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Trade Deal

This Fact Sheet deals with four separate trade-related bills the House expects to vote on this week — three individual free-trade agreements and a measure to extend aid to U.S. workers harmed by foreign trade.

Under an agreement reached between the White House and congressional leaders, the four bills are moving in tandem: an extension of federal Trade Adjustment Assistance programs which provides benefits to U.S. workers hurt by foreign trade (Senate Amendment to HR 2832 , Extend Generalized System of Preferences), and legislation implementing three free-trade agreements originally negotiated by the Bush administration with Colombia (HR 3078), Panama (HR 3079) and South Korea (HR 3080).

Both the White House and Republicans argue that the trade agreements will help create jobs by promoting U.S. exports to those nations, although many Democrats object that Colombia shouldn't be granted free-trade status until it takes more action to prevent violence against union activists. The three trade agreements are moving pursuant to "fast track" trade procedures that prohibit amendments.

The TAA measure would extend the program, which is currently set to expire in February, through December 2013 — although at reduced levels generally equivalent to where they were in 2002.

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Section I

Background & Summary

The Constitution gives Congress exclusive authority to set tariffs and to enact other legislation governing international trade, while the president has constitutional authority to negotiate international agreements. If the president negotiates a trade agreement that requires changes in U.S. tariffs, or other domestic laws, that trade agreement's "implementing" legislation must be submitted to both houses of Congress — or the president must have the advance approval of such changes from Congress.

'Fast Track' Process

Procedures for expedited congressional consideration of trade agreements — formerly referred to as "fast track" and now known as "trade promotion authority" (PL 107-210) — were first authorized in the Trade Act of 1974 in order to implement trade agreements concluded between the executive branch and foreign countries. These special procedures require the president, before entering into any trade agreement, to consult with and provide Congress advance notice of his intent to enter into an agreement. After entering into the agreement, fast track requires the president to submit the draft agreement, implementing legislation and a statement of administrative action for congressional approval. Amendments to the legislation in Congress are not permitted once the bill is introduced (committee and floor action consists of "up or down" votes on the bill as introduced).

These procedures were first used during the Carter administration with respect to the General Agreement on Tariffs and Trade (GATT) Tokyo Round Agreements, which were approved and implemented in the Trade Agreements Act of 1979. The procedures have not been significantly altered since 1974, but were expanded during the Reagan administration in 1984 to apply to bilateral agreements. Fast-track procedures were used in 1994 to implement the Uruguay Round Agreements of GATT that approved U.S. participation in the World Trade Organization; in 1993, when Congress narrowly approved the North American Free Trade Agreement (NAFTA) establishing a free-trade zone in Canada, the United States and Mexico; and for numerous bilateral trade agreements since.

Specifically, the law provides the president with the authority to negotiate certain tariff reductions, including unlimited authority to negotiate reciprocal duty elimination on a sector basis. The law requires the U.S. trade representative to consult with statutory trade advisers, relevant committees, and with a congressional oversight group before initialing any agreement.

After formal introduction of legislation to implement a trade agreement, the House committees of jurisdiction have 45 legislative days to report the bill. The House would be required to vote on the bill within 15 legislative days after the measure was reported or discharged from the committees. Fifteen additional days are provided for Senate committee consideration, while another 15 days are provided for Senate floor action. Accordingly, the maximum period for congressional consideration of the implementing bill from the date of introduction is 90 legislative days.

Once the implementing bill has been formally introduced, no amendments are permitted either in committee or on the House or Senate floors, and a straight up-or-down vote is required. Before formal introduction, however, the bill may be developed by the committees of jurisdiction together with the administration during an informal committee "mock markup" process. After the mock markups, the resulting bill could then be formally introduced. Such a process was used to produce the final NAFTA, CAFTA and Uruguay Round implementing bills, as well as a number of bilateral accords, such as those with Singapore, Australia and Jordan.

Recent Actions

No U.S. trade agreements have been enacted since the U.S.-Peru free-trade agreement was approved by Congress in December 2008 (PL 110-138). The George W. Bush administration concluded bilateral trade agreements with Colombia, Panama and South Korea, but opposition from the then-Democratic Congress prevented the accords from being considered.

When President Obama took office, he negotiated a series of side agreements with South Korea and Colombia intended to help engender support for the agreements from some Democrats. By then, however, the newly empowered Republican majority in the House indirectly raised new hurdles for passage of the accords because of their opposition to an extension of Trade Adjustment Assistance (TAA), a priority for Democrats which offers a variety of benefits and re-employment services to U.S. workers harmed or displaced by foreign trade.

Although most Democrats and many Republicans have traditionally supported the TAA program as a way to help workers who lose their jobs or whose hours of work and wages are reduced as a result of increased imports, conservative GOP critics of the program have questioned the cost and effectiveness of TAA, claiming that the 2009 stimulus law (PL 111-5) expanded the program to unacceptable levels and that even the base program duplicated other federal support programs. Such opposition forced Republican leaders to pull a TAA extension bill from the House floor last February, when the TAA's expanded benefits from the stimulus law expired.

The Obama administration initially wanted to restore the expanded TAA benefits that were part of the stimulus law, as well as extend current TAA authority, which is set to expire in February 2012. Along with congressional Democrats, Obama called for a renewal of TAA authority to be tied to the three pending trade deals. With both Obama and Republicans championing the trade agreements as actions that will help create U.S. jobs, the White House and congressional leaders eventually agreed to an extension of TAA authority — but generally at reduced levels.

The Senate in late September subsequently added the TAA agreement to House-passed legislation (HR 2832) dealing with the the Generalized System of Preferences, and on Oct. 3 the president formally submitted the three agreements with South Korea (HR 3080), Colombia (HR 3078) and Panama (HR 3079). Within minutes, Speaker John A. Boehner, R-Ohio, promised the House would votes on the deals "consecutively and in tandem with" the TAA bill.

Summary

This Fact Sheet describes the provisions of four bills scheduled to be considered under a single floor rule that implement the three trade agreements with Colombia, Panama and South Korea, and which reauthorizes federal Trade Adjustment Assistance programs.

The trade agreement bills would reduce a number of tariffs and duties currently affecting trade between the United States and the three countries, reduce barriers for services, and establish new labor and environmental enforcement standards.

The final bill, Senate Amendment to HR 2832 , Generalized System of Preferences (GSP) Extension, reauthorizes through Dec. 2013 trade adjustment assistance programs and alternative trade adjustment assistance (ATAA) for workers, but at levels generally consistent to where they were in 2002. The measure fully offsets the cost of continued TAA assistance until then.

That TAA bill also extends, until July 31, 2013, the Generalized System of Preferences, which provides duty-free access to the U.S. market for certain products from developing countries.

References

In "mock markups" on July 7, the House Ways and Means Committee and Senate Finance Committee informally approved draft legislation to implement U.S. free-trade agreements with Colombia, Panama and South Korea.

On Oct. 5, the Ways and Means Committee formally approved legislation to implement the U.S.-Colombia Free Trade Promotion Agreement Implementation Act (CFTA) by a vote of 24 to 11 (H Rept 112-237); the U.S.-Panama Free Trade Promotion Agreement Implementation Act by a vote of 32 to 3, (H Rept 112-238); and the U.S.-South Korea Free Trade Agreement Implementation Act by a vote of 22 to 15 (H Rept 112-239).

On Sept. 7 by voice vote, the House passed HR 2832 extending the Generalized System of Preferences. On Sept. 22, the Senate amended the bill by attaching language extending trade adjustment assistance and passed the measure by a vote of 70 to 27.

See CQ Weekly, p. 2082 .

Section II

U.S.-Colombia FTA

This section deals with HR 3078 , U.S.-Colombia Free Trade Promotion Agreement Implementation Act (CFTA), that the House is expected to consider Wednesday.

The accord was signed by the United States and Colombia on Nov. 22, 2006, and subsequently was modified in 2007 to include new legally binding amendments on labor and the environment.

The accord is subject to fast-track procedures since it was signed before authority under the fast-track law ended in July 2007, but must be approved by Congress before it can enter into force. The Colombian Congress approved the amended agreement in October 2007.

Since Colombia already enjoys duty-free treatment on 90% of its exports to the United States under the Andean Trade Preference Act (ATPA; PL 102-182), most of CFTA's provisions relate to U.S. exports to Panama. ATPA was enacted in 1991 to help combat drug production and trafficking in the Andean countries of Bolivia, Colombia, Ecuador and Peru. The program offers trade benefits to help these countries develop and strengthen legitimate industries as alternatives to drug production and trafficking. To qualify for ATPA benefits, countries must meet certain eligibility criteria related to counternarcotics cooperation. The act was last extended in December 2009 (PL 111-124).

In early 2008, President George W. Bush submitted implementing legislation (HR 5724) for CFTA to Congress. Most Democrats, however, opposed the accord, claiming that violence against Colombian labor leaders was unacceptable. Consequently, the then Democratic-controlled Congress refused to consider legislation implementing the agreement — despite fast-track rules that theoretically require a vote in Congress.

Although Congress has generally adhered to the guidelines established under fast track procedures, current law specifies that the procedures and timetable are rules of the chambers. Specifically, it expressly recognizes “the constitutional right of either House to change the rules relating to the procedures of that House at any time, in the same manner, and to the same extent as any other rule of that House.” Article I, Section 5 of the Constitution specifies that “each House may determine the rules of its proceedings.”

Consequently, most experts believe the House or Senate can unilaterally change their procedures for considering trade agreements submitted under current law governing congressional action on those agreements. On April 10, 2008, the House, by a vote of 224 to 195, adopted H Res 1092 (see House Action Reports Second Supplement to the Legislative Week of April 7, 2008) making certain provisions of fast track (now known as

Trade Promotion Authority) inapplicable to the CFTA implementing legislation. However, although a subsequent ruling by the House parliamentarian cast doubt on whether CFTA implementing legislation could be reintroduced, the House has other options for considering the measure, including adopting a special rule if necessary.

This April, the Obama administration, which has generally supported the agreement, negotiated an "Action Plan" with new Colombian President Juan Manuel Santos, under which Colombia must pass laws to protect labor organizers and prosecute individuals charged with violence against labor leaders. The plan includes specific timelines and concrete steps relating to violence against trade unionists that the Colombian government is required to implement. Most observers believe that Colombia has made great progress in recent years to curb violence in the country and that the murder rate of trade unionists is now lower than the overall murder rate. In addition, this summer the United States Trade Representative (USTR) stated that Colombia had met the requirements outlined in the action plan.

The Ways and Means Committee on Oct. 5 voted 24 to 12 to formally repeat legislation (HR 3078) to implement the U.S.-Colombia free trade agreement.

U.S.-Colombia Trade

Colombia has the fourth-largest economy in Latin America, after Brazil, Mexico and Argentina, although its overall size is only about 2% the size of the U.S. economy. It maintains regional trade agreements with most North and South American countries, including a free trade agreement with Canada. Colombia has also recently signed a free trade agreement with the European Union, which is awaiting formal approval by both signatories.

In 2010, according to the Congressional Research Service, the United States accounted for 26% of Colombia's imports and 42% of Colombia's exports. China is the second-leading supplier of Colombia's imports, after the United States, accounting for 13% of total imports. Colombia accounts for 1% of U.S. trade, ranking 20th among U.S. export markets (\$11 billion) and 25th as a source of U.S. imports (\$15.7 billion).

The main Colombian exports to the United States include oil and gas (54%); non-ferrous metals (10%); fruits and tree nuts (6%); petroleum and coal products (6%); and coal and petroleum gases (6%). The leading U.S. exports to Colombia was petroleum and coal products (20%); agriculture and construction machinery (4%); basic chemicals (2%); resin, synthetic rubber and products (2%); and general purpose machinery (2%).

Currently, the average U.S. tariff on Colombian goods is 3%, while Colombia imposes an average rate of 12.5% on U.S. goods entering that country. In general, Colombia imposes rates of 0% to 5% on imported capital goods, industrial goods, and raw materials not produced in Colombia; 10% on manufactured goods; and 15% to 20% on consumer items. Imported autos, however, are subject to a 35% duty, while beef and rice are slapped with an 80% levy.

Summary

This bill implements a trade agreement recently reached between the United States and Colombia. The agreement reduces most tariffs and duties currently affecting trade between the United States and Colombia, reduces barriers for services, increases protections for intellectual property, and is intended to enhance Colombia's labor- and environmental-enforcement standards.

Under the agreement, most exports of consumer and industrial goods to Colombia would enter duty-free immediately, with rates coming down later for other products. The agreement also would remove barriers to agricultural trade with Colombia, reduce barriers to U.S. services and provide a secure, predictable legal framework for investors.

U.S. Consumer & Industrial Goods

Under the trade agreement, as ratified by the bill, 80% of U.S. industrial and consumer exports to Colombia would become duty-free immediately upon the trade agreement taking effect. An additional 7% of products would receive duty-free access within five years, while tariffs on the remaining products would be phased out within 10 years.

Currently, tariffs on U.S. manufactured goods exported to Colombia average over 9%, with tariffs on auto and auto parts at 17%, consumer goods at 15%, and building products at 13%.

Sectors that would receive immediate duty-free treatment include aircraft and auto parts; agricultural and construction equipment; agro-chemicals; and medical, scientific and information technology equipment. The measure also guarantees access to Colombia for U.S. exports of remanufactured products, such as industrial machinery and consumer electronics.

Agriculture

Currently, U.S. agriculture exports to Colombia face an average tariff of 20%, whereas only two Colombian agricultural exports face tariffs above 3%. Under ATPA, almost all Colombian agriculture exports enter the United States duty free. The agreement makes these preferences permanent.

Under the agreement, which covers all agricultural products, Colombia would provide immediate duty-free access for 77.5% of U.S. agricultural product lines and would phase out tariffs on almost 93% of agricultural product lines within 10 years.

Items that would receive immediately duty-free treatment include soybeans, cotton, wheat, barley, peanuts, bacon, high-quality beef, the vast majority of processed products and almost all fruit and vegetable products.

The agreement eliminates quotas and tariffs for corn and other feed grains after 12 years, on dairy products after 15 years, on poultry after 18 years, and on rice after 19 years.

Textiles & Apparel

Under the agreement, all U.S. textiles and apparel products meeting the agreement's rules of origin would immediately become duty-free and quota-free when exported to Colombia. The measure contains a "de minimis" provision to allow limited amounts of specified third-country content to go into U.S. and Colombian apparel.

The measure also allows the use of "short supply" fabrics, yarns and fibers (i.e., fabrics, yarns and fibers not made in Colombia or the United States that have been determined not to be commercially available in either country) as inputs.

The agreement contains a special textile safeguard to provide temporary tariff relief if imports prove damaging to domestic producers.

Labor

The measure requires each nation to adopt and enforce five core International Labor Organization (ILO) standards, including freedom of association, the recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labor, the effective abolition of child labor and a prohibition on the worst forms of child labor, and the elimination of discrimination with respect to employment and occupation.

Specifically, the agreement requires each government to reaffirm its obligations as members of the ILO, and commits each to ensure that its laws provide for labor standards consistent with internationally recognized labor rights. The agreement makes clear that it is inappropriate to weaken or reduce domestic labor protections to encourage trade or investment, and requires each to effectively enforce its domestic labor laws through the agreement's dispute-settlement procedures with respect to minimum wages, hours of work and occupational safety and health.

The measure requires both countries to adhere to the ILO mechanisms and best practices on protecting the rights of migrant workers.

The measure also contains procedural guarantees to ensure that workers and employers have fair, equitable and transparent access to labor tribunals or courts.

Environment

The trade agreement requires both countries to enforce their domestic environmental laws and to establish a dispute-settlement process to enforce such obligations. The measure commits each government not to weaken or reduce environmental laws to attract trade or investment and to implement voluntary, market-based mechanisms to protect the environment.

It also states that multilateral environment agreements (MEAs) to which they are parties play an important role globally and domestically in protecting the environment and that the implementation of these agreements is critical to achieve each party's environmental objectives. The measure also includes a fully enforceable, binding commitment that would prohibit each country from lowering environmental standards in the future in a manner affecting trade or investment.

Finally, the measure calls for a public submissions process with an independent secretariat for environmental matters to ensure that the views of civil society are appropriately considered. All obligations in the environment chapter would be subject to the same dispute-settlement procedures and enforcement mechanisms as obligations in other chapters of the agreement.

Services

The service sector accounts for more than half of Colombia's gross domestic product (GDP). The trade agreement provides market access, national treatment and regulatory transparency to most service sectors. Such sectors include engineering, architecture, real estate, telecommunications, computer and financial services markets.

The measure also allows U.S. managerial, professional and specialty personnel to serve in senior executive and professional posts, which Colombia now prohibits.

Under the agreement, Colombia will eliminate requirements that U.S. firms establish branches to provide services, and allow U.S. financial service companies to have full rights to establish subsidiaries or branches for banks and insurance companies.

Investment Protections

The agreement establishes a secure, predictable legal framework for U.S. investors operating in Colombia. The measure covers all forms of investment, including enterprises, debt, concessions and similar contracts, and intellectual property.

The measure requires U.S. investors to be treated as Colombian investors with a few exceptions. Under the agreement, U.S. investors in Colombia would have similar protections to those that foreign investors have in the United States, including due process protections and the right to receive fair market value for property in the event of an expropriation.

Intellectual Property

The measure establishes protections and non-discriminatory treatment for intellectual property and other digital products, such as U.S. software, music, text, e-commerce and videos.

The agreement requires both countries to develop a system for resolving disputes about trademarks used in internet domain names; to develop an online system for the registration and maintenance of trademarks; and to have transparent procedures for trademark registration. The measure also contains numerous protections for copyrighted works and other patented products.

The agreement also provides patent protection for five years for pharmaceuticals and 10 years for agricultural chemicals.

Other Provisions

The agreement also does the following:

- **Government Procurement** — Each country agrees to allow the other's firms to bid in a non-discriminatory process on government contracts. U.S. firms also would be eligible to bid on contracts from Colombia's national oil company.

- **Information Technology** — Under the agreement, Colombia would join the World Trade Organization Information Technology Agreement, and remove its tariff and non-tariff barriers to information technology products. The measure also requires Colombia to allow for trade in remanufactured goods, such as machinery, cell phones and computers.

Section III

U.S.-Panama FTA

This section deals with HR 3079 , the U.S.-Panama Free Trade Promotion Agreement Implementation Act (PFTA) that the House is expected to consider Wednesday.

On March 30, 2007, President Bush notified Congress of his intention to enter into a trade agreement with Panama, which was signed on June 28, 2007. Panama's National Assembly approved the agreement on July 11, 2007. The accord is subject to "fast-track" procedures since it was signed before authority ended under the now-expired fast-track law, but must be approved by Congress before it can enter into force.

Unlike the two other free-trade agreements (FTA) awaiting implementation, the substance of the U.S.-Panama FTA has been relatively non-controversial. Overall trade with Panama is minimal compared with South Korea, while violence against trade unionists, such as in Colombia, has not been an issue in Panama. Moreover, almost all Panamanian exports already enter the United States duty-free.

The only major issue holding up the agreement was unrelated to trade. Soon after the agreement was signed by the two countries, Pedro Miguel Gonzalez Pinzon was elected president of Panama's National Assembly. Pinzon had been accused of participating in the June 1992 murder of a U.S. serviceman in Panama. A Panamanian court acquitted him of the charge in 1997, but the United States does not recognize the verdict and maintains an outstanding warrant for his arrest. In September 2008, however, Pinzon decided not to run for a second term as president, and the issue quietly faded away.

Since Panama already enjoys duty-free treatment on 99% of its exports to the United States under the Andean Trade Preference Act (ATPA; PL 102-182), most of the U.S.-Panama FTA's provisions relate to U.S. exports to Panama. ATPA was enacted in 1991 to help combat drug production and trafficking in the Andean countries of Bolivia, Colombia, Ecuador and Peru. The program offers trade benefits to help these countries develop and strengthen legitimate industries as alternatives to drug production and trafficking. To qualify for ATPA benefits, countries must meet certain eligibility criteria related to counternarcotics cooperation. The act was last extended in December 2009 (PL 111-124).

The Ways and Means Committee on Oct. 5 voted 32-3 to formally report legislation (HR 3079) to implement the U.S.-Panama Free Trade Agreement.

U.S.-Panama Trade

While Panama's economy is relatively small — less than 1% of the size of the United States' economy — it is one of the fastest-growing economies in Latin America, expanding 6.2% in 2010, with similar annual growth forecast through 2015. It enjoys the highest per-capita income level in Central America. It recently concluded an FTA with Canada, along with a similar arrangement with the European Union.

The Panama Canal continues to play a huge role in the country's economy, directly accounting for 6% of the country's gross domestic product (GDP). Moreover, 78% of Panama's economy is in services, including transportation, shipping and other commerce related to the canal and its associated Free Trade Zone, the world's second-largest after Hong Kong.

In 2010, according to the Congressional Research Service, the United States exported \$6.1 billion worth of goods to Panama and imported \$379 million worth. Panama accounts for less than 1% of U.S. trade, ranking 36th among U.S. export markets and 93rd as a source of U.S. imports.

The leading U.S. exports to Panama were refined petroleum products (41%), general machinery (9%), electrical machinery (7%) and aircraft (7%). The main Panamanian exports to the United States include seafood (23%), gold (16%), fruits (5%) and sugar (5%). Unlike other Central American countries, Panama produces relatively few textiles.

Currently, the average Panamanian tariff on U.S. industrial and consumer goods is 7% with rates of up to 81% for some goods. The average tariff on U.S. agricultural goods is 15% with spikes of up to 260%. Most Panamanian exports to the U.S. enter duty-free. Agricultural products, however, face some of the highest barriers, particularly sugar, which is subject to a tariff rate quota (TRQ).

The United States continues to have concerns over drug trafficking and money laundering through Panama. Some in Congress, therefore, have called for greater tax transparency to help monitor and control related illegal financial transactions in Panama. Such critics have noted that Panama was placed on the Organization of Economic Cooperation and Development (OECD) "Gray List" of countries that have committed to an international tax standard, but have yet to implement it.

To address these concerns, Panama has ratified the U.S.-Panama Tax Information and Exchange Agreement (TIEA) and has since been removed from the "Gray List," although it has yet to comply with the tax transparency standard.

Summary

This bill implements a trade agreement recently reached between the United States and Panama. The agreement reduces most tariffs and duties currently affecting trade between the two countries, reduces barriers for services, increases protections for intellectual property, and is intended to enhance Panama's labor- and environmental-enforcement standards.

Since Panama already enjoys duty-free treatment on 99% of its exports to the United States under the Andean Trade Preference Act, most of the agreement's provisions relate to U.S. exports to Panama.

Under the agreement, most exports of consumer and industrial goods to Panama would enter duty-free immediately, with rates decreasing later for other products. The agreement also would remove sanitary and phytosanitary barriers to agricultural trade with Panama, reduce barriers to U.S. services and provide a secure, predictable legal framework for investors.

U.S. Consumer & Industrial Goods

Under the trade agreement, as ratified by the bill, 87% of U.S. industrial and consumer exports to Panama would become duty-free immediately upon the trade agreement taking effect. Duties on the remaining products would be phased out within 10 years.

Sectors that would receive immediate duty-free treatment include aircraft, construction equipment, and medical and scientific equipment. As a result, the International Trade Commission (ITC) estimates significant gains in U.S. exports in key sectors and products. The measure also requires Panama to reaffirm its commitment to fulfill its obligations under the World Trade Organization (WTO) Information Technology Agreement, which would further open Panama's market to U.S. high-tech exports.

Agriculture

Currently, U.S. agriculture exports to Panama face an average tariff of 15%, whereas more than 99% of Panamanian agricultural exports to the United States enter duty-free. Under the agreement, which covers all agricultural products, Panama would provide immediate duty-free access for half of U.S. agricultural exports and would phase out tariffs on the remaining products at varying stages.

Items that would receive immediately duty-free treatment include pork, soybeans, cotton, wheat and most fresh fruit.

Panamanian rice tariffs will remain in place for up to 20 years under the agreement, but U.S. rice exports would receive expanded quotas under the Panamanian tariff rate quota system. The United States agreed to give Panama an additional 7,000 metric tons of sugar imports in the first year under a three-tiered TRQ system, which would grow by 1% per year.

Under the agreement, Panama would formalize its recognition of the equivalence of the U.S. meat, poultry and processed-foods inspection systems, and provide access for all U.S. beef and beef products consistent with international norms.

Textiles & Apparel

Under the agreement, many U.S. textiles and apparel products meeting the agreement's rules of origin would immediately become duty-free and quota-free when exported to Panama. The measure contains a "de minimis" provision to allow limited amounts of specified third-country content to go into U.S. and Panamanian apparel.

The measure also allows the use of "short supply" fabrics, yarns and fibers (i.e., fabrics, yarns and fibers not made in Panama or the United States that have been determined not to be commercially available in either country) as inputs.

Moreover, because Panama is a huge trans-shipment point for international trade and has its own duty-free zone, U.S. apparel producers have raised concerns over illegal trans-shipment of goods that do not meet rules of origin. The measure, therefore, contains strong consultation provisions to encourage Panamanian monitoring and compliance with trans-shipment rules.

Services

The service sector accounts for 78% of Panama's gross domestic product (GDP). The trade agreement provides market access, national treatment and regulatory transparency to most service sectors, including retail trade, financial services and professional services. Such sectors include "e-commerce," audiovisual, express delivery, telecommunications, computer and related services, distribution, trucking and services incidental to construction, architecture and engineering.

The measure also increases opportunities for U.S. managerial, professional and specialty personnel by removing requirements that U.S. companies hire Panamanian nationals for certain positions.

Labor

The measure requires each nation to comply with International Labor Organization (ILO) standards, including freedom of association; the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labor; the effective abolition of child labor; and the elimination of discrimination with respect to employment and occupation.

Specifically, the agreement requires each government to reaffirm its obligations as members of the ILO, and commits each to ensure that its laws provide for labor standards consistent with internationally recognized labor rights. The agreement makes clear that it is inappropriate to weaken or reduce domestic labor protections to encourage trade or investment, and requires each to effectively enforce its labor laws, enforceable through the agreement's dispute-settlement procedures, with respect to minimum wages, hours of work, and occupational safety and health.

Environment

The trade agreement requires both countries to enforce their domestic environmental laws and to establish a dispute-settlement process to enforce such obligations. The measure commits each government not to weaken or reduce environmental laws to attract trade or investment and to implement voluntary, market-based mechanisms to protect the environment.

It also states that multilateral environment agreements (MEAs) to which they are parties play an important role globally and domestically in protecting the environment and that the implementation of these agreements is critical to achieve each party's environmental objectives. The measure also includes a fully enforceable, binding commitment that would prohibit each country from lowering environmental standards in the future in a manner affecting trade or investment. Finally, the measure calls for a public submissions process with an independent secretariat for environmental matters to ensure that views of civil society are appropriately considered. All obligations in the environment chapter would be subject to the same dispute-settlement procedures and enforcement mechanisms as obligations in other chapters of the agreement.

Government Procurement

The agreement requires that covered Panamanian government purchasers not discriminate against U.S. firms, or in favor of Panamanian firms, when making certain government purchases in excess of agreed monetary thresholds.

The measure requires advance public notice of purchases, timely bid review procedures, and criminal and other penalties for bribery in government procurement.

Intellectual Property

U.S. negotiators have raised concerns over patent and data exclusivity issues related to pharmaceutical products. Internet piracy has also become a problem in Panama.

The agreement requires Panama to accede to most intellectual-property rights treaties, and to strengthen anti-piracy enforcement. It strengthens trademark registration enforcement through a transparent online process, establishes protections and non-discriminatory treatment for intellectual property and other digital products, such as U.S. software and music, extends terms of protection for copyrighted materials, and prohibits unauthorized receipt or distribution of encrypted satellite signal.

The measure also criminalizes end-user piracy, and mandates statutory damages for abuse of copyrighted material.

Finally, the agreement requires Panama to adopt new IPR pharmaceutical standards that reflect a bipartisan understanding as developed by congressional leadership and the U.S. trade representative in a May 2007 agreement.

Other Provisions

The agreement also does the following:

- **Trade Capacity** — The agreement creates a Committee on Trade Capacity Building (TCB) designed to assist Panama with the transition to freer trade with the United States. Among other goals, the committee will provide technical assistance and coordinate financing to aid the upcoming transition period.
- **Investment Protections** — The agreement establishes a secure, predictable legal framework for U.S. investors operating in Panama. The measure covers all forms of investment, including enterprises, debt, concessions and similar contracts, and intellectual property.

Section IV

U.S.-South Korea FTA

This section deals with HR 3080 , U.S.-South Korea Free Trade Agreement Implementation Act, that the House is expected to consider Wednesday.

The U.S.-South Korea Free Trade Agreement (KORUS FTA), was signed by the United States and South Korea on June 30, 2007. The accord is subject to fast-track procedures since it was signed before authority under the now-expired fast-track law that ended in July 2007, but must be approved by Congress before it can enter into force.

The George W. Bush administration, however, did not submit the legislation because of differences with the then-Democratic Congress over South Korea's treatment of autos and beef. Most observers argue that South Korea has maintained one of the most protected markets for auto imports in the industrialized world, including tax audits of Korean individuals who buy certain foreign vehicles. South Korea also maintains one of the most closed agricultural markets in the Organization for Economic Co-operation and Development (OECD). In particular, South Korea has periodically banned most imports of U.S. beef products because of fears relating to mad cow disease, despite little scientific evidence. U.S. exporters also complain about the lack of transparency of South Korea's trading and regulatory systems, together with non-tariff barriers in almost every major product sector.

On Dec. 3, 2010, President Obama and President Lee of South Korea announced that they had reached an agreement — in the form of an exchange of letters and agreed minutes — to include changes in phase-out periods for tariffs on autos, and to allow a larger number of U.S. cars into South Korea under U.S. safety standards.

The beef issue was not entirely resolved, but the Obama administration plans to request consultations on the matter as soon as the agreement goes into effect.

The Ways and Means Committee on Oct. 5 voted 31-5 to formally report legislation (HR 3080) to implement the U.S.-South Korea Free Trade Agreement.

U.S.-South Korea Trade

The United States is South Korea's third-largest trading partner, while South Korea is the seventh-largest trading partner of the United States. In 2003, China displaced the United States as South Korea's largest trading partner. U.S. industrial goods currently face an average tariff of 6.2% in South Korea, costing more than \$1.3 billion a year. South Korean exports enter the United States, however, at an average tariff of only 2.8%.

In 2010, according to the Congressional Research Service, U.S. imports from South Korea totaled \$48.9 billion, while U.S. exports to South Korea totaled \$38 billion.

Principal U.S. imports from South Korea include cell phones, semiconductor circuits, autos and auto parts, and steel. Major U.S. exports to South Korea include semiconductors, machinery, aircraft and agricultural products.

Summary

This bill implements a trade agreement recently reached between the United States and South Korea. The agreement reduces most tariffs and duties currently affecting trade between the United States and South Korea, reduces barriers for services, increases protections for intellectual property and reduces tariffs imposed on U.S. auto exports.

The measure does not eliminate certain barriers to U.S. exports of beef products.

Consumer & Industrial Goods

Under the trade agreement, as ratified by the bill, 80% of U.S. industrial and consumer exports to South Korea would become duty-free immediately upon the trade agreement taking effect. Duties on the remaining products would be phased out within 10 years.

Sectors that would receive immediate duty-free treatment include aircraft, electrical equipment, and medical and scientific equipment.

Under the agreement, South Korea reaffirms its commitment to fulfill its obligations under the WTO Information Technology Agreement and will immediately eliminate tariffs on information and communications technologies not covered by the ITA.

Motor Vehicles & Parts

The measure, as modified by the 2010 agreement, requires South Korea to immediately cut its tariff on U.S. autos in half and fully eliminate those tariffs after five years. South Korea will also immediately cut its tariffs on U.S. electric cars in half and phase out those tariffs over five years.

Specifically, the measure requires South Korea to immediately reduce its 8% tariff on U.S.-built passenger cars to 4% and immediately reduce its 10% tariff on trucks to zero. In year five, tariffs on U.S.-made motor vehicles, including electric cars and plug-in hybrids, would be reduced to zero. The measure also requires each country immediately to reduce tariffs on auto parts imported from the other to zero. Under the agreement, the United States could keep its passenger vehicle tariff of 2.5% for five years.

The measure requires South Korea to reduce its steep vehicle tax schedule, which maintains very high rates on vehicles with larger engine capacities, and most of which are imports. The agreement also requires South Korea to eliminate the discrepancy in the rates between imported and domestic vehicles.

An exchange of letters between the Obama administration and South Korean government on Feb. 10, 2011, also addressed motor vehicles, among other goods. That letter exchange addressed safety and environmental standards and other non-tariff barriers to U.S. exports, under which South Korea has committed to strengthen transparency commitments, to help to prevent the emergence of new non-tariff barriers and discriminatory taxes. It also strengthens other enforcement mechanisms and creates a special motor vehicle safeguard.

Agriculture

In 2010, South Korea was the fifth-largest market for U.S. agriculture, as export sales totaled \$5.3 billion. Currently, U.S. agriculture exports to South Korea face an average tariff of 54%, whereas South Korean agricultural exports face average U.S. tariffs of only 9%.

Under the agreement, South Korea would provide immediate duty-free access for more than half of current U.S. farm exports to South Korea by value, including U.S. exports of wheat, corn for feed, soybeans for crushing, whey for feed use, hides and skins, cotton, cherries, pistachios, almonds, grape juice and wine.

South Korea agreed to eliminate its 40% tariff on beef muscle meats imported from the United States over a 15-year period, while retaining the right to impose safeguard tariffs on a temporary basis in response to any potential surge in imports. It did not, however, change current Korean rules limiting the importation of U.S. beef only from cattle that is less than 30 months old.

Under the agreement, South Korea would formalize its recognition of the equivalence of the U.S. meat, poultry and processed-foods inspection systems.

The measure also allows South Korea to maintain extensive import quotas and tariffs on the importation of rice and oranges.

Services

The agreement provides U.S. service firms with market access, national treatment and regulatory transparency exceeding that afforded by the WTO General Agreement on Services. The measure would eliminate numerous barriers into South Korea's financial,

insurance, telecommunications, audiovisual, express delivery and professional services markets, including ending many current restrictions that allow only South Korean nationals to provide professional services.

The measure also establishes a set course for future reform of South Korea's postal system with respect to delivery services.

Textiles & Apparel

Textiles and apparel represent an increasingly small percentage of U.S. manufactured imports from South Korea, accounting for only 2% of total sales in 2010.

Under the agreement, many U.S. textiles and apparel products meeting the agreement's rules of origin would immediately become duty-free and quota-free when exported to South Korea. The measure contains a "de minimis" provision to allow limited amounts of specified third-country content to go into U.S. and Korean apparel.

The measure also allows the use of "short supply" fabrics, yarns and fibers (i.e., fabrics, yarns and fibers not made in South Korea or the United States that have been determined not to be commercially available in either country) as inputs.

Labor

The measure requires each nation to adopt and enforce five core International Labor Organization (ILO) standards, including freedom of association and the recognition of the right to collective bargaining.

Specifically, the agreement requires each government to reaffirm its obligations as members of the ILO, and commits each to ensure that its laws provide for labor standards consistent with internationally recognized labor rights.

The agreement makes clear that it is inappropriate to weaken or reduce domestic labor protections to encourage trade or investment, and requires each to effectively enforce its domestic labor laws, enforceable through the agreement's dispute-settlement procedures, with respect to minimum wages, hours of work, and occupational safety and health.

The measure also contains procedural guarantees to ensure that workers and employers have fair, equitable, and transparent access to labor tribunals or courts.

Environment

The trade agreement requires both countries to enforce their domestic environmental laws and to establish a dispute-settlement process to enforce such obligations. The measure commits each government not to weaken or reduce environmental laws to attract trade or investment and to implement voluntary, market-based mechanisms to protect the environment.

It also states that multilateral environment agreements (MEAs) to which they are parties play an important role globally and domestically in protecting the environment, and that the implementation of these agreements is critical to achieve each party's environmental objectives. The measure also includes a fully enforceable, binding commitment that would prohibit each country from lowering environmental standards in the future in a manner affecting trade or investment.

Finally, the measure calls for a public submissions process with an independent secretariat for environmental matters to ensure that the views of civil society are appropriately considered. All obligations in the environment chapter would be subject to the same dispute-settlement procedures and enforcement mechanisms as obligations in other chapters of the agreement.

Investment Protections

U.S. investors have frequently criticized South Korean restrictions on foreign investment in certain economic sectors, such as communications. U.S. firms have also complained about inadequate protection for intellectual property.

The agreement establishes a more secure, predictable legal framework for U.S. investors operating in South Korea. The measure covers all forms of investment, including enterprises, debt, concessions and similar contracts, and intellectual property.

Intellectual Property

The agreement requires South Korea to adopt higher and extended standards for the protection of intellectual property rights, such as copyrights, patents, trademarks and trade secrets.

Under the measure, each partner country would be required to grant national treatment to nationals of the other, and all laws, regulations, procedures and final judicial decisions would need to be in writing and published or made publicly available.

The agreement also lengthens terms for copyright protection, covers electronic and digital media, and increases enforcement to go beyond the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights. Both countries would be obliged to provide appropriate civil and criminal remedies for willful violators of intellectual property rights, under the accord.

Section V

Trade Adjustment Assistance/GSP

This section deals with the Senate Amendment to HR 2832 , Extend the Generalized System of Preferences.

The House on Sept. 7 passed the underlying bill, which contained only an extension of the Generalized System of Preferences, by voice vote under suspension of the rules. The Senate amended the bill by attaching language reauthorizing the Trade Adjustment Assistance program, and passed the measure Sept. 22 by a vote of 70-27.

Trade Adjustment Assistance

Initially created in 1962, the Trade Adjustment Assistance (TAA) program was substantially expanded as part of the Trade Act of 1974 (PL 93-618) to provide aid to workers who lose their jobs or whose hours of work and wages are reduced as a result of increased imports. TAA offers a variety of benefits and re-employment services to assist unemployed workers to prepare for and obtain suitable new employment.

The two largest components of TAA program for workers are training assistance for workers and income support for such workers who have exhausted their unemployment compensation. Certified workers who cannot obtain employment in their local commuting area may also be eligible for job search and relocation allowances. Some workers aged 50 or older are eligible to participate in Alternative Trade Adjustment Assistance (ATAA), a wage supplement program. Both TAA and ATAA eligible workers can receive a Health Coverage Tax Credit (HCTC), which provides a refundable tax credit to offset a portion of qualified health insurance premiums.

The program is administered by the Labor Department and various state agencies. The agencies act as federal agents in providing program information, processing applications, determining individual worker eligibility for benefits, issuing payments and providing re-employment services and training opportunities. States are reimbursed from federal general revenues for benefit payments and other costs incurred under the program.

Workers can receive up to two years of approved training in occupational skills, basic or remedial education, or training in literacy or English as a second language. Eligible beneficiaries also may qualify for weekly cash payments for one year after a worker's unemployment compensation benefit is exhausted and during the period in which a worker is participating in an approved full-time training program. Workers also can qualify for payments to cover expenses incurred in seeking employment outside normal commuting areas.

The TAA program was modified in 1994 to include workers who lose their jobs because of shifts in production that resulted from the North American Free Trade Agreement (NAFTA). The main beneficiaries of the program have been workers in the apparel and textile, oil and gas, electronics, metal and machinery fields.

2009 'Stimulus' Law

In 2009, the TAA program was expanded again through the American Recovery and Reinvestment Act (PL 111-5). The so-called stimulus law made service sector workers eligible for the program, expanded access for manufacturing and secondary workers, significantly increased training funding and promoted incumbent, part-time and longer-term training. It also increased the subsidy for a health care tax credit for unemployed workers and made permanent the re-employment TAA wage insurance program. Finally, the law tripled funding for the TAA for Firms program, expanded the TAA for Farmers program, created a TAA for Communities program and reauthorized all TAA programs through Dec. 31, 2010. As a result of these changes, more than 155,000 additional workers affected by trade policies were made eligible for TAA for Workers benefits and training opportunities.

The expansions enacted as part of the 2009 stimulus law expired in February, and the program is currently operating under its base authorizations — which are scheduled to expire in February 2012. The Obama administration initially wanted to restore the expanded TAA benefits that were part of the stimulus law, and along with congressional Democrats called for a renewal of expanded TAA authority to be tied to the three pending trade deals. But conservative critics of the program have questioned the cost and effectiveness of TAA, claiming that the stimulus expanded the program to unacceptable levels and that many of TAA's components are duplicated in other job training and assistance programs. House GOP leaders in February scheduled floor consideration of a TAA reauthorization bill under suspension of the rules (which would need two-thirds vote for approval), but were forced to pull the bill from the floor because of conservative opposition.

Subsequently, the administration along with congressional Republicans and Democrats reached an agreement on a TAA package to extend the underlying program through 2013 — but mostly at reduced levels of benefits — and to enact it in tandem with the three agreements with South Korea , Colombia and Panama.

Summary

The measure reauthorizes, through Dec. 2013, trade adjustment assistance (TAA) programs and alternative trade adjustment assistance (ATAA) for workers laid off because of the impact of foreign competition, but at levels generally consistent to where they were in 2002. The measure fully offsets the cost of continued TAA assistance until then.

The amendment also extends, until July 31, 2013, the Generalized System of Preferences (GSP) which provide duty-free access to the U.S. market for certain products from developing countries.

Trade Adjustment Assistance

Income Support

The amendment reduces the number of weeks of TAA income support to 117 weeks from the current 156, which was authorized by the 2009 stimulus.

The measure allows for an additional 13 weeks of assistance only if an applicant can show a need for additional training and demonstrates during training that the applicant has "substantially met the performance benchmarks" of the training program, and that the training will lead toward the completion of a degree or an industry-recognized credential. The measure includes various training options, including opportunities for part-time training and pre-layoff training.

Training Funds

The 2009 stimulus law doubled the training funding cap to \$440 million from \$220 million and increased it to \$660 million by 2010.

The amendment reduces the authorization to \$575 million for fiscal years 2012 and 2013, and prorates funds for the three-month period beginning Oct. 1, 2013 and ending Dec. 31, 2013.

The amendment also eliminates half of the allowable justifications for waivers from the program's training requirements, effectively reducing the number of beneficiaries and attendant costs to below the 2002 level.

Wage Insurance

The measure lowers the requirements of the wage insurance program to 2002 levels by reducing the income level for eligibility and reducing the level of benefits.

The amendment continues to provide accessible wage insurance that works with other benefits. For workers who seek quick re-employment, the amendment provides wage insurance — 50% of the wage differential between the old job and the new job, up to \$10,000 — to workers 50 years of age or older. The amendment allows workers to switch from trade readjustment allowances (TRAs) to wage insurance payments at any time during their training. The amendment also provides for a worker who completes training and is re-employed to receive re-employment TAA benefits in lieu of TRA benefits for the remainder of the worker's TRA eligibility.

Health Coverage Tax Credit

The Health Coverage Tax Credit (HCTC), is a health care tax credit for certain TAA-eligible workers and retirees covered by pension plans taken over by the Pension Benefit Guaranty Corporation who have lost their employer-sponsored coverage. The government currently provides an 80% refundable, advanceable tax credit to eligible individuals for the purchase of health coverage lost from their previous job. The subsidy had been 65% before the 2009 stimulus bill raised the percentage.

The bill reduces the subsidy to 72.5%, and completely eliminates the program after 2013.

The subsidies include retroactive payments to help cover the up-front costs of obtaining health coverage, including coverage for the worker's spouse and dependents. The measure also provides \$150 million in grants to help states improve the availability of health insurance options.

Rescind Public Sector Worker Eligibility

The bill rescinds eligibility to public sector workers that had been granted under the 2009 stimulus.

TAA for Firms

The TAA for Firms program helps small businesses adjust to foreign competition. The 2009 stimulus bill increased funding for the program to \$50 million.

The amendment reduces funding for the program to the 2002 level of \$16 million. However, it potentially expands the number of firms who may be eligible for assistance by allowing them to show a decline in sales or production over one, two or three years instead of the current one year.

TAA for Farmers & Fishermen

The amendment provides targeted training to farmers and fishermen and clarifies that fishermen and aquaculture producers may receive TAA benefits whether they are competing against farmed or wild-caught fish or seafood imports. Producers who complete the training phases become eligible for up to \$12,000 in seed money to use their new skills and implement a business plan.

The measure authorizes \$90 million in both FY 2012 and FY 2013 for the TAA Farmers and Fisherman Program.

The measure also makes the program discretionary, contingent upon annual appropriations. Under the two prior authorizations, it was a mandatory spending program.

TAA for Service Sector Workers

The amendment clarifies that workers and firms that supply services, such as call centers, computer programmers, and software designers, are eligible for TAA. The measure also makes secondary workers in the service sector, those whose jobs are affected when a company they supply closes, eligible to receive TAA.

TAA for Non-FTA Related Production

The measure continues to cover workers whose firms shift production to any country, including China or India, not just countries with which the United States has entered into a free trade agreement (FTA). The expanded coverage was part of the 2009 stimulus law.

Automatic Eligibility for Workers Covered by ITC Injury Determinations

The measure continues to provide for automatic group coverage for workers from a firm already covered by determination by the U.S. International Trade Commission (ITC) that workers have been harmed in an anti-dumping, countervailing duty, or safeguard proceeding. Such ITC determinations definitively show that an industry has been injured by increased imports, and establish a connection between trade and layoffs.

The amendment requires that workers in such industries will be automatically eligible to receive TAA benefits if their layoffs occurred within one year before or after an affirmative injury determination by the ITC.

Military Service

The measure provides eligibility protections for workers on active-duty military service. The amendment allows a worker called up for active-duty military or full-time National Guard service to restart their TAA enrollment process after completing such service.

Other Reductions

The measure eliminates the entitlement to relocation and job search expenses that was added in the 2009 stimulus, makes the expenses discretionary, and reduces the maximum benefit to 2002 levels. The amendment also stipulates that the expenses will be covered only if states have the funds available under the consolidated expenditure cap.

Generalized System of Preferences

The amendment extends the Generalized System of Preferences until July 31, 2013, and effectively makes the preferences retroactive to the previous expiration date of the program.

The Generalized System of Preferences (GSP) provides duty-free access to the U.S. market for certain products from 129 developing countries. Congress created GSP, the first of the U.S. preference programs, in the Trade Act of 1974 (PL 93-618). Under the basic GSP scheme, beneficiary countries are eligible to export approximately 3,400 types of products duty-free to the United States. The GSP program also provides additional benefits to the 42 GSP countries that are designated "least developed" under the program. These countries may export an additional 1,400 types of products. To qualify for GSP benefits, participants must meet eligibility criteria — e.g., whether the country has taken, or is taking, steps to afford internationally recognized worker rights, and whether the country provides certain protections for U.S. investors.

The previous GSP program expired Dec. 31, 2010 after Congress failed to extend it. As a result, imports of GSP products from GSP beneficiary countries arriving in the United States on or after Jan. 1, 2011, have technically been subject to regular Normal Trade Relations duties. However, GSP-eligible imports from beneficiary countries of the African Growth and Opportunity Act have continued to be eligible for duty-free entry.

Lapses in the program are not unusual. Between 1993 and 2002 the program expired seven times with lapses that varied between one and 15 months. However, each renewal during this period was made retroactive to the expiration of the program, resulting in participating GSP countries not being subject to increased duties.

Offsets

The amendment fully offsets the amendment's spending with spending cuts, including changes to Medicare and unemployment insurance. The measure is expected to cost just over \$900 million over three years.

The Congressional Budget Office (CBO) estimates that extending GSP, which results in a loss in tariff revenue, costs approximately \$1.5 billion. To offset the revenue loss, the measure raises certain merchandise processing fees, which CBO scores as offsetting receipts and a credit against direct (mandatory) spending.

The fees, which have not been increased since 1994, are paid by importers who import products from countries with whom the United States does not have a trade agreement. Under the bill, the fee would increase to 0.35% from 0.21% of the import value. The legislation also provides for a temporary acceleration of the payments.

The Customs and Border Protection (CBP) service estimates its inspection and processing costs exceeded the amount of fees collected by over \$760 million in FY 2011. The difference is currently made up by general appropriations.

The bill modifies the unemployment insurance (UI) program to ensure that people who are rehired by the same company cannot keep collecting unemployment insurance. It also increases financial penalties for those who defraud the program.

The measure also restructures the Medicare Quality Improvement Organization (QIO) program by encouraging greater competition for contracts, extending the duration and service area of awarded contracts, and eliminating certain conflicts of interest that currently exist. These changes are consistent with the Institutes of Medicine's recommendations and would reduce spending.