REGIONAL TRADING ARRANGEMENTS: Stocktake and Next Steps
Trade Policy Forum
Bangkok, June 12-13, 2001

CASE STUDIES ON RTA DEVELOPMENTS: a US perspective[1]

William E. James[2]
(james@icsead.or.jp)

Currently, the United States is actively considering three new Free Trade Agreements. The partner countries are Jordan, Chile and Singapore. Each of these potential agreements may be characterized as a "Cross Regional Trading Arrangement" or CRTA. The US is also committed to negotiate a hemisphere-wide free trade agreement with the 34 countries of Latin America by 2005—the Free Trade Area of the Americas (FTAA). Despite the efforts of the Clinton Administration to advance these agreements, since 1994 the President has lacked so-called "fast-track authority" or what the new Bush Administration terms "trade promotion authority." Hence, the US has been unable to close any of these deals. Unless the President is given trade promotion authority (TPA), the U.S. Congress can veto or amend any provision of these agreements rather than simply voting them up or down, as was the case with NAFTA and the Uruguay Round Agreement. This makes it extremely difficult to bring negotiations to a conclusion, as partner countries must respond or adjust to the changes made by Congress. Thus, the top priority in trade legislation of the new Bush Administration is to obtain TPA from Congress.

US-Chile FTA. Initially, in December of 1994 the Clinton Administration had announced its intention to open negotiations (together with NAFTA partners Canada and Mexico) to bring about the NAFTA accession of Chile. Several rounds of negotiations were in fact held in 1995, but were ultimately frustrated by Clinton's lack of fast-track authority and Chile withdrew from the talks with the US. Instead it negotiated separate FTAs with Canada and Mexico. In 1998 the US-Chile Joint Commission on Trade and Investment was initiated covering various related issues (including labor and environment). Then on November 29, 2000 there was a joint announcement that the US-Chile Free Trade Agreement negotiations would be initiated. The first round took place in December 2000 and two more rounds of negotiations have been held this year. Although no formal deadline for concluding the negotiations has been set, the governments have given the agreement high priority (reflected in President Bush's Trade Agenda). The urgency on the part of the United

[1] Presentation at the Pacific Economic Cooperation Council's Trade Policy Forum Conference on "Regional Trading Arrangements: Stocktake and Next Steps, in cooperation with the Ministry of Commerce, Bangkok, Thailand, June 12-13, 2001. The usual disclaimer applies.
[2] Chief, Research Division, International Centre for the Study of East Asian Development (ICSEAD), Kitakyushu, Japan

States is understandable, given Chile's position as the 32nd largest buyer of US goods & services plus the fact that US exports face an average tariff in Chile of 8 per cent, whilst exports from Canada and Mexico may enter Chile free of duty. This margin of preference, however, is gradually declining as Chile unilaterally reduces its MFN tariffs. It is also important to note that Chile applies a uniform tariff rate on virtually all goods and this even-handed treatment reduces the potential for significant sectoral specific trade diversion.

The US-Chile FTA negotiations are comprehensive in nature. In December 2000 the list of issues to be presented went well beyond tariff and non-tariff barriers in industry and agriculture. Indeed, customs procedures, rules of origin, antidumping and safeguards, standards and measures, investment, services, business visas, e-commerce, IPR, competition policy, public procurement, dispute settlement, labor and environment were all to be included in the negotiations.

US-Jordan FTA. The first country the United States entered into a free trade agreement with was Israel in 1985. Following that agreement came the Canada-US FTA in 1989 and this agreement was succeeded by NAFTA (including Mexico) in 1994. Thus, it is logical that the US turned its attention to negotiations with Israel's neighbor thereafter. The US-Jordan FTA was signed on October 24, 2000 and is pending approval by both sides. The agreement will remove almost all tariffs on agricultural and industrial goods and will eliminate barriers to bilateral trade in services over the next ten years. The agreement's treatment of services includes electronic commerce—a first in a Free Trade Agreement. IPR protection, rules of origin (including services), safeguards, labor, environment, and dispute settlement are included in the agreement. The labor and environmental provisions of the agreement are controversial in that they authorize the use of sanctions to enforce the agreed upon labor and environmental standards. Investment is covered by separate bilateral agreement. In addition, Jordan is afforded some scope for relief for balance of payments reasons in the agreement. Though the agreement was negotiated under the Clinton Administration, the new Bush Administration has come out in support of the agreement as a priority. Clearly, the US has an interest in obtaining improved market access in Jordan, which maintains MFN tariffs of around 15-20 per cent on industrial and agricultural products as well as significant non-tariff barriers. The over-riding concern of the US, however, is in the prosperity and stability of Jordan. Jordan has consistently been a force for moderation in a region of high tension and the potential for armed conflict.

US-Singapore FTA. One of the most significant recent initiatives in the area of RTAs was the joint announcement by Prime Minister Goh Chok Tong and President Clinton on November 16, 2000 of the decision to launch negotiations for a free trade agreement. This announcement was followed up almost immediately with two rounds of negotiations in Washington (December 4-21, 2000 and January 10-18, 2001). The aim is to achieve a comprehensive free trade agreement. The next round of negotiations will take place in Singapore. US trade with Singapore (including goods & services) totaled an estimated $40 billion last year making Singapore the largest trading partner of the US in the Southeast Asian region. Singapore has also become the regional

headquarters for many US multinational enterprises, particularly in the ICT sectors. Singapore already has bound tariffs on products covered by the Information Technology Agreement (ITA) at zero and has very few explicit import barriers. It is the expectation that the agreement will eliminate US tariffs on imports from Singapore. In turn, the US expects to benefit from improved market in services and from enhanced IPR protection in Singapore. Note that Singapore has been on the Special 301 Watch List since 1995 largely because of US perceptions that the TRIPS Agreement has not been enforced rigorously enough there. Software piracy and piracy of CDs, VCDs and CD-ROMs are among the concerns. The US has also sought to include agreements on labor and environment in the negotiations.

The US decision to give priority to a free trade agreement with Singapore rather than seeking a more extensive Pacific 5 Free Trade Agreement (with Australia, New Zealand, Singapore and Chile) raises some interesting questions. One reason for this decision is that such negotiations are extremely labor-intensive and difficult because of the many constituencies and interests at stake. Hence, a bilateral (country-to-country) negotiation is much simpler and can focus on the most important bilateral interests of the United States. Such a focus tends to be diluted and negotiations become more time-consuming and costly as more partners are added into the picture.

Some Observations on the US-Singapore FTA and Related Issues. The presumption in a free trade agreement involving a small, developing country with high barriers to trade and a large developed country with high income and relatively low barriers to trade is that the small country will obtain the greater share of the benefits of the FTA. Clearly, Singapore is asymmetric to the United States in size. However, Singapore's per capita income and level of economic development are relatively high. Moreover, Singapore practices free trade on an MFN basis for goods, has a very liberal investment regime and is very open despite some restrictions in services. Singapore has worked diligently towards these negotiations to which it attaches great importance. The US interest in an agreement with Singapore corresponds to the significant presence of US businesses in Singapore and the fact that Singapore is the most important market for US exports of goods and services in Southeast Asia.

The Current State of Play. The Clinton Administration had hoped to finish the negotiations by the end of the year 2000—an overly ambitious schedule given the issues to be resolved. With trade promotion authority, the negotiations could be concluded expeditiously given the expertise of both countries. However, in early December last year, 16 US business associations wrote President Clinton to urge him to allow more time for the talks to proceed and also questioned the inclusion of labor and environmental standards in the negotiations. The Bush Administration has signaled its willingness to compromise with Congress over the inclusion of the labor and environmental issues (to keep them in the agreement) in exchange for Trade Promotion Authority (TPA). The President and USTR have argued that the US is standing on the sidelines and needs to get into gear in order to build momentum for a new global round of negotiations. It sees the agreement with Singapore as a step in that direction. As Singapore has no significant agricultural sector and is a large importer of US food

products, it is expected US agricultural interests will strongly support the agreement. Given Singapore's small population and specialization in export of information technology-related products, the agreement is not expected to engender much opposition from organized labor or business interests in protected or sensitive US industries (textiles, steel, etc.). Service industries of the US are likely to support the agreement and to push for greater market access in Singapore, particularly in financial services. Singapore, for its part, appears willing to drop its opposition to inclusion of labor and environmental standards, as it is confident that it can meet these requirements. Hence, the agreement should be concluded expeditiously should President Bush obtain TPA. One potential sticking point that could arise is if the US side demands that the agreement include detailed product-specific rules of origin. The New Zealand-Singapore FTA is a model of simplicity in its rules of origin particularly when compared with the NAFTA. Because Singapore is no longer an exporter of sensitive products like steel and textiles, however, the US side may be willing to go along with simplified rules of origin. For example, in the New Zealand-Singapore FTA adopted relatively simple and flexible rules of origin. For products obtained in one country, the principle of being "wholly obtained" in either country is sufficient to confer origin. For goods that are partly manufactured in either country a minimum percentage or value-added test (40 per cent) applies and the test allows accumulation of value added between the two countries. Goods not satisfying the minimum percentage test may still benefit from partial preferential treatment to the extent there is local value added or if the product has undergone a last manufacturing process in either country. Goods with no local content but that undergo quality control and product testing may also qualify if expenditures on such operations are not less than 50 per cent of the ex factory cost of the product.

Anti-dumping regulation is another area likely to be contentious in any US-Singapore FTA negotiations. It is noteworthy that the FTA between Singapore and New Zealand goes beyond the Uruguay Round Agreement on Anti-dumping in that it increases *de minimis* margins from 2 per cent to 5 per cent and tightens the sunset review period to 3 years from 5. In negotiations between Singapore and the United States, the model of NAFTA Chapter 19 may be applicable. NAFTA provides for special bi-national panel reviews in order to resolve disputes over unfair trade law determinations (covering antidumping and countervailing duty cases). A panel of five experts (with 3 and 2 members from each member country on a rotating basis) determines whether decisions have been consistent with national unfair trade laws.

It is expected that any US-Singapore FTA will be "GATT/WTO-plus" in nature. That is it will be consistent with each partners WTO commitments, will meet Article XXIV requirements and will seek to advance liberalization commitments beyond those commitments. It is likely the Bush Administration will seek moderate labor and environmental provisions that will not undermine the liberalizing effects of the FTA.

The New Asian Regionalism and the WTO. Currently there are at least 15 new bilateral free trade agreements being studied, negotiated or that have been enacted involving East Asian countries and partners in the Asia-Pacific region. These new arrangements

reflect a historic change in stance by East Asian economies like Korea, Japan and Hong Kong. The wave of new discriminatory preferential arrangements involving East Asian countries may set the stage for emergence on a regional trading block that will serve as a counter weight to blocks in Europe and the Americas. The balance between trade creation and diversion in these blocks is not easy to determine *a priori*. A new multilateral trade round that reduces overall barriers to trade and investment would serve to minimize the adverse effects these blocks may have on open global trade.

The New Asian Regionalism: Free Trade Agreements

FTAs Involving Singapore:

Singapore-Japan FTA
Singapore-New Zealand FTA
Singapore-Korea FTA
Singapore-India FTA
Singapore-Mexico FTA
Singapore-Chile FTA
Singapore-USA FTA
Singapore-Australia FTA

FTAs Involving Japan:

Japan-Korea FTA
Japan-Mexico FTA
Japan-Chile FTA
Japan-Singapore FTA

FTAs Involving Korea:

Korea-Japan FTA
Korea-Singapore FTA
Korea-Mexico FTA
Korea-New Zealand FTA
Korea-Chile FTA

Other FTAs Involving E. and S.E. Asian Countries:

AFTA (ASEAN FTA)
AFTA-CER (ASEAN FTA with Australia and New Zealand)
PAC5 FTA (Singapore, Australia, New Zealand, Chile and USA)
Hong Kong-New Zealand FTA

Source: Author's Compilations.