

# Thomas Fast Track Bill (H.R. 3005) Snubs Agriculture Committee Demands

## ***Ag Committee Denied New Demanded Role; Ag Negotiating Objectives Label Existing Farm Programs, Elements of House Farm Bill as Trade Barriers***

The Bush Administration is demanding Fast Track trade authority to launch new WTO talks and to complete a 31-nation expansion of the North American Free Trade Agreement (NAFTA) called the Free Trade Area of the Americas (FTAA.) In these negotiations, reducing or eliminating U.S. farm programs, payments and anti-dumping safeguards is a stated goal of many U.S. competitors.

**Unfortunately, the Fast Track legislation proposed by Rep. Bill Thomas (H.R. 3005):**

- C Includes negotiating objectives for U.S. negotiators to develop trade agreements that eliminate domestic farm programs, “discipline domestic support, so that production in excess of domestic food security needs is sold at world prices,” and other goals which conflict with existing U.S. farm policy and the farm bill the House just passed.<sup>1</sup>**
- C Does not grant either of the Agriculture Committees with the new, meaningful role the Committees demanded. In contrast, under the Thomas Bill the Agriculture Committee would remain on the sidelines even though past trade negotiations have predetermined the parameters of domestic agriculture policy and the negotiating objectives of the Thomas Fast Track contradict Congress’ recent farm policy legislation.**

### **I. Agriculture Committee Denied the Needed, Demanded Role in Trade Negotiations**

The Thomas Fast Track has nothing more than a flimsy requirement that USTR “consult” with House and Senate Agriculture Committees before and during negotiations. The Thomas Fast Track does not provide the committees with any new authority, ability or tools to influence the contents of future trade agreements, much less to ensure that they are in the interest of U.S. farmers.

Fast Track delegates to the Executive Branch the Congress’ constitutionally granted authority to set trade policy, reserving for Congress only a final up-or-down vote after the terms of the agreement are negotiated and the pact is signed. Repeatedly, Agriculture Committee members and their legislation have been undermined when U.S. trade negotiators bargain away U.S. producers’ interests in exchange for new access for U.S. telecommunications firms, banks and other service providers in other nations.

In reaction, many Agriculture Committee members have demanded a special new role in the Fast Track process given that trade deals such as WTO and NAFTA effectively predetermine the parameters for U.S. domestic agriculture policy. The Committee’s demand has been reasonable: to be granted authority in Fast

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<sup>1</sup> Section 2 (b)(9)(iv) and (v).

Track to approve of agriculture terms in agreements being negotiated *before* an agreement is signed and locked down. This role is consistent with the U.S. Constitution's Article I-8 grant of exclusive jurisdiction to Congress to set the terms of trade while recognizing that the Executive is the branch authorized to conduct international negotiations on behalf of the U.S.

**The Thomas Fast Track Bill Does Not Fulfil Agriculture Committees' Demand for a New Role.** Indeed, the Thomas bill's treatment is an insult to the committees. The Thomas bill recognizes the legitimacy of Agriculture Committee demands for a special role by specially listing the committee by name in some, but not all, places where the bill calls for consultation with Congress.<sup>2</sup> However, rather than providing the sought after role for the Committee, these provisions simply provide identical consultations and briefings that other committees obtain.<sup>3</sup> The full concession the Thomas bill makes to the Agriculture Committees is to insert the term "agriculture committee" into consultation language that applies to any committee with jurisdiction implicated in the talks.

**The Thomas Fast Track Has Only a Flimsy Requirement that USTR "Consult," but Not Listen...** In only one section is the Agriculture Committee mentioned for a unique consultation - regarding review of an assessment of the agriculture tariff levels of potential trade partners. However even in this provision, the only authority granted to the committee is to give its opinion - along with the Ways and Means and others Committees - about whether further tariff reductions are appropriate.<sup>4</sup>

As with past Fast Tracks, only the Ways and Means, Rules and Finance Committees alone have any ability to object to the Executive Branch about how an agreement has been negotiated.<sup>5</sup> Only these Committees can initiate a "resolution to disapprove" seeking to remove application of Fast Track to an agreement. However, even these committees may only do so on the basis that the Executive Branch has failed to consult properly. Even these committees have no ability to remove Fast Track treatment if an agreement does not meet Congress' objectives. Thus the Thomas bill preserves no leverage for Congress generally, or the Agriculture Committee specifically, to ensure that the contents of trade agreements are acceptable before they are signed and launched down the legislative luge run of Fast Track.

The inability of Congress to play a meaningful role has led to trade agreements with disappointing results for agriculture, including two of the most major agreements ever negotiated using the Fast Track process - the 1993 NAFTA and 1994 WTO Agreement. Instead of the increased income that U.S. farmers were promised the pacts would bring, the U.S. has faced a new flood of imported agriculture products driving prices down. Farm income has sunk to record lows since the two major agreements went into effect. Moreover, a recent USDA study has concluded that the proposed FTAA presents significant threats to U.S. farmers - with a huge surge of South American wheat, soy, beef, citrus and sugar imports forecast - and few potential benefits. The Thomas bill automatically applies Fast Track to the FTAA eliminating the usual process by which Congress might object to FTAA being Fast Tracked. The Agriculture negotiating objectives in the Thomas bill only add to these existing concerns.

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<sup>2</sup> Section 2 (d)(2)(B).

<sup>3</sup> Section 2 (d)(1) ("In the course of negotiations ... USTR shall consult closely and on a timely basis with, and keep fully apprized of the negotiations... all committee ...with jurisdiction over laws that would be affected by a trade agreement resulting from the negotiations.")

<sup>4</sup> Section 4(b).

<sup>5</sup> Section 5 (b)(B)(i)(I).

## II. Agriculture Objectives of Thomas' Fast Track Undermine Existing Farm Programs, House Farm Bill

**Negotiating Objectives of Thomas Fast Track Undermine Existing, Future U.S. Farm Programs.** The Thomas Fast Track proposal includes language similar to the 1988 Fast Track which allowed the U.S. Trade Representative to negotiate away U.S. farm policy safeguards and U.S. trade laws which prohibit dumping cheap agricultural products on U.S. markets. Thomas bill agriculture objectives include:

- C “Allowing the preservation of programs that support Family Farms and rural communities *but do not distort trade,*”
- C “Developing disciplines for domestic support programs, so that production that is in excess of domestic food security needs is sold at world prices,”<sup>6</sup> and more.

President Bush opposes the use of farm payments as safeguards against the vagaries of the weather, commodities markets and international price fluctuations. The Administration already has listed U.S. farm support payments as trade-distorting policies with the WTO. The Thomas Fast Track bill instructs U.S. negotiators to pursue agreements that would continue to place such programs in peril. Farm programs, such as the new peanut provisions in the House Farm Bill, would fall afoul of these provisions of the Thomas Fast Track, which promotes trade pacts that could undo the policies achieved in Congress. Indeed, the U.S. Department of Agriculture's stated policy goal is to make farm supports subservient to international trade agreements - both agreements in effect and those currently in negotiation. Agriculture Secretary Veneman has been clear: The Bush Administration's number one agriculture policy goal is not to reassess the Freedom to Farm Act through this Farm Bill or any other, nor to address the farm income crisis, but rather to increase trade.<sup>7</sup> Despite the fact that agricultural prices have declined significantly since the Freedom to Farm Act went into effect, recent USDA research had found that “removing all forms of agricultural protection and support could raise world prices 12%.”<sup>8</sup>

**Fast Track Used to Eviscerate Anti-Dumping Laws that Protect Farmers.** The Thomas bill does not even include a negotiating objective about safeguarding U.S. trade laws, such as the anti-dumping laws on which many growers rely. At the end of a section called “Promotion of Certain Priorities” (where labor and environmental actions to be taken outside the context of trade agreements are listed), there is language on enforcement of U.S. trade laws. However, instead of forbidding negotiation in this area, the text implicitly allows for changes in U.S. anti-dumping law. The text calls on negotiators to: “Preserve the ability of the United States to enforce rigorously its trade laws... and avoid agreements which lessen the effectiveness of domestic and international disciplines on unfair trade...”<sup>9</sup> This is the same vague language contained in the Fast Track under which WTO and NAFTA were negotiated. Those agreements led to the weakening of U.S. trade law. In addition, the U.S. has lost a series of WTO challenges to use even the version of U.S. anti-

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<sup>6</sup> Section 2 (b)(9)(iv) and (v) (emphasis added.)

<sup>7</sup> Remarks of Secretary of Agriculture, Ann Veneman at the Sparks Companies 9<sup>th</sup> Annual Food & Agriculture Policy Conference, Apr. 17, 2001.

<sup>8</sup> Food & Agricultural Policy: Taking Stock for the New Century, U.S. Department of Agriculture, Chapter II, “Trade Expansion is Critical,” Sep. 19, 2001 at 40.

<sup>9</sup> Section 2 (c)(9).

dumping law that was weakened - allegedly to make it WTO consistent. Meanwhile, U.S. trade laws are the primary target for Latin American countries negotiating FTAA. A recent *Los Angeles Times* story on the FTAA nicely summarizes the situation: "Brazil says it won't join hemispheric free-trade bloc if United States won't open markets to orange juice, steel and other imports." The story described how elimination of U.S. anti-dumping law and the removal of limits on orange juice and other imports were the starting point on FTAA for Brazil.<sup>10</sup> Nothing in the Thomas bill instructs U.S. negotiators to reject negotiations in this area. Indeed, in USDA's most recent comprehensive publication on the Department's policy direction, *Food & Agricultural Policy: Taking Stock for the New Century*, the trade section doesn't mention the necessity of protecting U.S. producers from unfairly priced imports.<sup>11</sup>

**Thomas Fast Track Labels Counter-cyclical Payments in Farm Bill an Illegal Trade Barrier.** The Thomas Fast Track bill only supports preservation of "non-trade distorting programs," "including food assistance, market development, and export credit programs." This language in the Thomas Fast Track casts the counter-cyclical programs deemed essential by Farm Bill supporters onto the trade negotiating table for elimination. The *New York Times* quoted an unidentified USDA official in August, saying: "The House is on its way to producing a bill that goes against the WTO. The bill's counter-cyclical payments are clearly related to price, and there is no question they fail to meet WTO criteria."<sup>12</sup> The current Farm Bill's potential for exceeding the WTO's limitations on "amber box" agriculture support payments is so great that a last-minute amendment was added to allow the Agriculture Secretary to proclaim cuts in farm payments to comply with trade rules.<sup>13</sup> Already in June 2001, the USDA notified the WTO that it had reclassified existing U.S. market price support programs, loan deficiency programs and marketing loan gains as "amber box" programs.<sup>14</sup> House Agriculture Committee Chairman Larry Combest (R-TX) challenged USDA's reclassification of the 1998 payments as trade distorting because since the payments were made *after* the farm production occurred, the payments could not possibly distort planting decisions.<sup>15</sup> Instead of fixing this serious problem, the Thomas Fast Track provides free rein for Administration officials to do more of the same.

**No Safeguards for Import-Sensitive Growers, Just the Same Old Failed Rhetoric.** The Thomas Fast Track bill contains rhetoric about avoiding floods of cheap imports, but no meaningful provisions. Indeed, the same negotiating objectives appeared in past Fast Tracks, yet U.S. farmers are increasingly vulnerable to foreign dumping of cheap agricultural product in U.S. markets. The Thomas bill stipulates that U.S. trade negotiators are directed to protect U.S. farmers from imports by: 1) providing "reasonable adjustment periods" for import-sensitive crops; 2) improving relief mechanisms for import-sensitive or perishable goods; and 3) "preserv[ing] the ability" to enforce U.S. trade laws. Despite language in past Fast Tracks and in past trade agreements promising such measures for injured farmers, the government has systematically failed to protect farmers. The NAFTA's implementing legislation required the U.S. International Trade Commission (ITC) to safeguard U.S. growers from surging imports of cheaper

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<sup>10</sup> "Brazil Intensifies Complaints Against U.S. as Summit Nears," *Los Angeles Times*, Mar. 14, 2001.

<sup>11</sup> *Food & Agricultural Policy: Taking Stock for the New Century*, U.S. Department of Agriculture, Chapter II, "Trade Expansion is Critical," Sep. 19, 2001.

<sup>12</sup> "Treaties May Curb Farmers' Subsidies," *New York Times*, Aug. 31, 2001.

<sup>13</sup> An internal analysis by USDA predicts the countercyclical payments provision in the Farm Bill will exceed the WTO "amber box" limitations. "Treaties May Curb Farmers' Subsidies," *New York Times*, Aug. 31, 2001.

<sup>14</sup> "USDA Announces WTO Notification of U.S. Domestic Support Payments for 1998/99 Marketing Year," USDA news release, Jun. 22, 2001.

<sup>15</sup> Letter from House Agriculture Committee Chairman to U.S. Agriculture Secretary Ann Veneman, Jun. 22, 2001.

Mexican replacement crops. Although the ITC has repeatedly investigated and found that cheaper imports are having a negative impact on U.S. producers, no action has ever been taken to remedy NAFTA import surges. Similarly, this summer, the ITC investigated charges that farmers producing individually quick-frozen raspberries in Washington state and vineyards and vintners in California were suffering economically from cheap imports, but opted not to offer any remedies for these farmers.

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