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**The US as a Bilateral Player:  
The Impetus for Asymmetric Free Trade Agreements (FTAs)**

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The signing of the North American Free Trade Agreement (NAFTA) between Canada, Mexico, and the US in 1992 constituted the first time the US had completed a free trade agreement (FTA) that included a developing country. Similar FTAs have subsequently been negotiated between the US and developing countries, especially since the office of the US Trade Representative (USTR) announced its strategy of competitive liberalization in 2002. Ostensibly, these bilateral deals with “can-do” developing countries such as Chile and Peru are meant to trigger additional FTAs with the US that would eventually add up to a more liberalized global trade network involving countries at varying stages of development (Colvin, 2004). This, in essence, is the US strategy of competitive liberalization as it has been articulated by the USTR during the 2000s. While this strategy has not been confined to the developing countries, even those FTAs signed with such developed countries as Canada (1988), Singapore (2003), and Australia (2004) follow this asymmetrical pattern. Our purpose here is to analyze and shed light on the dynamics of those more asymmetric FTAs that fall within the domain of North-South and North-North relations. In particular, we seek to better specify and critique US motives and expectations around competitive liberalization as this strategy is now playing out in Latin America and Asia.

Our subject invokes two main paradoxes. First, common wisdom tells us that small countries would be better off by conducting multilateral negotiations where they

can form alliances based on their own regional agreements, which are more symmetrical and thus provide firmer ground on which to negotiate. Our second paradox concerns the self-defeating nature of the US move to the bilateral sphere. Although this competitive liberalization strategy was purportedly launched to overcome the collective action problems that have now suspended trade negotiations within both the multilateral (Doha Round) and hemispheric (Free Trade of the Americas, or FTAA) arenas, we would argue that these deadlocks are also at least partially related to the failures of US leadership in the realm of foreign economic policy in the 2000s.

Related to this argument, we highlight the fact that the US logic behind competitive liberalization mistakenly assumes that a bilateral strategy is more or less interchangeable with a regional or multilateral one. Yet, one obvious distinction between these FTA formations is that multilateral agreements are based on the principles of non-discrimination and most-favored nation (MFN),<sup>1</sup> whereas regional and bilateral FTAs imply discrimination against non-members and the granting of benefits to members. It is not surprising, then, that US bilateral accords, and those with developing countries in particular, have derailed the commitments of the latter to see the multilateral negotiation process all the way through to the completion of the Doha Round.

In the sections that follow we discuss why a competitive liberalization strategy has been adopted by the US and how the emerging pattern of US bilateralism has affected other types of agreements. Following the theoretical framework for this project laid out by Katada and Solís (2008), we explore whether the signing of bilateral agreements by the US with individual countries in Latin America and Asia was based on a follower

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<sup>1</sup> A main pillar of the original General Agreement on Tariffs and Trade (GATT), the most-favored nation norm obligates all GATT/WTO members to apply the same tariffs and rules to all other GATT signatories.

strategy of emulating the economic path of other leading countries, or on competitive concerns that span the economic, political and legal realms. We also consider whether the null hypothesis is valid in each case, i.e. that the US FTA strategy is based on independent decision making and not affected by the prior decision of other countries to negotiate FTAs.

At the same time, we analyze the sorts of agreements that the US has been pursuing and the links between US trade strategy and the stalemate that now plagues trade negotiations at the multilateral and regional levels. The first section of the paper hypothesizes about the impetus for the US government's "competitive liberalization strategy" and how it has affected ongoing trade negotiations within other venues; the second section maps those trade negotiations in which the US has been involved and analyzes how these bilateral agreements have evolved since the mid 1980s; the third section explores the kinds of agreements that are increasingly defining US bilateralism in the Latin American and Asian regions and the divergent interests of participating countries despite the outward similarities in FTA formation; the fourth section more explicitly identifies the wave of US bilateral FTAs that has arisen in the 2000s; the final section speculates about the differing logic of US bilateralism in the Latin American and Asian regions.

## **1. Competitive Liberalization as a Strategy Proper**

Beginning with the implementation of NAFTA in 1994, and particularly since the advent of the George W. Bush administration in 2001, there has been a sharp increase in the number of bilateral trade agreements the US has signed with different partners. Prior

to this the US had negotiated just two bilateral FTAs, one with Israel in 1985 and a second with Canada in 1988. It was the incorporation of Mexico into the US-Canada bilateral agreement in 1992 that resulted in NAFTA, this also being the first US venture into North-South negotiations outside of the GATT/WTO framework. Since 2004, the US has completed and approved seven additional FTAs, the bulk of which represent the competitive liberalization strategy as defined in the introduction. In all, the countries involved in these recent FTAs include: Chile, Singapore, Australia, Morocco, CAFTA-DR (Costa Rica, El Salvador, Nicaragua, Honduras, Guatemala and the Dominican Republic), Bahrain, and Peru; agreements with Colombia, Panama and South Korea have now been completed but still await Congressional approval.

Again, this marked shift toward competitive liberalization reflects the conviction of US trade policymakers that these agreements are intended to complement ongoing multilateral negotiations in the WTO/Doha Round, and simultaneously facilitate regional negotiations like that of the FTAA, which involved all 34 democratically elected countries in the Western Hemisphere. As both sets of negotiations have fallen into limbo, the willingness of the US to negotiate bilateral free trade agreements raises any number of questions about the benefits and costs intrinsic to these accords, especially given the high levels of asymmetry intrinsic to every one of these FTAs now in force.

But first a word about competitive liberalization as a trade strategy proper. Here, we draw on John Odell's (2002: 40) definition of a trade strategy as "a set of behaviors that are observable at least in principle, and associated with a plan to achieve some objective through bargaining. Strategies are part of the process of negotiation, which encompasses a sequence of actions in which parties address demands and proposals to

one another for the ostensible purposes of reaching an agreement and changing the behavior of at least one actor.” In terms of the US, it is important to clarify the strategic choices that have been made in terms of the number of parties the US has chosen to negotiate with and those decisions that have been made about the makeup of countries involved in a given set of negotiations. As our analysis will show, rather than one single explanation for US bilateral trade policy approaches, the causal variables tend to shift according to differing countries and specific time periods.

We must also keep in mind that every time the US discriminates in favor of a trading partner, it discriminates against all the other countries that trade on an MFN basis with the US (Cooper, 2005). For a country like the US, which has global trade interests and occupies such an important role in the international political economy, this strategy can be risky. Discrimination in some cases means provoking pernicious competition among countries to be part of the lucky club of US trade partners. This is precisely what occurred in 2004 when the US sought to negotiate an FTA with the five members of the Andean Community. In protest of the negotiations, Venezuela withdrew its membership altogether and petitioned for entry into MERCOSUR, while domestic politics literally unraveled in Bolivia and Ecuador under this and other pressures; with the finalization of the US-Peru FTA in late 2007, Peru remains the only member of this bloc to successfully survive the competition. The US bilateral strategy has also invoked bitter reactions from countries such as Brazil and Argentina, which to date still have no preferential deals with the US and tend to view the US competitive liberalization strategy with suspicion.

Going back to Viner’s classic theory on the proliferation of FTAs, at stake is the prospect of triggering greater trade diversion than creation (Viner, 1950). Given the

increase in bilateral FTAs since the beginning of the 2000s, there remains the question as to whether the US competitive liberalization strategy will promote trade creation and a more general liberalization of the world trade system. Or, is this prompting a new scenario of trade diversion in which the beneficiaries of FTAs will resist further multilateral trade liberalization in order to preserve their margin of preference in the US market (Bhagwati, 2008)? Yet, the recent literature on economic growth has declared both questions to be outdated. Dani Rodrik (2007) and others suggest that the yardstick for successful trade and investment integration should instead rest on the competitive gains that FTA signatories achieve as a result of deep liberalization of both traditional (agriculture, textiles) and modern (services, investment) sectors of the economy. The early results on US FTAs with Chile and Singapore conform most closely with this last insight.

While it is admittedly premature to fully resolve these debates, the accompanying literature is worth reviewing. For example, in a recent article Evennett and Meier (2007) make three cautionary points concerning the recent wave of US bilateral activism. The first is the US reliance on bilateralism as a fall back strategy, as the Clinton administration was unable to renew Trade Promotion Authority (TPA) throughout its entire eight-year tenure (1992-2000).<sup>2</sup> In the interim, US trading partners signed many bilateral and regional trade agreements, meaning that when the Bush administration finally obtained TPA in 2002 there was a widespread sense that the US was trailing behind on this dimension.

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<sup>2</sup> Formerly known as the “Fast-track” legislation, Trade Promotion Authority (or TPA) is granted to the executive by the congress. Once a trade agreement is negotiated with a foreign partner, the executive sends it to congress for an “up or down” vote, i.e. legislators are not given the opportunity to further amend or modify the bill.

Second, the rise of bilateralism must be seen in the context of the heightened polarization of the US congress on trade policy issues. According to Destler (2007), the concomitant decentralization of the congressional committee system has weakened committee chairmen and sitting members in their efforts to influence US trade policy. Interest groups know this and have thus taken to lobbying individual legislators to propose trade measures that promote their parochial interests. In this sense, the decline of bipartisan cooperation on trade matters has endowed key activist legislators with considerable influence. The third point is that the relationship between international trade and national security became paramount in the wake of 9/11 and this was reflected in the trade strategy of the executive branch from the beginning of the Bush administration. However, although the conceptual connection between trade policy and national security was strengthened post 9/11, it cannot be said that the US has pursued its trade policy from a position of strength in the 2000s.

Despite the emergence of bilateralism as a second or even third-best strategy for the US, former US Trade Representative Robert Zoellick argued for this option as a trade creating and liberalizing force in 2004:

Competitive liberalization offers countries within regions a step-by-step pathway to greater trade reforms and openness with the United States. Both the President's Enterprise for ASEAN Initiative 12 and his plan to work toward a Middle East Free Trade Area start by helping non-member countries to join the WTO, strengthening both the global rules-based system and countries participating in it. For those more advanced, we negotiate Trade and Investment Framework Agreements (TIFAs) and Bilateral Investment Treaties (BITs). We employ these customized arrangements to resolve trade and investment issues, improve performance in areas such as protecting intellectual property rights and strengthening customs operations...Finally, we may negotiate a wide-ranging, state-of-the-art FTA that will help establish a model for a region and incentives for neighbors. With this graduated, stepladder approach, we can engage virtually every country interested in working with us, and more importantly, we create a



healthy dynamic in which countries compete to become fuller members of the world trading system and better partners of the United States (GAO, 2004: 58).

This statement is important as it suggests that competitive liberalization is a transitional strategy and that the resulting bilateral FTAs are in principle only one stage in a broader global process. Moreover, as Evennett and Gallen (2007) point out, this policy envisages a preparatory stage involving the negotiation and implementation of TIFAs and BITs before negotiations over an FTA commence. TIFAs, for example, allow both the US and its prospective FTA partners to preview those demands that will form the basis for the actual launching of the FTA negotiations. But the big picture on the US side, according to Schott (2004, 2007), is one whereby increased bilateralism places hefty demands for coordination between the executive agencies.

The result, Schott argues, is a "cacophony of stated policy goals" that makes coherent trade policy formation difficult. He notes that the bargaining US trade officials undertake on the home front is probably more difficult than negotiating abroad, especially as there is little domestic agreement on which goals should take priority. The conflictive domestic context that surrounds competitive liberalization is exemplified by the suspension of negotiations with Ecuador and Bolivia due to unfavorable features of the political system within each country---at least from the standpoint of US policymakers---and in other instances the signing and negotiation of bilateral agreements behind closed doors in order to isolate the participation of civil society on both sides of the border.

Yet the timing on the US announcement of its competitive liberalization strategy raises questions about its transitional nature, as this coincided with the granting of WTO membership to almost all developing countries that once were mere by-standers in the

multilateral sphere. With developing countries now comprising a majority of the WTO's 151 members, this has created a new dynamic in which each multilateral trade round is taking longer and the chances of reaching an agreement by consensus under the single undertaking principle have become increasingly elusive. Prior to the Uruguay Round (1986-1995) multilateral trade agreements were still tedious but were also reached more readily, as such negotiations were largely controlled by the developed countries and the US, EU, Japan and Canada, in particular. When explored from this angle, the US bilateral strategy could just as easily be interpreted as one of circumventing this increasingly complex multilateral terrain.

For some critics, then, the new activism on the part of the US in the bilateral sphere generates fear that competitive liberalization may become a permanent, rather than a transitional, means of coping with this broader sharing of power amongst the WTO membership (Cohn, 2007). This scenario lends credence to Viner's classic framework, i.e. the further spread of discriminatory trade deals means that trade diversion would most likely trump trade creation. However, others have countered against the idea that bilateralism harms multilateralism or deters trade creation, for example, by highlighting the fact that it was NAFTA's ratification in 1993 that brought the EU back to the negotiating table to finally wrap up the Uruguay Round (Wise, 2007).

But we would argue that the logic of the NAFTA case, whereby the US resorted to bilateralism as a way to revitalize multilateral trade talks, does not hold up when examining subsequent cases in which the US has signed bilateral trade agreements. At least from the standpoint of the developing countries, it is hasty to assume that bilateralism, regionalism and multilateralism can be considered as inter-changeable tools

for achieving trade liberalization. For example, in the case of the proposed 34-member FTAA, the simultaneous negotiation of bilateral accords between the US and Latin American partners turned this hemispheric project into a woeful tale of cause, effect, and ultimately sabotage.

Although the FTAA project was launched by the Clinton administration back in 1994, the subsequent eight-year refusal of the US congress to renew the fast-track negotiating authority (now called Trade Promotion Authority, or TPA)---which is necessary for the US executive to fully honor commitments made at any trade negotiating table---clearly undermined the actual negotiations for an FTAA. But there were other problems as well. As early as 1998 at the Summit of the Americas trade ministerial meeting in San José, Costa Rica, the FTAA countries agreed to a “single undertaking” strategy that proved to be perhaps the Achilles Heel for the negotiations. This essentially extended a de facto veto to each participant, such that the pace and scope of the FTAA negotiations could basically be set by the slowest moving reformers amongst the group (Zabludovsky and Gómez Lora, 2007).

Additional tensions obviously arose, such as the final standoff in 2003 between the US and Brazil over the timing and extent of concessions to be made between issues on the “old” (market access, agriculture, industrial goods) and “new” (services, investment, intellectual property rights) trade agendas. At any rate, once the George W. Bush administration finally obtained TPA from the congress in August 2002, the USTR moved quickly to make up for lost time. Formerly regarded as the locomotive of multilateralism, the US joined the rush towards bilateral and regional trade agreements, playing a game of catch-up with the rest of the world. The USTR at the time confirmed at

least the partial impetus for the US bilateral strategy when he lamented, “There are over 130 PTAs in the world today and the US is a party to only two of them” (Zoellick, 2001).

This statement supports the FTA diffusion idea that Katada and Solís (2008: 14) posit in their theoretical framework, mainly that a “government’s decision to pursue this policy innovation is influenced by the actions of other countries and is not purely determined by domestic factors.” Having said this, it remains to be seen whether the US strategy fits into the emulation *or* the competition hypothesis, i.e. the more refined categories put forth by Katada and Solís in their overall framework for explaining policy diffusion. As we argue further on in the paper, the US case defies the emulation hypothesis because most of its FTAs are dissimilar to those signed by its trade competitors---the absence of standard rules around labor and the environment in these latter agreements being just one distinction. With regard to the competition hypothesis, there is little evidence to suggest that the US bilateral strategy has emerged as a way to counteract the encroachment of outside competitors in the region. If anything, the causal arrow with the competition hypothesis appears to move in the opposite direction: both the EU-Mexico and the Japan-Mexico FTAs were a reaction to the prospect of trade and investment diversion toward North America as a result of NAFTA (Manger, 2008), and hence, were propelled by the EU and Japan, respectively.

What we can say with some certainty is that the US sought to avoid the unfavorable “single undertaking” mode that had so burdened the FTAA while it simultaneously worked to ramp up its leadership role in the Doha Round. Again, at least in terms of policy discourse, US inroads on the bilateral front (depicted in Table 1) were purportedly meant to complement ongoing negotiations at the regional and multilateral

levels and to help pry loose the collective action bottlenecks that had threatened the timely completion of these larger agreements. Yet, early hindsight suggests that the US competitive liberalization approach has indeed modified the incentives for countries to participate in regional and multilateral trade negotiations, but it has done so in just the opposite direction. Prior to the adoption of this new US strategy, small countries within Latin America or elsewhere had accurately perceived that the FTAA or Doha negotiations were the only ways to secure guaranteed access to the highly prized US market. However, with the USTR's 2002 policy shift, any number of small countries successfully scrambled to negotiate bilaterally with the US (see Table 1).

**Table 1: US AGREEMENTS, PREFERENTIAL AGREEMENTS AND TRADE NEGOTIATIONS**

<b>Regional, bilateral and multilateral</b>	<b>Negotiations under way or beginning shortly</b>	<b>Negotiations concluded and bills pending ratification</b>	<b>Signed agreements in force</b>
<b>Multilateral</b>	WTO (Doha Round)		North American Free Trade Agreement (NAFTA with Canada and Mexico, 1994); Caribbean Basin Trade Partnership Act (2000); Andean Trade Promotion and Drug Eradication Act (ATPDEA, 2002)
<b>Western Hemisphere</b>	Free Trade Area of the Americas (FTAA-stalemate); Ecuador (suspended)	Colombia (2006); Panama (2006)	Chile-US FTA (2004); Central America–Dominican Republic – US (CAFTA-DR) (US FTA completed with El Salvador, Guatemala, Honduras, and Nicaragua, 2006; with Costa Rica, 2007); Peru (2007)
<b>Africa and the Middle East</b>	South African Customs Union; United Arab Emirates		Israel (1985); Jordan (2001); Bahrain (2006); Morocco (2006); Oman (2006)
<b>Asia and Oceania</b>	Malaysia; Thailand	Republic of Korea (2007)	Australia, (2005); Singapore (2004)

**Source:** Authors' update based on data from the Economic Commission for Latin America and the Caribbean (ECLAC) and the office of the United States Trade Representative.

At least for the time being, just the fact that the US has signaled its willingness to move ahead on multiple fronts seems to have dissipated the will for smaller and poorer countries to pay the disproportionately higher costs of negotiating more lengthy and cumbersome trade agreements within these larger fora. And now, with the collapse of negotiations at Doha and within the FTAA, as well as the low probability of renewed US commitment on either front until after the inauguration of a new presidential administration in January 2009, there is growing momentum in Washington toward the consolidation of some of these bilateral deals in the Americas into a “seamless” regional bloc. Although Zoellick has subsequently taken over as president of the World Bank, the former USTR articulated this very proposal in a *Wall Street Journal* opinion piece in January 2007:

This year President Bush and the Democratic-led Congress should launch a new Association of American Free Trade Agreements (AAFTA). The AAFTA could shape the future of the Western Hemisphere, while offering a new foreign and economic policy design that combines trade, open societies, development and democracy. In concert with successful immigration reform, the AAFTA would signal to the Americas that, despite the trials of war and Asia's rising economic influence, U.S. global strategy must have a hemispheric foundation....George W. Bush enacted FTAs with Chile, the five states of Central America and the Dominican Republic. He also completed FTAs with Colombia, Peru and Panama. If Congress passes these agreements, the U.S. will finally have an unbroken line of free trade partners stretching from Alaska to the tip of South America. Not counting the U.S., this free trade assembly would comprise two-thirds of both the population and GDP of the Americas.

The normal course for enacting these FTA agreements encompasses six different steps that range from the formal initiation of negotiations between the US and a given country, to the notification by the US executive to congress that an agreement has been completed, to the ratification of the agreement by the US congress. Then follows a

detailed monitoring by the USTR to ensure that the laws of the signature country have been amended to comply with the terms of the FTA. Related to this process, is the aforementioned decline of bipartisan cooperation on trade matters during the 1990s (Destler, 2007), and hence the narrowing margin by which new bilateral deals have been ratified.

According to Evennett and Meier (2007), this same inter-party bickering accounts in part for the growing number of behind-the-border issues (e.g. labor rules and environmental standards) that came to be included in the trade negotiating objectives congress established for the executive branch in the 1990s. In short, while touted as major victories when passed, the triumph for US legislators lies less in the realm of significant trade policy advances and more in their ability to momentarily overcome internal congressional strife. By far the most substantive issues taken up by the US congress on this front have been the matter of how labor and environmental provisions should best be incorporated into the new bilateral trade agreements that have been negotiated.

A consensus was reached that the legislation and practices of partner countries must comply with the obligations set out in Chapter I of the International Labor Organization (ILO) Declaration on the Fundamental Principles and Rights at Work, adopted in 1998. With regard to the environment, new bilateral partners in Latin America are obliged to sign seven agreements on the environment and to accede to existing multilateral agreements (ECLAC, 2007) in this realm. The Peruvian government, faced with bitter opposition from the US congress due to its weak domestic environmental

regime, went so far as to create a whole new Ministry of the Environment in order to win the necessary votes in the US congress for the approval of the US-Peru FTA in 2007.<sup>3</sup>

There remains the question as to whether bilateral FTAs create momentum for wider regional and multilateral trade agreements. After all, much of the US trade strategy for Latin America is now predicated on this assumption. Yet some scholars have expressed doubts, as the case for US competitive liberalization as an impediment to the larger agreements seems more compelling. Destler (2005), one such skeptic, argues that Venezuela's swapping of membership in the Andean Community for membership in the Southern Cone Common Market (MERCOSUR) confirms that the ground for the FTAA has been hollowed out. In sum, to date it is difficult to see how liberalization at the bilateral level within the Western Hemisphere has inspired countries to negotiate trade agreements at the regional (FTAA) or multilateral (Doha) levels.

## **2. Bilateralism in Motion**

US trade policy first departed from its traditional focus on multilateralism and the GATT with the negotiation of bilateral FTAs with Israel in 1985 and Canada in 1988. At the time, both agreements were labeled as special cases: Israel as an isolated strategic ally with a strong domestic political lobby, and Canada as a bordering state with close ties to the US economy through intra-industry trade and investment (Chan, 2005). With the signing of NAFTA in 1992 and the inclusion of Mexico in the agreement, arguments based on geographical proximity as a valid justification for bilateral negotiations were further bolstered. The finalization of the Uruguay round in 1994 and the subsequent

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<sup>3</sup> Authors' interview with Juan Miguel Cayo, Special Counselor to the Office of the Peruvian Country Director, Inter-American Development Bank, May 23, 2008, Washington, DC.



creation of the WTO suggested that the US was returning to the multilateral fold. Yet, the bilateral treaty signed with Canada had provoked a rush of foreign proposals in the late 1980s for the negotiation of similar bilateral trade agreements between the US and South Korea, Taiwan, ASEAN and Australia, although no negotiations were started.

In a similar vein, in the Latin American region the advent of the NAFTA negotiations had prompted the Presidents of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua to notify the Clinton administration in 1992 of their interest in negotiating an agreement of this nature. Given Central America's export similarity with a range of low value-added goods that Mexico ships to the US market, the prospect of heightened trade diversion prompted these countries to act. In particular, Central America needed to improve its access to the US market in those goods not covered under the GATT/WTO General System of Preferences (GSP) or the Caribbean Basin Trade Partnership Act of 2000, but which faced tough competition from Mexico under NAFTA. The Central American countries hoped to achieve market access parity within NAFTA, but the US rejected this proposal and conceded to the granting of preferences solely on a discretionary basis.

In 1994 the US joined the forum on Asia Pacific Economic Cooperation (APEC) and that same year the Clinton administration launched negotiations with thirty-three other Western Hemisphere countries to complete the FTAA by 2005. It was envisioned that the FTAA would incorporate the previous bilateral FTAs negotiated by the US with Latin American countries and that the final sum would be greater than the individual parts, i.e. the FTAA would embrace WTO-plus rules and norms that surpassed the achievements of all of the pre-existing sub-regional agreements in the Western

Hemisphere. Hence, US trade policy still voiced strong support for multilateralism, but was now willing to venture into regional agreements with strategic ties—the explicit justification being that agreements negotiated in tandem with multilateral ones would favor the completion of the latter.

Unfortunately, neither regionalism nor multilateralism has yet to pay off. While bilateralism stood out as the obvious third-best strategy, this was contained by the systematic veto of the fast-track negotiating legislation by the US congress throughout the 1990s. However, with the passage of the “Bipartisan Trade Promotion Authority Act of 2002” under the Bush administration, the Bush trade policy team was given the green light to seek out bilateral deals in multiple arenas. As we explained at the outset of this paper, these new bilateral initiatives have sought to spur “competitive liberalization” in the region so as to accelerate the pace of trade reform.

To summarize, since the congressional approval of TPA in 2002 the US has pursued a variety of national interests that former aide to the Clinton Administration, Richard Feinberg (2003), categorizes in the following way:

- Asymmetric reciprocity to open markets that take into account the interests of US traders and investors;
- Competitive liberalization as a means to establish precedents for wider trade agreements and to soften opposition to them;
- Using trade negotiations to lock in domestic market-oriented reforms;
- Strengthening strategic partnerships.

With TPA approval in hand the USTR pursued some of the postponed bilateral trade agreements that were shelved during the Clinton administration, the Chilean FTA

being a prime example. Having been invited to negotiate its entry into NAFTA in 1994, it would take a decade for Chile to complete a bilateral FTA with the US. At any rate, there are two divergent views with regard to this new trend of US bilateralism. According to Tussie and Lengyel (2006), this increased reliance on bilateralism may provide the necessary structural foundation for regionalism to eventually flourish. This is based on the notion that bilateralism could gradually evolve into plurilateral regional-level agreements that exhibit new forms of cooperation. This would be most expected where there is a dense and overlapping concentration of bilateral agreements, as is currently happening in parts of Latin America and in Asia.

Bhagwati (2008), who has adamantly opposed the US policy of “competitive liberalization,” represents the opposite position. In line with his long-standing criticism of preferential trade agreements, Bhagwati testified before the US congress in April 2002 that the "chief argument" against current US trade policy is that bilateral FTAs are being used to establish templates that include non-market access provisions. He argues that this bilateral policy amounts to a strategy of "divide and rule," i.e. the use of bilateral trade agreements to undermine (essentially developing country) opposition to the negotiation over "non-trade" issues at the WTO, which he believes is a mistake. Bhagwati points to the provisions on capital controls in the US FTAs with Singapore and Chile as examples of this tactic, along with the incorporation of intellectual property rights and labor and environmental provisions in other free trade agreements such as the US-Peru FTA.

Alongside these contrasting views on the US competitive liberalization strategy are those such as Zabludovsky and Gómez Lora (2007), who argue that it was the US patchwork of bilateral deals with “like-minded trading partners” in the 2000s that

ultimately derailed the FTAA negotiations. After all, why should the small countries of Central America and others like Colombia, Panama, and Peru cast their fate with the (now ephemeral) FTAA or even the multilateral negotiations when the US is simultaneously dangling the carrot of more immediate market access via a bilateral treaty? Once in place this emerging network will firmly re-establish the deeper consolidation of the US as the trade and investment hub of the hemisphere, and the relegation of other powerful countries in the hemisphere as spokes, albeit important ones.

This, presumably, is one good reason for Canadian Prime Minister Stephen Harper's recent policy shift toward "hemispheric re-engagement," including the pursuit of stronger trade and investment ties with Canada's own "like-minded" Latin American partners (Wise, 2008). The other pole of resistance is MERCOSUR, where Brazil, Argentina, and the newly admitted Venezuela have used their own sub-regional base to resist what they have coined the "US hegemonic trade strategy."

A second hemispheric cleavage has emerged between those countries such as the US, Mexico, and the entire Central American bloc, who are struggling against fierce Chinese competition under conditions of high export similarity, and countries like Brazil, Chile, and Argentina with rich natural resources that have carved out a more complementary pattern of economic exchange with China based on comparative advantage. Most telling is the 2005 launching of a bilateral FTA between Chile and China based on China's demand for Chile's raw material exports (copper and wood pulp) and Chile's importing of lower value-added industrial goods from China (Wise and Quiliconi, 2007). Having finally secured a bilateral FTA with the US in June 2003, Chile is the one case that is playing both sides of this cleavage to its advantage. Mexico,

although disadvantaged vis-à-vis China in the US market, has actively signed FTAs with various countries and thus become its own regional hub for trade and investment in the Western Hemisphere. For the other small Latin American states now partnering bilaterally with the US, this option remains remote.

### **3. The Competitive Dynamic in Latin America and Asia**

In line with the majority view stated in the rich literature on this subject, our analysis thus far points to both internal and external factors in explaining the remarkable US shift from staunchly opposing the FTA option over the post-World War II period to its warm embrace beginning in the 1980s. In view of the explanatory framework set forth by Katada and Solís (2008), we see the US as the trendsetter in the generation of bilateral FTAs that were negotiated in the 1980s and thus a main independent variable for the diffusion of this specific trade strategy beginning in the 1990s. This is especially so for the Western Hemisphere, where Mexico and Chile have followed the US strategy with the negotiation of a plethora of bilateral FTAs in the post-NAFTA era.

Although adverse domestic politics prevented the US from further pursuing bilateral treaties in the 1990s, with the granting of TPA in 2002 the USTR revived this strategy with a vengeance. Interestingly, while former USTR Zoellick coined the present strategy as one of “competitive liberalization,” we interpret this differently from the competition variable defined by Katada and Solís. Rather, in the US case, competitive liberalization is much less a matter of countering trade competition in third country markets and more an invitation for current, albeit much smaller, US trade partners to jointly embrace deeper competition via the negotiation of a bilateral FTA with the US.

As we discuss in this section, although a driver in the diffusion of bilateral policy approaches, the US strategy itself is motivated by quite different domestic and international concerns at various points over the 1984-2008 time period.

Beginning with the US bilateral FTAs negotiated with Israel (1985) and Canada (1988), we see the null hypothesis developed by Katada and Solís (2008) as the more compelling explanation for these two agreements. On the international side, the US faced serious concerns on both the economic and security fronts. In the security arena, the continued turmoil in the Middle East and a strong pro-Israel US lobby facilitated the negotiation of the US-Israel FTA. In essence, this agreement enabled the Reagan administration to affirm its support for Israel and the FTA was quickly concluded in 1984. As the US congress was enacting new trade legislation at this time, then USTR William Brock successfully lobbied for the right to negotiate bilateral agreements through fast-track authority beyond the Israel agreement. This, in turn, opened the door for the negotiation of the bilateral agreement with Canada.

The US-Canada FTA is perhaps best understood from the standpoint of the growing uncertainties that roiled global markets in the 1980s and the way these affected the US and, inadvertently, Canada. The international economic position of the US was threatened by stiff trade competition from Japan and the emergence of mammoth monthly commercial deficits; internally, the supply-side tax cuts implemented by the Reagan team and the simultaneous spending on the largest peace-time arms buildup in US history had resulted in a massive fiscal deficit. As the US fell back into a net debtor status for the first time in the twentieth century the mood on Capitol Hill turned decidedly protectionist.

It was Canada, faced with its own economic woes and rising levels of US import protection in the 1980s, which petitioned the USTR to launch negotiations for a bilateral FTA. Canada's move was a defensive one and spurred less by concern over the prospect of facing outside competition in the US market and more by fears of being shut out of the US market altogether. As Table 2 shows, Canada's trade and investment ties with the US are the strongest and they continue to tower over those of all other partners with which the US has signed a bilateral FTA.

The US FTAs with Israel and Canada readily confirm the null hypothesis within the Katada and Solís (2008) framework, as trade policymakers regarded both agreements as anomalies for the most part---minor steps along the path to the next round of multilateral negotiations. Thus, with the launching of the Uruguay round in 1986 it came as somewhat of a surprise when Mexican President Carlos Salinas de Gortari explicitly requested the negotiation of an additional bilateral FTA with the US in 1990. It was with considerable difficulty that former President George H.W. Bush obtained the necessary fast-track authority to launch negotiations with Canada and Mexico for the negotiation of NAFTA, Mexico's developing country status constituting the main objection on the part of US and Canadian constituencies.

Yet, the NAFTA agreement moved more quickly than the Uruguay round, as all three legislatures in North America had confirmed it by late 1993. Like Canada, Mexico had acted defensively to secure its own position in the US market, but also as a way of locking in its recently implemented market reform program (Pastor and Wise, 1994). The tradeoff was that both partners agreed to the incorporation of "GATT-plus" features

within NAFTA, i.e. rules surrounding investment, services, dispute settlement and IPRs that top the list of the “new trade agenda.”

Returning to the Katada and Solís (2008) framework, it could be argued that the GATT-plus features of NAFTA triggered a process of both emulation and competition: emulation in the sense that key actors in the Uruguay round negotiations were now keen to close the deal and to achieve similar progress on the GATT-plus rules embodied in NAFTA; and competition in that European and Asian (especially Japanese) investors and exporters now faced the prospect of shrinking demand for their goods in the US and Mexican markets. The emulation variable prompted a long overdue breakthrough at the multilateral level in the design of rules to cover those previously mentioned items on the new trade agenda, including the completion of the Uruguay round in 1994 and the creation of the World Trade Organization (WTO) in 1995; the competition variable unleashed a frenzy of new bilateral FTAs, led by countries in the Western Hemisphere. When the US joined this fray in the early 2000s, the GATT/WTO-plus NAFTA template re-emerged as the main reference point for the negotiation of these bilateral FTAs (see Table 2).

Apart from tackling tariff and non-tariff barriers, as well as incorporating GATT/WTO-plus regulations in terms of investment, services and IPRs, these more recent bilateral FTAs signed by the US have two main features. First, as Table 2 shows, the latest round of FTAs has been highly asymmetric and, going all the way back to the NAFTA accord, they have included labor and environmental standards. According to Schott (2006), the current US criteria for selecting bilateral partners depend on four main factors. First, is whether a given FTA will meet with broad support amongst members of



Congress and their private sector constituents. Second, is if the agreement promotes US trade and investment interests by improving market access, leveling the playing field for US firms, workers and farmers and by forging ties with countries most likely to support US objectives at the WTO. Third, the US considers if the prospective partner is ready in the sense that policymakers are willing to undergo the kinds of regulatory and trade reforms needed to comply with US requirements. Finally, the US analyzes if the FTA promotes its foreign policy interests, which is a concrete manifestation of the carrot-and-stick approach to diplomacy.

When comparing US bilateral trade agreements with those that the EU has signed a main difference is that the EU FTAs invariably involve some form of adjustment assistance or economic cooperation funds, particularly when this involves asymmetric partners. In contrast, the US has adamantly resisted the inclusion of such assistance in its bilateral agreements with small developing countries (Wise, 2007). Otherwise, in most cases both the EU and the US pursue similar regulatory policies in the areas of investment, IPRs, and services. While the US has systematically avoided any special and differential treatment that takes into account differing levels of development, it has offered capacity building support for trade negotiations in some of its Latin American agreements. This entails technical support and training for the negotiation and proper implementation of trade agreements.

Table 2 summarizes the trade and investment ties that underpin the agreements that the US has signed with Latin American and Asian partners, the bulk of which were launched in the past four years. As can be appreciated in the table, the NAFTA partners are by far the most important for the US in terms of trade and FDI volume. According to

the USTR (2007), from 1993 to 2006 trade among the NAFTA nations climbed 198 percent, from \$297 billion to \$883 billion. Moreover, US exports to Canada and Mexico accounted for 35 percent of total US exports in 2006. In the case of NAFTA it is clear that the main reasons behind the agreement are economic, as both agreements (Canada-US and NAFTA) were first requested, not by the US, but by Canada and Mexico.

**Table 2: The Volume of Trade and Investment Associated with US FTAs**

Partners <sup>4</sup>	Year signed	Trade volume in 2007 % over the total <sup>5</sup>	FDI volume in 2006 % over the total <sup>6</sup>	Issue scope <sup>7</sup>
Mexico	1994	11.146%	1.944%	Investment, services, environment, labor
Canada	1994	18.019%	8.042%	Investment, services, environment, labor
Chile	2004	0.556%	0.578%	Investment, services, environment, labor
El Salvador	2006	0.140%	0.027%	Investment, services, labor, environment, trade capacity building
Guatemala	2006	0.228%	N/A	Investment, services, labor, environment, trade capacity building
Honduras	2006	0.269%	0.018%	Investment, services, labor, environment, trade capacity building
Nicaragua	2006	0.080%	0.002%	Investment, services, labor, environment, trade capacity building
Costa Rica	2006	0.274%	0.118%	Investment, services, labor, environment, trade capacity building
Dominican Republic	2006	0.331%	0.061%	Investment, services, labor, environment, trade capacity building
Peru	2007	0.299%	0.485%	Investment, services, labor, environment, trade capacity building

<sup>4</sup> The table covers all of the agreements in the Asian and Latin American regions that are relevant for this project.

<sup>5</sup> <http://tse.export.gov/MapFrameset.aspx?MapPage=NTDMapDisplay.aspx&UniqueURL=pbstck551vkuf2mr2kzw0q55-2008-5-10-17-37-33>, .

<sup>6</sup> [http://www.bea.gov/international/ii\\_web/timeseries7-2.cfm](http://www.bea.gov/international/ii_web/timeseries7-2.cfm). Bureau of Economic Analysis, US Department of Commerce, accessed 11 May 2008.

<sup>7</sup> USTR webpage.

Australia	2004	0.893%	2.608%	Investment, services, labor, environment
Singapore	2003	1.434%	4.410%	Investment, services, labor, environment

Table 2 also shows that the trade and FDI flows are not as significant for the US in the other cases. Thus, in the post-NAFTA era US motives around bilateral trade deals appear to be more political and legal in nature and geared toward securing certain services and investment regulations related to specific US economic interests. We would also argue that the US FTAs signed with the Central American and Andean countries represent the US assessment that if the new trade issues cannot be agreed upon any time soon within the multilateral arena, then the US will continue to pursue these issues on a bilateral basis.

#### **4. Competition and Emulation in the 2000s**

##### ***Latin America***

In the previous section we argued that the origins of the NAFTA accord defied the policy diffusion explanation, first because it was launched at a time when the US had yet to declare bilateralism as a strategy proper; and second, because Canada and Mexico were the demandeurs for the negotiation of the US-Canada agreement and the NAFTA accord, respectively. In examining the US bilateral accords that followed in the 2000s, the US continues to lead the way in the diffusion of WTO-plus FTAs. However, with the exception of Chile, the variables of competition and emulation also continue as reactions to the US bilateral strategy, and the US definition of “competition” remains that of jointly embracing a competitive trade strategy with FTA partners versus US concerns about third party encroachment in the markets of its designated FTA partners.

As Table 2 shows, the US-Chile FTA was the first bilateral agreement completed by the US in the 2000s. This was both a case of unfinished business from the 1990s and a reflection of Chile's efforts to promote itself as an investment and services hub in South America. By 1996, when it had become clear that the US would not be able to make good on its earlier invitation to Chile to become NAFTA's fourth partner, Mexico and Canada negotiated separate FTAs with Chile based on the NAFTA template. At the same time, Chile moved assertively in the negotiation of FTAs with regional and extra-regional partners, and it participated actively in the FTAA initiative.

The only US sector to show interest and pressure for the US-Chile FTA was the services sector. However, as EU business interests began to lobby for the negotiation of a EU-Chile FTA, the interests of US investors in the services sector were quickly rekindled (Manger, 2008). Bilateral negotiations between the US and Chile for a FTA began almost at the same time as those with the EU and Chile, and the US-Chile FTA was finally completed in December 2002. The almost simultaneous finalization of the EU-Chile and the US-Chile FTAs lends support to the competition variable within the Katada and Solís framework, as US investors sought to defend their stake---no matter how small---in the Chilean market.

The remaining US-Latin American FTAs that we discuss here---CAFTA-DR, US-Peru, and US-Colombia---represent a combination of hegemonic diffusion on the US side and reactive competition/emulation on the part of the countries involved. In all of these remaining cases, not only is there little threat to the US toehold in these markets, total US trade and investment ties themselves are rather meager. But the asymmetries are such that all of the participating countries are looking to defend levels of market access

that had been granted at some earlier point by the US congress and for reasons related more to security than to US foreign economic policy.

Such were the roots of both the 1984 Caribbean Basin Economic Recovery Expansion Act (CBERA) and the subsequent Andean Trade Preference Act (ATPA), bills passed by congress for the explicit purposes of fighting “Communist” guerrillas in the case of the former and eradicating rampant drug trafficking in the case of the latter. Although in the post-Cold War era CBERA was succeeded by the Caribbean Basin Trade Partnership Act of 2000 and ATPA by the Andean Trade Promotion and Drug Eradication Act (ATPDEA) of 2002, the fact is that both the Central American and the Andean countries stand to lose these benefits at any time should the unpredictable winds of the US congress shift against them.

At the time of negotiating and signing CAFTA-DR, this FTA was approached by the US as a low risk and fairly simple strategy for catalyzing the lagging FTAA negotiations. The trade and investment stakes for the US were obviously low, as Table 2 shows, however the negotiations were deemed to be far simpler with CAFTA-DR than those underway within the FTAA. The recently concluded US negotiations with Chile meant that the bilateral FTA template was in place, and CAFTA-DR entailed just five negotiating groups compared to seventeen for Chile. For the US, then, the CAFTA-DR agreement was embraced for its demonstration effect and its use in signaling US commitment to the completion of the FTAA. As Zoellick pointed out (USTR, 2003):

"Adding the Dominican Republic as an FTA partner will promote economic growth and further integration in the Caribbean by building on a successful agreement with Central America and by lending further momentum to concluding the Free Trade Area of the Americas (FTAA) negotiations by January 2005."

With the collapse of hemispheric and multilateral negotiations, CAFTA-DR quickly became a test case for the US competitive liberalization strategy. A main legacy of the 1984 CBERA was that apparel had “become the dominant export good for all countries except Costa Rica. The United States encouraged this type of trade when it included the Central American countries as beneficiaries under the Caribbean Basin Economic Recovery Expansion Act...” (Hornbeck, 2003:14). The content of the agreement thus focused on investment and market access in textiles and garments rather than trade in a range of goods. Given the fierce levels of import competition that the US apparel industry has faced since China’s 2001 entry into the WTO, coupled with the phasing out of the GATT’s Multi-fiber Agreement in 2005, those in support of CAFTA-DR were hard-pressed to convince a majority of legislators on Capitol Hill that CAFTA-DR would, in fact, benefit US textile and garment producers.

First, the pro-CAFTA-DR coalition emphasized the potential for the agreement to fortify cross-border production networks between the US and Central American apparel industries, such that greater market access would enable both groups of producers to strengthen ties and link efforts to combat the steady flow of Chinese apparel exports (House Ways and Means Committee, 2003: 33). Second, the agreement’s supporters presented it as an opportune way for US companies to equalize not just their trade preferences, but also rules around investment, services, and IPRs. Finally, although the incorporation of labor standards and rules around environmental protection into the US-Chile FTA rendered this a *fait accompli* for CAFTA-DR, lobbyists readily “conceded” on these points while courting the opposition.

The economic stakes for the US may have been small, but CAFTA's political symbolism loomed large given that congress had “not rejected a major trade pact in more than four decades, and CAFTA's defeat could have undermined Bush's efforts to encourage the spread of democracy, to combat terrorism, and to negotiate bigger hemispheric and global trade agreements” (Vieth, 2005). The drama that ensued on Capitol Hill regarding the passage of CAFTA-DR (217 to 215 in the Democratically controlled House of Representatives and 54 to 45 in the Senate) confirmed that henceforth the negotiation of bilateral FTAs with developing countries constituted anything but a low risk and simple strategy, and the subsequent negotiation of the US-Peru FTA immediately bore this out. In hindsight, the impetus for the CAFTA-DR FTA was the further diffusion of the competitive liberalization strategy on the part of the US, while the reaction of the CAFTA-DR countries closely fits the variables of competition and emulation as defined by Katada and Solís (2008).

The lead-up to the US-Peru FTA is similar to that of CAFTA-DR, as are the competition and emulation variables that induced Peru's pursuit of the agreement. Initially, the USTR envisioned the completion of a US-Andean FTA as yet another step toward the conclusion of the FTAA. And, because the Andean Community members enjoyed pre-existing preferences to varying degrees in the US market under the ATPDEA, at least half of the FTA template was already in place. However, although negotiations with Bolivia, Ecuador, Colombia, and Peru began in May 2004, US talks with Bolivia and Ecuador quickly reached a deadlock; as it became clear that Colombia's participation in the FTA would raise any number of hackles concerning labor standards and human

rights abuses on Capitol Hill, Peru emerged as the most viable candidate for negotiating a bilateral FTA within the context of the US competition liberalization strategy.

As Table 2 shows, the flow of US FDI to Peru is small, but still nearly double the percent represented by US-Peru trade. On the trade side, 98 percent of US imports from Peru entered duty-free (under MFN tariff rates, various preference programs, including the ATPDEA, and the General System of Preferences) prior to the 2007 congressional approval of the US-Peru FTA, suggesting that Peru is yet another minor venue for US promotion of WTO-plus rules around investment, services, and IPRs. As with the US-Chile and CAFTA-DR agreements, Peruvian policymakers conceded to US demands for the harmonization of regulatory norms and to broad commercial policy reforms that complied with US standards, and this obviously included the adoption of the same labor and environmental stipulations that were embodied in these other FTAs. As with these other agreements, the US-Peru FTA further diffuses the US competitive liberalization strategy in the 2000s.

As for the pending US FTAs with Colombia, Panama, and South Korea, a main trade policy priority for the outgoing Bush Administration is to secure congressional ratification of the US-Colombia FTA. Although the US-Colombia trade and investment links are no more compelling than those of the US with Chile, CAFTA-DR or Peru, this agreement continues to face significant opposition from the Democratic congressional majority based on projected US job losses and human and labor rights infractions in Colombia. Yet, despite the willingness of the Colombian negotiators to raise standards across the board, not to mention the \$billions in US military and economic aid dispersed to the Colombian government since the late 1990s under the banner of “Plan Colombia,”



the powers that be on Capitol Hill have been unable or unwilling to embrace the US-Colombia FTA as a logical extension of ongoing US foreign policy toward this drug and guerrilla-plagued country---a foreign policy approach that has held true for Democratic and Republican administrations alike for at least a decade.

The recent Democratic Party presidential debates have further clouded the prospects for passage, as the candidates called repeatedly for "fixes" to the existing US FTAs before adopting new ones yet no details on the what actually needs to be done (Markheim, 2008). As the bill for the US-Colombia FTA now wends its way through congress, the debate has fallen prey to Jeff Schott's (2004) "cacophony of stated policy goals." There is bipartisan recognition that rejection of the bill would constitute a major foreign policy blunder from the standpoint of US-Colombian relations and, in turn, US security concerns. The immediate question, to which there is no easy answer: can the US-Colombia FTA survive the election year partisan bickering in which it is currently ensconced? Given the strong uncertainties that surround the future direction of US trade policy under the next presidential administration, some in Washington are holding out hope that the US-Colombia deal can be brokered during the lull between the November 2008 election and the January 2009 inauguration of a new executive and congress.

### *Asia*

The agreements between US-Singapore and US-Australia were signed in May 2003 and May 2004, respectively. Both represent a competitive strategy on the part of the US, one that is driven by the quest to secure more liberal rules on a number of issues that define the new trade agenda and by US efforts to expand market share in countries

that are negotiating similar market access arrangements with China. For example, China negotiated a framework agreement with Australia in 2003 and the two countries are currently negotiating an FTA. Additionally, the ASEAN bloc, which includes Singapore as a member, is currently working towards the negotiation of an FTA with China. In contrast with the very small stakes attached to the negotiation of bilateral US FTAs in the Western Hemisphere, these two Asian agreements are both materially and symbolically crucial to US efforts to compete with China on its own regional turf.

In contrast with the majority of agreements reviewed in the previous section, the US foray into negotiating Asian FTAs is underpinned by considerably stronger flows of US FDI. As Table 2 shows, Singapore's share of US FDI ranks second only to Canada's and Australia ranks third on this indicator. Moreover, the baseline for both countries at the outset of the negotiations was that of economic openness and market orientation. The asymmetries between the US and each of these FTA partners are obviously there, but the pre-existing bias toward competitive liberalization on both sides of the negotiating table rendered these deals easier to reach, and certainly more obtainable than the US FTA with Korea.

In the case of Singapore, Dent (2003) argues that many key factors, including the absence of sensitive issues or a large agricultural sector, allowed for a smooth set of negotiations with the US. For both sides the services sector topped the agenda and the final agreement basically reflected a sophisticated trade relationship between two high-technology parties (Murphy, 2004). For the USTR (2002), the highlights of the US-Singapore FTA are: new service and investment opportunities for US Banks; expanded market access for US insurance companies; a more open and competitive

telecommunications market; and the streamlining of customs procedures. From Singapore's standpoint, although the FTA may have been a reaction to the US competitive liberalization strategy, the sophisticated content of the agreement confirms that policymakers there were seeking to set a new pace for WTO-plus achievements rather than emulating the numerous but less penetrating FTAs that have emerged worldwide since the 1990s.

On the US-Australia FTA, the main interests of the US focused on trade-related investment rather than services. From the start, the sectors covered in this bilateral relationship were more complicated, as the US-Australia trade relationship is based mainly on a pattern of comparative advantage that mirrors the China-Chile FTA. Like China, the US exports higher value-added manufactured goods to Australia (e.g., aircraft and parts, road vehicles, and specialized machinery); like Chile, Australia mostly exports primary goods (e.g., meat, beverages, and dairy products) to the US market.

For Australia, the main irritants included US restrictions on beef and dairy imports; for the US the strains centered on Australia's local content requirements in television programming, sanitary and phytosanitary (SPS) measures, state-sanctioned monopolies in exports of wheat and other grains, and its screening of foreign investments. On some talking points, such as US restrictions on beef and dairy imports from Australia and on Australia's investment screening, the two sides agreed to loosen existing restrictions. On others, such as Australia's SPS measures and state-sanctioned monopolies, they agreed to establish mechanisms for further discussion. However, no agreement was reached in the most contentious areas, such as US import controls on sugar.

Stoler (2004) argues that the US sought an FTA with Australia for the following reasons: to increase US FDI in Australia; to encourage the greater integration of business practices in the two markets; to foster competitive liberalization through its demonstration effects in the WTO and other trade fora; and to further solidify an already strong relationship between the two countries. Apart from the competitive impetus engendered by China's negotiation of an FTA with Australia, the US-Australia FTA was politically motivated to the extent that it enabled the US government to showcase its strong bilateral alliance with a main actor in Pacific Asia, a country that is key to the promotion of stability and prosperity in this region. For Australia's part, the conclusion of the US-Singapore FTA a year earlier surely prompted a combined reaction of emulation and competition, an opportunity for Australia to fast-track its goals of achieving greater access to the US market after the long hiatus on US trade negotiations over the preceding decade.

## **Conclusions**

In this paper we sought to explain the emergence of the US bilateral trade strategy by analyzing its underpinnings across two specific time periods (1984-1992 and 2002-2008) and within two separate geographic regions (Latin America and Pacific Asia). At the same time, we lodged our analysis in the theoretical framework designed for this project by Katada and Solís (2008: 14). In doing so, we probed the extent to which the US bilateral trade strategy was rooted in domestic pressures and demands or whether this policy innovation was influenced by the actions of other countries. Within the broader question of policy diffusion we also explored those political, economic, and legal

variables that compelled both the US and its various bilateral trade partners to enter into FTAs. Here, we argued that the US has clearly been a driver in the diffusion of bilateral policy approaches, even if the US strategy itself is motivated by quite different domestic and international variables at shifting points over the 1984-2008 time period.

The impetus for those US bilateral FTAs signed between 1984-1992 (Israel, Canada, and NAFTA) conformed most closely with the null hypothesis, which means that the decision to pursue these agreements was not shaped by the prior actions of other countries. Rather, the US-Israel FTA emerged as an expeditious way for the US to promote its political and security goals in the Middle East. In the cases of the US-Canada FTA and NAFTA, Canada and Mexico were the initiators, respectively, as each struggled economically and fought to preserve market access in the face of rising US protectionism and global financial instability. A defining feature of this period is that the US resort to bilateral approaches was convincingly articulated as a parallel strategy, one meant to complement the US commitment to completing ongoing multilateral trade negotiations at the Uruguay round.

Ironically, although the Clinton administration achieved this multilateral goal in 1994, contentious domestic politics and a hostile congress worked to deter the completion of further US trade agreements until the signing of the US-Singapore FTA in 2003. In the interim, more than 250 FTAs were negotiated worldwide, many of them involving some combination of developed and developing country membership. Although the US congress basically benched the US executive for a full decade on the trade policy front, we would argue that the initial US move to include Mexico in the NAFTA negotiations was the trigger for the wave of asymmetric FTAs that quickly followed. In this respect,

the US was the diffuser of the bilateral FTA strategy and those countries that followed in its footsteps emulated this policy as a way of similarly locking in access to key export markets.

It took the US executive eight years to win congressional approval for the formal negotiation of further FTAs. However, with the passage of the Trade Promotion Authority legislation in 2002, the office of the US Trade Representative launched its strategy of competitive liberalization; the USTR has subsequently finalized more than a dozen FTAs, all of which cover market access, investment, services, labor and the environment. Despite the lapse in negotiating bilateral FTAs in the 1990s, we would argue that the US competitive liberalization strategy still fits the policy diffusion mold in that the US FTA template continues to push harder than most to achieve WTO-plus outcomes.

Whereas the motives of US FTA partners in the 2000s seem to be based on some combination of emulation and competition to retain market share in key US sectors, we defined the US view of competition in a more literal sense. With the exception of the US FTAs negotiated with Singapore, Australia, and Chile, the US competitive strategy has been geared more toward liberalizing jointly to achieve higher levels of efficiency and productivity, and less on the encroachment by third parties into a given US export market. However, our review of the accompanying debates over the longer-run implications of the US competitive liberalization strategy cast some doubt on this rosy scenario of trade creation and increasing global prosperity. On this count, we made three main points. First, we clarified the differences between bilateral, regional, and multilateral

liberalization, and highlighted the ways in which bilateralism is most biased toward discrimination and trade diversion.

Second, we noted the tendency thus far for the US to negotiate bilateral FTAs with very small players in the world economy. In light of the steep asymmetries involved, especially within the Western Hemisphere, it is no wonder that US negotiators have succeeded in winning legal and regulatory concessions involving the implementation of the new trade agenda within these small open economies. Finally, we conferred with those who have interpreted the US competitive liberalization strategy as an end in itself, rather than a complementary and transitional means for obtaining a multilateral agreement. In contrast to the 1980s, this claim has become increasingly less credible.

Instead the willingness of the US to negotiate bilaterally with small developing countries has been a disincentive for the latter to stay the course with the Doha round, and thus appears to work directly against the completion of a multilateral agreement any time soon. And, despite the low buzz in Washington about weaving together the existing US FTAs in the Western Hemisphere into a regional-12 grouping, any further competitive gains surely lie in the kinds of market access concessions that remain to be won in the multilateral arena. Furthermore, the exclusion of the larger MERCOSUR countries from this regional-12 grouping would do little to promote dynamic hemispheric gains or to jump-start the Doha Round.

The latter will most likely occur in response to China's increasingly assertive strategy of negotiating bilateral FTAs across Asia (Schott, 2006). Herein lies partial justification for the US pursuit of bilateral FTAs with Singapore and Australia, as each is now preparing for FTA negotiations with China. While issues around market access and

the new trade agenda similarly dominated both sets of FTA negotiations, the US proposal to negotiate was also inspired by the heightened competition from China in both of these markets. As a major trade and investment partner in the region as a whole, the spread of preferential trading agreements across Asia could inflict substantial economic losses for the US.

Thus, the negotiation of the US-Korea FTA signals another attempt by the US to mitigate potential losses for US exporters and investors. The good news is that US policymakers operating out of the USTR in the executive branch of government are now seeking FTAs with bigger players that matter, both in terms of future economic and political gains and for the impact that these larger agreements may have in revitalizing multilateral talks. The bad news, as the Colombia and Korea FTAs remain stalled in the legislative queue, is that the US congress appears to be oblivious to the stakes at hand. Even more unsettling is the prospect of another US trade policy blackout akin to that of the 1994-2002 period, as indicated by the tone of the Democratic Party majority that now controls the crucial committees for passing these FTAs. The small window of political opportunity for trade policymaking that exists through the final months of the Bush administration may indeed turn out to be the final window for some time to come.



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