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The U.S.-Australia Free Trade Agreement: Provisions and Implications

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Summary

After more than a year of negotiations, U.S. and Australian trade officials concluded a bilateral free trade agreement (FTA) on February 8, 2004. The negotiations proved unexpectedly difficult. President Bush and Australian Prime Minister Howard had committed to completing the negotiations by the end of 2003, but differences over agriculture, especially sugar, and other sensitive issues caused the deadline to slip.

The U.S.-Australia FTA (USAFTA) is a comprehensive agreement. It commits the United States and Australia not only to eliminate tariffs on most of their bilateral trade in goods, but also to ensure nondiscriminatory treatment in most areas of bilateral trade in services, government procurement, in foreign investment as well as improved protection of intellectual property rights.

Under the USAFTA, the United States and Australia addressed the few significant irritants in their bilateral economic relationship. In so doing, the agreement could further solidify an already strong relationship. For Australia, those irritants include U.S. restrictions on beef and dairy products. For the United States they include Australian local content requirements in television programming, sanitary and phytosanitary (SPS) measures, state-sanctioned monopolies in exports of wheat and other grains, and screening of foreign investments. In some cases, such as U.S. restrictions on beef and dairy and Australian investment screening, the two sides agreed to loosen restrictions. In the case others, such as the Australian SPS measures and state-sanctioned monopolies, they agreed to establish mechanisms for further discussion. However, in the case of some irritants, such as U.S. import controls on sugar, the two countries agreed no change was possible.

United States Trade Representative Robert Zoellick and Australian Trade Minister Mark Vaile signed the agreement on May 18, 2004, in Washington. On July 6, 2004, the President submitted legislation to implement the agreement. On July 8, the House Ways and Means Committee reported out the implementing bill, H.R. 4759, by voice vote, and on July 15, the full House passed the measure (314-109) in a largely bipartisan vote. On July 15, reported the Senate Finance Committee reported out the companion bill, and on July 16 the full Senate passed the measure (80-16), and it was sent to the President for his signature. President Bush signed the U.S.-Australia Free Trade Agreement Implementation Act on August 3, 2004 (P.L. 108-286). On November 17, 2004, trade officials from each country exchanged diplomatic notes indicating that implementing legislation passed by the other country met the requirements of the FTA. However, this occurred only after discussions were held to resolve U.S. concerns over provisions contained in the Australian implementing legislation pertaining to pharmaceutical patents. The FTA is entered into force January 1, 2005.

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The U.S.-Australia FTA (USAFTA) is a comprehensive agreement The agreement commits them not only to eliminate tariffs on most of their bilateral trade in goods, but also to ensure nondiscriminatory treatment in most areas of bilateral trade in services, foreign investment, and government procurement and to ensure protection of intellectual property rights.

On February 13, 2004, the President notified the Congress of his intent to sign the agreement. That notification began a minimum 90-calendar day time-frame within which the Congress reviewed the agreement. United States Trade Representative Robert Zoellick and Australian Trade Minister Mark Vaile signed the agreement on May 18, 2004, in Washington. On July 6, 2004, the President submitted legislation to implement the agreement. On July 8, the House Ways and Means Committee favorably reported out the implementing bill, H.R. 4759, by voice vote, and the full House approved the measure (314-109) on July 15. On July 15, the Senate Finance Committee reported out the companion bill, and on July 16 the full Senate passed the measure (80-16). The bill was sent to the President for his signature. President Bush signed the U.S.-Australia Free Trade Agreement Implementation Act on August 3, 2004 (P.L. 108-286). On November 17, 2004, trade officials from each country exchanged diplomatic notes indicating that implementing legislation passed by the other country met the requirements of the FTA. However, this occurred only after discussions were held to resolve U.S. concerns over provisions contained in the Australian implementing legislation pertaining to pharmaceutical patents. The FTA is entered into force January 1, 2005.

This report highlights and analyzes the major provisions of the U.S.-Australia FTA. The report presents the agreement in the context of the overall U.S.-Australian bilateral economic relationship. In so doing, it is designed to assist the Congress in assessing the impact the agreement may have on the U.S. economy, on the U.S.-Australian economic relationship, and on U.S. trade policy as a whole. The report will be updated as events warrant.

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[1] *Washington Trade Daily*. November 14, 2003. p.5

Why a U.S.-Australia Free Trade Agreement?

The USAFTA is one among a number of bilateral and regional free trade agreements the Bush Administration has negotiated In the last few years, it has negotiated and entered into free trade agreements with Jordan, Singapore, and Chile. Along with the USAFTA, the Bush Administration completed negotiations and has signed the Central American Free Trade Agreement (CAFTA) with five countries in the region, an agreement with the Dominican Republic, and an agreement with Morocco. It has also launched or intends to launch FTA negotiations with even more trading partners in various regions of the world all as part of its strategy of "competitive liberalization." That strategy aims to use greater access to U.S. markets as a incentive for trading partners to lower their trade and investment barriers.

U.S. and Australian political leaders have also viewed the USAFTA as a mechanism to deepen economic ties beyond the bilateral relationship as they pursue similar goals in the Doha Development Agenda round of the World Trade Organization (WTO).[2] It has also been argued that since the events of September 11, 2001, the Bush Administration has employed trade policy in general, and FTAs in particular, to reward those countries that have allied themselves with the United States in the war on terrorism and the war in Iraq. Australia fits that model.[3] The USAFTA builds on the U.S.-Singapore FTA in establishing an institutionalized U.S. economic presence in the Asia-Pacific region.

Overview of U.S.-Australian Trade and Investment Relations

The United States and Australia have a strong bilateral economic relationship. The two countries share similar economic and trade goals. Both are strong supporters of achieving significant trade liberalization in agriculture and services in the current round of multilateral negotiations in the WTO, while at the same time, both are pursuing market access through regional and bilateral free trade agreements.

The economic relationship is also built upon increasing flows of trade in goods and services and of capital in various forms of investment in a wide range of sectors. Both countries anticipate that the USAFTA will facilitate trade and investment flows.

Trade

According to U.S. data, Australia was the 14th largest destination for U.S. exports of goods ($13.1 billion) and the 30th largest source of U.S. imports of goods ($6.1 billion) in 2003 (see **Table 1**). The United States has consistently realized

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[2] Transcript of the Prime Minister, The Honorable John Howard, MP, and Robert B. Zoellick, United States Trade Representative. Press Conference. Parliament House, Canberra. November 14, 2002.

[3] See CRS Report RS21657, *U.S. Trade Policy and Changing Domestic and Foreign Priorities: A Historical Overview*. p.11.

surpluses in its trade with Australia, one of few countries in the world where that is the case.

Table 1. U.S. Merchandise Trade with Australia: 1998-2003
($ millions)

	1998	1999	2000	2001	2002	2003
U.S. Exports	11,929	11,811	12,460	10,945	13,084	13,103
U.S. Imports	5,382	5,290	6,439	6,479	6,478	6,144
U.S. Trade Balance	6,547	6,521	6,021	4,466	6,606	6,690

Source: U.S. Census Bureau.

Major U.S. exports to Australia include aircraft and parts, road vehicles, and specialized machinery. Major U.S. imports include meats and beverages (mostly wine) (see **Table 2**).[4]

Table 2. Major U.S.-Australian Trade Commodities: 2002-2003
($ millions)

SITC 2-Digit Commodity Category	2002	2003
Major U.S. exports to Australia		
Transport equipment (mainly aircraft and parts)	3,235	2,380
Road vehicles	945	1,075
Specialized machinery	806	848
Major U.S. Imports from Australia		
Meats	1,074	1,139
Beverages	462	628
Special Transactions	459	591

Source: U.S. International Trade Commission (USITC) DataWeb.

The United States and Australia conduct a moderate amount of trade in services. In 2003 (preliminary data), U.S. exports of services to Australia totaled $5.9 billion consisting mostly of travel services ($1.5 billion) and other private services ($2.6 billion). In 2003, the United States imported $3.2 billion in services from Australia with travel ($1.0 billion) and other private services ($1.1 billion) accounting for the

[4] These tables were adapted from similar tables contained in CRS Report RS21459. *Australian-U.S. Economic Relations.*

bulk of them. The United States experienced a surplus in services trade with Australia of $2.7 billion. In 2003, U.S. residents received $6.3 billion in income from investments in Australia, while Australian residents received $2.1 billion in income from investments in the United States.

Table 3. U.S.-Australian Trade in Services, 1998-2003
($ million)

	1998	1999	2000	2001	2002	2003
U.S. Exports	5.0	5.3	5.8	4.9	5.2	5.9
U.S. Imports	3.4	3.3	3.4	3.6	3.7	3.2
U.S. Balance	1.6	2.0	2.4	1.3	1.5	2.7

Source: U.S. Department of Commerce. Bureau of Economic Analysis.

Trade in goods and services, plus investment income and unilateral transfers make up the current account, the most comprehensive measure of foreign trade flows. In 2003, the United States ran a current account trade surplus with Australia totaling $13.0 billion.[5]

Foreign Investment

The cumulative U.S. foreign direct investment (FDI) in Australia , valued on an historical-cost basis, totaled $36.3 billion through 2002. The level has not varied much over the last four years. In 1999, U.S. FDI was at $35.4 billion, $34.8 billion in 2000, and $32.6 billion in 2001. Roughly half of U.S. FDI in Australia in 2002 was in manufacturing ($10.8 billion) and mining ($8.2 billion). While not insignificant, the level of U.S. FDI in Australia is dwarfed by U.S. investments in other industrialized countries, for example, the United Kingdom ($255.4 billion), the Netherlands ($145.5 billion), Japan ($65.7 billion), and Germany ($64.7 billion). However, the United States is the largest source of foreign direct investment in Australia. (All figures are for 2002.)[6]

Australian FDI in the United States is lower than U.S. investment in Australia but has been increasingly sharply. In 2002, Australian FDI totaled $24.5 billion, having increased from $15.6 billion in 1999. That investment is distributed across various sectors including manufacturing ($3.5 billion), real estate ($2.8 billion), and other industries ($2.7 billion).[7]

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[5] U.S. Department of Commerce. Bureau of Economic Analysis. U.S. International Transactions Data. Available at [http://www.bea.gov].

[6] U.S. Department of Commerce. Bureau of Economic Analysis. U.S. Foreign Direct Investment Data. Available at [http://www.bea.gov].

[7] U.S. Department of Commerce. Bureau of Economic Analysis. Data on Foreign Direct
(continued...)

Overview of the Negotiations

Australian Prime Minister John Howard had approached President Bush early in 2001 with a proposal to form an FTA. While not completely dismissing the idea, the Bush Administration at first appeared to give it lower priority than other trade matters. But, on November 13, 2002, USTR Zoellick notified congressional leaders that the Administration would begin negotiations with Australia. The negotiations proved unexpectedly difficult. President Bush and Australian Prime Minister Howard had committed to completing the negotiations by the end of 2003, but differences over agriculture and other sensitive issues caused the deadline to slip. The first of five rounds of negotiations took place in Canberra March 17-21, 2003. The fifth, last, and longest round took place in Washington, December 1, 2003 and February 8, 2004. Although the negotiations took longer than expected, they were completed in less time than the FTA negotiations with Chile and Singapore.

The USAFTA negotiations over manufactured goods proceeded smoothly. Tariffs on bilateral trade in most manufactured goods are already low. The average applied Australian most-favored-nation (MFN) tariff is 4.3%, and its average tariff on agriculture imports is 1.2%.[8] The average applied U.S. MFN tariff is 5.1% and its average MFN tariff on agricultural products is 10.0%.[9] Issues pertaining to trade in agricultural goods proved the most difficult and forced the negotiations into overtime.

In the end, both countries were determined to complete the agreement. To do so, each side acceded to very sensitive areas of the other in order to bring the negotiations to a conclusion. This meant that Australia acceded to the U.S. objective not to liberalize trade in sugar and to only gradual opening of dairy and beef. It meant that the United States acceded to Australia's position on preserving its pharmaceutical subsidy program and on maintaining monopolies for the export of wheat, barley, and rice. The United States also largely conceded to Australia the right to restrict foreign content of television programs and advertising and to preserve its sanitary and phytosanitary regime.

The negotiations resulted in an agreement to substantially free manufactured goods trade substantially from duties, and to eliminate or reduce tariffs and other barriers on most agricultural products (with the notable exception of sugar). The agreement commits both countries to remove, or at least reduce, barriers to trade in services and to foreign investment.

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[7] (...continued)
Investment in the U.S. Available at [http://www.bea.gov].

[8] World Trade Organization. *Trade Policy Review: Australia.* August 26, 2002. p. x.

[9] World Trade Organization. *Trade Policy Review: The United States.* December 17, 2003. p. viii-ix.

Major Provisions of the Agreement

The USAFTA covers virtually all aspects of the U.S.-Australian economic relationship from traditional trade in goods to leading-edge trade in e-commerce. The agreement also commits the two countries to ensure mutual access in foreign investment and government procurement and to protect the rights of intellectual property owners in each other's territory. A more detailed discussion of the provisions follows.

Market Access for Goods

Chapter 2 of the USAFTA covers bilateral trade in goods, one the least controversial areas during the negotiations. The USAFTA will result in immediate duty-free treatment for 99% of U.S. exports of manufactured goods to Australia when the agreement goes into effect. Among the remaining 1% of U.S. exports, Australian duties will still be applied to such items as textiles and wearing apparel and some footwear, but these duties will be reduced and eventually eliminated over time. At the same time, 97% of Australian exports of manufactured goods to the United States will be duty-free when the agreement goes into effect. Australian duties still in place on the date the agreement goes into effect will be phased out over four, eight or ten years. (Tariffs and other restrictions on imports of textiles and apparel and some agricultural products will be eliminated under separate schedules discussed below.) By 2015, tariffs on all manufactured goods trade between the United States and Australia will be eliminated.[10]

During the negotiations, the United States highlighted the importance of obtaining immediate duty-free access for U.S. exports of autos and auto parts; chemicals, plastics, and soda ash; construction equipment; electrical equipment and appliances; fabricated metal products; furniture and fixtures; information technology products; medical and scientific equipment; non-electrical machinery; and paper and wood products. [11] Australia highlighted the importance to its exporters of immediate duty-free access for its exports of autos, metals, minerals, seafood, paper, and chemicals. Of particular importance to Australia was the immediate removal of the 25% tariff on Australian exports to the United States of light commercial vehicles (pick-up trucks) and the 35% tariff on canned tuna.[12]

The USAFTA permits the duty-free entry of goods from one party to the agreement into the other for repair, for use as commercial samples, or in the performance of business activities. The agreement will also establish a Committee on Trade in Goods consisting of government representatives from Australia and the

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[10] Australian Department of Foreign Affairs and Trade. *Australia-United States Free Trade Agreement: Guide to the Agreement.* March 2004. p. 7.

[11] Office of the United States Trade Representative. *Trade Facts: Free Trade "Down Under."* [http://www.ustr.gov].

[12] Australian Department of Foreign Affairs and Trade. *Australia-United States Trade Agreement.* Fact sheet. [http://www.dfat.gov.au/trade/negotiations/us.html]

United States to address bilateral trade issues that arise on tariffs, non-tariff barriers, rules of origin and customs administration.[13]

Exceptions

The USAFTA (Annex-2A) contains exceptions to the general "national treatment" principle. Notably, the United States is allowed to maintain restrictions on the export of logs and on imports of foreign-made vessels under the Jones Act.[14] Australia will be allowed to retain controls on exports of certain forestry products and restrictions on imports of second-hand cars, and to retain the "single-desk" arrangements for marketing wheat, barley, rice, and sugar and the export arrangements for horticulture and livestock. (See section below on agriculture products for more details on their treatment under the USAFTA.)

Rules of Origin

Rules of origin (Chapter 5) are used to determine which goods are "originating goods" and, therefore, should qualify for the preferential treatment under the agreement. Such products are ones that are: (1) wholly obtained (raw materials) or produced in either Australia or the United States; (2) are produced in either country from materials originating from either country; or (3) are produced partially from materials that have originated from a non-FTA country but pass a rules of origin test. In general, that test is that the final product must have involved sufficient processing in a FTA country as to be in a different tariff classification from the material from the non-FTA-country. The tariff classification changes that must take place to qualify are product-specific and are listed in Annex 5-A of the agreement. For some products, such as automotive products, an additional test that will substitute for or help support the tariff-classification test is the regional value content test. According to that test, the sum of the value of the inputs from either Australia or the United States must equal or exceed a certain percentage (the percentage depending on the product) of the total value of the final product. (Special rules of origin criteria apply to textiles and apparel and are discussed below.)

Safeguards

The USAFTA (Chapter 9) provides for safeguard measures for trade in goods between the United States and Australia. (In addition to these safeguard measures, the agreement provides for special safeguard measures for textiles and apparel and for specific agricultural products. The special measures are discussed in sections devoted to those products.)[15]

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[13] *Australia-United States Free Trade Agreement: Guide to the Agreement.* March 2004. p. 9.

[14] Ibid.

[15] The safeguard measures contained in the USAFTA are in addition to the safeguard measures, sometimes called Section 201, referring to section 201 of the Trade Act of 1974, as amended. Under section 201, however, any safeguard measure must be applied to (continued...)

The FTA provides that during the transition period (the period during which duties on a product are being eliminated), an importing country may suspend the elimination of duties or increase the duties on the import of a product from the other trading partner if, as a result of the reduction in duties, imports increase in absolute terms or relative to domestic production, as to be a substantial cause of serious injury, or threat thereof, to the domestic industry producing a like product.[16]

The increased duty that may be applied will not exceed the lesser of: the most-favored-nation (MFN) duty rate in effect at the time the safeguard measure was taken or the MFN duty rate in effect preceding the date the USAFTA entered into force. The trade remedy can be applied only after an investigation has been conducted to determine cause and injury. The trade remedy measures can only be applied for two years, but may be extended for another two years if a determination is made that conditions causing serious injury still exist. Furthermore, while a safeguards measure is in place, the country applying the measure must compensate the other country by making concessions in other sectors that are equivalent in value to the additional duties. These measures can be used by either partner on both manufactured and agricultural goods.

Pharmaceuticals

The Australian Pharmaceutical Benefits Scheme (PBS) is a 55-year-old program under which the Australian government subsidizes the costs for pharmaceuticals. To be eligible for the subsidy, the drug must be approved beforehand and appear on a list of subsidy-eligible drugs. If there are two or more brands of the same drug, the PBS will subsidize the cheapest brand. The United States has asserted that the methods that the Australian government uses to determine which brands to subsidize do not take into account the benefits of newer, innovative drugs, many of which are produced in the United States, and that cost more than older drugs. These pharmaceuticals are, therefore, at a disadvantage in the Australian market.

During the negotiations, the United States pressed Australian negotiators to make the procedures for selecting eligible drugs more transparent and to make the benefits of innovative drugs a factor in determining which brands will be subsidized. Under Annex-2C, Australia agreed to establish procedures for reviewing product listings and to make more transparent the process by which the amount of reimbursement for pharmaceuticals is set. The United States and Australia also agreed to establish a Medicines Working Group consisting of federal officials from each country who are responsible for federal healthcare programs. These officials will work together on emerging health policy issues, including the importance of innovative drugs. The two countries also agreed to strengthen the cooperation

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[15] (...continued)
imports of the like product from all countries, whereas, the USAFTA safeguard measure is applied only to trade between Australia or the United States.

[16] "Substantial cause" is defined as a cause which is important and not less than any other cause. "Serious injury" is defined as a significant overall impairment in the position of a domestic industry. "Threat of serious injury" is defined as serous injury that, on the basis of facts and not merely on allegations, conjecture or remote possibility, is clearly imminent.

between the U.S. Food and Drug Administration and the Australian Therapeutic Goods Administration to make innovative drugs available more quickly to nationals in each country.

In an exchange of letters accompanying the agreement, Australia agreed to provide U.S. pharmaceutical manufacturers the opportunities: to consult with officials of the Australian Pharmaceuticals Benefits Advisory Committee (PBAC) prior to submitting an application to that body for PBS approval for a subsidy, to respond to reports and evaluations prepared for technical subcommittees to the PBAC regarding the consideration of their products, to appear before a hearing of the PBAC regarding the application, and to obtain reasons for the final determination of the PBAC. In addition, Australia agreed to expedite the process as much as possible and to provide opportunities for the reimbursement amount to be readjusted.

Next to agriculture, the PBS proved to be the most controversial issue in the negotiations. The issue exposed fundamental differences between the U.S. and Australian healthcare systems and how each treats costs of pharmaceuticals borne by their citizens. It is an issue that may be more widely debated when the Congress considers the agreement.

During congressional consideration of the agreement and the implementing legislation, some Members of Congress expressed concerns about the impact of Chapter 17.9.4 of the agreement and its potential impact on the reimportation of U.S.-brand pharmaceuticals into the United States. (Chapter 17 pertains to intellectual property rights protection.) That provision reads as follows:

> Each Party shall provide that the exclusive right of the patent owner to prevent importation of a patented product, or a product that results from a patented process, without the consent of the patent owner shall not be limited by the sale or distribution of that product outside its territory, at least where the patentee has placed restrictions on importation by contract or other means.

The concerns centered on whether this provision would prohibit the U.S. Congress, if it so chooses, to pass a law that would permit the reimportation of U.S. patented drugs into the United States. USTR Zoellick argued that the provision provides no new legal rights to U.S. patent holders and that such rights as stated the provision are already in U.S. law. In addition, he argued, that no trade agreement can prevent the U.S. Congress from changing U.S. law by passing another law.[17] Nevertheless, the issue may arise as the United States negotiates FTAs with other trading partners and implementing legislation for the agreements are considered by the Congress.

Agricultural Products

Agricultural issues were the greatest challenge in the bilateral FTA negotiations, as many trade experts had anticipated. Agricultural products accounted for only

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[17] USTR Robert Zoellick. Letter to Chairman of the Ways and Means Committee Honorable William Thomas. July 13, 2004.

4.7% of U.S. exports to Australia but for 34.5% of U.S. imports from Australia in 2003. As major agricultural exporting countries, the United States and Australia are, for the most part, allies in multilateral negotiations on agricultural issues. They share similar positions in the difficult negotiations now taking place in the Doha Development Agenda (DDA) round in the World Trade Organization (WTO) to reduce or eliminate barriers to trade in agricultural goods. However, the movement towards a tighter economic relationship under an FTA exposed important sensitivities that threatened to undermine the entire negotiations.

Under the USAFTA (Chapter 3 and related annexes), U.S. tariffs on around 20% of the agriculture imports from Australia will be eliminated immediately. The United States will also phase out the tariff-rate quota (TRQ) on beef during the tariff elimination period to begin when U.S. exports of beef reach their 2003 level (to allow U.S. beef producers to recover from the effects of the "mad cow" incident), or three years after the agreement goes into effect, whichever is earlier.[18] U.S. tariffs on beef imports within the quota will be eliminated immediately and tariffs on imports above the quota will be eliminated in stages over the 18-year period.

The U.S. TRQ on dairy product imports from Australia will be increased and phased out over an 18-year period under the USAFTA. Tariffs on within-quota imports will be eliminated immediately, while the tariffs on above-quota imports will remain unchanged. The U.S. dairy quotas will apply to Australian exports of such products as certain cheeses, butter, milk, cream, ice-cream products, and whole milk powder. U.S. quotas on imports of Australian peanuts, tobacco, cotton, and avocados will also be eliminated over time. U.S. duties on Australian wines will be eliminated over an 11-year period.

Among the most controversial issues was the U.S. tariff-rate quota on sugar. The United States refused to change the sugar quota and it remains unchanged under the USAFTA.

Australian exports of wheat, rice, barley, and sugar are monopolies of state-sanctioned commodity boards, or "single desk arrangements." During the negotiations, the United States asserted that these boards distort trade and targeted them as negotiating objectives during the FTA negotiations. As a result of the negotiations, however, Australia will maintain the single-desk arrangements but agreed to work with the United States in the WTO to eliminate restrictions on the right of private entities, who are apart from the commodity boards, to export agricultural products.

The USAFTA will provide for special "safeguard" provisions for U.S. imports of Australian beef and horticulture products (e.g., tomatoes, pears, apricots, onions, and peaches). A quantity-based trigger mechanism will apply to imports of Australian beef during the first 18-years of the agreement, and a price-based trigger mechanism will apply beginning in year 19 of the agreement. A price-trigger

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[18] Under TRQs, imports within a quota enter at one tariff rate but imports above the quota enter at a much higher, sometime prohibitive, tariff rate.

mechanism will apply during the tariff elimination transition period for U.S. imports of Australian horticulture products.

Under the USAFTA, Australian tariffs on imports of U.S. agricultural products will be eliminated immediately. These provisions are expected to benefit particularly U.S. exports of processed foods, soybeans, fresh and processed fruits, vegetables and nuts, and exports of alcoholic beverages.[19]

The U.S. government asserted that Australia's sanitary and phytosanitary (SPS) measures are excessively restrictive. The restrictions affect U.S. exports of Florida citrus, stone fruit, chicken, pork, apples, pears, and corn.[20] Australia asserted that these requirements are necessary to protect the health of its citizens and to protect Australian produce from disease. The two partners agreed to a compromise under the USAFTA whereby they will establish mechanisms to resolve bilateral disputes over SPS regulations and to develop science-based measures to protect health and safety that are trade-related.

Textiles and Apparel

Textiles and apparel represent a very small portion of U.S.-Australian bilateral trade. In 2003, U.S. exports of these products totaled $121.6 million or just under 1% of total U.S. exports to Australia, and U.S. imports of textiles and apparel totaled $253.6 million or about 4% of total U.S. imports from Australia. The USAFTA (Chapter 4 and Annex-4A) provides for special safeguard measures to dampen the adverse effects of surges in textile and apparel imports in U.S.-Australian bilateral trade. If either Australia or the United States determines that imports of textile or apparel products from the other are increasing at such a rate as to be a substantial cause of serious injury, or a threat thereof, to the domestic industry, then it can apply a trade remedy in the form of a higher duty to allow the domestic industry to adjust. The safeguard measures are similar to, but different from, the general safeguard measures (described earlier) in the USAFTA. One important difference is that compensation to the country that is the target of the safeguard measure must be in the form of concessions on textile and apparel, unless the two countries otherwise agree.

The USAFTA contains rules of origin that specifically apply to textiles and apparel. The agreement applies the "yarn forward" principle, that is, fabrics produced for export must be formed entirely from yarns formed in either the United States or Australia and apparel for export must be produced entirely from fabrics produced in either Australia or the United States from yarns entirely formed in either of the two countries. In addition, the apparel must be cut or knit to shape or assembled in either Australia or the United States. There are a number of exceptions to this principle that are product-specific and outlined in Annex 4-A of the agreement.

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[19] For more detailed information on agricultural trade under the USAFTA, see *Agriculture in the Australia-U.S. Free Trade Agreement.* Agriculture Policy Electronic Briefing Book. ebagr78.

[20] USTR. p.12.

In addition to the safeguard measures and rules of origin, the USAFTA provides that tariffs on textiles and apparel are to be eliminated more gradually than tariffs on other manufactured goods. For example, whereas 100% of U.S. imports of non-textile and apparel manufactured goods from Australia will become duty-free immediately when the USAFTA enters into force, only 7% of U.S. imports of textiles and apparel from Australia will become duty-free immediately. Around 86% of those imports will not become entirely duty-free until the agreement has been in force 10 years.[21]

Trade in Non-Financial Services

The USAFTA (Chapter 10) covers the sale, production, distribution, marketing, and delivery of services, and also payment for services. The obligations under the USAFTA mirror closely, and in some cases exceed, those that the United States and Australia have undertaken in the WTO under the General Agreement on Trade in Services (GATS).

The USAFTA covers service transactions delivered in any of three ways: from the territory of one FTA-country to the territory of the other; in the territory of one FTA-country by a national of that country to a national from the second FTA-country; and by a national of one FTA-country in the territory of the second. The agreement requires the United States and Australia to accord non-discriminatory treatment, both most-favored- nation treatment and national treatment, to services originating in each other's territory. The agreement prohibits the Australian and U.S. governments from imposing restrictions on: the number of service providers; the total value of service transactions that can be provided; the total number of service operations or the total quantity of services output; or the total number of natural persons that can be employed in a services operation. In addition, the two governments could not require a service provider from the other FTA-country to have a presence in its territory in order to provide services. There are exceptions to this coverage that are listed in chapter 10.

As is the case with the GATS, the USAFTA allows the United States and Australia to make exceptions (non-conforming measures) to the national treatment, MFN, market access, and local presence restrictions. The exceptions apply to any existing non-conforming measure at the federal or regional levels of government **and** that are **specifically identified** in either Annex I or Annex II of the agreement and to all non-conforming measures maintained by local governments. The nonconforming measures listed in Annex I cannot be made more restrictive, and if made less restrictive are then "bound." Those listed in Annex II can be made more restrictive and are not "bound" if made less restrictive. The USAFTA adopts the "negative list" approach to the coverage of services; that is, the countries are obligated to cover all service sectors except those specifically listed in the annexes. In contrast, under the GATS, no service sector is covered unless specifically identified. The USAFTA's coverage is, therefore, more comprehensive in terms of U.S.-Australian bilateral services trade.

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[21] Department of Commerce calculations.

The Australian government has used the non-conforming measures provisions to preserve **local content requirements in audiovisual and broadcasting media**. The Australian government restricts foreign content of programming and advertising on over-the-air television broadcasting. Between 6:00PM and 12 Midnight, 55% of the programming must be of Australian origin, and 80% of the advertising must be Australian advertisements. The United States wanted the restrictions changed to permit more foreign access to these markets. Australia insisted that the restrictions are necessary to preserve Australian culture, and the exception is listed in Annex I. In addition, the Australian government has reserved the right, as listed in Annex II, to impose new requirements regarding multi-channel broadcast television programs, expenditure requirements for subscription television, tax preferences for investment in Australian film and television productions, among others. Annex II also contains an Australian exception to allow it to maintain existing co-production arrangements and to create new ones.

The United States listed excepted nonconforming measures in its schedules to Annex I and Annex II. Among the most notable was the preservation of many restrictions under section 27 of the Merchant Marine Act of 1920 (The Jones Act). Among other things, that law limits shipping within the United States to vessels owned, built, and operated by U.S. citizens, and registered in the United States.

The USAFTA obligates the United States and Australia in other aspects of their bilateral trade in services. It requires that any procedures that either government employs to authorize the supply of services be transparent, that an application for authorization must be handled in a timely manner, that the applicant be informed of the status of the application, and that the eligibility requirements for authorization not constitute unnecessary barriers to trade in services. Furthermore, the FTA requires that the regulations that govern trade in services be developed and applied in a transparent manner. It also addresses the issue of government-imposed qualifying requirements (education, experience, certification, licenses, etc.) for providers of professional services obtained in one country and recognized as valid by the other. Also, the United States and Australia agree to at least maintain the current level of market openness in providing express delivery services and to ensure that revenues earned from a monopoly postal service (for example Australia Post) are not used to provide a competitive advantage to its express delivery service.

Financial Services

USAFTA (Chapter 13) specifically addresses bilateral trade and investment in financial services. The agreement defines financial services to "include all insurance and insurance-related services, and all banking and other financial services, as well as services incidental or auxiliary to a service of a financial nature." The obligations that the United States and Australia agree to undertake closely mirror those found in non-financial services: national treatment; MFN treatment; prohibition on limits to the number of financial institutions, the total value of service transactions, the quantity of output, or the number of natural persons that may be employed in a particular firm; prohibition on requirements that senior management or board of directors consists of individuals of a particular nationality; prohibition on requirement that the board of directors consist of a majority of nationals from the

country where the financial provider is located; and a requirement for regulatory transparency.

As in the case with non-financial services, the agreement allows each FTA country to make exceptions to the coverage of the agreement. These exceptions are listed in Annex III (existing non-conforming measures that cannot be made more restrictive) and Annex IV (sectors and subsectors on which existing non-conforming measures can be maintained or tightened and on which new non-conforming measures can be applied).

The United States and Australia undertake obligations that are specific to financial services. For example, the agreement allows financial service providers from one partner country to sell a new financial service in the other's market without additional legislation, if local financial service providers are allowed to provide the same service; however, the provider of the new service could be required to obtain authorization and to provide the new service in a particular institutional or juridical form. The USAFTA permits an FTA-country to recognize as valid the prudential measures of non-FTA countries without automatically recognizing the validity of the other partner's measures, but it must give the other FTA-partner the opportunity to show why its prudential measures should be so recognized. The USAFTA also requires the establishment of a Financial Services Committee to consider ways that the financial services sectors of the two countries can be more closely integrated.

Telecommunications

Under the USAFTA (Chapter 12), the United States and Australia agree to ensure that enterprises from each other's territory have nondiscriminatory access to public telecommunications services. (The chapter specifically does not apply to broadcast or cable distribution of radio or television programming, except that enterprises operating broadcast stations and cable systems have access to telecommunications services.) For example, both countries will ensure that suppliers of telecommunications services who dominate the market do not engage in anti-competitive practices. They also ensure that public telecommunications suppliers provide enterprises based in the other FTA-partner with interconnection, number portability, dialing parity, and access to underwater cable systems.

Government Procurement

The USAFTA (Chapter 15) opens up the vast markets of procurement in goods and services by the two governments to suppliers from other country. This chapter is closely modeled on the WTO Government Procurement Agreement (GPA), a so-called plurilateral agreement that the United States has signed, but Australia has not signed.[22] The WTO Agreement requires its signatories to allow goods and services providers from the other signatory countries to bid on contracts valued above a

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[22] A WTO plurilateral agreement is an agreement that WTO members are not obligated to sign in order to be a WTO member in good standing. Not signing the agreement means that a country is not bound by its provisions but also means that the country does not benefit from those provisions.

threshold level on an equal, nondiscriminating basis with domestic suppliers, thus waiving any "buy national" requirements. For example, the U.S. "Buy America Act" gives preferential treatment to U.S. domestic suppliers vis-a-vis non-GPA signatories. The USAFTA will give Australian suppliers of goods and services equal status in the U.S. government procurement market with providers from the other countries that have signed the GPA or from other countries with which the United States has similar agreements.

To ensure non-discrimination, both the GPA and the USAFTA require participating governments to follow rules that call for transparency and timeliness in tendering bids, such as open tendering and publication of tender opportunities. Coverage of both agreements is limited to those federal and regional entities that the participating countries have listed in annexes and to contracts that are above a threshold value.

Foreign Investment

The USAFTA (Chapter 11) covers foreign investment activities on the territories of the two countries by nationals from the other partner-country. The agreement applies to all forms of investment, including direct investments (controlling investments in enterprises, plant and equipment, real estate, etc.) and portfolio investments (stocks, bonds, intellectual property rights, etc.). The agreement will require the United States and Australia to afford non-discriminatory treatment, most-favored-nation and national treatment, to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of an investment. The agreement will prohibit, with limited exceptions, either of the governments from imposing performance requirements on the operation of a foreign investment in its territory.[23] The USAFTA will prohibit both governments from requiring a foreign-owned enterprise hire individuals of a particular nationality in a senior management position. It will permit the governments to require that a majority or fewer of the board of directors be of a nationality or resident of its territory provided that such a requirement does not impair the ability of the foreign investor from maintaining control over the investment. The agreement will place limits on the right of each government to expropriate the assets of a foreign investor who is a national of the other FTA country.

As with the case of services, the USAFTA will allow each partner to list exemptions from the provisions on foreign investment, and these non-conforming

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[23] The following performance requirements are specifically prohibited: to export a given level or percentage of goods or services; to achieve a given level or percentage of domestic content; to purchase, use, or accord a preference to goods produced in its territory or to purchase goods from persons in its territory; to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with an investment; to restrict sales of goods or services in is territory that an investment produces or supplies by relating such sales in any way to the volume or value of its exports or foreign exchange earnings; to transfer a particular technology, a production process, or other proprietary knowledge to a person in its territory; or to supply exclusively from its territory the goods that an investment produces or the services it supplies to a specific regional market or to the world market.

measures are listed in Annex I and Annex II (the same annexes for services) of the agreement. Australia has used Annexes I and II to preserve its right to screen foreign investments. All foreign investments in Australia are subject to government screening and approval. While this process has apparently not stopped U.S. investors from establishing successful operations in Australia, representatives of the U.S. business community insisted that the process does not conform to the principle of "national treatment," that is, treating foreign investors no less favorably than domestic investors. The United States has used its right to exceptions, among other things, to preserve programs to encourage minority-owned businesses.

At the outset of the negotiations, USTR Zoellick stated that he wanted the Australian government to eliminate or reduce trade distorting investment measures.[24] The Australian government had indicated that changing the process might be difficult.[25] However, in a compromise, the United States has allowed Australia to maintain its screening process. Australia agreed to eliminate screening of U.S. investment in new entities ("greenfield investments"). It also agreed to increase the threshold value from $A50 million to $A800 million above which U.S. acquisitions of established entities in Australia will have to be screened.[26] The threshold on U.S. investments in some sensitive sectors, such as telecommunications, transportation, and defense-related areas, will remain at $A50million. U.S. acquisitions of Australian financial institutions will also remain restricted.[27]

During the negotiations, the United States insisted that a special investor-state dispute mechanism be established under the USAFTA. Australia argued that such a mechanism will not be necessary because U.S. and Australian legal traditions regarding investment were very similar, and U.S. investors will receive fair treatment in Australian courts. The United States agreed to keep the mechanism out of the agreement, but the agreement contains a provision that will allow the establishment of an investor-state dispute mechanism, if changed circumstances warrant it.

Other Issues

The USAFTA contains provisions covering other relatively non-controversial, but nevertheless important, aspects of U.S.-Australian trade and investment. The provisions on **labor** (Chapter 18) and **environment** (Chapter 19) are structurally similar. Because the Australian and U.S. economies are both modern and industrialized and are at similar levels of development, with similar average wage levels and environmental standards, labor and environment issues have not been a cause of bilateral trade friction. Nevertheless, the USAFTA commits the two countries to enforce their respective labor rights laws, that is those laws that are directly related to the internationally recognized labor principles and rights, and to enforce laws to protect the environment. If either government ascertains that the

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[24] *Text: Zoellick Letter on Australia FTA.* Reproduced by *Inside US Trade.* Available at [http://www.insidetrade.com].

[25] Ibid.

[26] The U.S. dollar/Australian dollar exchange rate is $US1=$A1.38 as of April 28, 2004.

[27] *Inside U.S. Trade.* February 13, 2004.

other FTA partner is not adhering to these provisions, it will be able to raise the issue through the USAFTA's dispute settlement mechanism (described below).

The USAFTA (Chapter 8) will also commit Australia and the United States to prevent government **standards and technical regulations** from unnecessarily inhibiting bilateral trade. Governments use these regulations to ensure that the goods sold in their territory do not impair the health and safety of their residents. The agreement will also commit the two countries to work toward mutual recognition of each other's technical regulations as equivalent to their own. The objective will be to facilitate trade by eliminating duplicative testing and other technical procedures.

The USAFTA devotes a separate chapter (Chapter 16) to **electronic commerce (e-commerce)**. Among other things, the agreement commits the United States and Australia not to impose customs duties on any digital product. A digital product is defined as the "digitized form, or encoding of, computer programs, text, video, images, sound recordings, and other products, regardless of whether they are fixed on a carrier medium [e.g., CD] or transmitted electronically [online]." In addition, the two countries agree to accord no less favorable (non-discriminatory) treatment to digital products that originate in the other USAFTA-country or in a non-FTA country, than it accords digital products that originate in its territory. Exceptions to this principle are those that the FTA partners have listed under the foreign investment chapter and the services chapter. Furthermore, if a government practice, action, or regulation presents a conflict between this principle and the provisions of the USAFTA pertaining to intellectual property rights protection (Chapter 17), the latter will prevail.

Under the USAFTA (Chapter 17), the United States and Australia reaffirm their obligations to a number of international treaties on **intellectual property rights,** including the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Furthermore, the USAFTA commit the two countries to ratify and accede to the World Intellectual Property Organization (WIPO) Treaty on Performances and Phonograms and the Treaty on Copyrights. The United States has ratified the two treaties, while Australia has not. Other key provisions would:

- protect the rights of holders of copyrights, including programs carried over encrypted satellite signals;
- protect the rights of patent holders, with flexibility to exclude from patent ability the methods of treatment and regulations that re used to protect public order and morality;
- protect the rights of holders of trademarks, including geographical designations;
- require Australia to extend the duration of copyright protection to coincide with U.S. protection — from the life of the author plus 50 years to the life of the author plus 70 years; and
- protect internet domain holders from "cybersquatting."

The USAFTA (Chapter 21) provides for a mechanism for the two countries to resolve **disputes** that arise over interpretation of the agreement. The agreement requires the formation of a Joint Committee of representatives from each FTA country that will meet annually to review the operation of the agreement to consider and to discuss possible disputes or changes that one or the other country wishes to make to the agreement. The agreement places a premium on resolving through consultation, but if that means fails, it provides for the establishment of a panel to arbitrate the dispute and assign compensation if warranted.

Reactions to the Agreement

With some notable exceptions, the reactions to the USAFTA of representatives from affected sectors of the U.S. economy have been positive, although the reaction of any specific industry or sector is largely a function how it will be affected by the agreement. The Advisory Committee for Trade Policy and Negotiations (ACTPN) was established by the Congress to provide private sector advice to the President on trade agreements before he signs them. The ACTPN's membership cuts across virtually all sectors of the economy, including manufacturing, agriculture, labor, services, and the environment. With the exception of one member (see below), the ACTPN has endorsed the U.S.-Australia Free Trade Agreement. The vast majority of the committee's membership concluded that the agreement fulfills U.S. trade objectives that Congress set down in the Trade Act of 2002, and the membership supports the trade liberalizing measures to which the agreement commits the United States and Australia.[28]

Although, endorsing the agreement, the majority of the ACTPN expressed some concerns:

- that some issues regarding Australia's sanitary and phytosanitary (SPS) regime still needed to be resolved before U.S. agricultural exporters will be able to take full advantage of the agreement;

- that the agreement does not include an investor-state dispute provision and calls for the U.S. government to ensure that such a provision be added if it proves warranted; and

- that the environmental provisions in the agreement are adequate for Australia, since Australia has a strong record on environmental protection, but they should not be considered a model for other U.S. FTA agreements where the partners' records on the environmental protection is not so strong.[29]

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[28] The Advisory Committee for Trade Policy and Negotiations (ACTPN). Report to the President, the Congress, and the United States Trade Representative on the U.S.-Australia Free Trade Agreement. p. 3-7.

[29] Ibid.

The ACTPN member representing labor, James P. Hoffa, Jr., General President of the International Brotherhood of Teamsters, filed the lone dissenting view against approval of the agreement. He argued that the agreement's labor provisions only require Australia to enforce its labor laws. Hoffa claims, "While Australia is a developed country with a relatively high standard of living and a vibrant, independent labor movement, it has an imbalanced, inadequate system of labor laws that fail to fully protect workers' rights."[30]

The agricultural negotiations were the most difficult and the results somewhat ambiguous. The reactions of agricultural and food producers reflect the ambiguity. U.S. sugar producers were relieved that the agreement did not include liberalization of sugar imports, while sugar-using processors were critical. U.S. wheat exporters oppose the agreement because Australia will be permitted to retain its single-desk monopoly on wheat exports. Pork producers have indicated that they will not support the agreement until Australia implements a final risk assessment on U.S. pork for import into Australia and U.S. pork exports to that market begin to increase. The reaction of beef producers has been mixed. They are disappointed that greater access to the U.S. market for Australian exporters was not matched by openings in other foreign markets for U.S. beef exporters through the WTO negotiations. They are pleased that the U.S. beef market will be opened gradually to Australian exporters over an 18-year period. The American Farm Bureau supports the USAFTA as long as the SPS issues and other issues that affect U.S. agricultural exports are resolved before the Congress votes on the agreement.[31]

U.S. manufacturers strongly support the USAFTA, calling for immediate congressional approval. National Association of Manufacturers (NAM) Vice-President Frank Vargo has labeled the USAFTA "the manufacturers agreement."[32]

Congress and the USAFTA

United States Trade Representative Robert Zoellick and Australian Trade Minister Mark Vaile signed the agreement on May 18, 2004, in Washington. Within 60 days after signing the agreement, the President must submit a preliminary list of U.S. laws that will have to be changed in order to comply with the agreement. After entering into the agreement, but within no specific time frame, the President then can submit a draft of the agreement, the implementing legislation, and statement of administrative action to both Houses of Congress. The three documents must be submitted on days in which both Houses are in session. The Congress then has a total of 90 legislative days in which to act: The House Committees with jurisdiction over the agreement have 45 legislative days during which to review and report out

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[30] Ibid. p.8.

[31] These reactions are found in *Agriculture in the Australia-U.S. Free Trade Agreement.* CRS Agriculture Policy Electronic Briefing Book. ebagr78 [http://www.congress.gov/brbk/html/ebagr78.html].

[32] Vargo, Frank. Statement before the International Trade Commission Hearing on the U.S.-Australia Free Trade Agreement. March 30, 2004.

the agreement followed by 15 legislative days for floor action. The Senate Committees of jurisdiction have an additional 15 legislative days to consider and report out the implementing legislation followed by an additional 15 legislative days for floor action. Under trade promotion authority the amount of time for debate on the agreement in both Houses is limited and the vote is strictly yea or nay (no amendments).[33]

On June 23, 2004, the House Ways and Means Committee and the Senate Finance Committee each held a "mock mark-up" of implementing legislation. The Ways and Means Committee approved by voice vote the "legislation" on June 23 without amendment. On a largely party-line vote, the Finance Committee approved an amendment that will require the USTR to obtain approval from the Ways and Means and Finance Committees before he could waive requirement to implement a safeguard measure against imports Australian beef. On June 24, Senate Finance reported the legislation out unfavorably (7-14). The Bush Administration was expected to submit implementing legislation based on the House Ways and Means Committee version.

On July 6, 2004, the President formally submitted legislation to implement the agreement. On July 8, the House Ways and Means Committee favorably reported out the implementing bill, H.R. 4759, by voice vote, and the full House approved the measure (314-109) on July 15. On July 15, the Senate Finance Committee reported out bill, and the full Senate approved the measure (80-16) on July 16. The bill was sent to the President for his signature. President Bush signed the U.S.-Australia Free Trade Agreement Implementation Act on August 3, 2004 (P.L.108-286).

The Australian parliament approved implementing legislation on August 13, 2004, but with two amendments insisted on the by opposition Labour Party, whose support the government needed in order to get sufficient support to get it passed by the Senate. The amendments stipulate that pharmaceutical companies that hold drug patents must certify that any legal action they seek to block cheaper generic drugs from entering the Australian market must have been done in good faith. The companies would be subject to monetary penalties if they violate the certification. The USTR must certify to the President that the amendments comply with the FTA as signed by the two countries before the agreement goes into effect. On November 17, 2004, USTR Zoellick and Trade Minister Vaile exchanged diplomatic notes certifying acceptance of each other's implementing legislation but only after Australia assured the United States that the implementing legislation would be changed to address U.S. concerns. The FTA entered into force on January 1, 2005.

Impact of the USAFTA

The USAFTA will have implications for the U.S.-Australia economic relationship and possibly for U.S. trade and trade policy as a whole. Because tariffs on most manufactured goods and many agricultural products were already low, one

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[33] For more information on congressional procedures on trade agreements, see CRS Report RL32011, Trade Agreements: Procedure for Congressional Approval and Implementation.

can conclude that the removal of the tariffs and other restrictions will not result in major shifts in trade patterns, in large increases in the total volume of trade, or in significant trade diversion. An analysis of the potential economic effects of the USAFTA conducted by the United States International Trade Commission concluded that the largest percentage increases in U.S. exports to Australia will occur in coal, oil, gas, and other mineral products; textiles, apparel, and leather products; and other processed food and tobacco products, although these increases will occur from small bases. The largest value increases in U.S. exports to Australia will occur in other machinery and equipment and motor vehicles and parts. The largest percentage increases in U.S. imports from Australia will occur in textile, apparel, and leather products; meat products; and other processed food and tobacco products. The greatest increase in value of U.S. imports from Australia will occur in meat products. The report estimated that U.S. consumers will realize a net welfare benefit increase of $438 million to $639.4 million if the agreement is fully implemented.[34]

Under the USAFTA, the United States and Australia addressed the few significant irritants in their bilateral economic relationship. Accordingly, the agreement could further solidify an already strong relationship. For Australia, those irritants include U.S. restrictions on beef and dairy products. For the United States they include Australian local content requirements in television programming, sanitary and phytosanitary (SPS) measures, state-sanctioned monopolies in exports of wheat and other grains, and screening of foreign investments. In some cases, such as U.S. restrictions on beef and dairy and Australian investment screening, the two sides agreed to loosen restrictions. In the case others, such as the Australian SPS measures and state-sanctioned monopolies, they agreed to establish mechanisms for further discussion. However, in the case of some irritants, such as U.S. import controls on sugar, the two countries agreed no change was possible.

The agreement may have implications for U.S. trade policy and strategy as a whole. Enactment of the agreement will build on the increased U.S. use of FTAs, especially by the Bush Administration, as a trade liberalization tool. For some observers, FTAs act as building blocks to global trade liberalization, especially at a time when the multilateral negotiations in the WTO are proceeding slowly at best. Others have argued that FTAs undermine multilateral trade liberalization efforts and create a confusing web of intertwining economic relationships.

If approved by Congress, the USAFTA may also set precedents for other FTAs the United States might form. For example, the steps that Australia agreed to take to make the Pharmaceutical Benefits System more transparent may be a model for the United States in future FTAs with countries that have similar government-subsidized drug programs. Some observers have also suggested that the exclusion of U.S. sugar import restrictions from the USAFTA will encourage other trading partners to exclude politically-sensitive products from agreements with the United States or encourage other U.S. import-sensitive industries to push for exclusion in future trade agreements.

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[34] United States International Trade Commission. *U.S.-Australia Free Trade Agreement: Potential Economywide and Selected Effects.* Investigation No. TA-2104-11. May 2004. [http://www.usitc.gov].