: Mexico-Japan



Coverage of Sectors

Japan

Exempted Products	Share of Total Value of Agricultural Production
Beef	9.55%
Swine	5.22%
Poultry	3.23%
Meat	0.02%
Milk	6.97%
Eggs	4.29%
Vegetables	3.40%
Potatoes	2.21%
Soy beans	0.54%
Beans	0.50%
Chestnuts	0.08%
Fruit	4.11%
Tea	2.77%
Wheat	1.49%
Barley	0.30%
Maize	0.43%
Rice	28.23%
Groundnuts	0.10%
Sugar	0.72%
Tobacco	0.96%
Total	75.10%

Mexico

Exempted Products	Share of Total Value of Agricultural Production
Beef	12.89%
Swine	7.51%
Milk	11.18%
Eggs	5.45%
Honey	0.32%
Fresh vegetables	1%
Potatoes	2.10%
Beans	2.41%
Bananas	5.33%
Wheat	1.47%
Barley	0.61%
Maize	11.09%
Rice	0.11%
Grain sorghum	2.30%
Safflower seed	0.12%
Soy beans	0.12%
Wool grease	0.01%
Sugar	4.31%
Tobacco	0.11%
Total	68.43%

Example of WTO Compatibility Analysis: Mexico-Japan



Coverage of Products of Significant Export Interest

Mexican Exemptions of Products of Export interest to Japan

2. Description of Exempted Product	3. HS Number	4. Percentage of Total Japanese Exports, 2008
Fish	03	0.16%
Crustaceans	1605	0.05%
Breads, Pasta	1905	0.02%
Sauces	2103	0.03%
Food Preps	2106	0.04%
Tobacco	24	0.04%
Organic Compounds	2931	0.02%
Medicine	3003 & 3004	0.05%
Motor Vehicles	87	2.66%

Japanese Exemptions of Products of Export interest to Mexico

2. Description of Exempted Product	3. HS Number	4. Percentage of Total Mexican Exports, 2008
Live Bovine Animals	0102	0.11%
Beef	0201 & 0202	0.05%
Pork	0203	0.11%
Fish	0302, 0303, 0304	0.06%
Dairy	0401-0406	0.03%
Honey	0409	0.03%
Fresh Grapes	080610	0.05%
Durum Wheat	100110	0.20%
Crustaceans	1605	0.02%
Sugar and sucrose	1701	0.14%
Sugar Confectionary	1704	0.17%
Chocolate Food Preps	1806	0.09%
Groats, Meal, Starch	1901	0.08%
Prepared, preserved vegetables	2001 -2005	0.09%
Fruit juice	2009	0.11%
Coffee, Tea Extracts	2101	0.05%
Sauces	2103	0.05%
Food Preps	2106	0.11%
Undenatured ethyl alcohol	2208	0.28%
Cigars, cigarettes	2402	0.10%

Foreign FTA's Under Negotiation or Planned



Australia – Chile

Australia – Gulf Cooperation Council (Saudi Arabia, the UAE, Kuwait, Qatar, Oman and Bahrain)

Australia – India

Australia – Indonesia

Australia – Malaysia (MAFTA)

Australia – New Zealand & ASEAN (Indonesia, Malaysia, Philippines, Singapore, Thailand, Brunei Darussalam, Vietnam, Lao PDR and Myanmar, and Cambodia)

Bimstec Countries (Bangladesh, Buthan, India, Myanmar, Nepal, Sri Lanka, Thailand)

Foreign FTA's Under Negotiation or Planned



Canada – CARICOM (Antigua & Barbuda, Bahamas, Barbados, Belize, Dominica, Granada, Guyana, Haiti, Jamaica, Monserrat, Trinidad & Tobago, St. Kitt, Nevis, St. Lucia, St. Vincent & the Grenidines, Surinam)

Canada – CA4 Countries (El Salvador, Guatemala, Honduras y Nicaragua)

Canada – Colombia

Canada – Dominican Republic

Canada – EFTA (Iceland, Norway, Switzerland, and Liechtenstein)

Canada – India

Canada – Jordan

Canada - Morocco

Foreign FTA's Under Negotiation or Planned



Canada – Panama

Canada – Peru

Canada - Ukraine

Canada – Singapore

Chile - Guatemala

Chile - Malaysia

Chile – Turkey

Chile - Vietnam

China – ASEAN (ACFTA)

(Brunei Darussalam, Indonesia,
Malaysia, Philippines, Singapore,

Thailand – ASEAN 6; Vietnam, Lao PDR
and Myanmar, and Cambodia – Newer
ASEAN)

Foreign FTA's Under Negotiation or Planned



China – Australia

China – Costa Rica

China – GCC

China – India

China – New Zealand

China – Peru

China – Singapore

China – Switzerland

China - Taiwan

Colombia – EFTA (Iceland, Norway, Switzerland,
and Liechtenstein)

Colombia - Guatemala

Costa Rica – Singapore

Costa Rica –China,

Foreign FTA's Under Negotiation or Planned



EFTA – GCC (EFTA: Iceland, Norway, Switzerland, and Liechtenstein)

GCC: Saudi Arabia, the UAE, Kuwait, Qatar, Oman and Bahrain)

EFTA – Ukraine

EU – ACP Countries (African, Caribbean and Pacific Group of States: Angola, Antigua and Barbuda, Belize, Cape Verde, Comoros, Bahamas, Barbados, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Congo (Brazzaville), Congo (Kinshasa), Cook Islands, Cote d'Ivoire, Cuba, Djibouti, Dominica, Dominican Republic, Eritrea, Ethiopia, Fiji, Gabon, Gambia, Ghana, Grenada,

Foreign FTA's Under Negotiation or Planned



EU – ACP Countries continued: Republic of Guinea, Guinea-Bissau, Equatorial Guinea, Guyana, Haiti, Jamaica, Kenya, Kiribati, Lesotho, Liberia, Madagascar, Malawi, Mali, Marshall Islands, Mauritania, Mauritius, Micronesia, Mozambique, Namibia, Nauru, Niger, Nigeria, Niue, Palau, Papua New Guinea, Rwanda, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Solomon Islands, Samoa, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Sudan, Suriname, Swaziland, Tanzania, Timor Leste, Togo, Tonga, Trinidad and Tobago, Tuvalu, Uganda, Vanuatu, Zambia, Zimbabwe)

Foreign FTA's Under Negotiation or Planned



EU – Andean (CAN) (Bolivia, Colombia, Ecuador and Peru)

EU – ASEAN (Indonesia, Malaysia, Philippines, Singapore, Thailand, Brunei Darussalam, Vietnam, Lao PDR and Myanmar, and Cambodia)

EU – Canada

EU – Central America (Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica and Panama)

EU – Gulf Cooperation Council (Saudi Arabia, the UAE, Kuwait, Qatar, Oman and Bahrain)

EU – India

EU – Indonesia

EU - Israel

EU – Mercosur (Brazil, Argentina, Uruguay and Paraguay)

Foreign FTA's Under Negotiation or Planned



EU – New Zealand

EU - Pakistan

EU – Philippines

EU – Southern / Eastern Africa

EU - Switzerland

EU – Syria

EU - Taiwan

EU – Ukraine

GCC – African Countries

(Morocco, South Africa, Congo, Sierra Leone,
Mozambique, Uganda, Mauritania, Senegal,
Zambia, Ivory Coast, Egypt)

GCC – Malaysia

GCC – New Zealand

Foreign FTA's Under Negotiation or Planned



India – ASEAN (Indonesia, Malaysia, Philippines, Singapore, Thailand, Brunei Darussalam, Vietnam, Lao PDR and Myanmar, and Cambodia)

India – Canada

India – Chile

India – EFTA (Iceland, Norway, Switzerland, and Liechtenstein)

India – Egypt

India – Gulf Cooperation Council (Saudi Arabia, the UAE, Kuwait, Qatar, Oman and Bahrain)

India – Hong Kong

India – Israel

India – Malaysia

India - New Zealand

Foreign FTA's Under Negotiation or Planned



India – Southern Africa Customs Union (SACU - Botswana, Lesotho, Namibia, South Africa and Swaziland)

India – Thailand

India - Turkey

India – South Korea

Indonesia – New Zealand

Israel – MERCOSUR (Brazil, Argentina, Uruguay and Paraguay)

Japan – ASEAN (AJCEPA) (Indonesia, Malaysia, Philippines, Singapore, Thailand, Brunei

Darussalam, Vietnam, Lao PDR and Myanmar, and Cambodia)

Japan – Australia

Japan – Brunei (JBEPA)

Foreign FTA's Under Negotiation or Planned



Japan – Chile

Japan – Gulf Cooperation Council (Saudi Arabia,
the UAE, Kuwait, Qatar, Oman and Bahrain)

Japan – India (CEPA)

Japan – Indonesia (JIEPA)

Japan – Israel

Japan – New Zealand

Japan – Pakistan

Japan - Peru

Japan – Philippines (JPEPA)

Japan – Switzerland

Japan - Taiwan

Japan – Thailand

Japan – Vietnam

Foreign FTA's Under Negotiation or Planned



Korea – ASEAN (Indonesia, Malaysia, Philippines, Singapore, Thailand, Brunei Darussalam, Vietnam, Lao PDR and Myanmar, and Cambodia)

Korea – Australia

Korea – Canada

Korea – China

Korea – EU

Korea – India

Korea – Japan

Korea - MERCOSUR

Korea – Mexico

Korea – New Zealand

Korea – Peru

Korea -Pakistan

Foreign FTA's Under Negotiation or Planned



Mexico – MERCOSUR (Brazil, Argentina, Uruguay
and Paraguay)

New Zealand – Hong Kong

Pakistan – Afghanistan

Pakistan – Indonesia

Pakistan – Mauritius

Panama – Guatemala

Peru - Chile

Peru – EFTA (Iceland, Norway, Switzerland, and
Liechtenstein)

Peru - Mexico

Peru – Singapore (PesFTA)

Peru - Taiwan

Foreign FTA's Under Negotiation or Planned



Peru - Thailand

Peru - Uruguay

Russia - Ecuador

Singapore – Gulf Cooperation Council (Saudi Arabia, the UAE, Kuwait, Qatar, Oman and Bahrain)

Singapore – Ukraine

Taiwan – Dominican Republic (DR)

Taiwan – Honduras – El Salvador

Taiwan – Singapore

Turkey - Jordan

Venezuela – Mercosur

Pending and Planned US FTAs



U.S. - Panama

U.S. - Colombia

U.S. - South Korea

Trans-Pacific Partnership (TPP) could add three
new country FTAs: New Zealand, Brunei and
Vietnam

Thank You



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