AN INTERIM ASSESSMENT OF THE U.S. TRADE POLICY OF "COMPETITIVE LIBERALIZATION"

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Abstract:

Since it took office the administration of George W. Bush has pursued a trade policy known as Competitive Liberalization. This policy envisages a series of mutually-reinforcing and sequential steps to open markets abroad to U.S. companies, to strength market-oriented laws and regulations overseas, and to place the U.S. at the centre of the world trading system. Foreign and security policy considerations have influenced U.S. trade policymaking, perhaps more so than in the 1990s. To date the principal outcome of this policy has been the negotiation by the U.S. of numerous free trade agreements, mainly with developing countries individually or in sub-regional groupings. In addition to characterising this policy in detail, the principal purpose of this paper is to assess the logic underlying this approach to trade policymaking and whether competitive liberalization has begun to fulfil the promise spelt out for it at the beginning of this decade.

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1. Introduction.

Since taking office in 2001 the Administration of President George W. Bush has pursued a trade policy of Competitive Liberalization. This policy was often espoused by Mr. Robert Zoellick, the United States Trade Representative (USTR) during the first term of the Bush Administration. Three objectives of this policy can be clearly identified. First, to induce a competition for access to the large U.S. market, thereby encouraging foreign countries to open their economies to U.S. companies and farmers. Second, to encourage the adoption abroad of U.S.-style market-friendly business laws and regulations, or at least the adoption of regulations that U.S. businesses can accommodate more easily. These two objectives are to be accomplished through mutually-reinforcing and sequential bilateral, regional, and multilateral trade initiatives. The third objective is to encourage other nations to support U.S. foreign policy and military objectives, and more broadly, what might be termed U.S. values. The purpose of this paper is to offer an interim assessment of the U.S. trade policy of Competitive Liberalization, bearing in mind that the second term of the Bush administration has not ended and that any dynamics created by this policy may well influence trade and other outcomes in future administrations.

An assessment of the Competitive Liberalization is of interest for the following five reasons. First, the implementation of this policy has resulted in the most sustained effort by the United States to sign free trade agreements (FTAs) since World War II. For some this represents a departure from the United States' adherence to multilateralism (Feinberg 2003). Identifying the factors that account for the shift in U.S. policy towards FTAs would therefore add to our understanding of the evolution of U.S. trade policy over time. Second, the policy of Competitive Liberalization puts considerable weight on the inter-relationships between different so-called levels of trade negotiation and reform (namely, the bilateral, regional, and multilateral levels), which some have argued were very important for preserving the momentum towards lower trade barriers in the past (see, for example, Bergsten 1995). Experience since 2001 might shed light on the continuing relevance of the latter argument.

Third, Competitive Liberalization is a form of sequential trade liberalisation, the *economics* of which is relatively little understood.[3] (Indeed the purpose of this Special Issue is to better understand the factors which account for the launching of trade initiatives over time and the consequences that follow from these initiatives.) It will be interesting to examine the similarity and differences between Competitive Liberalization and existing explanations for sequential trade reform, such as Domino Regionalism (Baldwin 1994).[4] Fourth, to the best of our knowledge most of the assessments of Competitive Liberalization have been made by U.S.-based authors, in particular by those resident in Washington, D.C.-based think tanks (Barfield 2005, Feinberg 2003, Schott 2001, 2004a, and 2006). We detect a tempering of support for Competitive Liberalization among these latter analysts in the last year or so, and this prompted us to probe deeper into the success or otherwise of this policy and the factors that might be responsible. Fifth some, including Ambassador Zoellick, saw the policy of Competitive Liberalization as a means to reassert and strengthen U.S. influence over the future direction of the world trading system. Again, it might be useful to think through the channels of U.S. influence and the extent to which the implementation of Competitive Liberalization has fulfilled its promise in this regard.

To reduce the likelihood of misunderstandings a number of preliminary comments are in order. The first is that when we refer to free trade agreements (FTAs), be they bilateral or regional in membership, we are referring to agreements between countries that often involve not

[3] This is not to say that political scientists and international relations scholars have not considered this matter.
[4] For a recent survey of theories of sequential regional integration see Evenett (2004).

only the liberalisation of non-agricultural trade but also reforms of other types of international commerce (including international investments) and of the business laws and regulations. Therefore, for our present purposes, FTAs can include many so-called behind-the-border measures, of which rules on the protection of intellectual property rights is an important example. The second preliminary comment is that we do not claim that trade agreements that include provisions on behind-the-border measures are new.[5] Nor do we wish to imply that foreign and security policy considerations have never influenced the design and implementation of U.S. trade policy before.[6] Moreover, nothing in what follows should be read to mean that Competitive Liberalization has been implemented uniformly across regions and over time. The third preliminary comment refers to the term Competitive Liberalization itself. This term predates the current U.S. administration and, potentially confusingly, has been taken to describe both a trade negotiating strategy and a dynamic that is said to be created by that strategy (Bergsten 1995, Steinberg 1998). As a result we will take particular care in reporting the definitions and explanations of Competitive Liberalization advanced by this policy's supporters. Moreover, our focus here is on current U.S. trade policy and thus only considers other nations' trade policies in so far as they are relevant to understanding the U.S. trade policy of Competitive Liberalization.

The final preliminary comment concerns our assessment itself. We do not propose to calculate the welfare effects of recent concluded or potential future FTAs, as others have done (see, for example, De Rosa and Gilbert 2004). Consequently, we shall not contribute to the debate as to whether the current yield from Competitive Liberalization is "small potatoes" (Schott 2006). The term "small" begs the question "compared to what?" and we could find no widely-accepted benchmark that would help settle this matter. Nor, do we propose to analyse theoretically Competitive Liberalization, even though one of us has tried to do so elsewhere (Evenett 2005). Instead, we will focus on the internal logic of Competitive Liberalization, on the incentives that it creates, on the potential tensions created by the three different objectives of this policy identified earlier, and on whether this policy is beginning to deliver what its advocates claimed it would.

The remainder of this paper is organised as follows. The next section seeks to accurately characterise the policy of Competitive Liberalization and to describe what its proponents argue is the logic underlying this policy. This section makes ample use of quotations so as to avoid inadvertently misrepresenting the proponents' positions in summary form and because, quite frankly, sometimes these quotations are open to multiple interpretations.[7] The third section briefly discusses the implementation of Competitive Liberalization from 2001 through the first six months of 2006. Appraisals of Competitive Liberalization by others are discussed in the fourth section. The fifth section contains our assessment of Competitive Liberalization. Concluding remarks are found in the sixth and last section of the paper.

2. Characterising Competitive Liberalization.

So as to understand the U.S. trade policy of Competitive Liberalization it is important to appreciate the context in which it was first articulated and the rationale, such as it is, for this policy. The material in this section draws primarily upon speeches, newspaper interviews, and congressional testimony given by U.S. policymakers, in particular by the United States Trade Representative, and reports by the Bush Administration and by the Congressional Research Service (which produces many analyses of U.S. trade policy options).

[5] After all, national treatment provisions have been included in trade agreements for decades.
[6] For different views on the relative importance of foreign and security policy factors in influencing U.S. trade policy over recent years, see Higgott (2003) and Philipps (2006).
[7] In a much earlier account and assessment of competitive liberalization Steinberg (1998) made the same point.

Arguably three factors significantly conditioned the context in which Competitive Liberalization was initially articulated in the early years of this decade. The first factor was that the Clinton Administration was unable to persuade Congress to renew Trade Promotion Authority (formerly known as Fast Track Authority) and that the United States' trading partners signed numerous bilateral and regional trade agreements during the 1990s and in the early years of this decade. For some this implied that the United States was "falling behind". Ambassador Zoellick began an editorial in the *New York Times*, published on 14 April 2002, as follows:

> The United States has been falling behind the rest of the world in pursuing trade agreements. Worldwide, there are 150 regional free-trade agreements and customs agreements; the United States is a party to only three. Each one sets new rules and opens markets for those that signed on and creates hurdles for those outside the agreement.

He went on to urge the U.S. Senate to grant the Bush Administration Trade Promotion Authority (TPA). Previously, in testimony before the Committee on Finance of the U.S. Senate, Ambassador Zoellick argued that nothing less than U.S. leadership of the world trading system was at stake:

> In the absence of this authority other countries have been moving forward with trade agreements while America has stalled. We cannot afford to stand still--or be mired in partisan division--while other nations seize the mantle of leadership on trade from the United States. This would be a huge missed opportunity indeed an historical mistake. Given the size of the U.S. economy--and the reach, creativity, and influence of our private sector--we should be and can be shaping the rules of the international economic system for the new century (Zoellick 2001a, page 8).

We will return to the "partisan division" and Congressional attitudes towards U.S. trade policy soon enough, but first it will be useful to clarify precisely which rules Ambassador Zoellick had in mind shaping. In a speech to the Kangaroo Group in Strasbourg, France, on 15 May 2001 he identified the following wide range of government measures that could be influenced through trade agreements:

> …we need to align the global trading system with our values. We can encourage open and efficient markets while respecting national sovereignty. We can encourage respect for core labor standards, environmental protection, and good health without slipping into fear-based campaigns and protectionism. And we must always seek to strengthen freedom, democracy, and the rule of law. (Zoellick 2001b, page 8).

As this quotation indicates the ambit of U.S. objectives for its trade policy goes well beyond border measures, such as tariffs and customs clearance. It is also noteworthy that the U.S. "always seek"(s) to attain freedom, democracy, and the rule of law. In sum, the Bush Administration wanted TPA for far more than catching up with its trading partners, but also to reassert its central position as the writer of rules for the world trading system.

The second important conditioning factor refers to developments in the U.S. Congress, in particular, changes in the committee system and the polarisation of the U.S. Congress on trade policy matters. Schott (2001) describes how the growing decentralisation of power in the U.S. Congress has weakened committee chairmen and allowed congressmen and women sitting on numerous committees to influence U.S. trade policy. Interest groups know this and lobby individual legislators to propose trade measures that promote their commercial and other interests.

Destler (2005) carefully charts the decline of bipartisan cooperation on trade matters, which was evident for all to see by the 1990s. With closer and closer votes on trade-related legisla-

tion, especially in the U.S. House of Representatives, small groups of legislators that have been particularly keen on certain measures being included or excluded from a trade agreement have wielded considerable influence. This accounts in part for the growing number of behind-the-border matters that came to be included in the trade negotiating objectives Congress set for the executive branch in the 1990s and after.

The third contextual factor is that the relationship between international trade and national security were clearly in the minds of the executive branch from the beginning of the Bush Administration in January 2001 (although this is not to say that the emphasis on foreign and national security factors did not intensify later on.) In his confirmation hearing before the U.S. Senate's Committee on Finance Ambassador Zoellick first quoted President Bush as saying "Economic freedom creates habits of liberty. And habits of liberty create expectations of democracy" (Zoellick 2001a, page 5). Mr. Zoellick went on to link international trade and national security explicitly, as follows:

> …expanded trade affects our national security. The crises of the first 45 years of the last century…were inextricably linked with hostile protectionism and national socialism. Communism could not compete with democratic capitalism, because economic and political freedom creates dynamism, competition, opportunity, and independent thinking (Zoellick 2001a, page 5).

In the aftermath of the attacks on New York City and Washington, D.C., on 11 September 2001, the connection between trade policy initiatives and national security was arguably strengthened. The desire by leading nations to demonstrate that they were united and that they could work together was a contributing factor to the launch of the Doha Round in November 2001. Just before the associated Ministerial Meeting, in an article in the *International Herald Tribune* on 8 November 2001, Ambassador Zoellick argued:

> The international market economy, of which trade and the WTO are vital parts, offers an antidote to this violent rejectionism. Trade is about more than economic efficiency. It reflects a system of values: openness, peaceful exchange, opportunity, inclusiveness and integration, mutual gains through interchange, freedom of choice, appreciation of differences, governance through agreed rules, and a hope for betterment for all peoples and lands.
>
> Therefore, just as the Cold War reflected a contest of values, so will this campaign against terrorism. Just as America's Cold War strategy recognized the interconnection of security and economics, so must its strategy against terrorism.
>
> By promoting the WTO's agenda, especially a new negotiation to liberalize global trade, these 142 nations can counter the revulsive destructionism of terrorism.

In addition to U.S. support for launching the Doha Round, this trade-security linkage has had other implications for U.S. trade policy, as will become clear in the sections that follow.

Catching up, congressional politics, and foreign and security policy concerns were to influence the U.S. trade policy of Competitive Liberalization, whose components and rationale were spelt by U.S. officials on numerous occasions from 2001 onwards. Perhaps the most succinct description of U.S. trade policy in the Bush Administration was given by Ambassador Zoellick in a letter to the Comptroller of the United States on 3 December 2003 and is reproduced directly below:

> When the Bush Administration set out to revitalise America's trade agenda almost three years ago, we outlined our plans clearly and openly: We would pursue a strategy of "competitive liberalization" to advance free trade globally, regionally, and bilaterally. By moving forward simultaneously on multiple fronts the United

> States can: overcome or bypass obstacles; exert maximum leverage for openness, target the needs of developing countries, especially the most committed to economic and political reforms; establish models of success, especially in cutting-edge areas; strengthen America's ties with all regions within a global economy; and create a fresh political dynamic by putting free trade on the offensive (GAO 2004, page 57).

Ambassador Zoellick went on to specify the "pathways" the United States has created to encourage trade reform by other countries:

> 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[8] and his plan to work toward a Middle East Free Trade Area[9] 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, promote business ties, analyze the possibilities for an FTA, and prepare for the capacity to negotiate an FTA. Finally, we may negotiate a wide-ranging, state-of-the-art FTA that will help establish a model for a region and incentives for neighbours. 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 complete to become fuller members of the world trading system and better partners of the United States (GAO 2004, page 58).

This statement is important as it suggests that FTAs are in principle only one part (or stage) of the policy of Competitive Liberalization. Moreover, this policy envisages in many cases a stage before negotiations over a FTA commence, namely, the negotiation and implementation of TIFAs and BITs. TIFAs allow for discussions between the United States and its trading partners, providing the former with an opportunity to demand reforms of the latter before contemplating launching FTA negotiations.[10] Relatedly, encouraging countries to join the WTO may on the face of it seem a noble pro-multilateral gesture. That view is tempered by the take-it-or-leave-it nature of most WTO accession negotiations, whereby every existing WTO member must agree to the admission of a new member so putting the applicant at a serious negotiating disadvantage (see Evenett, Kennett, and Gage (2005) and the country case studies contained in Evenett (2005)).

In his confirmation hearings Mr. Zoellick was very clear about the message that he wanted to send to America's trading partners:

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[8] Denoted the EAI hereafter.

[9] Denoted the MEFTA hereafter.

[10] Further information on the role of the TIFAs was given in testimony before the House International Relations Committee's Subcommittee on Asia and Pacific on 25 June 2003 by Mr. Ralph Ives, Assistant USTR for Asia-Pacific and APEC. Mr Ives noted that:

> Dialogue under the TIFA allows us to resolve key outstanding trade issues and to prepare the groundwork for possible FTA negotiations. For example, we may seek improvements in our trading partner's protection and enforcement of intellectual property rights (IPRs), migration of customs-related problems, and resolution of specific market access issues. Of course, because these discussions are intended to be mutually beneficial, we try to address issues identified by our trading partners.

> I want to be able to tell my counterparts that we are willing to negotiate if they are serious about eliminating barriers, yet also make clear that America will look elsewhere if they delay--the United States will move forward, and it is up to them to join us or be left behind (Zoellick 2001a, page 9).

The notion that the United States' trading partners will be left behind if they do not reform, and that being left behind creates pressures to reform, seems to be at the core of the intertemporal dynamic created by Competitive Liberalization.[11] Time and again U.S. executive branch officials refer to this argument. For example, Mr. Alan Johnson, Chief Agricultural Negotiator with the Office of the United States Trade Representative, stated in testimony before the U.S. Senate's Committee on Foreign Relations on 20 May 2003 that:

> Our strategy is to incite competitive liberalization by negotiating regional and bilateral agreements to complement our global strategy in the WTO. If others are ready to open their markets, America will be their partner. If some are not ready, or want to complain but not lower their barriers, the United States will proceed with countries that are ready. This competition in liberalization strengthens the United States' already considerable leverage, including in the WTO.

The U.S. has sought to strengthen its leverage at one negotiating level (e.g. the WTO) by engaging in initiatives at other levels.[12] For example, after the negotiations for a Free Trade Area of the Americas (FTAA) stalled, Ambassador Zoellick stated that the United States would open a second track in Latin America by negotiating free trade agreements with several Central American nations and the Dominican Republic. Referring to the United States' trade negotiating priorities in Latin America he noted:

> It's the ALCA (FTAA), but it's also the step-by-step process of competitive liberalization which we believe helps keep up the momentum (as reported in the *Miami Herald* on 15 November 2003).

Although many of the FTAs that the Bush Administration was to eventually negotiate were with relatively smaller economies, U.S. officials had indicated that signing FTAs with the largest economies in the world was within the ambit of Competitive Liberalization. Moreover, negotiations in one region are thought to enhance the likelihood of the United States successfully negotiating with trading partners in other regions, as this statement by Ambassador Zoellick makes clear:

> We would like to pursue FTAs with the largest markets around the world, including the European Union and Japan among others. But right now, those countries are unwilling to move forward. As a result, we are pushing for the liberalization of their markets through the WTO. At the same time, as another facet of competitive liberalization, we hope our progress on other FTAs will encourage those important markets to reconsider their stance (U.S. State Department Press Releases and Documents, 28 April 2004).[13]

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[11] This intertemporal feature of Competitive Liberalization is also found in Baldwin's Domino theory of regionalism, which is said to provide accounts of the expansion of both the European Economic Community over time and the free agreements in North America (see Baldwin 1994).

[12] This is not a feature of Baldwin's Domino theory of regionalism (see Baldwin 1994).

[13] More recently Ms. Susan Schwab, the USTR appointed after Ambassador Portman, reiterated many of the same points in an interview with the *National Journal* on 15 July 2006. In response to the question "Beyond the Doha Round, what is your strategic thinking about future trade agreements?" Ambassador Schwab said:

> I do not preclude bilateral agreements with either big countries or small countries where there is--and here is the key--the ambition to do a gold-standard free-trade agreement. There are a lot of countries out there negotiating FTAs, and what they are doing is negotiating around their sensitivities. The way we negotiate FTAs, everything is on the table. And that includes our sensitivities and their sensitivities (page 63).

This statement indicates the cumulative nature of the expected results from Competitive Liberalization, perhaps providing one benchmark against which to eventually evaluate the efficacy of the policy.

The Bush Administration also sees its demands for "gold-standard" FTAs (which include many behind-the-border measures) as being beneficial to parties to the agreement. In a *Wall Street Journal* op-ed on 10 July 2003, Ambassador Zoellick argued as follows:

> America's FTAs break new ground--they establish prototypes for liberalization in areas such as services, e-commerce, intellectual property for knowledge societies, transparency in government regulation, and better enforcement of labor and environmental protections. Given the new dimensions of globalization, we need to demonstrate that trade rules can adapt to meet new needs and circumstances. Our FTAs level the playing field for U.S. businesses because others--especially the E.U.--negotiated a host of agreements in the 1990s while the U.S. stood on the sidelines.

Elsewhere Mr. Zoellick has argued that it is the very high standards in its FTAs that make the United States' trading partners stand out as desirable investment locations. The benefits, so the argument goes, of "winning" the game of Competitive Liberalization are not confined to potentially better access to U.S. markets.

Foreign and security policy considerations have been given a clear place in current U.S. trade policy. Ambassador Zoellick has repeatedly stated that the United States has other goals than promoting trade and enhancing economic efficiency. His successor, Ambassador Portman has continued this theme, and an example is in some remarks he made at a roundtable discussion earlier this year. Making specific reference to the Middle Eastern countries, he noted:

> The MEFTA countries are incredibly important so I do not want to the diminish the importance of a Bahrain [FTA] or an Oman [FTA] where we have real export opportunities, but also we have a larger interest in political stability and the promotion of prosperity and democracy in an important region. So our FTAs are not always strictly commercially based. Sometimes there are larger issues.[14]

Having said that an analysis of statements by U.S. officials suggests that a trading partners having a good foreign and security relationship with the United States is not a substitute for making the reforms necessary to obtain a FTA. For example, in remarks addressed to Egypt, a longstanding U.S. ally in the Middle East, Ambassador Zoellick made it clear that

> …I'm trying to send a signal, which is that there are some countries in the world that had an old think and that feel that political relationships are going to give them what they want economically. And they won't. They've got to make the reform… (Zoellick 2003a).

Another important consideration in the U.S. policy towards FTAs is that U.S. trade negotiators do not approach their foreign counterparts to start negotiations on these agreements. All entreaties must come from the trading partner or partners. While, as Feinberg (2003) has noted, this has made the United States essentially reactive in first instance, this posture gives the United States considerable negotiating clout should subsequent FTA negotiations with a trading partner prove difficult. After all, the United States can always point out that it did not seek this negotiation, with the implied threat that negotiations could be terminated if further concessions are not forthcoming from the trading partner.

Readers may wish to re-read and perhaps re-evaluate this remark in the light of the statements reported in footnote 22 of this paper.

[14] Roundtable Discussion with Ambassador Robert Portman, 20 January 2006. Available at www.ustr.gov.

In sum, then, the United States expects from those trading partners seeking a FTA a typical package of market access-associated liberalisation plus a commitment to implement reforms (or evidence of implementation of reforms) over potentially a wide range of economic and political matters and support on foreign and security policy. This may well prompt the question as to what the United States is prepared to give in return for such FTAs. The answer, it seems, is relatively little, as the following remark by Ambassador Zoellick makes clear:

> American openness is high and our trade barriers are low, so when we negotiate free trade agreements with our counterparts we almost always open other markets more than we must change our own (Zoellick 2001a, page 8).

Ambassador Zoellick made these remarks at his confirmation hearings in January 2001, that is, before he even took up the post of USTR. Moreover, many developing countries considering seeking a FTA with the United States may already take advantage of the U.S. unilateral preference schemes for selected imported products. For these countries the tariff concessions by the United States in a FTA may well be smaller.

3. Implementing Competitive Liberalization.

Considerations of space necessarily make this account of the implementation of Competitive Liberalization a truncated one. Our focus here will principally be on the bilateral track of trade negotiations, if only because major new agreements at the regional and multilateral level have yet to be concluded during the Bush Administration's watch. This is not to say that developments in the Doha Round, the FTAA, or the Asia-Pacific Economic Cooperation (APEC) forum are necessarily insignificant. Moreover, our focus on bilateral deals will arguably short change discussions of unilateral U.S. initiatives, such as the African Growth and Opportunity Act. Readers might bear these caveats in mind when considering what follows.

In the United States although trade agreements are typically negotiated by the executive branch it is Congress which has the ultimate authority to regulate commerce with foreign nations. In 2002 Congress granted the Administration TPA until July 2005, that was subsequently extended until 30 June 2007. The Act governing TPA stipulates that the Administration must consult Congress throughout the negotiating process, and to that end a Congressional Oversight Group was formed. The President must also notify Congress 90 days before starting negotiations on a FTA and make an additional notification at least 90 days before his intention to enter into such an agreement.[15] Within 60 days of the entering into the trade agreement the President must also submit to Congress a list of the changes to U.S. laws that are needed to bring the United States into compliance with that agreement. Even though there is no deadline for submission of the implementing legislation to Congress, there is a presumption that once submitted Congress will vote to approve or reject the legislation in its entirety.[16]

Given the growing scope of FTAs the TPA-related procedures, therefore, require both considerable consultation between the departments of the Executive Branch (and not just the USTR) and Congress, as well as consultations among the former. The inter-agency process pursued by the Bush Administration is described in GAO (2004).

U.S. officials assert that no mechanical formula is used to determine whether the United States should commence negotiations on a FTA with a foreign party. Even so, a number of relevant factors have been disclosed publicly. In a speech at the Institute for International Economics in May 2003, Ambassador Zoellick identified the following 13 factors that guide

[15] The latter notification requirement stretches to 180 days if the trade agreement envisages changes to the U.S. trade remedy laws.
[16] See CRS (2006) for further details of the procedures associated with TPA.

his evaluation of the suitability of starting negotiations with a foreign party: Congressional guidance; interest from U.S. business and agriculture; implications for sensitive products (such as textiles and sugar); evidence of political will on the part of the foreign party to implement the necessary trade reforms; the party's willingness to implement other market-oriented reforms; the party's commitment to any ongoing WTO and relevant regional negotiations; the contribution of an agreement with the foreign party to regional integration; the degree of support from U.S. civil society groups; the extent to which the foreign party cooperates with the United States on foreign and security policy; consideration of whether an agreement with the foreign party would counter other FTAs that put U.S. commercial interests at a disadvantage; the desire on the part of the United States to sign FTAs in every region of the world economy; the desire on the part of the United States to have FTAs with industrialised and developing countries; and, finally, the implications of any negotiation on the resources available to the Office of the United States Trade Representative (GAO 2004).

It should be noted that Ambassador Zoellick stressed that no specific weights were attached to each factor and that the weight given to any factor may vary on a case-by-case basis. GAO (2004) contends that these 13 factors were used to select four trading partners in 2002 from those seeking to negotiate a FTA with the United States.

Since 2002, however, it appears that the relevant agencies of the U.S. Executive Branch (principally, the Office of the United States Trade Representative and the Departments of State, Commerce, Agriculture, and Treasury) have employed six broad factors in evaluating the suitability of a trading partner for FTA negotiations with the United States (GAO 2004). The six factors are: "country readiness" (seen in terms of political will and support, trade policy, and the effectiveness of the rule of law); "economic and commercial benefit to the United States" (concerned with broader macroeconomic performance as well as potential sector-specific information); benefits to the United States' overall strategy for trade liberalisation; "compatibility with U.S. interests" (including not only foreign policy but also membership of the WTO and the conclusion of a TIFA); support from the U.S. Congress, private sector, and civil society; and U.S. governmental resource constraints. The third and fourth factors indicate, respectively, the importance given to linkages across levels of trade negotiations and foreign and security policy.

GAO (2004) argues that "the interagency process for selecting FTA partners has become more systematic since 2002 and routinely considers input from Congress and the private sector" (page 2). Moreover, in May 2003 the National Security Council issued guidelines to "improve the process of assessing potential parties by, among other things, expanding the number of inter-agency groups involved with the assessments" (GAO 2004, page 13).

GAO (2004) also reports that there are no thresholds for eligibility employed overall and with respect to any one of the factors listed above. The report notes:

> Key officials told us that the USTR's views are central but that the now-standard discussion of the factors permits each participating executive agency to contribute its perspective, thus potentially adding to the issues that the USTR must address in the future negotiations (page 10).

In the light of these remarks it would not be at all surprising if, in fact, the range of provisions included in U.S. FTAs has grown over time.

Finally, CRS (2006) reported that Ambassador Portman has indicated that the choice of new partners for FTAs would be influenced by the likelihood of completing negotiations before the expiration of TPA in June 2007.

In addition to these general features, the implementation of Competitive Liberalization has acquired certain regional dimensions. Mention has already been made of the two track negoti-

ating approach being pursued by the United States in Latin America. In the Middle East, however, a multi-step strategy is being followed. On 9 May 2003 President Bush announced an initiative that seeks to create a U.S.-Middle East Free Trade Agreement (MEFTA) by 2013. In the first stage Middle Eastern countries that are not members of the WTO would accede to that organisation.[17] Then, nations would conclude TIFAs and BITs with the United States. In the final stage, once enough reforms had been undertaken, FTA negotiations might begin.

Earlier, in October 2002, President Bush had announced an Enterprise for ASEAN Initiative. This offered the prospect to East Asian countries with a strong commitment to economic reform the prospect of negotiating a FTA with the United States so long as these satisfy two conditions: namely, that the trading partner was a member of the WTO and that a TIFA had been concluded with the United States. In the longer term the stated U.S. goal is said to be to create a network of bilateral FTAs in the ASEAN region (USTR 2003, page 167). Both of these regional initiatives indicate that Middle Eastern and South East Asian nations must overcome a number of hurdles, and sometimes significant hurdles, before the prospect of a negotiation of a FTA arises.

To date what has been the Bush Administration's record with respect to the negotiation, conclusion, and implementation of FTAs? Table 1 summarises the status of the FTAs that have been started or concluded during the presidency of Mr. George W. Bush. A total of 18 countries or groups of countries have participated in negotiations with the U.S. government since the Bush Administration took office. Of those 18 initiatives, seven have been formally signed and four or five have come into force (the ambiguity in the latter statistics created by how one judges the entry into force of the U.S.-Central America Free Trade Agreement.)

Of the 18 initiatives only two involved members of the Organisation for Economic Co-operation and Development (OECD). Most of the negotiations, therefore, were with developing countries, in particular developing countries in Latin America and the Middle East. Only with the launching of negotiations with Korea and Malaysia has East Asian participation in the U.S. FTA initiatives begun to catch up with some other regions. Outside of the Southern African Customs Union (SACU), no other Sub-Saharan African nation has been engaged in FTA negotiations with the United States. South Asia is not represented at all in Table 1. All in all, the distribution of U.S. FTA initiatives is very uneven across the regions of the world economy (especially when those regions are weighted by their respective populations.)

Another implication of the information presented in Table 1 is that, with FTAs with Colombia and Peru already concluded and the possibility that others may be concluded in 2006, Congress may have to legislate on several FTAs in 2006 and 2007. If the expiration of TPA accelerates FTA negotiations in 2006, then Congress could find itself considering an unprecedented number of signed FTAs in the coming years. Whether Congress will welcome such a legislative load, especially during the election years of 2006 and 2008, is another matter.[18]

According to the website of the Office of the United States Trade Representative[19], the Bush Administration has also signed 18 TIFAs adding to the nine already in existence. The signatories to these agreements are heavily skewed towards the Middle East and East Asia but with more African representation than is the case with FTA initiatives.[20]

[17] Afghanistan, Algeria, Iran, Iraq, Libya, Lebanon, Syria, and Yemen are not members of the WTO in that region.

[18] These comments should be read with those of Barfield (2005), see section 4 below.

[19] Specifically, http://www.ustr.gov/Trade_Agreements/TIFA/Section_Index.html

[20] The following nations have signed TIFAs with the United States during the Adminstration of Mr. George W. Bush: Afghanistan, Algeria, Bahrain, Brunei, Central Asian Republics (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan), the Common Market for Eastern and Southern Africa (COMESA), Kuwait, Malaysia, Mongolia, Mozambique, Oman, Qatar, Saudi Arabia, Sri Lanka, Thailand, Tunisia, the United Arab Emirates, and Yemen.

News reports provide information on countries that in recent years have sought FTA negotiations with the United States, or have explored the possibility of such negotiations, and were ultimately rebuffed. Those spurned (and there may well be others) include Egypt, Indonesia, Kuwait, New Zealand, Pakistan, the Philippines, Qatar, Sri Lanka, Switzerland, and Taiwan. As noted earlier, lack of reform (in particular with respect to the protection of intellectual property rights and customs related matters) was cited as the reason for rejecting Egypt's advances.[21] The low likelihood of successfully completing an agricultural trade reform package acceptable to the United States is said to have accounted for the failure to launch FTA negotiations with Switzerland. The latter fears do not appear to be insurmountable as the same concerns were once raised with respect to Korea, whose government is now in negotiations on a FTA with the United States.

Another country that was able to turn a negative initial evaluation around is the Dominican Republic. When FTA negotiations with the Central American nations were first proposed, the Dominican Republic sought to be included. In September 2002 Ambassador Zoellick rebuffed these advances noting that, while there was a good trading relationship, the Central American republics "have been some of the strongest supporters" of the United States in other trade negotiations. He added "we want to see that same support from the Dominican Republic at the WTO negotiations and the FTAA." The message appears to have been received clearly because press reports in early 2003 indicate that the Dominican Republic was working closely with the United States in both of these negotiations. On 8 April 2003 Ambassador Zoellick notified the U.S. Senate of the decision to initiate FTA negotiations with the Dominican Republic, which he described as a "reliable trade partner in the region" and in multilateral trade negotiations.

Foreign and security policy considerations are thought to have played a role in rebuffing demarches from New Zealand and Taiwan. In the former case, despite strong U.S. Congressional support for starting negotiations on a FTA with New Zealand, which has been a goal of successive governments in Wellington since 1992, it was announced in 2003 that these talks would not take place. New Zealand's longstanding refusal to let nuclear warships into its ports, its decision not to lease 28 F-16 fighter jets in 2000, and the Clark Government's opposition to the second invasion of Iraq were all reported to be contributing factors. Having said that, U.S. officials publicly stated that negotiations on agricultural trade matters would have been very sensitive for them as New Zealand exports a number of farm products (such as beef, lamb, and sugar) that are especially protected in the United States (Zoellick 2003b, CRS 2006).[22] On 24 May 2003 the U.S. embassy in Wellington announced that the U.S. was not

[21] More generally we could find no country listed on the USTR's "301 Priority Watch List" for inadequate implementation or enactment of business-friendly economic laws that was able to secure negotiations on a FTA with the United States. Egypt and Kuwait were on this list at the time they sought FTA negotiations with the United States.

[22] When asked by Representative Boehner about the prospects of negotiations with New Zealand, Ambassador Zoellick responded:

> New Zealand is a challenge, Mr. Boehner. It is a challenge because when we set up the notice on Australia, there was put in a paragraph that said we sort of take a sense of Congress. But there really are kind of two issues that have caused some impediment. One is, just to be frank with the committee, a lot of their agricultural exports are ones that are very sensitive here; and we have to bring something back that we can get some broad-based support on. And if you start thinking about diary and others, it is not the easiest thing to be able to carry here. Then the question is how we can handle that and whether we can handle it, given the overall relationship; and there are some things done recently that I think made that a little harder for us to carry. So we work very closely with New Zealand in the WTO. They are a good partner, and we continue to talk to them about prospects. But right now our goal is to move forward with Australia (Zoellick 2003b).

In addition to concerns about the "overall relationship" (that may be code for foreign and security policy disagreements), the statement strongly implies that opposition anticipated in one quarter of the U.S. Congress lead the USTR to put off negotiations on a free trade agreement with New Zealand. It would seem that rather than

prepared to enter into negotiations on a FTA at that time, but did not rule out the possibility of a future negotiation. When New Zealand contributed troops to the reconstruction of Afghanistan and Iraq the following month, the U.S. refused to draw any links to negotiations over a possible FTA (New Zealand Press Association 2003).

Another interesting feature of the implementation of Competitive Liberalization in 2006, less than 18 months before the expiration of TPA, has been the threats made to those U.S. trading partners that are not perceived to be making enough concessions during FTA negotiations. These threats have been issued publicly by U.S. trade negotiators and elected officials. For example, after a week of negotiations with the Thais in January 2006 that yielded less than the United States expected, *Inside U.S. Trade* reported the following remarks by Ms. Barbara Weisel, Assistant USTR for South East Asia and her subsequent travel plans:

> "We would like to be able to have the time that we need to conclude [the Thai] FTA but also to conclude new FTAs that we hope to launch and there's only so many of those we want going at the same time," she said. Weisel travelled to Malaysia after the Thai negotiations to discuss a possible FTA with government officials of that country, one of the four the U.S. is considering for an FTA (20 January 2006).

The following month it was the SACU members that received a warning, this time from Ambassador Portman. This was reported by *Inside U.S. Trade* as follows:

> U.S. Trade Representative Rob Portman this week held open the possibility that the U.S. would reconsider continuing formal negotiations with members of the Southern African Customs Union over those countries failure to agree to the scope of a deal. "We don't want to walk away by any means if there's interest," Portman told reporters…"We will continue to be there to engage but we have to keep our standards high." (10 February 2006).

The following week similar sentiments were expressed by the Chairman of the U.S. House Ways and Means Committee, Congressman Bill Thomas. *Inside U.S. Trade* reported:

> House Ways and Means Committee Chairman Bill Thomas (R-CA) this week said the U.S. should drop partners in free trade agreement negotiations if talks on those agreements are not progressing. At a Feb. 15 hearing on the U.S. trade agenda, he said the resources of the Office of the U.S. Trade Representative would not be productively spent on "wooing" trading partners that refuse to agree to U.S. boiler-plate demands on FTAs.
>
> Thomas mentioned rules on intellectual property rights and sanitary and phytosanitary barriers as examples of rules where some trading partners have refused to accept U.S. demands. Dropping partners from negotiations would create a sense of urgency in trading partners that would make it more likely that negotiations would be concluded, Thomas suggested…
>
> "We have to create a sense of timing if not urgency among some of our friends," Thomas said. He said this was also the case for ongoing and existing relationships. (*Inside U.S. Trade* 17 February 2006).

Around the same time Ambassador Portman indicated that time was running out to complete the FTA negotiations with Panama.[23]

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launch and conclude a negotiation for which Congressional ratification is in some doubt, the Bush Administration prefers to avoid the negotiation in the first place.

[23] "Portman Signals Time Running Out To Finish Panama FTA This Year," *Inside U.S. Trade*, 17 February 2006.

Some of the above threats have been followed through. For example, in April 2006 the Bush Administration suspended its FTA negotiations with SACU members, replacing them with a "work program" on trade and investment matters.[24] Subsequently, negotiations with Ecuador were postponed and then put in "deep freeze" as investment disputes between the parties worsened. Moreover, negotiations with Thai counterparts have been suspended until that country holds its second general election in 2006, a move which is hoped to provide greater political certainty. As a result of these changes, at the time of writing, the U.S. is only engaged in active bilateral negotiations with four trading partners. Assuming TPA is not extended, then as the June 2007 deadline approaches it will be interesting to see if the United States *de facto* or *de jure* ceases FTA negotiations with any more of its trading partners.

4. An overview of other assessments of Competitive Liberalization.

Given the longstanding disagreement among scholars and trade policymakers over the choice between pursuing preferential or multilateral trade negotiations it should not be surprising that there is a wide spectrum of opinion concerning the U.S. trade policy of Competitive Liberalization. It is important to recall that that Competitive Liberalization has bilateral, regional, and multilateral components and differs, in principle at least, from a purely preferential or a purely multilateral approach. In this short survey of the leading analyses of Competitive Liberalization it will be useful to start with the proponents of this approach to trade policymaking and then turn to other perspectives.

Perhaps the most consistent and high profile analyst in support of Competitive Liberalization is C. Fred Bergsten. In Bergsten (1995, 2002) he emphasises that countries are competing with one another for scarce investment resources and for access to foreign markets. This competition has an important influence on the payoffs from different commercial policies. Economic reforms, especially in developing countries, are the key to securing such investment, he contends. These reforms can be codified in FTAs that act as a signal to the private sector.[25] Bergsten has long subscribed to the view that nations engage in a competition for liberalisation for fear of being left behind, especially in a time of mobile multinational capital (Bergsten 1995).

Bergsten (2002) argues that there are benefits to be accrued from exploiting the linkages between trade negotiations at different levels, which is central to the policy of Competitive Liberalization. For Bergsten this is not just a matter of logic, it is an approach to trade policy strategy making that has delivered results before. In his view the interaction between developments on the multilateral and regional tracks have been central to trade policymaking since the 1960s, as this quotation from Bergsten (1995) makes clear:

> Much of the political economy of competitive liberalization in recent years has in fact played itself out in the dynamic interaction between regional and global initiatives to reduce trade barriers. This creative tension has been present throughout most of the postwar period. The United States initiated the Kennedy Round in the 1960s to counter the discrimination inherent in the creation of the European Common Market (as well as for broad foreign policy reasons) and the Tokyo Round in the 1970s to counter the additional discrimination from the Community's expansion to include the United Kingdom. The Europeans cooperated in both ventures and thus enabled the regional and global efforts to "ratchet up" the scope and pace of liberalization.

[24] "U.S. Drops FTA with SACU, Starts Trade and Investment Work Program," *Inside U.S. Trade*¸ 21 April 2006.
[25] Schott (2004a) makes a similar argument.

> The positive interaction between the two strategies accelerated sharply in the 1980s and 1990s as competitive liberalization became the norm and countries searched for tactics to obtain the needed domestic support. The United States reversed its traditional aversion to regionalism by embracing free trade agreements with Israel and Canada after the European Community blocked the launch of new negotiations in the GATT--to which the EC responded by dropping its veto and permitting the Uruguay Round to begin. When the Round faltered in the late 1980s, the three North American countries launched NAFTA and the Asians initiated APEC. When the Round almost failed to meet its final deadline in December 1993, APEC's initial summit in Seattle in November 1993 induced the Community to finally agree because, according to one top European negotiator, it "demonstrated that you had an alternative and we did not." The regional initiatives also reinforced each other: APEC's Bogor Declaration was instrumental in galvanizing the Miami summit, a few weeks later, to commit to free trade by a certain date in the Americas…
>
> Hence regional and global liberalization initiatives have been mutually reinforcing throughout the past three decades or more. The fears of some observers that regionalism would derail globalism have been demonstrably overcome (page 4).

The APEC-NAFTA-GATT interaction described above that took place at the end of the Uruguay Round is often referred to as the Triple Play. It is noteworthy how often the Triple Play is referred to by authors based in North America as evidence in support of the apparent logic of competitive liberalization, or at least to the proposition that certain regional trade initiatives can spur multilateral trade reforms: see Cooper (2004), Destler (2005), Schott (2004b, 2006), Steinberg (1998), and significantly Zoellick (2001c). It seems that much turns on this proposition, a point we return to below in our own evaluation.

A related point made by Bergsten is that it is false to think of the alternative to multilateralism as "standing still" (or no change.) He subscribes to a variant of the so-called bicycle theory of trade reform whereby a failure to move forward risks encouraging protectionism (which presumably amounts to moving backwards). So the argument goes, if multilateralism is stalled at a point in time then bilateralism and regional initiatives are needed to prevent backsliding into protectionism (Bergsten 1995).

Bergsten is well aware that preferential trade reform, be it regional or bilateral, can discriminate against outsiders, just as Viner (1950) demonstrated long ago. In Bergsten (1995) he argues, however, that the trade diversion losses will be made up by the increased trade that follows from economic growth within the preferential trading area. Alas no empirical evidence or theoretical proof is given to support this proposition. What is perhaps more unconvincing about this line of argument is that it is precisely the trade diversion losses that are one important form of pressure on "outsiders" to join in the game of competitive liberalization.

Another earlier analysis of competitive liberalization, which pre-dates the administration of George W. Bush, was by Steinberg (1998). Steinberg sees competitive liberalization as the less preferable of two alternative futures for the world trading system (his preferred option being for the "transatlantic policies to cooperate and combine their power in the pursuit of liberal multilateralism" (page 256)). He perceives three drawbacks with competitive liberalization as a trade negotiating dynamic and strategy. First, that those parties which gain from trade diversion in bilateral and regional trade agreements could start opposing future trade reform (both multilateral and preferential) so as to protect their rents. Second, there is a risk that each region will create its own set of rules and negotiations--it's own "style" of capitalism as he puts it--which becomes difficult to reconcile in subsequent trade negotiations. The third

weakness is that large regional groupings may develop strong incentives to raise trade barriers against third parties.

Feinberg (2003) offers an early and in many respects prescient analysis of the U.S. shifts towards negotiating free trade agreements. Of particular interest is his analysis of the first twelve preferential trade initiatives that the United States has been involved in, from the U.S.-Canada Free Trade Agreement through to the negotiations on a free trade agreement with Morocco.[26] Feinberg assesses the non-market access factors that might have contributed to the United States' interest in a given preferential trade initiative. He identifies five such factors: the presence of democratic political institutions (or progress towards them at the time the trade accord was envisaged or concluded); significant market-oriented economic reforms in place or in progress; long-standing U.S. security interests or concerns; the likelihood that an accord would establish precedents for future trade negotiations; and whether the trading partners has considerable economic weight or regional leadership or prestige. He found that all twelve preferential trade initiatives met at least two American goals beyond expanding market access for U.S. firms, and many initiatives met three goals. This outcome reflects, Feinberg argues, the pluralistic nature of U.S. trade policymaking where many competing interests impinge upon the decisions taken by the U.S. executive branch. He also contents that timing matters, with the U.S. engaging in negotiations on bilateral free trade agreements to support ongoing and expected future regional trade initiatives. In this manner, the U.S. is said to be moving towards a policy of sequential regionalism.

A cautious assessment of the policy of Competitive Liberalization is given by Hufbauer and Wong (2004). Having noted that the effect of this policy on an "outsider's" exports is a key element of the dynamic, Hufbauer and Wong wonder if "insiders" will at some point "prefer to keep the club doors closed." For these authors it is an empirical question as to whether pressure from outsiders to join exceeds any recalcitrance from insiders. And, worse still, a full assessment will not be possible, they argue, until the conclusion of the Doha Round and the FTAA negotiations. Only then, they note, "can we evaluate whether bilateral FTAs delivered on the promise of competitive liberalization or whether they simply sidetracked the world into shallow, face-saving agreements."

Schott (2004b) provides an informative account of the U.S. trade policy towards Competitive Liberalization and describes the factors influencing the selection of trade partners for FTA negotiations with the United States. Schott emphasises the enhanced coordination between the executive agencies that this trade policy requires and the "cacophony of stated policy goals that result"; an outcome that makes, in his view, coherent policy formation difficult. He notes that the bargaining U.S. trade officials undertake at home is probably more difficult than that abroad, especially as there is little domestic agreement on which goals should take priority.

Schott (2004b) argues that the results of U.S. bilateral initiatives have been mixed. Some initiatives seem to be steps towards larger free trade pacts in the Western hemisphere, of which he approves. Other initiatives have had little reward in economic, policy, or foreign policy terms. Schott (2004b) prefers a more aggressive policy of negotiating free trade agreements directly with Brazil and Korea, hoping thereby to unlock competitive liberalization dynamics in their respective regions.[27]

Barfield (2005) identifies and discusses four challenges faced by the Bush Administration as it implements the policy of Competitive Liberalization in its second term. Like Destler (2005),

[26] Feinberg's analysis also includes the Asia Pacific Cooperation Forum initiatives on trade, although deliberations in that forum were not expected to yield a binding free trade agreement.

[27] Schott (2004a) argues that free trade agreements pose little threat to the multilateral trading system if the following three conditions hold: the free trade agreement's coverage is comprehensive; rules of origin are kept to a minimum; and if the contracting parties are committed to further multilateral trade negotiations.

Barfield notes the growing partisan nature of votes on trade policy matters in the U.S. Congress, especially in the U.S. House of Representatives. The Administration has relied primarily on the support of only Republican congressmen and women for legislative trade measures, including those Republicans with specific interests to protect. This, in turn, has influenced the concessions that the Administration can make to trading partners (and, as argued in the next paragraph, the demands made on trading partners) in negotiations on free trade agreements. Liberalisation of trade barriers to beef and lamb imports were postponed for nearly 20 years in the free trade agreement with Australia. Similar constraints on improved access to the U.S. market for fibre and cotton products were found in the U.S.-Central American Free Trade Agreement. Another drawback is that partisan divisions on trade policy matters have increased the number of votes taken, each eating away at the pro-trade political capital that exists.

A second challenge is coping with the tendency of many influential players in the United States to "load up" free trade agreements with what Barfield calls "peripheral issues." These provisions, he argues, have added to the partisan rancour on trade policy and hastened "trade policy fatigue" among U.S. elected representatives. A third challenge is to make sure that the same factors which have impeded progress in the multilateral trade negotiations do not impede regional initiatives, as appears to be the case in the FTAA negotiations. If this challenge is not met, the outcome is likely to be a patchwork of sub-regional trade agreements each with its own variant of the rules, which add costs to business and ultimately distort market forces.

The last challenge perceived by Barfield is the fast spread of regionalism in East Asia and the pivotal role of China in this regard. In his view the U.S. has failed to articulate an adequate response, especially to the Chinese "threat" of hegemony in the region. U.S. reliance on APEC or Competitive Liberalization (including the EAI initiative) have not served U.S. interests well. While not claiming to present specific answers of his own, Barfield wonders if U.S. free agreements in East Asia might be more viable if labour and environmental standards were omitted.

Jagdish Bhagwati has repeatedly opposed the U.S. policy of Competitive Liberalization. In addition to his long-standing, and often articulated, criticisms of preferential trade agreements, in testimony to the U.S. Congress in April 2002, Bhagwati argues that the "chief argument" against current U.S. trade policy towards free trade agreements is that they are being used to establish templates that include non-market access provisions (Bhagwati 2002). These templates are used for further preferential and multilateral trade negotiations. Bhagwati argues that this policy amounts to one of "divide and rule," that is, using preferential trade agreements to undermine (essentially developing country) opposition to negotiating accords on what he sees as "non-trade" matters at the World Trade Organization, which he too believes is a mistake.[28] Bhagwati cites the provisions on capital controls in the U.S. free trade agreements with Singapore and Chile as examples of this tactic, along with intellectual property rights and labour and environmental provisions in the earlier free trade agreements that the U.S. has signed.

This review of the existing analyses of Competitive Liberalization indicates a divergence of views as to the efficacy of this trade policy. Perhaps, surprisingly, these analyses have not addressed what appear to us to be some first order questions. For example, what evidence is there that this policy has indeed created a contest for access to the large United States market? Likewise, do foreign policymakers take into account their relative position vis-à-vis other foreigners when formulating their strategy towards FTA negotiations with United States? To what extent does the United States' stated intention to sign many free trade agreements and the importance it attaches to foreign and security policy goals and to non-market access-

[28] Therefore, Bhagwati is criticising both the substance and the tactics employed by the United States.

related provisions undermine the incentive of foreign governments to participate in the "contest" in the first place? More generally, do the multiple objectives of the U.S. policy of Competitive Liberalization conflict with one another?[29] These and other matters are addressed in the next section, which contains our assessment of Competitive Liberalization.

5. Assessing Competitive Liberalization on its own terms.

Bearing in mind that the Bush Administration's second term is not yet completed it is important to state upfront that any current assessment of the policy of Competitive Liberalization is an interim one. In principle, the manner in which any future conclusion to the Doha Development Round or the FTAA negotiations is effected could markedly influence a dispassionate assessment of current U.S. trade policy. Having said that, after five years of pursuing this policy there should now be sufficient information to conduct an evaluation of some sort. Rather than rehash the longstanding and important debate on the relative merits of preferential and multilateral trade initiatives, here we will assess Competitive Liberalization on its own terms.[30] We also ask if this policy is coherent, that is, do the incentives seek to create help attain the state goals of the policy?

As noted in section 2 one important aspect of Competitive Liberalization is to induce a competition among the U.S. trading partners for access to the large American economy. Winners of this contest were supposed to garner more foreign direct investment and exports, both of which may well have been diverted from losers. The loss of international commerce is said to put pressure on the losers to participate in the contest more enthusiastically in the future (by offering to liberalise more). On this logic countries are concerned not just with their absolute position with respect to the U.S. market but also with their relative position vis-à-vis other U.S. trading partners.

Supporters of Competitive Liberalization might point to the 16 negotiations for free trade agreements started by the Bush administration, and the dozen or so entreaties from U.S. trading partiers to commence similar negotiations, as evidence that this competition is in full swing. The difficulty with this argument is that countries may not have had protecting their relative position in mind when they approached the U.S. for a preferential trade agreement.

Perhaps a more direct test is to examine whether non-U.S. policymakers, business associations, journalists, and trade experts specifically refer to their country's relative position in discussions over the preferred trade policy with the United States. Using widely available electronic search engines, for each of the U.S. trading partners that have sought or begun negotiations on a free trade agreement with the Bush Administration, we searched for such statements made in public. Below is the entirety of what we found:

1. A statement in August 2003 by the Honduran Ambassador to the United States that his country fought for a place at the negotiating table with the U.S. arguing that, unlike others in Latin America, his country was ready and able to reform.[31]

2. A statement in an Australian newspaper in January 2001 stating that Australia's government recognises that it is falling behind a "growing field of suitors" for trade agreements with the United States, including Singapore, Korea, and Chile. The same article contents that Chilean officials bitterly complained that Singapore had taken its place at the head of the queue.[32]

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[29] This is a distinct point from that made by some in this section that the number of objectives appears to have increased over time.

[30] This is one of the reasons why we took the trouble to document the goals and strategy of this policy as articulated by the policy's proponents.

[31] Jeffrey Sparshott, "U.S. eyes bilateral option in trade ties," *The Washington Times* 6 August 2003.

[32] "Australia Eyes US Trade Policy Direction," *Australian Financial Review*, 22 January 2001.

3. A number of statements in 2001 by New Zealanders that Australia is moving ahead of it in terms of free trade negotiations with the United States.[33]

4. A statement by an Egyptian minister in November 2002 that that country's exporters are losing market share in the U.S. to Jordanian rivals.[34]

5. A statement by the Korea Trade Institute in November 2003 to the effect that U.S. free trade agreements were putting Korean exports at a disadvantage.[35]

6. A summary of a report issued by a leading Korean institute which stated that Korea is being left out of the trend towards signing free trade agreements.[36]

7. Several statements in the first half of 2005 by Mr. Evo Morales, President of Bolivia, that the recently concluded U.S.-Colombia free trade agreement would reduce Bolivian exports of soybean to Colombia. In 2005 Colombia paid U.S.$170 million for 40 percent of Bolivia's soybean exports.[37]

8. An unattributed statement that Caribbean countries feared that the implementation of CAFTA would erode their preferential access to the U.S. market.[38]

That is, after reading through literally hundreds of documents, press releases, and statements on such matters, we found only eight types of statement that articulate trade policy options for a country in terms of its relative position. Admittedly our searches were based on English-language sources. Even so, this is not a terribly high yield especially bearing in mind that many countries where English is not an official language of government have an English language business newspaper.

What should we conclude from this evidence? Clearly it would be incorrect to assert that the apparent logic of Competitive Liberalization has not resonated with any observers in U.S. trading partners. Yet it seems equally absurd to argue that jockeying for a better position vis-à-vis other nations has been a pervasive theme among statements made by foreign nations in the context of any actual or desired trade negotiations with the United States. Put another way, if there is a ferocious contest for better access to the large U.S. market then many (most?) are being very quiet about it. Perhaps an alternative explanation is that a few of the U.S. trading partners see themselves competing with a small number of other countries for access for the U.S. market. Or maybe the rhetoric of Competitive Liberalization has not made much of an impression outside of the Beltway?

Yet another explanation could be that, despite all the rhetoric of a competition, U.S. trading partners discount the benefits of better access to the U.S. market that arise at the expense of other trading partners. Can this perception be rationalised? Arguably yes and this is where the combination of the U.S. stated goal of negotiating lots of free trade agreements and the articulated belief that present losers from the contest for market access will strive harder to seek an agreement with the United States in the future are important. One could argue as follows: If country A knows that its winning of the contest for access to the U.S. market will result in

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[33] See, for example, "Fear From Australia-US Free Trade Deal Grows in New Zealand," *Xinhua News Agency*, 13 August 2001; "NZ PM Clark Calls For Australia, NZ Cooperation on US," *Dow Jones International News*, 28 May 2002; "NZ Fears Economic Damage If Left Out of US, Australia FTA," *Dow Jones International News*, 29 August 2002; "NZ To Step Up Free Trade Lobbying," *Dominion Post*, 16 November 2002.

[34] "Getting Serious About An FTA," *Business Today*, 1 November 2002.

[35] "Absence of FTA Driving Korean Products Out of US," *Korea Times*, 4 November 2003.

[36] "Feasibility and Economic Effects of Korea-U.S. FTA," Korea Institute for International Economic Policy. Downloaded from www.kiep.go.kr on 7 June 2006.

[37] See, for example, "Bolivia: Morales gets halfway with Uribe," *Latinnews Daily*, 15 March 2006; "Bolivian President To Discuss Soybean Exports with Colombia, USA," *Latin America News Digest*, 28 March 2006; "Colombian president arrives in Bolivia on one-day visit," *BBC Monitoring Newsfile*, 14 March 2006.

[38] "CARICOM Members Seek Special Treatment in FTA Talks with U.S." *Inside U.S. Trade*, 14 April 2006.

substantial losses for another country B then, on the stated logic of Competitive Liberalization, A will consider it likely that B will seek, or continue to seek, a free trade agreement with the United States, if only so that B can offset some of the losses mentioned earlier. Country A might then expect that some, perhaps a large proportion, of the gains from winning the contest will be short lived, for if and when the U.S. concludes a free trade agreement with B then the margin of preference enjoyed by A declines. It is precisely because the United States has stated that it wants to sign lots of free trade agreements, as part of stimulating an ever wider contest for its markets, that country A knows that the U.S. is unlikely to decline a sufficiently attractive offer from B. The long term benefit for A, then, from its agreement with the U.S. is that part of its gains which are not undermined by other potential free trade agreements that the U.S. might sign. Pre-announced promiscuity by the United States undermines the scarcity value of its free trade agreements and encourages potential trading partners to place greater weight on those benefits of an agreement with the United States that cannot be diluted by any future agreements that the U.S. might sign. This, in turn, will influence the incentive of trading partners to engage in the contest in the first place.

In considering the potential for trade to be diverted in free trade agreements between the U.S. and developing countries, as Schott (2004a, 2006) has repeatedly argued, the effect of pre-existing U.S. unilateral preference schemes need to be taken into account. Suppose two developing countries receive duty free access to the U.S. market under the latter schemes. If one of these developing countries goes on to sign a free trade agreement with the United States, in the absence of any uncertainty about the original unilateral preferences being maintained, there may not be a market access improvement for the developing country in an absolute or relative sense. This implies that the developing country which did not sign the free trade agreement with the United States may suffer no export loss, which is hardly an inducement to join the competition for access to the U.S. market in the future. Perhaps it is for this reason that Schott (2004a) has argued that forgone foreign direct investment is the price that non-participants (or losing countries) pay. While many empirical studies claim to find that free trade agreements stimulate foreign direct investment flows, they also show that such agreements are just one of many factors which influence the levels of such inflows. Therefore, a developing country may rationally decide that, as far as increasing foreign direct investment is concerned, other measures (including unilateral economic reforms) are preferred to taking on the obligations of a gold-standard free trade agreement with the United States and may take effect faster than it takes to participate in the contest for such a free trade agreement, conclude the associated agreement, and wait for it to come into force. This is not to say that U.S. free trade agreements contain no "seal of approval" for investors, just that those investors may respond to other incentives; in which case the desire of many developing countries to participate in the contest for the U.S. market will depend on their evaluation of the relative strength of different determinants of foreign direct investment. There is no reason *a proiri* why an agreement with the United States must be the most powerful lever.

Another purported advantage of Competitive Liberalization is that bilateral agreements are supposed to create momentum for regional trade agreements. Much of the U.S. trade strategy for Latin America seems predicated on this assumption. Yet there are doubts that the steps taken to date have substantially altered the calculus in negotiations for a FTAA. Destler (2005), for one, is a sceptic.[39] Perhaps more importantly, advocates of Competitive Liberalization place great store on competing regional initiatives helping to push forward multilateral trade liberalisation. Proponents put a lot of weight on the historical precedent of the so-called

[39] He argues on page 300:

> …it is implausible that CAFTA, for example, could generate the pressure for liberalization in the 2000s that NAFTA and APEC had exerted on the European Union at the close of the Uruguay Round in 1993.

Triple Play (explained earlier) as the gambit which closed the Uruguay Round. We might have been reassured if this reading of history was universally accepted. However, it is not. de Jonquières (2004), the former World Trade Editor of the *Financial Times*, casts doubt on this interpretation of events and arguably was better placed than most to judge the factors responsible for concluding the Uruguay Round. This paper is not the place to explore this matter adequately (our purpose here is different). Suffice it to say that if the proponents reading of history of the Uruguay Round is incorrect, there must surely be question marks over the likelihood of the Competitive Liberalization strategy eventually inducing the European Union and Japan to make concessions at the multilateral negotiating table. Even if this reading of history is correct, at present the United States is a long way from having credible alternative regional strategies that its trading partners thought it had in the early 1990s. In sum, to date it is difficult to credit Competitive Liberalization with converting negotiating successes at one negotiating level into pressure for successes in other negotiating levels.

Turning now to the foreign and security policy considerations, first we need to recognise that there is an existing literature of considerable vintage concerning the appropriate relationship between trade and foreign policy. Rather than summarise that literature here, we will make a few observations that are specific to the implementation of current U.S. policy towards free trade agreements. Recall that one use of the latter are as inducements to trading partners to align themselves with U.S. foreign and security policy objectives. The first point to make is that free trade agreements are a rather crude instrument to employ in this respect, not least because such accords are in principle irreversible. Once an agreement has been concluded, the incentive to align with U.S. foreign policies ceases. This is not merely a hypothetical concern. Despite signing the North American Free Trade Agreement in the early 1990s, neither Canada nor Mexico contributed to Operation Iraqi Freedom (the second invasion of Iraq led by the United States) and, more generally, neither has been a so-called coalition member of the United States in recent years.

The second point to be made is that the higher the foreign and security hurdle that U.S. trading partners must clear, the smaller the number of nations that can participate in the contest for access to the large U.S. economy. The market access-related and economic reform-related benefits to the U.S. of the policy of Competitive Liberalization are attenuated by tough foreign policy "affinity" tests. The third observation is that the lack of clarity as to what precisely foreign and security steps the U.S. values from its trading partners creates uncertainty which may undermine those trading partners' incentives to engage in trade and other reforms. New Zealand's present predicament is a case in point. Suppose it wanted to meet whatever foreign policy test the U.S. employs. Given that New Zealand's decision to send troops to Iraq and Afghanistan to assist with those nations reconstruction is not enough to secure negotiations for a free trade agreement, what is? How long must New Zealand align itself with U.S. foreign policy goals before the latter forgives the former's sins? In the absence of good answers to these questions, one could understand a decision by New Zealand to seek free trade agreements with other nations. This is a reminder, of course, that the U.S. is not the only jurisdiction with a large economy in the world and not the only negotiator of free trade agreements. The question must surely arise as to whether U.S. foreign and security policy requirements are enabling other large economies to undercut American trade negotiators? If so, the U.S. may unwittingly be supporting the proliferation of other types of free trade agreement, which may not be in the U.S. commercial or foreign policy interests.

The foregoing considerations raise a more fundamental question: is the United States expecting its policy on free trade agreements to bear the weight of too many objectives? It is not just a matter of degree to which foreign and commercial policy considerations are mixed as many of the concerns raised above about foreign policy also apply to the market-oriented reforms that the U.S. likes to see its trading partners implement. Perhaps there are other vehicles, such

as aid or support from development banks, that might just as well promote the economic reforms abroad that the United States wishes to see implemented. If one cannot reduce the number of elephants that must dance on a pin's head, then maybe an increase in the number of pins is called for.

It is worth dwelling on why so many objectives have been loaded on to U.S. policies towards free trade agreements. As Barfield (2005) and others have argued, the need to keep so many disparate interests within Congress and the Bush Administration "on board" with current U.S. trade policy probably accounts for the large number of non-market access-related factors that condition this policy and associated negotiations. The other side of the coin, then, of seeking "gold-standard" free trade agreements are disagreements in Washington over the central priorities for negotiations concerning free trade agreements. It seems that U.S. trade negotiators have not been in a position to deny, or head off, the many competing demands made of it during negotiations over free trade agreements. The reputed toughness of American trade negotiators on their trading partners may well reflect the former's parlous status on the Washington totem pole. It may be useful here to consider a counterfactual. If a more focused U.S. trade policy was widely accepted as being of sufficient importance to the United States then we wonder whether more U.S. trading partners would request the start of negotiations for free trade agreements. Could less (conditions) yield more (agreements)? After five years of implementing Competitive Liberalization observers are also entitled to ask if demanding more of U.S. trading partners has strengthened the pro-trade lobby in the United States or just encouraged that lobby to demand more from U.S. trading partners?

This assessment of Competitive Liberalization has evaluated this initiative on its own terms taking into account the constraints and circumstances facing trade negotiators in the United States and abroad. We acknowledge that any assessment at this stage is an interim one, yet after five years of implementation a successful policy initiative should be able to withstand scrutiny. In this section we have expressed some reservations (i) about whether many foreign policymakers perceive there is a contest for access to the U.S. market in the first place, (ii) about the internal logic of Competitive Liberalization, in particular the potential tensions between the foreign and security policy goals, the requirement of substantial economic reforms, and the objective of inducing the widest possible contest for access to the large U.S. market, and (iii) whether internal differences within the U.S. legislative and executive branches have compromised this policy initiative from the very beginning.

6. Concluding remarks.

When the Bush Administration took office in January 2001 the U.S. executive branch had been without trade negotiating authority from Congress for six years. It is unsurprising, therefore, that the newly appointed U.S. trade officials put a high priority on being granted this authority and perhaps felt that they needed a compelling narrative to explain why that authority should be granted and how it would be subsequently used. Competitive Liberalization was adopted as the credo of the Bush Administration's trade officials and it contained a sequential logic linking negotiations, and therefore trade liberalisation, across different levels (bilateral, regional, and multilateral). Since its first articulation over five years ago, no alternative vision for U.S. trade policy has been subsequently put forth. The purpose of this paper is to characterise this policy, to describe its implementation, to discuss how others have assessed it, and then to offer an assessment of our own.

There is no doubt that U.S. trade negotiators have been very active since 2001. Eighteen negotiations for free trade agreements have been started, concluded, or ratified. (Five of these agreements have since come into force.) U.S. trade officials have also had to consider at least 12 more proposals from trading partners to start negotiations on free trade agreements, ulti-

mately declining to pursue them. At least 18 Trade and Investment Framework Agreements, a pre-cursor to negotiations for a free trade agreement, have been signed. The Doha Round was launched and U.S. officials have contributed to ongoing regional initiatives such as APEC and the FTAA. Some might argue that these activities have restored the United States' central role in the world trading system and this is praise enough. However, is this the right metric to judge Competitive Liberalization? After all, has the implementation of this policy fulfilled the goals articulated for it at the beginning of the Bush Administration? This question is all the more important as Competitive Liberalization represented an explicit break from the United States almost exclusive pursuit of multilateralism.

We argued that a number of factors have limited the effectiveness of the policy of Competitive Liberalization often from the start, including: the internal divisions among U.S. legislators and among the executive branch over the priorities for U.S. trade policy; the associated tendency to load more and more conditions on U.S. trading partners before and during negotiations on free trade agreements; the effect of pre-existing U.S. unilateral preference schemes; and the options available to trading partners to bolster foreign direct investment other than signing free trade agreements with the United States. These constraints, plus concerns about the coherence of the logic underlying Competitive Liberalization and the incentives created by some aspects of this policy, lead us to conclude that the current U.S. trade policy is almost certain to fall well short of its stated goals.

Over the longer term, U.S. officials and trade policy experts may want to reflect on the strength of the supposedly mutually reinforcing aspects of negotiations at the bilateral, regional, and multilateral levels. For if multilateralism and leading regional trade initiatives remain stalled, then Competitive Liberalization may amount to little more than bilateral opportunism masquerading as high principle. Moreover, consideration might be given to whether the substantial number of demands made by U.S. trade negotiators of trading partners in FTA negotiations actually serves the best interests of the United States. As the number of terminated or suspended FTA negotiations to date in 2006 shows, there is a limited appetite for these demands abroad especially among developing countries. Perhaps most importantly of all, to the extent that these demands reflect the continuing need to cater to a wide body of disparate U.S. domestic constituencies, then the strategy of Competitive Liberalization has not allowed U.S. trade negotiators to slip free of the shackles that have so constrained U.S. trade policy over the past 15 years.

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Table 1. Negotiations on Free Trade Agreements Concluded or Commenced by the Bush Administration.

Trading partner(s)	Notification to U.S. Congress	First Round of Negotiations	Conclusion of Negotiations	Signature of Agreement	Date Agreement Came Into Force	Duration of Negotiations
Singapore	01.10.2002	04.12.2000	16.01.2003	06.05.2003	01.01.2004	25 months
Chile	01.10.2002	07.12.2000	11.12.2002	06.06.2003	01.01.2004	24 months
CAFTA	01.10.2002	08.01.2003	17.12.03/25.01.04 (Costa Rica later)	28.05.2004	Different dates	12 months
Morocco	01.10.2002	21.01.2003	02.03.2004	15.06.2004	01.01.2006	11 months
SACU	05.11.2002	02.06.2003	Abandoned by both parties in April 2006.[40]			
Australia	13.11.2002	17.03.2003	08.02.2004	18.05.2004	01.01.2005	11 months
Dominican Rep.	04.08.2003	12.01.2004	15.03.2004	05.08.2004		3 months
Bahrain	04.08.2003	26.01.2004	27.05.2004	14.09.2004		4 months
Panama	18.11.2003	26.04.2004	Ongoing			
Colombia	18.11.2003	18.05.2004	27.02.2006			22 months
Ecuador	18.11.2003	18.05.2004	Suspended by U.S.[41]			
Peru	18.11.2003	18.05.2004	07.12.2005			19 months
Bolivia	18.11.2003	Only observing Andean FTA negotiations				
Thailand	12.02.2004	30.06.2004	Ongoing[42]			
UAE	15.11.2004	08.03.2005	Ongoing			
Oman	15.11.2004	12.03.2005	03.10.2005	19.01.2006		7 months
Korea	02.02.2006	05.06.2006	Ongoing			
Malaysia	30.03.2006	12.06.2006	Ongoing			

[40] See "U.S. Drops FTA with SACU, Starts Trade and Investment Program." *Inside U.S. Trade*, 21 April 2006.
[41] In response to the cancellation of an oil contract with U.S.-based oil company, Occidental Petroleum. See "U.S. Freezes Ecuador FTA After Government Cancels Occidental Contract." *Inside U.S. Trade*, 19 May 2006.
[42] Delayed pending resolution of the domestic political situation in Thailand. See "U.S. Official Says U.S. Still Interested in Thai FTA, Waiting For Signal." *Inside U.S. Trade*, 2 June 2006.