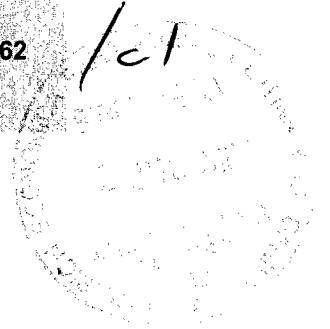


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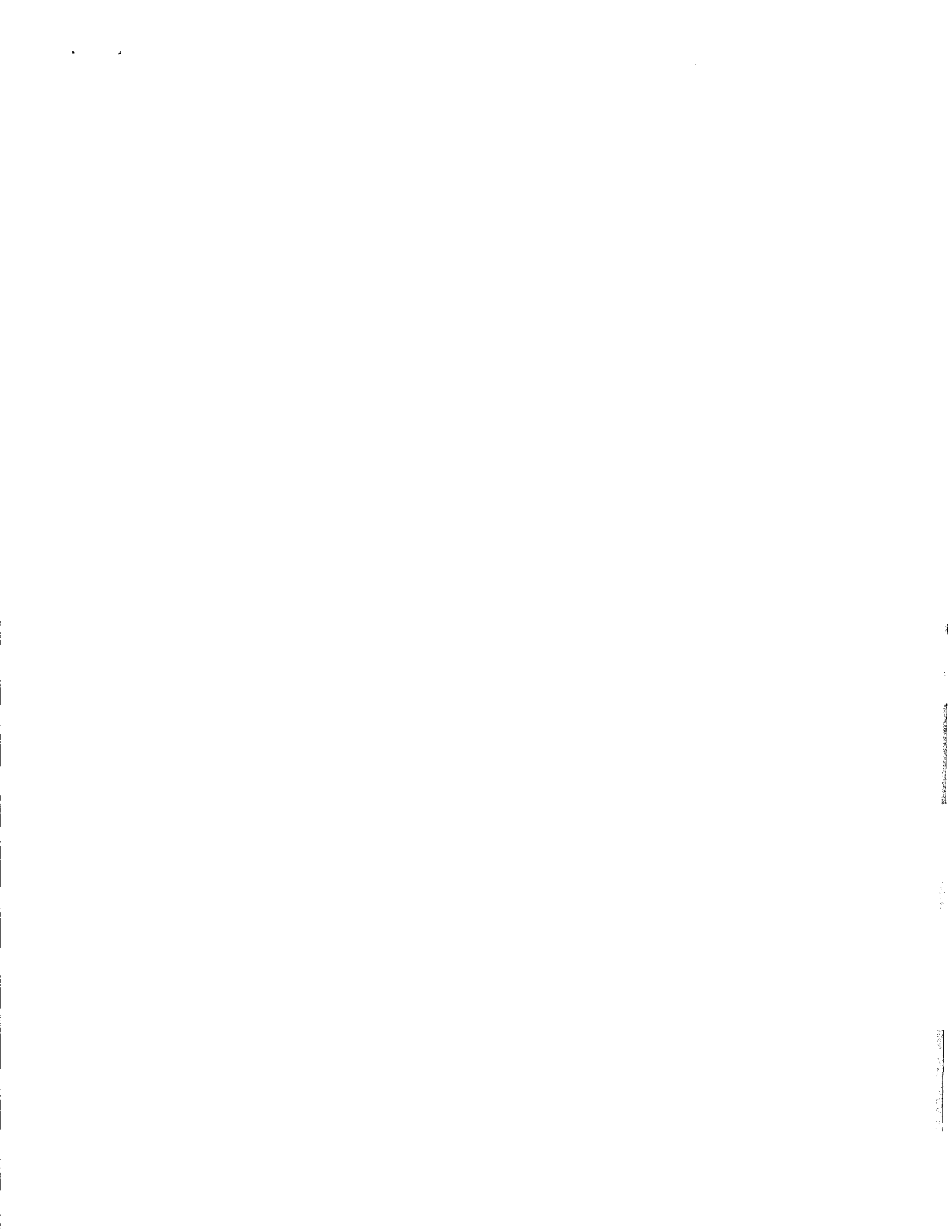
United States – Latin America and the Caribbean Trade Developments 2002



UNITED NATIONS



Washington D.C., February 2003



I. Introduction

This document provides an overview of the most relevant developments in United States trade policy relating to Latin America and the Caribbean in 2002. U.S. policy continued to promote trade liberalization through advancing negotiations on multiple fronts—globally (WTO), regionally (FTAA) and bilaterally or sub regionally—with a view that the various negotiations are mutually reinforcing and seek to create a “constructive competition for liberalization” among trade partners.

The passage of Trade Promotion Authority (TPA) included in the Trade Act of August 2002 enhanced the U.S. Administration’s ability to negotiate trade agreements. It provided an impetus to conclude bilateral negotiations with Chile as well as to advance a number of trade agreements currently under negotiation, including negotiations toward the Free Trade Area of the Americas (FTAA) and bilateral negotiations with Central America. The Trade Act also renewed the Generalized System of Preferences, extended the Caribbean Trade Partnership Act by liberalizing apparel provisions and augmented the Andean Trade Preference Act, increasing the list of duty free products.

On the multilateral front, in partial fulfillment of the Doha mandate, the U.S. tabled in 2002 two comprehensive proposals for the reduction of trade barriers on agricultural and non-agricultural goods.

Along with these trade liberalizing proposals, the U.S. Administration imposed temporary safeguard measures on key steel products to provide relief to the sectors of the steel industry that have been most affected by import surges. In addition, the U.S. Congress passed the 2002 Farm Security and Rural Investment Act that substantially increased U.S. domestic farm subsidies to shield domestic farm producers from competition from subsidized products from abroad.

II. Trade Policy Developments

This section provides an overview of the major events characterizing the US trade policy during 2002. The passage of the Trade Promotion Authority and the Farm Security Act and Rural Investment Act into law and the imposition of temporary safeguard tariffs for steel dominated the U.S. trade agenda. What follows is a description of the main highlights in what is relevant for Latin America and the Caribbean.

1. Trade Promotion Authority

On August 6, 2002 President Bush signed the Trade Act of 2002, which included Trade Promotion Authority (TPA), into law. Formerly known as “fast track”, TPA grants the President the authority to negotiate trade agreements that the U.S. Congress can only approve or reject, but cannot amend. The Act grants trade negotiating authority through June 1, 2005, with the possibility of a two-year extension.

In addition to TPA, the Trade Act also expanded the lapsed Andean Trade Preferences Act (ATPA) and Caribbean Basin Trade Preferences Act (CBTPA), renewed the U.S. Generalized System of Preferences (GSP) program, reauthorized the U.S. Customs Service and other trade agencies, and expanded Trade Adjustment Assistance (TAA).

Expansion of the TAA was crucial to successful passage of TPA. TAA provides a health insurance subsidy to laid-off workers. It is also the first time secondary workers, such as suppliers

to trade affected businesses, will become eligible. The TAA will automatically provide coverage to workers if they work at a plant that supplies 20 percent or more of its sales or production to a primary plant that is closed due to increased trade.

Workers whose plants move to countries covered by preferential trade agreements such as Jordan and Israel, and countries in the Caribbean, Africa or Andean region are eligible for coverage. Workers whose companies move elsewhere are only eligible if they prove there has been, or is likely to be, an increase in imports of the product in question.

Highlights

Consultative process The Trade Act contains more extensive consultation procedures than any past trade bill, requiring the Administration to keep Congress informed of important issues dealt with during the trade negotiations. The Trade Act formalizes existing consultation procedures, provides for consultation with Congressional committees, and requires additional special consultation procedures for sensitive products. These include an assessment by the U.S. International Trade Commission (ITC) of the impact of tariff reductions on producers of those products.

The Trade Act limits the ability of the President to unilaterally reduce tariffs on the most politically sensitive products. However, it does not inhibit the negotiators from addressing these products in a broader trade negotiation (U.S. Chamber of Commerce, 2002).

Consultations between the Executive Branch and Congress are deepened through the creation of a joint Congressional Oversight Group with broad bipartisan representation. The Congressional Oversight Group will consult with and provide advice to the U.S. Trade Representative (USTR) regarding the formulation of specific objectives, negotiating strategies and positions, the development of the applicable trade agreement, and compliance and enforcement of the negotiated commitments under the trade agreement.

Import-sensitive products Agricultural goods, textiles and apparel are considered "import-sensitive products" requiring special consultation between the USTR and Congress. Before initiating negotiations with regards to agricultural commodities, the USTR shall identify those agricultural products subject to tariff rate quotas and consult with Congress on whether any further tariff reductions on the products identified should be appropriate. The impact of any such tariff reduction on the U.S. industry producing the product concerned will need to be taken into account. The USTR is required to request an assessment by the ITC on the probable economic effects of reducing the tariffs. Upon complying with these clauses, the USTR must notify Congress of the products for which the USTR intends to seek tariff liberalization in the negotiations and the reasons for doing so.

Trade remedy laws The Trade Act seeks to ensure that trade negotiators fully consult with Congress throughout the process of negotiations. If the Executive Branch fails to provide proper notice or consult with Congress as required, Congress can withdraw the expedited legislative procedures provided for under TPA. If Congress believes the Administration has ignored its advice

or if it does not find a trade agreement to be in the national interest, it always reserves the right to reject it.

While one of the primary negotiating objectives underscored in the Trade Act is to preserve the integrity of U.S. laws on anti-dumping and countervailing duties, the guidelines do not prevent the Executive Branch from entering into negotiations that might change these laws.

Intellectual property The Negotiating objectives include full implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). New agreements are expected to reflect a standard of intellectual property protection similar to that which is prevalent in the U.S.

Investment The Trade Act aims to reduce trade-distorting barriers to foreign investment, while ensuring that foreign investors in the United States are not accorded greater substantive rights with respect to investment protections than U.S. investors in the United States; to seek to establish standards for fair and equitable treatment consistent with U.S. legal principles and practice, including the principle of due process; and to provide for an appellate body or similar mechanism to provide coherence to the interpretations of investment provisions in trade agreements.

Labor and the environment A principal negotiating objective established in the Trade Act is that a party to a trade agreement with the United States enforce their own environmental and labor laws. The Trade Act recognizes the parties' discretion concerning labor or environmental matters.

2. Farm Security and Rural Investment Act

The 2002 Farm Act entitled "The Farm Security and Rural Investment Act" was signed into law by President Bush in May and its implementation started in September 2002. The Farm Act, which will last six years, almost doubles spending on domestic support for farm production in each of the first three years. In comparison to 1996 levels, the 2002 Farm Act increases annual spending by \$10.3, \$10.6 and \$8.9 billion for the first three years to about \$21.7, \$20.8 and \$18.1 billion. However, for the remaining 3 years, Government spending decreases to approximately \$15.4, \$12.4 and \$10.4 billion per year (USDA, 2002B).

The 2002 Farm Act provides compensation to U.S. farmers for the reduction in global commodities prices in order to ensure the economic health of the U.S. agricultural industry. However, according to the USDA, the increased spending does not violate any WTO regulations, the U.S. support ceiling is \$19.1 billion per year (USDA, 2002C). Furthermore, a monitoring process of the spending will take place to prevent overspending.

The three types of crop payments a farm may receive under the 2002 Farm Act¹ are: **Direct Payments, Loan Deficiency Payments and Counter-Cyclical Payments. The Direct Payments**

¹ The 2002 Farm Act replaced the 1996 Freedom to Farm Act that expired at the end of September 2002. The two acts differ significantly, as the 1996 Farm Act sought to end federal financial assistance to farmers in the United States and the 2002 Farm Act

are similar to the production flexibility contract payments of the 1996 Farm Act, they are based on historical acreage and on historical yields. The payment rate is fixed for each crop and is not affected by current production or by current market prices. The annual payments are equal to the product of the national payment rate of the applicable crop, the producer's payment acres (85% of base acres) for that crop, and the producer's payment yield for the crop. The 2002 Farm Act expanded this payment program to cover soybeans, peanuts and other oilseeds.

With the **Loan Deficiency Payments (LDPs)** program, farmers may receive LDP's when market prices are lower than the commodity loan rates, even without taking out and subsequently repaying a loan. The LDP rate is the amount by which the loan rate exceeds the loan repayment rate and thus is equivalent to the marketing loan gain (when market prices are below the loan rate, farmers are allowed to repay commodity loans at a loan repayment rate that is lower than the loan rate).

In the case of the **Counter-Cyclical Payments (CCP)** program, producers are eligible for counter-cyclical payments only if effective prices for each covered commodity are less than the target prices set in the 2002 Farm Act. If this is the case, the CCP rate is the amount by which the target price of each covered commodity exceeds its effective price. (The effective price equals the direct payment rate plus the higher of: the national average market price received by producers during the marketing year, or the national loan rate for the commodity.) Payments are based on historical area and yields and are not tied to current production of the covered crop.

The designated loan rates, direct payment rates and target prices established under the Farm Act of 2002 are shown in Table 1.

Table 1
LOAN RATES, DIRECT PAYMENTS AND TARGET PRICES FOR COVERED COMMODITIES

| Commodities | Loan Rate | | Direct Payment | Target Price | |
|---------------------|-----------|-----------|----------------|--------------|-----------|
| | 2002-2003 | 2004-2007 | 2002-2007 | 2002-2003 | 2004-2007 |
| Corn (bu) | \$1.98 | \$1.95 | \$0.28 | \$2.60 | \$2.63 |
| Sorghum (bu) | \$1.98 | \$1.95 | \$0.35 | \$2.54 | \$2.57 |
| Barley (bu) | \$1.88 | \$1.85 | \$0.24 | \$2.21 | \$2.24 |
| Oats (bu) | \$1.35 | \$1.33 | \$0.02 | \$1.40 | \$1.44 |
| Wheat (bu) | \$2.80 | \$2.75 | \$0.52 | \$3.86 | \$3.92 |
| Soybeans (bu) | \$5.00 | \$5.00 | \$0.44 | \$5.80 | \$5.80 |
| Minor Oilseeds (lb) | \$0.10 | \$0.09 | \$0.01 | \$0.10 | \$0.10 |
| Cotton (lb) | \$0.52 | \$0.52 | \$0.07 | \$0.72 | \$0.72 |
| Rice (cwt) | \$6.50 | \$6.50 | \$2.35 | \$10.50 | \$10.50 |

Source: USDA

In addition to the crops noted above, others such as wool, mohair and honey contain separate assistance clauses, based on marketing loans or loan deficiency payments. Wool will be provided with a loan rate of \$1.00 per pound for graded wool and \$.40 per pound for non-graded wool, whereas mohair will receive a marketing loan rate of \$4.20 per pound. Honey payments will be based on a loan rate of \$.60 per pound (U.S. Senate, 2001).

increases it. The 2002 Farm Act appears to undermine 1996 reforms that sought to improve efficiency and discourage overproduction by reducing price supports in favor of income supplements.

Over the next six years, the new Farm Act increases spending for farm support by about \$52 billion, roughly 70 percent of it for commodity crops, while continuing with fixed annual payments and moving government support towards a crop price basis (USDA, 2002E). The new Farm Act will also sustain marketing loans, permitting producers to use crops as collateral to borrow money from the government. However, it limits the amount of total payments to individual farmers to \$360,000 a year, down from the existing \$460,000 cap (U.S. Senate, 2001).

Eligibility time limits on Farm Service Agency (FSA) direct and guaranteed farm-operating loans, can be waived for a period of time, and more farmers can qualify for FSA emergency loan financing. Interest-rate assistance on guaranteed operating loans is made permanent, and annual authorized loan amounts increase. Beginning farmer and rancher programs are enhanced, and lending procedures are streamlined, including raising the threshold for which lenders can submit reduced documentation on loan guarantee applications (USDA, 2002F).

Trade-related provisions

The Farm Act has also a number of new trade-related provisions. Amongst these are a country of origin labeling in stores for meat, fruits, vegetables, fish and peanuts. The product must be exclusively born, raised and slaughtered in the U.S. to have the "Made in the USA" label.

Box 1 PEANUTS

The 2002 Farm Act substantially revamps the peanut program. Under the 2002 Farm Act, the marketing quota system is eliminated and peanuts are treated similarly to "program" crops, such as grains and cotton—with identical marketing loan provisions available to all peanut producers. Farmers no longer have to own or rent peanut marketing quota rights to produce for domestic edible consumption. Compensation (a buy-out) is provided to quota holders for elimination of the peanut quota system. All farmers with a history of peanut production during 1998-2001, whether quota holders or not, are eligible for fixed direct payments (\$36/ton) and counter-cyclical payments based on an established target price (\$495/ton) (USDA, 2002F).

GAR

The USDA is authorized to make loans available to processors of domestically grown sugarcane at the rate of 18 cents per pound and to processors of domestically grown sugar beets at 22.9 cents per pound for refined sugar. Loans must be non-recourse. There is a new provision that allows processors to obtain loans for in-process sugar and syrups at 80% of the loan rate. This Farm Act 2002 also eliminates penalties that, under prior legislation, had been charged to processors who forfeited sugar to the Commodity Credit Corporation (CCC) and it also eliminates the requirement that sugar processors notify USDA of their intention to forfeit sugar under loan.

Anothe

r new program added is the Quality Samples Program (QSP). The QSP helps U.S. agricultural trade organizations provide small samples of their agricultural products to potential importers in emerging markets overseas. Focusing on industry and manufacturing, as opposed to end-use consumers, it permits potential customers to discover U.S. quality abroad. For 2002, USDA is providing initial allocations totaling \$1.34 million to trade associations and state agricultural organizations under this program (USDA, 2002I).

The Farm Act also extends existing programs such as the Market Access Program, significantly increasing the annual funding to a total of \$200 million by FY 2007, as compared to the previous spending limit of \$90 million (USDA, 2002G). The Foreign Market Development program is also extended with a cap totaling \$34.5 million per year, increased from the previous benchmark of \$27.5 million (USDA, 2002G).

Other programs are extended yet maintained at the current funding levels as specified by the FAIR Act of 1996. These programs include the Export Enhancement Program (EEP) at \$478 million per year, the Dairy Export Incentive Program (DEIP) and the Emerging Markets Program (EMP) at \$10 million per year (USDA, 2002K). The new act will also continue the Food for Progress program, which provides credits or grants to developing countries to buy excess U.S. commodities, as well as providing \$19 million to help specialty crop exporters (U.S. Department of State, 2002).

The Farm Act also includes a new Dairy Market Loss Payments (DMLP) program to provide a safety net for dairy producers whereby a monthly direct payment is made to dairy farm operators when Class I prices fall below \$16.94 in Boston.

3. Steel Safeguards

On June 2001, President Bush announced a three-part initiative to respond to the challenges facing the domestic steel industry. The President requested that the USTR, in cooperation with the Secretary of Commerce and Secretary of the Treasury, initiate negotiations with U.S. trading partners seeking first, the near-term elimination of inefficient excess capacity in the steel industry worldwide and second, the elimination of the underlying market-distorting subsidies. Finally, the President directed the USTR to request the initiation of an investigation of injury to the United States steel industry by the ITC under section 201 of the Trade Act of 1974.

This investigation concluded that under Section 202 of the 1974 Trade Act, 16 of the 33 products reviewed were being imported into the United States in such "increased quantities as to be a cause of serious injury, or a substantial threat to the domestic market." (USITC, 2001) As a result, on March 5, 2002, the United States imposed a broad array of safeguard tariffs ranging from 8 to 30

percent on steel imports². Due to be phased out in three years, the tariffs are meant to a temporary protective measure for the U.S. steel industry.

Table 2
STEEL SAFEGUARD'S UNDERLYING TARIFFS

| | Year 1 | Year 2 | Year 3 |
|---------------------------------------|---------------|---------------|---------------|
| Slab* | 0.3 | 0.24 | 0.18 |
| Finished flat products | 0.3 | 0.24 | 0.18 |
| Hot-rolled bar | 0.3 | 0.24 | 0.18 |
| Cold-finished bar | 0.3 | 0.24 | 0.18 |
| Rebar | 0.15 | 0.12 | 0.09 |
| Certain welded tubular products | 0.15 | 0.12 | 0.09 |
| Carbon and alloy fittings and flanges | 0.13 | 0.1 | 0.07 |
| Stainless steel bar | 0.15 | 0.12 | 0.09 |
| Stainless steel rod | 0.15 | 0.12 | 0.09 |
| Stainless steel wire | 0.08 | 0.07 | 0.06 |
| Tin mill products | 0.3 | 0.24 | 0.18 |

* The slabs' tariff figures above are applicable only as an over-quota tariff. The quota schedule for the next three years is respectively 5.4, 5.9, and 6.4 million short tons.
Source: United States Trade Representative

Together with the array of safeguard tariffs, a range of exemptions was announced based on recommendations from the ITC and in line with the provisions for temporary safeguards set forth by the WTO. While not mandated under U.S. law or specific WTO obligations, exclusions are being determined based on a case by case analysis in order to ensure the satisfaction of consumer demand.

The basic criteria used to determine product exemptions account for the following: domestic production, feasibility of product substitution, current domestic inventories, domestic development for future market demand, and other relevant factors. A total of 727 products were excluded from the new tariff regulations in 2002. On March 5, 2003, the President of the U.S. announced the exclusion of 295 steel products in its latest review. The next round of consideration of exclusion requests will be initiated in november 2003 and completed by March 2004. The steel safeguard remedy is then scheduled to terminate in March 2005.

In line with current trade agreements and WTO safeguard policies, the U.S. President also announced special exclusions for countries with which it has agreed free-trade agreements and developing countries that ship relatively small quantities of imports. Examples include Mexico and Canada, which are exempt from any duty or quota due based on the North American Free Trade Agreement. Others like Argentina, Chile, Colombia, Peru, and all of the countries of Central America and the Caribbean that are members of the WTO and considered developing countries, are exempt from the trade barriers because they collectively account for not more than 9 percent of the total imports of these products. In only two instances, Brazil and Venezuela, did the U.S. not exclude certain products from the new tariff structure.³

² The Latin American and Caribbean countries excluded from these tariffs are Argentina, Barbados, Belize, Brazil (except slabs and flat), Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Panama, Paraguay, Peru, the Grenadines, Saint Kitts and Nevis, Saint Lucia, Saint Vincent, Suriname, Trinidad and Tobago, Uruguay, and Venezuela (except rebar).

³ Products not excluded: slabs & flat (Brazil) and rebar (Venezuela).

Box 3

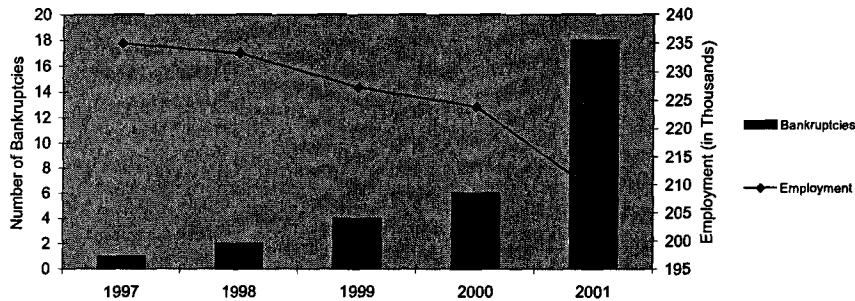
THE STEEL INDUSTRY

The steel industry has been in decline for decades. Employment levels reached their maximum in 1953, with an industry high of 726,100, and have been falling ever since. Data compiled by the U.S. Department of Labor reveals a significant decrease in employment levels within this job sector in the last five years.

Between 1997 and 2001, employment within the industry has fallen over 10%, in 2001 alone, 18 U.S. firms declared bankruptcy.

Employment and Bankruptcy Data: 1997-2001

Blast Furnaces & Basic Steel Products



Data Source: US Department of Labor, Bureau of Labor Statistics, Series ID EEU31331001; Association of Iron and Steel Engineers (AISE)

It is precisely under the terms of the WTO provisions for temporary safeguards that some U.S. trading partners have raised specific challenges, claiming not only a lack of consistency in application, but also that the actions put in place were not proportionate to the claimed injury.⁴ Few question the right of WTO member states to impose temporary trade barriers when import surges cause or threaten injury to a domestic industry. Regardless, by July of 2002, eight countries, including Brazil, had petitioned action by the WTO contending that the United States had taken this action without showing that harm had been done and that the actions go against U.S. obligations under the *GATT 1994*, the *Agreement on Safeguards* and other international trade rules (WTO, 2002).

⁴ Communication dated 18 July 2002, from the Permanent Mission of Brazil to the Chairman of the Dispute Settlement Body, WTO.

III. Trade Negotiations

This section describes the progress made during the year on the trade negotiations in which the U.S. is involved at the multilateral (WTO), regional (FTAA) and bilateral levels. The objective of this section is to provide an overall picture of the U.S. trade liberalization goals.

1. Multilateral

U.S. Proposal for Global Agricultural Trade Reform

In July 2002, the U.S. presented its Proposal for the WTO Agricultural negotiations following the mandate of the Doha Development Agenda where WTO members agreed to comprehensive negotiations aimed at substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support (USDA, 2002J). The proposal seeks to reduce agricultural tariffs, reduce governments' support of agriculture to 5 percent of the domestic value of production, and eliminate agricultural export subsidies.

Regarding tariffs, the average global tariff is currently 62%. The U.S. proposal would allow no tariff to be greater than 25%. With respect to subsidies, it would cut billions of dollars—an

estimated \$119 billion over the next six years—which the U.S. spends towards domestic farmers in order to keep them competitive as well as significantly reduce subsidies of members of the European Union and Japan. (USDA, 2002A, K, D).

Box 4

HIGHLIGHTS OF THE U.S. PROPOSAL FOR AGRICULTURAL TRADE REFORM

Market Access

- Reduces tariffs, both out-of-quota and tariff only, using a formula approach which cuts high tariffs more than low tariffs, with no tariff greater than 25%
- Eliminates all in-quota tariffs
- Expands tariff-rate quota quantities by 20%
- Strengthens disciplines on tariff-rate quota administration
- Eliminates monopoly import control of state trading enterprises
- Eliminates the Special Agricultural Safeguard
- Promotes sectoral initiatives

Domestic Support

- Simplifies domestic support disciplines, ending “blue box” exception
- Reduces ceilings of allowed levels of trade-distorting domestic support to 5% of a country’s total value of agriculture production
- Maintains the *de minimis* provisions
- Maintains the green box provisions
- Promotes sectoral initiatives

Export Competition

- Eliminates direct export subsidies
- Eliminates the monopoly control and special financial privileges extended to state trading enterprises
- Strengthens disciplines on all countries’ export credit programs
- Strengthens disciplines on export taxes

U.S. Proposal to eliminate duties on non-agricultural products

On November 2002, the U.S. proposed an elimination of all tariffs on consumer and industrial goods by 2015. The proposal details that WTO members would cut and harmonize their tariffs between 2005 and 2010, and then between 2010 and 2015, equal annual cuts would be made to the remaining tariffs.

Phase One (2005 to 2010)

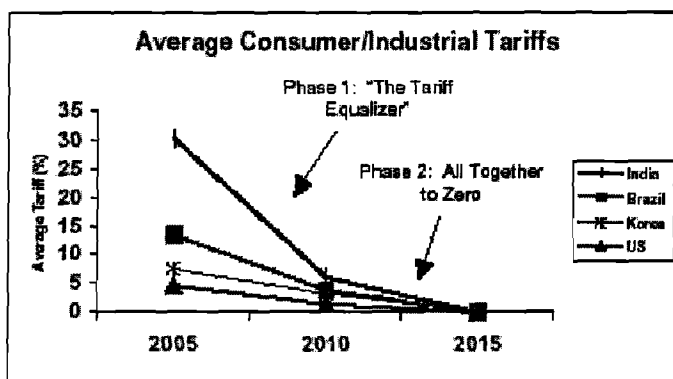
- Eliminate all tariffs of 5% or less by 2010
- Eliminate tariffs on highly-traded goods by 2010, such as, agricultural equipment, construction equipment, furniture, medical equipment, paper, pharmaceuticals, steel and toys, beer and distilled spirits, wood products, non-ferrous metals, bicycle parts, certain chemicals and allied products including soda ash and photographic film, electronics, fish and fishery products, scientific equipment and environmental goods.
- Tariffs covered by the Information Technology Agreement (ITA) and the Agreement on Trade in Civil Aircraft (ATCA).
- Harmonize the remaining tariffs to less than 8% by 2010

- Tariffs higher than 5% that have not been eliminated by any of the criteria described above will be harmonized by cutting the highest tariffs at a faster rate following the Harmonizing Swiss formula. For example a 30% tariffs would be cut to 6.3% while an 8% tariff will be cut to 4%.

Phase Two (2010 to 2015)

- With tariffs harmonized, complete elimination of remaining tariffs by 2015 through linear cuts equal for all countries. (see figure 1)

Figure 1
TARIFF ELIMINATION THROUGH 2015



Source: USTR

2. Regional Negotiations

FTAA

The process to construct the Free Trade Area of the Americas (FTAA) advanced in 2002 to reach the market access negotiating phase. Alongside the initiation of market access negotiations, a Hemispheric Cooperation Program (HCP) was devised to facilitate the provision of technical support for countries to prepare for the negotiations, implement trade commitments; and the adjustment toward integration.

Market access

As set forth in the Buenos Aires Declaration the negotiating groups initiated the market access negotiations in the areas of agricultural and non-agricultural goods, services, investment, and government procurement by May 15, 2002. In order to achieve this deadline the countries agreed on a timeline for the negotiating process that includes: presentation of offers (December 15, 2002-February 15, 2003), submission of requests for improvements of these offers (February 16- June 15, 2003) and presentation of revised offers from July 15, 2003 onwards.

Countries agreed that the base tariff should be the Most Favored Nation (MFN) applied tariff on the date of notification and no later than October 15, 2002. Special provisions were given to certain regional groups based on extenuating circumstances or the results of current efforts to create common external tariff structures.

The Negotiating Group on Market Access (NGMA) and Agriculture (NGAG), were instructed to establish a progressive movement, in phases, toward tariff elimination (immediate, no more than 5 years, no more than 10 year and longer).

The agreed negotiating modality for investments is based on a negative list system, by which all investment sectors are considered to be on the table for negotiation for all countries except for those sectors for which the country negotiates specific reservations. Investment offers for the supply of services through commercial presence may be submitted and discussed as a service offer, an investment offer or both.

Finally, it was agreed that government procurement offers should have a broad coverage and include central or federal level government entities, and other entities belonging to other categories of government.

Hemispheric Cooperation Program In line with the process of strengthening the capacity of all of the countries involved with the FTAA to effectively participate in the negotiations, implement the agreement and adjust to the new economic environment, the FTAA process has designed a Hemispheric Cooperation Program. The HCP seeks to facilitate the development of national and sub-regional trade capacity action plans, to identify particular areas in need of technical assistance and to identify potential donors for those activities and facilitate coordination.

Box 6

U.S. OBJECTIVES FOR THE FTAA NEGOTIATIONS

Trade in Goods and Agriculture Products: Seek to eliminate tariffs and other duties and charges on trade between the United States and other FTAA countries, subject to reasonable adjustment periods for import-sensitive products.

Seek to eliminate non-tariff barriers to U.S. exports in the Hemisphere, including licensing barriers on agricultural products, restrictive administration of tariff-rate quotas, unjustified trade restrictions that affect new U.S. technologies, and other trade restrictive measures that U.S. exporters have identified.

Seek to eliminate government practices in other FTAA countries that adversely affect U.S. exports of perishable or seasonal agricultural products, while improving U.S. import relief mechanisms as appropriate.

Seek to eliminate agricultural export subsidies on trade in the Hemisphere and pursue a mechanism that will support achieving the U.S. objective in the WTO negotiations of eliminating all export subsidies on agricultural products, while maintaining the right to provide *bona fide* food aid and preserving U.S. agricultural market development and export credit programs.

Seek to have other FTAA governments eliminate exclusive export rights of agricultural state trading enterprises, to address other unfair or trade-distorting activities of such enterprises and their governments, and to increase transparency by requiring agricultural state trading enterprises to provide information on their operations.

Pursue fully reciprocal access to other FTAA markets for U.S. textile and apparel products.

Customs Matters, Rules of Origin, and Enforcement Cooperation: Seek rules to require customs operations in FTAA countries to be conducted with transparency, efficiency, and predictability and that customs laws, regulations, decisions, and rulings are not applied in a manner that would create unwarranted procedural obstacles to international trade.

Seek rules of origin, procedures for applying these rules, and provisions to address circumvention matters that will ensure that preferential duty rates under the FTAA apply only to goods eligible to receive such treatment and will promote hemispheric economic integration without resulting in unnecessary obstacles to trade.

Seek terms for cooperative efforts with FTAA countries regarding enforcement of customs and related issues, including trade in textiles and apparel.

Sanitary and Phytosanitary (SPS) Measures: Seek to have FTAA countries reaffirm their WTO commitments on SPS measures and eliminate any unjustified SPS restrictions.

Seek to strengthen collaboration among FTAA countries in implementing the WTO SPS Agreement and to enhance cooperation between the United States and other FTAA countries in relevant international bodies on developing international SPS standards, guidelines, and recommendations.

Technical Barriers to Trade (TBT): Seek to have FTAA countries reaffirm their WTO TBT commitments and eliminate any unjustified TBT measures.

Seek to strengthen collaboration among FTAA countries on implementation of the WTO TBT Agreement and create a procedure for exchanging information among FTAA countries on TBT-related issues.

Intellectual Property Rights: Seek to establish standards to be applied in the Hemisphere that build on the foundations established in the WTO Agreement on Trade-Related Aspects of Intellectual Property and other international intellectual property agreements, such as the World Intellectual Property Organization Copyright Treaty and Performances and Phonograms Treaty and the Patent Cooperation Treaty.

In areas such as patent protection and protection of undisclosed information, seek to have other FTAA countries apply levels of protection and practices more in line with U.S. law and practices, including appropriate flexibility.

Seek to strengthen the other FTAA countries' procedures to enforce intellectual property rights, such as by ensuring that authorities in other FTAA countries seize suspected pirated and counterfeit goods, equipment used to make such goods or to transmit pirated goods, and documentary evidence. Seek to strengthen measures in other FTAA countries that provide for compensation of right holders for infringements of intellectual property rights and to provide for criminal penalties under the laws of other FTAA countries that are sufficient to have a deterrent effect on piracy and counterfeiting.

Trade in Services: Pursue disciplines to address discriminatory and other barriers to trade in other FTAA countries' services markets. Pursue a comprehensive approach to market access, including any necessary improvements in access to the telecommunications, financial services, and other sectors.

Seek improved transparency and predictability of regulatory procedures in FTAA countries, specialized disciplines for financial services, and additional disciplines on measures in other FTAA countries governing telecommunication services and other sectors as necessary.

Seek appropriate provisions to ensure that other FTAA countries will facilitate the temporary entry of U.S. business persons into their territories, while ensuring that any commitments by the United States are limited to temporary entry provisions and do not require any changes to U.S. laws and regulations relating to permanent immigration and permanent employment rights.

Source: USTR

U.S. – Central American Free Trade Agreement (CAFTA)

On January 8, 2003, U.S. and five Central American countries—Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua launched the official negotiations for a U.S. Central America free trade agreement in goods, services, and investment. The countries involved agreed on a structure for the negotiations, that includes nine rounds of negotiations for 2003. There are five negotiating groups: market access; investment and services; government procurement and intellectual property; labor and environment; and institutional issues such as dispute settlement. A sixth group on trade capacity building will meet in parallel with the five negotiating groups. The governments also agreed on a special framework to immediately address sanitary and phytosanitary issues related to agricultural trade. This special effort will focus on resolving such problems as import bans on U.S. pork, poultry, and dairy products.

Along with the negotiations, efforts are under way for the provision of technical assistance to the Central American countries during the negotiating phase, to improve the capacity to implement the agreement, and to facilitate the adjustment to increased foreign competition and greater market access opportunities.

3. Bilateral Negotiations

Chile After two years and fourteen rounds of negotiations, the U.S. and Chile concluded their Free Trade Agreement on December 11, 2002. The countries agreed that all tariffs and quotas on all goods are to be eliminated immediately or after transition periods with no exceptions. More than 85% of bilateral trade in consumer and industrial products becomes duty-free immediately upon entry into force of the Agreement, with most remaining tariffs eliminated within four years. Over three-quarters of U.S. farm goods will enter Chile duty-free within four years and all duties on U.S. products will be phased out over 12 years. Meanwhile, 87% of Chilean exports to the U.S. will be duty-free upon the signing of the Agreement and by the fourth year, 94.8% of exports to the U.S. will be duty-free. After 12 years all products will be duty-free, including products with negotiated quotas.

Uruguay The U.S. and Uruguay continued talks to strengthen economic ties between both countries. In February 2002, Presidents Batlle and President Bush met to discuss the creation of a joint commission on trade and investment. The agreement was signed in April 2002.

Both countries will work toward a bilateral free trade agreement or gradual liberalization toward the Free Trade Area of the Americas.

IV. Implementation of Trade Agreements

This section reports on the advances and remaining challenges on the already finished trade agreements. Provides a comprehensive view of the structure of U.S. trade agreements and its pitfalls.

1. NAFTA

Having entered into force on January 1, 1994 the North American Free Trade Agreement (NAFTA), which includes Canada, Mexico, and the United States reached in 2002 its ninth year of implementation. During these years, the dismantling of trade barriers has led to an impressive growth of trade. Between 1993, the year before NAFTA was implemented, and 2001 trade among NAFTA countries climbed 109%, from \$297 billion to \$622 billion. At the same time, the certainty and transparency of the legal framework provided by the NAFTA agreement has become a magnet for foreign direct investment to North America from around the world. Between 1994 and 2000, FDI inflows in the NAFTA countries reached \$1.3 trillion, or about 28% of the world total.

NAFTA originally scheduled the elimination of tariffs on the products included in the agreement through periods extending to the year 2008. However, following procedures set out in the agreement, the NAFTA partners agreed to accelerate the elimination of tariffs. On January 1, 2002, the NAFTA partners concluded the ninth round of

annual tariff reductions and the fourth NAFTA tariff acceleration round, eliminating tariffs on \$25 billion in total trade.⁵

Under the tariff acceleration, Mexico and the U.S. are eliminating tariffs on an equal set of products, and Mexico will eliminate tariffs on additional items for which the U.S. tariff is already zero. Meanwhile, Mexico and Canada are eliminating tariffs between their two countries on a parallel package of goods. Items included in the U.S. tariff eliminations include several rubber and plastic footwear items. In addition to footwear, Mexico's tariff reductions on American products include motor vehicles, electrical and electronic goods, toys, and chemicals.

Implementation of the NAFTA trade and investment liberalizing commitments has overall proceeded on course since 1994. During 2002, pending issues that received the most attention included trucking and sugar.

Trucking dispute

The NAFTA created a timetable for the removal of barriers to the provision of transportation services among the countries for carriage of international cargo and of passengers. U.S. and Mexican trucks, which carry 75-80% of the trade between the three countries, were to be allowed to travel freely within the other's territory (U.S. GAO, 1996). However, due to the disparity of safety standards between the U.S. and Mexican commercial vehicles, a transition period was created of six years.

After six years of controversy, the Department of Transportation Appropriations Act for FY 2002 established the requirements for Mexican motor carrier operations in the United States. Furthermore, on November 27, 2002 by Presidential determination, cross-border access restrictions were removed to permit qualified Mexican-domiciled motor carriers to obtain authority to operate in the U.S. to transport passengers in cross-border scheduled bus services or provide cross-border truck service, but the moratorium on Mexican-domiciled motor carriers for the provision of service between points in the U.S. will remain in place.

However, in January 2003, the U.S. Federal Court of Appeals for the Ninth Circuit, in San Francisco ruled that the U.S. administration could not open the borders to Mexican trucks until it conducted a study of how the trucks would affect the environment.⁶ This ruling suspends for now the processing of the applications for Mexican trucks to travel across the border.

Sugar

Among the most important issues of contention between the U.S. and Mexico are the quantity of sugar imports from Mexico allowed entry in the U.S. under NAFTA; exports to the Mexican

⁵ Under NAFTA, member governments may agree to reduce or eliminate tariffs on a faster schedule than originally provided. U.S. law authorizes the President to modify NAFTA duty treatment as necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions provided in the NAFTA if the Administration follows certain procedures. USTR initiated this process in June 2001 with the issuance of a notice in the Federal Register soliciting public comment on a list of products on which the United States was considering whether to accelerate the elimination of NAFTA tariffs. USTR also requested the advice of the ITC and the appropriate private sector advisory committees regarding the proposed accelerated tariff elimination.

⁶ The lawsuit was brought by a coalition of labor and environmental groups, Public Citizen and the California Trucking Association.

market of high fructose corn syrup (HFCS)⁷ manufactured in the U.S. and the possibility that domestic sales of sugar will be displaced by the import of cheaper HFCS from the U.S., especially in the Mexican soft drink industry.

Box 7

SUGAR DOMESTIC SUPPORT

Before 1980, 55% of U.S. sugar requirements were met by domestic production while the rest was imported from abroad. By 2001, that proportion had shifted to 88% domestic production and 12% imports as the result of a series of agricultural acts and farm subsidy programs.

The USDA sugar program consists of two main elements: a price support loan program and a tariff rate quota on sugar imports.

The USDA is authorized to make loans available to processors of domestically grown sugarcane at the rate of 18 cents per pound and to processors of domestically grown sugar beets at 22.9 cents per pound for refined sugar. The 2002 Farm Act allows processors to obtain loans for in-process sugar and syrups at 80% of the loan rate. These loans have to be non-recourse.

With the in-tariff-quota system, the Secretary of Agriculture establishes for each fiscal year the quantity of sugar and syrup that may enter at the in-quota tariff rate. Then, the USTR allocates this quantity, at its discretion, among eligible countries. If a country exceeds its designated limit, the tariff increases from \$0.63 to \$15.82 per pound. Because of the significant rate increase once the limit is surpassed, the system works very much like a quota.

The limit for each country from which the U.S. imports sugar may be modified if the Secretary of Agriculture believes that domestic supplies of sugar may be inadequate to meet domestic demand at a reasonable price. If this adjustment occurs, the countries paying tariffs are granted MFN status and tariff rate is reduced to 62.5 cents per pound in order to increase supply.

Most countries in Latin America and the Caribbean are exempt from the tariff-rate quota because they are beneficiaries under the Generalized System of Preferences (GSP). Brazil, on the other hand has a competitive advantage in sugar production; therefore it does not qualify for duty-exemption under the GSP.

The tariff-rate quota on sugar imports that may enter the U.S. at the lower duty rate during FY 2003 is 1,117,195 metric tons, unchanged from the previous year. The distribution of this tariff rate quota is shown in table 3. Latin America and the Caribbean will supply 64.04% of sugar allowed into the United States.

During 2002, the U.S. and Mexico continue to disagree over the quantity of Mexican sugar allowed to enter annually, in particular over the formula to compute Mexico's sugar surplus for export to the U.S. The U.S. interprets the surplus to be the difference between Mexico's consumption of sugar and HFCS and the amount of sugar produced – about 250,000 metric tons in 2002. Mexico, on the other hand, interprets the amount to be the difference between the consumption of HFCS and the amount of sugar produced – about 600,000 metric tons in 2002.

TABLE 3

⁷ The HFCS is a sweetener widely used in soft drinks and other products and a very close substitute to sugar, which prompts sugar producers to lobby to restrict the volume of imports.

**SUGAR TARIFF-RATE QUOTAS FOR LATIN AMERICA AND THE
CARIBBEAN, FISCAL YEAR 2003 ALLOCATION**

| Countries | % of Total U.S. Imports | Metric Tons |
|---------------------------|--------------------------------|--------------------|
| Argentina | 4.05% | 45,281 |
| Barbados | 0.66% | 7,371 |
| Belize | 1.04% | 11,583 |
| Bolivia | 0.75% | 8,424 |
| Brazil | 13.67% | 152,691 |
| Colombia | 2.26% | 25,273 |
| Costa Rica | 1.41% | 15,796 |
| Dominican Republic | 16.59% | 185,335 |
| Ecuador | 1.04% | 11,583 |
| El Salvador | 2.45% | 27,379 |
| Guatemala | 4.52% | 50,546 |
| Guyana | 1.13% | 12,636 |
| Haiti | 0.65% | 7,258 |
| Honduras | 0.94% | 10,530 |
| Jamaica | 1.04% | 11,583 |
| Mexico | 0.65% | 7,258 |
| Nicaragua | 1.98% | 22,114 |
| Panama | 2.73% | 30,538 |
| Paraguay | 0.65% | 7,258 |
| Peru | 3.86% | 43,175 |
| St. Kitts & Nevis | 0.65% | 7,258 |
| Trinidad & Tobago | 0.66% | 7,371 |
| Uruguay | 0.65% | 7,258 |
| Total | 64.04% | 715,499 |
| Total U.S. Imports | | 1,117,195 |

Source: ECLAC, based on USTR, <http://www.ustr.gov/releases/2002/08/02-81.pdf>

High-Fructose Corn Syrup (HFCS)

Dispute settlement negotiations have been under way in 2002 regarding Mexico's tariff rate quota and antidumping duties placed on U.S. exports of HFCS. The tariff-rate quota allows 148,000 tons of HFCS to enter Mexico at a 1.5% duty while any U.S. exports over that quota will face tariffs of 210%. Meanwhile, the WTO ruled in 2001, that the Mexican antidumping duties were inconsistent with WTO agreements.

In addition, on January 2002, the Mexican government initiated a 20% tax on beverages sweetened with HFCS. To date the two countries have not been able to reach final agreement on the issue. The U.S. is currently trying to secure a consistent amount of high fructose corn syrup allowed into Mexico by arranging an exchange of sugar for HFCS. Differences pertain to the net amount to be allowed into each country and the share of raw and refined sugar in that total. In the case of Mexico, the United States is calling for a ceiling of 275,000 tons, divided between 80% raw sugar and 20% refined, whereas Mexico is calling for a ceiling of 300,000 and a more even distribution of products.

2. Preferential Agreements

The Trade Act of 2002, in addition to TPA, included the renewal of the U.S. Generalized System of Preferences (GSP) program, an expanded Caribbean Basin Trade Preferences Act (CBTPA) and an expanded Andean Trade Preferences Act (ATPA).

Generalized System of Preferences⁸ All Latin American and Caribbean countries are eligible for GSP with the exception of Mexico who receives the same privileges under NAFTA and Cuba due to the trade embargo. However, the duty-free access is determined on a country-by-country and product-by-product basis. U.S. imports under GSP privileges are subject to a competitive-need and a country-income restriction. That is, products that achieve a specified market penetration in the U.S. may be excluded from GSP eligibility and countries may also lose all GSP privileges if their per capita income grows to exceed a previously specified amount. In August 2002, Argentina was granted GSP benefits for 57 additional products such as leather goods, non-sensitive agricultural products and industrial chemicals, which accounted for over \$126 million in exports to the U.S. in 2001. In return for duty-free access to the U.S. market, beneficiary countries are expected to comply with certain requirements, such as the protection of basic worker rights and intellectual propriety rights.

Caribbean Basin Trade Partnership Act The 2002 Trade Act further expands the 2000 Caribbean Basin Trade Partnership Act (CBTPA) by raising the cap for duty-free benefits to knit apparel made in Caribbean Basin countries from regional fabric made with U.S. yarn and knit-to-shape apparel (except socks), to the following amounts: 250 million square meters for the 1-year period beginning October 1, 2001; 500 million for the 1-year period beginning on October 1, 2002; 850 million for the 1-year period beginning on October 1, 2003; 970 million in each succeeding 1-year period through September 30, 2009.

CBTPA eliminates or reduces tariffs on selected goods imported from 24 countries in the Caribbean region.⁹ To receive duty-free entry into the United States under CBTPA, products must be either of CBTPA country origin, of Puerto Rican origin with value added in a CBTPA country, or of the United States with assembly in a CBTPA country.

Countries desiring to benefit from CBTPA provisions must comply with specific eligibility criteria and its compliance is evaluated annually in country reports. The beneficiary country must demonstrate commitment to WTO regulations and participate in the FTAA negotiations. It must

⁸ The GSP was established through the Trade Act of 1974 to foster economic development and diversification in over 140 designated developing countries and territories by granting their products duty-free entry into the United States. These products are mostly dutiable manufactures and semi-manufactures and selected agricultural, fishery, and primary industrial products. Most textiles, watches, footwear, handbags, luggage, work gloves, and other leather wearing apparel are prohibited by law (19 U.S.C. 2461) from receiving GSP treatment. In addition, any other articles determined to be import-sensitive cannot be made eligible for GSP. In this regard, the GSP law specifically cites steel, glass, and electronics.

⁹ The 24 countries eligible for CBTPA include all five members of the Central American Common Market and the thirteen members of the Caribbean Community, plus Aruba, British Virgin Islands, Dominican Republic, Haiti, Netherlands Antilles and Panama. Anguilla, the Cayman Islands, Suriname and The Turks and Caicos Islands are eligible but have not formally requested designation for benefits under the CBTPA. To receive duty-free entry into the United States under CBERA, products must be either of CBERA country origin, of Puerto Rican origin with value added in a CBERA country, or of the United States with assemble in a CBERA country.

also provide protection of intellectual property rights and extend internationally recognized workers rights. The beneficiary country must implement commitments to eliminate the worst forms of child labor, to meet the U.S. counter-narcotics certification and to show steps towards becoming a party to the Inter-American Convention Against Corruption. The country must demonstrate it uses non-discriminatory practices and competitive procedures in government procurement.

Box 8

CARIBBEAN BASIN ECONOMIC RECOVERY ACT

The 2000 Caribbean Basin Trade Partnership Act (CBTPA) substituted and extended CBERA (Caribbean Basin Economic Recovery Act).

During the decade of the eighties, total duty-free imports under CBERA increased from \$577 million in 1984 to \$906 million in 1989, an average of 11% per year. The main beneficiaries of the CBERA program were the Dominican Republic and Costa Rica, accounting for nearly 50% of total CBERA duty-free imports under the program. During the early stages of the program most of the growth was in the CBERA-overlap with GSP and MFN segment, while the CBERA-pure segment remained largely unused.

U.S. imports under CBERA have increased steadily since 1990, as have total U.S. imports from CBERA countries. Over the years, the Dominican Republic remains the country most benefited from the CBERA, followed by Costa Rica. Goods most commonly imported under CBERA are footwear uppers, jewelry, sugar, medical instruments and appliances, cigars, and certain fresh fruits.

Over the years the positive effects of CBERA have been eroded due to continuing multilateral negotiations to lower trade barriers worldwide. As all nations gain increased access to the U.S. market, the special preference granted to Caribbean countries loses value, i.e., fewer imports from CBERA countries enter exclusively under CBERA.

Over the years the positive effects of CBERA have been eroded due to continuing multilateral negotiations to lower trade barriers worldwide. As all nations gain increased access to the U.S. market, the special preference granted to Caribbean countries loses value, i.e., fewer imports from CBERA countries enter exclusively under CBERA.

The CBTPA further extends duty-free and quota-free treatment to certain apparel manufactured in the CBTPA region from U.S. origin fabrics. It also extends preferential treatment to limited quantities of apparel made from fabric, which is knit in the CBTPA countries from U.S. yarns up to the equivalent of 250 million square meters. These duty-free quotas are applicable to products like shirts, knit blouses, underwear and pants made from knit and fabric. The CBTPA also imposes a cap on imports of T-shirts made from U.S. yarn at 4.2 million dozen per year. These quotas will increase each year by 16% until 2004 when Congress plans to reevaluate the caps (U.S. Congress, 2000).

Under CBTPA, the CBI countries receive the same tariff treatment as Mexico does under NAFTA for the products mentioned below. The CBTPA is of limited duration and expires in 2008 or upon the arrival of the FTAA. Twenty-five percent of all U.S. imports from the Caribbean Basin region entered under CBTPA provisions, amounting to approximately \$5.5 billion in U.S. imports (USTR, 2002B).

Andean Trade Preference Act The Andean Trade Preference Act was renewed in August 2002 for five additional years, retroactive to December 4, 2001, when it had expired. All existing provisions were renewed and 700 additional products were added to the program which provided tariff benefits to the Andean countries – Bolivia, Colombia, Ecuador and Peru from December 1991 to December 2001.

The ATPA provides duty-free access to the U.S. market for a wide range of goods, reducing tariffs and subsidies, and eliminating sanitary and phyto-sanitary restrictions. The legislation provides the four products. To be a beneficiary of the naturalization and U.S. citizens. D extends preferential U.S. trade.

Like in the commitment to FTAA, protection certification, take Convention Agreement other criteria (U reports.

For a product manufactured in "substantially trade ATPA treatment

included most textile and apparel items, certain categories of footwear, petroleum categories, canned tuna, certain watches and watch parts, certain sugar products and rum. Under the expanded ATPA, apparel assembled in the Andean region from U.S. fabric or fabric components or components knit to shape in the United States may enter the U.S. duty-free in unlimited quantities. Apparel assembled from Andean regional fabric or components knit to shape in the region may enter duty-free subject to a cap. The cap is set at 2% of total U.S. apparel imports, increasing annually in equal increments to a total of five percent in 2006 (USTR, 2002A).

Along with extended benefits for Andean apparel, benefits for Andean tuna in pouches with U.S. or Andean flagged vessels were also included. There is no duty-free access to tuna purchased in cans, the form in which the majority of tuna is purchased and consumed in the U.S.¹¹ For all of the new products except for apparel and tuna, the President of the United States must determine that the imports are not sensitive before those products can be granted duty-free treatment.

**Box 9
ANDEAN TRADE PREFERENCE ACT**

Non-sensitive ATPA imported goods eligible for preferential duty-free treatment:

- Footwear not designated at the time of the effective date of this Act as eligible for the purpose of the GSP under the Trade Act of 1974
- Petroleum and its derivatives provided for in HTS headings 2709 and 2710
- Watches and its components containing any material from countries that are under HTS column 2 duty rates (Socialist Economies)
- Handbags, suitcases, work gloves and other leather products that were not designated on August 5 1983 as eligible under GSP

Products excluded from preferential duty-free treatment include:

- Textiles and apparel articles which were not eligible articles for purposes of this title on January 1, 1994
- Rum and tafia classified in subheading 2208.40 of the HTS
- Sugars, syrups and sugar-containing products subject to over-quota duty rates under applicable tariff-rate quotas
- Prepared or preserved tuna and vacuum packed in cans or other containers, under certain conditions

¹⁰ On September 25, 2002 the U.S. announced that Colombia, Bolivia and Peru will be granted new trade benefits under the new ATPA. However, the Administration is still analyzing Ecuador's eligibility. In addition, for some of the new products (import sensitive), the Administration must review the impact of providing duty-free access on U.S. producers.

¹¹ Duty-free access is granted to tuna purchased in foil or other flexible airtight containers weighing with their contents not more than 6.8 kilograms each, and there is a cap at 4.8% of U.S. consumption of tuna in airtight containers. Tuna in pouches only accounts for about 6% of total U.S. consumption. Ecuador is the only Andean country that will benefit from this provision. Currently its production of tuna in pouches only accounts for 3% of the U. S. domestic market.

