

As Prepared for Delivery

**“Trade Agreements and the States”
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Thank you for inviting me today to speak about the Bush Administration’s trade agenda. I appreciate the invitation, and am glad to have the opportunity to outline our trade priorities and address some of the issues and concerns you have raised with us. Today I will talk about three issues: first, the overall case for trade – why it is essential for prosperity, jobs, and lower prices. Second, I will directly address trade issues of particular interest to states such as government procurement, services, and investment. I especially want to explain how trade agreements do not in any way preempt or invalidate federal, state, or local laws. Finally, I will spend a few minutes on how we consult with states in the formulation of US trade policy.

The Case for Trade

The evidence is all around us, but sometimes we need to be reminded how trade expands our economy, supports millions of good jobs, and benefits American families and consumers.

Today, the United States is the world’s greatest trading nation, exporting more than one trillion dollars in goods and services in 2004. In the last twenty years, trade has grown to account for one-quarter of our entire economy. This has helped contribute to our overall prosperity, as during that period the U.S. economy grew by 86 percent and the real per capita income of Americans rose by half.

Trade also supports millions of jobs in your states... in fact, more than 12 million jobs are supported by exports – which is 3 million more than were supported by trade in 1990. These jobs pay 10-15% higher than the average wage. And our exporters are not just big companies. Sixty-five percent of all U.S. exporters are businesses with fewer than 20 employees.

But trade is not just about exports. A import tariff is a hidden tax that falls disproportionately on the pocketbooks of working families. As a study by the Progressive Policy Institute points out, the hidden costs of U.S. trade barriers and restrictions hits a single working mother much harder than a company vice president – she probably loses three days’ pay a year to tariffs. Recent U.S. trade agreements in the WTO and NAFTA have cut these hidden import taxes and saved every working family in America as much as \$2,000 a year, and our newest agreements could add more to these savings.

President Bush believes that American workers can compete effectively with anyone in the world when they have a level playing field. But when this Administration took office in 2001, America was falling behind the rest of the world in pursuing trade agreements. Worldwide, there were 150 regional free-trade and customs arrangements, but the United States was party to only

three. American products were being disadvantaged as a result. The world will not wait if America chooses to sit on the sidelines and cede these markets to competitors.

So we have responded aggressively. This Administration has completed free trade agreements with 12 countries and is negotiating with 12 more. We are already seeing the results. This Administration has achieved over \$6.4 billion in tariff reduction commitments. Exports to markets like Chile have grown by more than 30 percent in just one year under our FTA. U.S. manufacturers have estimated \$2 billion in increased exports from our new trade agreement with Australia, and another \$1 billion from the pending Central America Free Trade Agreement

But there is more work to do, because the playing field isn't yet level in many countries. Our average U.S. import tariff on manufactured goods is only about 3%, while the average in countries like Egypt, India, Argentina, and Brazil is closer to 30%.

To cut these barriers and open markets, the United States played a leading role in launching new global trade talks in the World Trade Organization. The University of Michigan estimates that a successful global trade agreement in the WTO could boost U.S. incomes by \$ 537 billion, or \$7500 per family of four. And a WTO agreement would offer hope, opportunity and a pathway out of poverty for as many as 500 million people around the world.

In 2005, we will build on this record of accomplishment and seek renewal of the President's Trade Promotion Authority, passage of the Central American trade agreement, real progress in the WTO, and new agreements with countries in Latin America, Africa, the Middle East and Southeast Asia.

Trade Agreements and the States

Clearly, trade brings benefits to our country. But I know there are issues you want to know more about. We've heard your questions and concerns about how our trade agreements affect state government procurement, and how services and investment rules in trade agreements affect state regulatory powers.

Let me begin with a general statement about what trade agreements do and don't do. Trade agreements are about fairness, not about regulation. They generally say that the rules or standards imposed by governments should not discriminate between U.S. and foreign providers of goods and services. Trade agreements do *not* restrict a state's right to regulate and do not automatically preempt, invalidate or overturn state laws. Nothing in any trade agreement prevents the United States or any state from enacting, modifying, or fully enforcing domestic laws. And international panels set up to look at disputes over trade agreements have no authority to change U.S. law or to require any state or local government to change its laws or decisions. Only the federal or state governments can change a federal or state law.

Government Procurement

Over the past year, for example, there has been an extensive debate on how trade agreements affect state government procurement practices. The reason we ask state governments if they are

willing to give fair, non-discriminatory treatment to foreign suppliers of goods and services is simple: we are seeking such fair treatment for U.S. suppliers to sell products and services to foreign governments. Government procurement can account for 5%-15% of a foreign country's GDP.

The decision on whether to offer fair treatment to foreign suppliers is voluntary, made by each individual state. Some thirty-seven states chose in the early 1990s to extend non-discriminatory treatment to our WTO trade partners under the WTO Agreement on Government Procurement. More recently, we sent letters to state Governors asking whether they would like to cover some procurement under various free trade agreements. Generally about half of the states have chosen to do so, helping us to open foreign government procurement markets for U.S. firms.

For the new free trade agreements that we are negotiating with Panama and the Andean countries, we made it clear that if a state chose to allow non-discriminatory access to foreign suppliers, that state's suppliers will directly benefit and be assured of access to the sub-central procurement of the trading partner. This approach builds on the reciprocity practices that more than 30 states already apply to their sister states.

There have been a lot of questions about what it means to cover state procurement under trade agreements. We've tried to make clear that the decision to cover government procurement is voluntary. More importantly, states have total discretion to exclude sensitive goods and services, preference programs for small and minority businesses, and environmentally friendly procurement. And only very large state purchases -- more than about a half-million dollars for goods and nearly 7 million dollars for services -- are covered.

I recognize that state legislatures are facing many pressures to restrict state procurement. That decision properly rests with all of you. But, I would urge you to consider carefully the implications such legislation may have for suppliers from your states in bidding on foreign government procurement. Remember this simple rule: what goes around, comes around. If you close your procurements to foreign suppliers, other countries may well close their procurements to your suppliers.

For example, it has come to my attention that the Maryland Legislature recently passed a measure, over the Governor's objections, aimed at withdrawing the state's commitments to cover its government procurement in trade agreements. It's a loss for Maryland. This is a blow to Maryland's highly competitive IT, aerospace, automotive and defense industries that are actively engaged in foreign markets. Covering state procurement in our trade agreements is all about gaining new market opportunities for U.S. suppliers in areas where we are very competitive. Foreign governments are huge purchasers of IT systems; they undertake major infrastructure projects; they build roads, bridges, tunnels; they hire consultants, engineers and other professionals. We want to ensure that U.S. suppliers - large and small - have fair opportunities to bid on these contracts.

Maryland suppliers could now lose out on government contracts overseas. What goes around comes around. If the Maryland legislature causes a breach of U.S. commitments under our international agreements, our trading partners could retaliate. In all likelihood, our trading

partners would respond by excluding Maryland businesses from their procurement contracts. I understand other states may be considering similar measures. Those states businesses need to know that they are at risk.

Investment

Investment rules are another area we have heard your concerns. Millions of Americans have invested their personal wealth in the global economy. For investors here at home, our U.S. legal system affords them access to fair and transparent rules to protect those investments from arbitrary government action. But when Americans invest abroad, they are often disadvantaged because foreign legal systems don't provide the same protections as our system. That's why we include investment rules in trade agreements: we are trying to level the playing field by requiring fair and transparent arbitration procedures when a foreign government takes property or discriminates against an investment.

Some say that including those rules in trade agreements could jeopardize the right of U.S. state and local governments to enforce laws and regulations. That's simply not correct.

Under our trade agreements, foreign investors in the United States get substantive rights that closely correspond to rights already available to U.S. investors under domestic law – no more, and no less. More importantly, nothing in any trade or investment agreement allows a foreign investor to interfere with government's right to regulate. An investor cannot stop regulatory action through arbitration. Neither can an investor, if they were to win a case against the United States, require that a particular law or regulatory action be repealed.

Trade agreements simply say, for example, that if a government takes a foreign investor's property, it must compensate them for it through money damages. And those damages are only against the U.S. government, not against a particular State.

There's been a lot written about these provisions, but it's important to remember that in decades of such provisions under NAFTA and other agreements and treaties, the U.S. has never lost a single arbitration case or ever paid a single cent to any investor to settle a case.

Services

Another area where you've raised concerns to us is services. The United States is the world's leading exporter of services, which account for about three quarters of our GDP and 8 out of every 10 jobs in the United States. International markets generate huge opportunities for US service providers, and make up nearly one-third of our exports.

Our U.S. market is one of the most open in the world. But foreign markets are often closed to U.S. service providers through discriminatory policies and barriers, so we seek to open markets through trade agreements like the WTO's General Agreement on Trade in Services, or GATS. What GATS can do is create important new opportunities for U.S. providers of services like banking, telecommunications, express delivery, retailing, and professional services.

What GATS does not do is overrule the ability of states to regulate, or force the privatization or deregulation of state-regulated services. Period.

The text of GATS clearly respects the sovereign right of WTO members to regulate services and to introduce new regulations as necessary. Many services industries are carefully regulated in the public interest, and we recognize that in many instances this is carried out at the state level. Nothing in the GATS will impair the ability of states to establish or enforce domestic laws protecting consumers, health, safety, and the environment.

GATS in no way forces deregulation or privatization of any public service. Non-discrimination in services is not the same thing as requiring deregulation or privatization. Like any trade agreement, GATS simply says that if a state chooses to allow private competition in services, it should give U.S. and foreign firms a fair shake and a chance to compete on equal footing. And GATS asks for fairness in regulation, not de-regulation: it says regulatory policies should just be administered in a reasonable and impartial manner.

Nor does GATS force privatization of any sector. In fact, the GATS expressly recognizes the authority of governments to supply services and to maintain public monopolies in any service sector they designate.

In the GATS negotiations, our trading partners have made many requests from us. Some of you may be concerned that such requests would pre-empt areas of state regulatory authority. But requesting something doesn't mean it's going to happen. If a trading partner asks us to seek changes in a state law, we may consult with you about that law and discuss it. But if such a change is not possible, we simply respond to our trading partners that the United States is unable to remove that limitation at this time. The bottom line is that nothing the U.S. is offering in these negotiations would require the states to make any change in their laws or regulations that they have not already adopted or agreed to adopt.

Conclusion: Consulting with States

All of the areas I've discussed today are complex, involving important areas of domestic public policy. That's why it is our policy to consult closely with states on international trade agreements. As an executive branch agency, we are required by statute to maintain a single point of contact in each state government, generally with the Governor or a Cabinet official. We strongly encourage governors to consult with their legislatures as well. But we also want to have direct contact with legislators, to help address concerns and answer questions. That's why I welcome your invitation today, and hope we will continue such contacts in the future.

For example, in the recent WTO case involving internet gambling, we conducted regular conference calls with any interested state official, and we received very helpful advice in preparing our legal briefs. And we won an important victory. The WTO sided with the US on key issues – US internet gambling restrictions can stand because U.S. federal gambling laws protect public order and public morals. And the WTO completely threw out the challenge to U.S. state laws on internet gambling.

Conclusion

Trade agreements help grow our economy, support good jobs, and lower prices for consumers and working families. For more than fifty years, through Republican and Democratic administrations, the United States has sought to level the playing field by opening foreign markets through trade agreements. As our economy has grown more complex and sophisticated, so have our trade agreements. But in every agreement we negotiate the United States remains very sensitive to, and protective of, our federal system of shared power. We seek to cooperate with state governments because we all share the goal of economic growth and opportunity. We bring home trade agreements that accomplish that goal, without impeding on state sovereign rights, regulations, or laws. With your help, we will continue to build our strength and our leadership of the world economy.

Thank you.