

Does the United States Renegotiate Its Trade Agreements after They Are Signed?

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With House members pushing for changes to the United States-Mexico-Canada Agreement's (USMCA) legal text and Speaker Nancy Pelosi's (D-CA) directing working groups of Democratic members to work with U.S. Trade Representative (USTR) Robert Lighthizer on changes to address their concerns, the question of whether a trade agreement can be reopened and renegotiated after signing has been raised. In an effort to inform that debate with some facts, CSIS reviewed trade agreements the United States entered into after the North American Free Trade Agreement (NAFTA) and examined whether any of them were modified after signing.

In brief, we concluded that of the 12 agreements reviewed, six were subject to subsequent modification. In all six cases, new side letters were signed after the agreement was signed. In three cases, the text of the agreement itself was reopened. Below are the details of our conclusions. Agreements post-NAFTA are set out in the order by which they entered into force. The "days in between" calculation refers to the number of days between the agreement's signing and its entry into force, which in most cases was well after the date of final congressional approval. In addition, links are provided to the text of each agreement and any side letters that were added.

Jordan

Signed on October 24, 2000

Entered into force in the United States on December 17, 2001

Days in between—419

Presidents—Bill Clinton; George W. Bush

USTRs—Charlene Barshefsky; Robert Zoellick

Fast Track—No

[Final Text](#)

The Jordan free trade agreement (FTA) incorporated a labor and environmental section in the body of the text—an unusual choice for the time, according to an [Inside U.S. Trade report](#). With George W. Bush recently elected as the next president, business groups hoped the language could be removed before the implementing bill came to a vote, and key Republican lawmakers voiced skepticism about the inclusion of those provisions in the deal. However, once the 9/11 attacks occurred, the president himself allegedly [lobbied](#) Senator Grassley to [help move the deal](#) forward in hopes of cementing the U.S.-Jordan relationship as the War on Terror swung into gear.

Ultimately, prospects of enforcing the labor and environmental provisions, along with the rest of the agreement, faded after the agreement was signed but before it was passed by the Congress. Initially, House Republicans and the Bush administration aimed to draft a side letter that would make the agreement enforceable through fines instead of traditional trade sanctions. Labor unions and Democratic lawmakers [opposed](#) that proposal, and the letter [never](#) came to fruition. However, the two countries did exchange side letters affirming their commitment to avoiding using trade sanctions without explicitly mentioning the environmental or labor issues that the fines would have hoped to enforce. USTR Robert Zoellick and Jordanian ambassador to the United States Marwan Muasher [agreed](#) in identical letters that their respective governments would be unlikely to resort to formal dispute settlement and trade sanctions to resolve disputes. Democratic lawmakers at the time expressed concerns that the side letters would set a precedent that would make enforcement of labor and environmental obligations in future agreements more difficult.

*** After the agreement was signed, one side letter was introduced confirming both parties' interpretation of using trade sanctions.**

* The corresponding date for each linked document is the signing day of the agreement unless otherwise specified.

SIDE LETTERS

- [Avoiding using trade sanctions](#) [July 23, 2001]
- Marketing approval of pharmaceutical products
 - [U.S. letter to Jordan](#)
 - [Jordan letter to the United States](#)
- GATS Article 5
 - [U.S. letter to Jordan](#)
 - [Jordan letter to the United States](#)

JOINT STATEMENTS AND MOUS

- [Memorandum of Understanding on Issues Related to the Protection of Intellectual Property Rights](#)

- [Memorandum of Understanding on Transparency in Dispute Settlement](#)
 - [Joint Statement on WTO Issues](#)
 - [Joint Statement on Technical Environmental Cooperation and Selected Technical Environmental Cooperation Programs](#)
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Singapore

Signed May 6, 2003

Entered into force in the United States on January 1, 2004

Days in between—240

President—George W. Bush

USTR—Robert Zoellick

Fast track—Yes, Trade Act of 2002

[Final Text](#)

While there does not appear to be any change in language after the two countries signed the agreement, various industries [lobbied](#) Congress and the president to scale back specific language applying to the telecommunications industry. This effort ultimately induced Singapore to include a side letter committing to privatizing their domestic telecom provider along with the other day-of-signing side letters. During the same period, retailers were [split](#) on the inclusion of an apparel “yarn forward” rule of origin and enforcement mechanisms. The rule would “require that yarn production and subsequent stages of production must be conducted in either the United States or Singapore in order for apparel or textiles to qualify for duty free treatment under a trade deal,” and it ultimately remained in the [text](#) while a *de minimis* threshold was included.

***There were no post-signing legal documents changing the meaning of the text and no evidence that the agreement was changed.**

** The corresponding date for each linked document is the signing day of the agreement unless otherwise specified.

SIDE LETTERS

- [Customs valuation](#)
- [Legal services](#)
- [State issues/telecommunications](#)
- [Telecommunications/divestment](#)
- [Financial services intermediaries](#)
- [Temporary entry of professionals](#)
- [Customary international law](#)
- [Expropriation](#)
- [Land expropriation](#)
- [Possibility of bilateral appellate mechanism](#)
- [Denial of benefits](#)
- [Transfers](#)

SIDE LETTERS ON INTELLECTUAL PROPERTY

- [Enforcement](#)
- [Optical disks](#)

Chile

Signed on June 6, 2003

Entered into force in the United States on January 1, 2004

Days in between—209

President—George W. Bush

USTR—Robert Zoellick

Fast Track—Yes, Trade Act of 2002

[Final Text](#)

During the negotiation of the U.S.-Chile FTA, there were [arguments](#) surrounding the scope of the relevant fast track legislation and whether the dispute settlement provisions in the agreement should have been modeled after the U.S.-Jordan FTA. There was also heavy [criticism](#) surrounding the language in the agreement allowing more Chilean workers access to the U.S. job market, which ultimately resulted in the side letters on Annex 14.3 and 14.3(d) linked below.

*** There were no post-signing legal documents changing the meaning of the text and no evidence that the agreement was changed.**

** The corresponding date for each linked document is the signing day of the agreement unless otherwise specified.

SIDE LETTERS

- [Professional services](#)
- [Local agents](#)
- [Television](#)
- [Annex 14.3](#)
- [Annex 14.3\(d\)](#)
- [Poultry](#)

Australia

Signed May 18, 2004

Entered into force in the United States on January 1, 2005

Days in between—228

President—George W. Bush

USTR—Robert Zoellick

Fast Track—Yes, Trade Act of 2002

[Final Text](#)

Before the negotiations began, the National Cattlemen’s Beef Association, the National Farmers Union, the U.S. Sugar Association, and others [expressed concern](#) with entering into an FTA with Australia. A [letter](#) sent by those groups to then-USTR Robert Zoellick argued that “any bilateral negotiations with Australia are kept on a parallel track with the multilateral negotiations at the WTO.” After the agreement had been signed and Congress was reviewing it, Senator Conrad (D-ND) introduced an [amendment](#) that “would have required both trade committees to approve a proposed waiver before USTR could formally waive a safeguard import restraint imposed on Australian beef.” Before the amendment had been offered, USTR Zoellick [wrote](#) to Senate Finance Committee Chairman Chuck Grassley (R-IA) to express his concern about

the proposed change and argued that “eliminating the waiver provisions for the quantity and price-based safeguards would preclude the United States from exercising the discretion required under the Agreement . . . and would introduce and raise serious Constitutional issues.” Subsequently, the Bush administration indicated it was unlikely to accept the change, and then-USTR General Counsel John Veroneau [called the amendment](#) unconstitutional in light of the *INS v. Chadha* case. According to Inside U.S. Trade, Senator Conrad’s amendment was meant to build on a change that Ranking Senate Finance Committee Member Max Baucus (D-MT) brokered with USTR that required USTR to confer with both committees no less than five business days before a safeguard waiver was issued. That change was included in the president’s Statement of Administrative Action (SAA) and did not require Australia to sign any separate document.

While there was a significant lobbying effort to exclude sugar from the agreement, there is [no indication](#) the administration gave in to the pressure. In contrast, the National Cattlemen’s Beef Association wrote Ambassador Zoellick arguing that all agriculture should be included. Given the timing of the [letter](#), it was likely a response to the sugar lobbying efforts.

According to Inside U.S. Trade, when the initial text of the agreement was released, “controversial language prohibiting the export of subsidized Australian pharmaceuticals to the U.S. [had] been [dropped](#) from the agreement.” Allegedly, both parties had voiced concerns with the language after negotiations had closed. The Bush administration opted to completely remove it instead of attempting to renegotiate terms which would have prohibited the Australian Pharmaceutical Benefits Scheme (PBS) from exporting medicines it subsidizes. The Australians subsequently agreed to include PBS as a part of the FTA and outlined new procedural and transparency rules in a [side letter](#). Though the agreement-implementing legislation was ultimately passed, Representative Sandy Levin (D-MI) argued he would [not allow](#) such a trade agreement to include similar drug language in future agreements.

*** There were no post-signing legal documents changing the meaning of the text and no evidence that the agreement was changed.**

** The corresponding date for each linked document is the signing day of the agreement unless otherwise specified.

SIDE LETTERS

Chapter 2

- [PBS](#)
- [Blood plasma](#)
- [Waiver of customs duties](#)
- [Distinctive products](#)
- [Temporary entry without bond](#)

Chapter 3

- [BSE](#)

Chapter 9

- [Safeguards](#)

Chapter 10

- [Clarification on national treatment](#)
- [Education: States](#)
- [Educational criteria](#)

- Immigration
- Express delivery
- Gambling

Chapter 11

- FIRB review

Chapter 12

- Telstra
- Telecommunications consultations

Chapter 13

- FSSA
- Recognition
- Securities
- Insurance
- Guarantees

Chapter 15

- Government procurement

Chapter 17

- ISP liability
- Application of IPR
- IPR and national treatment

Morocco

Signed June 15, 2004

Entered into force in United States on January 1, 2006

Days in between—565

President—George W. Bush

USTRs—Robert Zoellick; Rob Portman

Fast Track—Yes, Trade Act of 2002

[Final Text](#)

Since the Morocco-U.S. FTA was largely modeled after the FTAs with Chile and Singapore, and since Moroccan officials almost exclusively used U.S. proposals as the negotiating starting points, there was relatively [little controversy](#) over the agreement. However, Moroccans voiced concerns regarding opening their agricultural market too quickly, though the 10-year implementation time likely calmed their fears.

Ranking House Ways and Means Trade Subcommittee member Representative Sandy Levin (D-MI) [“demanded](#) that the U.S. Trade Representative’s Office insert language into the implementing bill or into a side letter accompanying the text of the agreement that clarifies the specific relationship between the accord and the Doha Declaration on the Trade-Related Aspects of Intellectual Property Rights (TRIPS) and Public Health.” His warning was issued after the agreement was signed, but there is no indication that a side letter ever came to fruition. USTR General Counsel John Veroneau issued a [public letter](#) to Representative Levin responding to the argument that the current Trade Promotion Authority law conflicted with TRIPS. Other than the worry that Morocco would breach its other international obligations

should it need to manufacture medicine under an emergency situation, there did not appear to be any contentious issues regarding the United States.

*** There were no post-signing legal documents changing the meaning of the text and no evidence that the agreement was changed.**

** The corresponding date for each linked document is the signing day of the agreement unless otherwise specified.

SIDE LETTERS

- [Parafiscal Tax](#)
- [Almonds](#)
- [Customs mechanism](#)
- [Certification accompanying U.S. beef and poultry](#)
- [Lamb](#)
- [Rules of origin](#)
- [Government procurement and services](#)
- [Health](#)
- [State measures](#)
- [Payments and transfers](#)
- [Africa reinsurance](#)
- [Insurance](#)
- [Non-insurance financial services](#)
- [Article 15.5](#)
- [Internet service providers](#)
 - [Response letter on internet service providers](#)
- [Public health](#)
- [Subcommittees](#)
- [Panelists](#)
- [Exceptions](#)

OTHER DOCUMENTS

- [Letter on certain labor and environment provisions](#)
- [Letter from Morocco on tax issues](#)
- [Letter on trade remedy law technical assistance](#)
- [TBT technical assistance](#)
- [Textiles technical assistance](#)
- [Treatment of foreign workers](#)
- [Joint Statement on Sanitary and Phytosanitary \(SPS\) Cooperation](#)

Central America-Dominican Republic FTA (CAFTA-DR)

Signed August 5, 2004

U.S. implementation bill passed July 28, 2005 (P.L. 109-53), and CAFTA-DR entered into force with El Salvador, Honduras, Nicaragua, and Guatemala by July 1, 2006, the Dominican Republic on March 1, 2007, and Costa Rica on January 1, 2009.

Days in between—Various

President—George W. Bush

USTRs—Robert Zoellick; Rob Portman
Fast Track—Yes, Trade Act of 2002
[Final Text](#)

At the outset, Representative Sandy Levin, who at the time was the ranking member of the House Ways and Means Trade Subcommittee, argued CAFTA (which initially did not include the Dominican Republic) would [only](#) be approved if the labor chapter was reopened to include the obligation to adhere to International Labor Organization (ILO) standards. Representative Levin argued that the Bush administration’s hope to combine the CAFTA and Dominican Republic FTA in conjunction with the 90-notice embedded in trade promotion authority (TPA) would push the vote too far into the presidential election cycle. He also pointed out that if Bush was elected to a second term, he would need to assuage Republican House lawmakers that represent sugar beet, cane sugar, and textile producers. Representative Levin argued that the best way to ensure domestic producers are not substantially negatively impacted by the new agreement was to impose stringent labor rules and new capacity-building provisions and ensure benchmarks are embedded in the agreement.

Ultimately, Senator Max Baucus (D-MT) and the sugar producers [led the charge](#) to negotiate concessions between the Bush administration and the Senate sugar caucus. The caucus was working on “round-the-clock” sugar negotiations even up to the day the Senate Finance Committee conducted its [mock markup](#) sessions. The administration, in a sugar policy brief, [pointed out](#) that “increased sugar market access for Central America and the Dominican Republic under the CAFTA amounts to only about one and half teaspoons per week per American.” Inside U.S. Trade later reported that while Senator Baucus ultimately voted “Nay,” a number of Republicans with sugar constituents voted “Yea,” despite the administration’s refusal to provide new assurances beyond those made to members of the Senate last month. However, President Bush was able to secure the necessary votes by allegedly “making specific, last-minute [assurances](#) that it would seek to change the tariffs assessed on sock imports from the region and that the administration would seek to curb textile exports from China.” That move targeted Republican House members Robin Hayes (R-NC) and Robert Aderholt (R-AL) and resulted in the implementing bill passing by a 217-215 vote. However, as history has shown, the administration’s promises to safeguard Representative Aderholt’s sock industry and curb Chinese imports were largely empty. Senator Aderholt raised similar complaints about sock import penetration during the negotiation and approval process of the U.S.-Korea FTA.

*** There was one post-signing legal document signed by all parties, but no evidence that negotiations were reopened.**

** The corresponding date for each linked document is the signing day of the agreement unless otherwise specified.

COSTA RICA – SIDE LETTERS

- [May 28 side letters](#) [Signing day letter confirming prior side letters’ equal level of legal force as other countries’ side letters released on August 5]
- [Poultry trade](#) [May 28, 2004]
- [Bank sales representatives](#) [May 28, 2004]
- [Foreign bank Branches and additional reserve requirements](#) [May 28, 2004]
- [Contracts of representation, distribution, or fabrication](#) [May 28, 2004]
- [Extraction, generation, and refining](#) [May 28, 2004]
- [Gambling](#) [May 28, 2004]

- Mining activities [May 28, 2004]
- Wildlife, Forestry, and Zoning [May 28, 2004]
- Radio-electric spectrum [May 28, 2004]
- Continuation of the “807” program [May 28, 2004]

DOMINICAN REPUBLIC – SIDE LETTERS

- SPS/import licensing
- Labor code
- Telecommunications policy
- IPR procedures
- Haiti/CBTPA co-production

EL SALVADOR – SIDE LETTERS

- May 28 side letters [Signing day letter confirming prior side letters’ equal level of legal force as other countries’ side letters released on August 5]
- Poultry trade
- Tariff treatment of certain confectionary products
- Labor code
- Public utility services
- Article 13.4.5(a)(iv)

GUATEMALA – SIDE LETTERS

- May 28 side letters [Signing day letter confirming prior side letters’ equal level of legal force as other countries’ side letters released on August 5]
- Tariff treatment of certain confectionary products
- Insurance branching commitments
- Establishment of foreign financial institutions in the United States

HONDURAS – SIDE LETTERS

- May 28 side letters [Signing day letter confirming prior side letters’ equal level of legal force as other countries’ side letters released on August 5]
- Nurses
- Shirting fabrics study

NICARAGUA – SIDE LETTERS

- Insurance branching commitments

UNDERSTANDINGS

- Understanding Regarding Certain Public Health Measures
- Understanding Regarding Immigration Measures
- Understanding Regarding the Establishment of a Secretariat for Environmental Matters [Post-signature agreement—February 18, 2005]

OTHER DOCUMENTS

- Exchange of Letters Regarding the U.S.-Honduras Bilateral Investment Treaty
- Communiqué of the Environmental Affairs Council of the CAFTA-DR [Post-entry into force—May 24, 2006]

Bahrain

Signed September 14, 2004

Entered into force in the United States on January 11, 2006

Days in between—484

President—George W. Bush

USTRs—Robert Zoellick; Rob Portman; Susan Schwab

Fast Track—Yes, Trade Act of 2002

[Final Text](#)

During the fall of 2005, House Democrats [negotiated with Bahrain](#) and the sitting USTR to improve Bahrain's labor laws. Specific issues included Bahrain's failure to fully comply with the ILO's labor standards and the country's inadequate union protection. In hopes of holding both Bahrain and the Bush administration accountable, Democrats on the Senate Finance Committee focused their efforts on pushing the administration to beef up reporting requirements. The administration ultimately "agreed to place in the Statement of Administrative Action a general commitment that it will monitor and report on the efforts of Bahrain to dismantle the primary boycott in its annual National Trade Estimates Report."

*** There were no post-signing legal documents changing the meaning of the text and no evidence that the agreement was changed.**

** The corresponding date for each linked document is the signing day of the agreement unless otherwise specified.

SIDE LETTERS

- [Tariff classification](#)
- [Gambling](#)
- [Immigration](#)
- [Cross-border insurance suppliers](#)
- [Independent agents](#)
- [Non-life insurance](#)
- [Technology neutrality](#)
- [Interconnection rates](#)
- [Limitations on liability for service providers](#)
- [Optical discs](#)
- [Public health](#)

MOU

- [Memorandum of Understanding on Environmental Cooperation](#)
- [Protocol of amendment to the FTA](#) [After agreement entered into force—October 21, 2009]

Oman

Signed January 19, 2006

Entered into force in the United States on January 1, 2009

Days in between - 1078

President—George W. Bush

While labor was again a topic of discussion for Democrats, there does not appear to be a record of both countries either changing the agreement text post-signature or even cosigning a side letter. However, according to Inside U.S. Trade, the Sultanate of Oman [pledged in a letter](#) to the House Ways and Means Committee that it would change its labor laws to more closely align with ILO standards. This approach by the Congress to work directly with the trading partner’s government was viewed as a repeat of the tactics used during the Bahrain FTA passage. However, in this case, there was concern that with the vote timing and the Sultanate’s pledge to amend Oman’s laws after the vote took place, there was room for Oman to skirt the “new” commitment without a separate enforcement letter. It does not appear that a separate enforcement letter on this issue was signed.

In fact, the Bush administration [rebuffed](#) the idea of including an amendment that would rescind trade benefits for imports made with slave labor which had been unanimously approved by the Senate Finance committee during a mock mark-up of the draft implementing bill. Citing constraints in the fast track legislation that amendments to implementing legislation should only be “necessary or appropriate” to implement the agreement, USTR officials argued the amendment went too far and that “you’re not supposed to use fast track authority to tack on additional items that are not strictly necessary for that purpose.” Further, USTR argued any addition to the implementing legislation would be superfluous given that the FTA requires Oman to enforce its own labor laws and the U.S. import prohibition on goods produced in part or in whole with forced, indentured, or prison labor under Section 307 of the 1930 Tariff Act.

*** There were no post-signing legal documents changing the meaning of the text and no evidence that the agreement was changed.**

** The corresponding date for each linked document is the signing day of the agreement unless otherwise specified.

SIDE LETTERS

- [Impartial authority](#)
- [State-owned enterprises](#)
- [Immigration](#)
- [Cross-border financial service suppliers](#)
- [Liability for service providers and limitations](#)
- [Optical discs](#)
- [Public health](#)
- [Voluntary mechanisms](#)

MOU

- [Memorandum of Understanding on Environmental Cooperation](#)

THE MAY 10 AGREEMENT

Following approval of NAFTA in the Clinton administration, congressional Democrats increasingly argued the then-current FTA model did not do enough to ensure high labor or environmental standards of trading partners. The May 10 Agreement between the Bush administration and the House Democratic leadership (which was in the majority at the time) was intended to break the deadlock and add enforceable

environment and labor provisions in deals with Peru, Panama, Columbia, and South Korea (KORUS). The final “[template](#)” agreed to on May 10, 2007 for those and future agreements addressed labor, environment, intellectual property, government procurement, port security, and investment.

The [fundamental concern](#) for legislators was how labor and environmental provisions of trade agreements would move from a purely political arrangement to “legally binding” standards that could be subject to due process and enforced using meaningful remedies, including trade. Then-USTR Susan Schwab assured House Ways and Means Committee members that since the agreements with Panama and Korea had not been signed yet, it would be relatively painless to change the language. It is unclear whether the Bush administration felt it needed to return to the Peruvians to renegotiate language since the [Democrats were able to broker a deal](#) with the Peruvian government itself. However, the administration continued its consultations with both Peru and Colombia, and there is also substantial [evidence](#) that House Democrats and House Republicans were working with the administration while it crafted the implementation bill and that those countries crafted their implementing legislation.

The May 10 agreement ultimately delivered the Peru FTA through Congress, but the House failed to act on the remaining three FTAs until 2011, by which time Republicans controlled the House and President Obama was in the White House.

Peru

Signed April 12, 2006

Entered into force in the United States on February 1, 2009

Days in between—1026

President—George W. Bush

USTR—Susan Schwab

Fast Track—Yes, Trade Act of 2002

[Final Text](#)

After the May 10 Agreement was brokered, House Democrats were primarily concerned with the way the new obligations would be incorporated into agreements that had already been signed, as was the case with the Peruvian FTA. Then-House Ways and Means Committee chair Charles Rangel (D-NY) issued a statement announcing that Peruvian president Alan Garcia had made explicit commitments to transform its legal framework and modify its laws to not only comply with the original agreement but the [new obligations](#) added in the May 10 agreement. President Garcia offered to make these changes by issuing presidential decrees that a later president could unilaterally repeal.

Before the May 10 deal was negotiated, there were also concerns whether Peru would [lift the ban](#) it imposed on U.S. poultry and beef because of avian flu and Bovine Spongiform Encephalopathy. These negotiations, which occurred before and after the agreement had been signed, resulted in a number of sanitary and phytosanitary side letters listed below. According to Inside U.S. Trade, though side letters are not technically part of an FTA, “the Bush Administration [had] [forced the implementation](#) of SPS side agreements as a condition for declaring a country has lived up to the terms of the FTA.”

*** There was one side letter confirming both parties’ interpretation of the use of trade sanctions after the agreement was signed.**

** The corresponding date for each linked document is the signing day of the agreement unless otherwise specified.

SIDE LETTERS

- [Information Technology Agreement](#)
- [SPS Exchange of Letters](#) [Pre-Signing Day—January 5, 2006]
- [SPS Exchange of Letters](#) [Pre-Signing Day—April 10, 2006]
- [SPS Exchange of Letters](#) [Post-Signing Day—October 6, 2006]
- [State measures](#) [Post entry into force—March 14, 2016]
- [Peruvian measures](#)
- [Internet service providers](#)
- [Retransmission](#)

MOUS

- [Understanding Regarding Biodiversity and Traditional Knowledge](#)
- [Understandings Regarding Financial Services and Services Measures](#)

OTHER DOCUMENTS

- [Joint Communique of the Meetings of the Governments of the United States and Peru Regarding Forest Sector Governance](#) [January 10, 2013]
- [May 10 Agreement](#)
- [House Democrats' Letter to USTR](#)

Korea/KORUS

Signed June 30, 2007

Entered into force in the United States on March 15, 2012

Days in between— 1720

Presidents—George W. Bush; Barack Obama; Donald Trump [recently renegotiated portions]

USTRs—Susan Schwab; Ron Kirk; Robert Lighthizer

Fast Track—Yes, because signed before 2002 version expired

[Final Text](#)

After the signing ceremony, according to Inside U.S. Trade, House Speaker Nancy Pelosi (D-CA) issued a statement implicitly [calling for renegotiation](#). Given that commitments found within side letters are viewed as “less enforceable” than in-text modifications, it is perhaps unsurprising that House Democrats were quick to call for renegotiation. In March 2007, a bipartisan group of House lawmakers wrote President Bush calling for, “among other things, the immediate elimination of Korea’s 8 percent auto tariff and a 15-year phase out for the 2.5 percent U.S. auto tariff.” Ultimately, the auto market access issue was resolved when President [Obama renegotiated](#) the deal in 2010. In order to get to “yes,” the Obama administration allegedly “[agreed](#) to extend the validity period of certain visas for Korean professionals entering the U.S. on intra-company transfers, and also agreed to other concessions on patents and pork market access.”

In a short tale of *quid pro quo*, Representative Aderholt threatened to rescind his support for the Korea agreement because the Bush administration had yet to prove it would protect the [sock industry](#) in post-CAFTA FTAs. According to Representative Aderholt, the administration had committed to “taking steps to help U.S. sock makers” in exchange for his “Yea” vote on CAFTA. However, a U.S. trade official told Inside U.S. Trade that “while the U.S. continued to work on the sock issue, the promise made to Aderholt was not that the U.S. would get a carve-out for socks or a change on rule of origin, but that the administration would try to do so.”

The Trump administration negotiated minor changes to KORUS in 2018 in areas involving Korean auto regulations, U.S. truck tariffs, trade remedies, investment, Korean pharmaceutical pricing regulations, and textiles. Those changes came into force on January 1, 2019. Congressional approval of those changes was not required as the changes to KORUS did not require a change in U.S. law. Outside of the trade agreement, Korea agreed to a steel export quota to avoid a 25 percent tariff the Trump administration had announced via Section 232 of the Trade Expansion Act of 1962.

*** The agreement was renegotiated in 2010 to conform to May 10 Agreement (separate legal document found below in first bullet point under “Other Documents”) and again in 2018.**

** The corresponding date for each linked document is the signing day of the agreement unless otherwise specified.

SIDE LETTERS

- [Fibers, yarns, and fabrics not available in commercial quantities](#)
- [Independent review body](#)
- [Specific automobile regulatory issues](#)
- [Property rights](#)
- [Understandings of both sides](#)
- [Gambling](#)
- [Express delivery services - amendment](#)
- [Express delivery services - reform](#)
- [Telecommunications](#)
- [Cross-border financial services](#)
- [Access to and use of the internet](#)
- [Limitations on liability for internet service providers](#)
- [Promoting protection and effective enforcement of copyrighted works](#)
- [Online piracy prevention](#)
- [Disputes involving patent linkage](#)
- [Public communication](#)
- [Public participation](#)
- [Equivalence in environmental laws](#)
- [Publication](#)

OTHER DOCUMENTS

- [Legal texts reflecting December 3, 2010 agreement](#) [Post-signature and preratification document—February 10, 2011]
- [Exchange of letters related to conclusion of KORUS FTA implementation review process](#) [[Pre-entry into force - February 20, 2012](#)]
- [Letter exchange-EIF](#) [Post-ratification—September 24, 2018]
- [Letter exchange-Customs](#) [Post-ratification—September 24, 2018]
- [Letter exchange-Pharma](#) [Post-ratification—September 24, 2018]
- [Letter exchange-Textiles](#) [Post-ratification—September 24, 2018]
- [Protocol amending 2011 letter exchange](#) [Post-ratification—September 24, 2018]
- [Protocol amending agreement](#) [Post-ratification—September 24, 2018]

Colombia

Signed November 22, 2006

Entered into force in the United States on May 15, 2012

Days in between—2001

Presidents—George W. Bush; Barack Obama

USTRs—Susan Schwab; Ron Kirk

Fast Track—Yes, Trade Act of 2002

[Final Text](#)

While there was general support for the progress the May 10 Agreement symbolized, some House Democrats thought the new FTA template [did not go far enough](#). Representatives Betty Sutton (D-OH), Linda Sanchez (D-CA), Phil Hare (D-IL), Jim McGovern (D-MA), and Jan Schakowsky (D-IL) and various labor leaders criticized the U.S.-Colombia agreement at a press conference during the summer of 2007. Representative Sanchez and the others argued that then-President Uribe “. . . should be [willing to reopen](#) the FTA negotiations in order to include such requirements in the text of the agreement and not in ‘unenforceable’ side letters.” Representative Levin, then-chairman of the House Ways and Means Trade Subcommittee, called for enforceable commitments and employing a benchmark system to [ensure](#) sufficient compliance before the agreement entered into force.

After over two years of going back and forth on the human rights violations and related labor conditions, Representatives Levin and Jim McDermott (D-WA) [argued](#) that despite the Obama administration’s ability to persuade the Colombians to agree to take various negotiated administrative steps, Colombia should nonetheless modify its labor laws to comply with ILO standards *before* Congress votes on the bill. After the various benchmarks had been set, a Congress Research Service report argued that Colombia had [lived up to all](#) of the milestones embedded in the Action Plan Related to Labor Rights. By late July 2011, six House Democrats [urged](#) President Obama to avoid merely using side agreements or side letters but to include “language in the implementing bill . . . that will ensure Colombia fully implements a bilateral labor action plan and demonstrates measurable progress on the ground in improving labor rights before the FTA can enter into force.” According to a White House [press release](#) on the U.S.-Columbia FTA, before the FTA could enter into force, the administration had to be satisfied that the Colombian government had adhered to the action plan.

*** The agreement was renegotiated to conform to May 10 Agreement and Colombia-specific human rights concerns (separate legal document found below in second bullet point under “Other Documents”).**

** The corresponding date for each linked document is the signing day of the agreement unless otherwise specified.

SIDE LETTERS

- [Information Technology Agreement](#)
- [SPS letter exchange](#) [Before signing date—February 26, 2006]
- [SPS letter exchange](#) [Before signing date—August 21, 2006]
- [SPS letter exchange](#)
- [SPS letter exchange \(paddy rice\)](#) [After signing date—April 15, 2012]
- [SPS letter exchange \(avian influenza\)](#) [After signing date—April 15, 2012]
- [SPS letter exchange \(Salmonella in poultry and poultry products\)](#) [After signing date—April 15, 2012]
- [30-day tendering](#)
- [Interim measures](#)

- [State measures](#)
- [Internet service providers](#)
- [Retransmission](#)
- [Patents and certain regulated products](#)

MOU

- [May 10 Agreement](#)
- [Columbian Action Plan Related to Labor Rights](#) [Post-signing day and before implementation bill was sent to Congress—April 7, 2011]
- [Understanding Regarding Financial Services and Services Measures](#)
- [Understanding Regarding Biotechnology Traditional Knowledge](#)

Panama

Signed June 28, 2007

Entered into force in the United States on October 31, 2012

Days in between—1952

Presidents—Bush; Obama

USTRs—Susan Schwab; Ron Kirk

Fast Track—Yes

[Final Text](#)

While the negotiations officially ended on December 16, 2006, there was allegedly an [understanding](#) that modifications to the labor, environment, and intellectual property rights (IPR) chapters would need to happen to secure congressional approval. After the Bush administration and Congress reached the May 10 Agreement, the Panama-U.S. FTA was effectively renegotiated to include the proposed changes in June 2007. Though the agreement complied with Congress’s new provisions, the [sticking point](#) became how and whether to impose “benchmarks” on the labor provisions before Congress would put the implementation bill to a vote. When reviewing the Columbian benchmark scheme, some argued that a response to the argument that the side letters are less enforceable would be for the parties to “agree to make fulfillment of the benchmarks themselves enforceable under the agreement without renegotiating the agreement by outlining them in a side letter and stating that the contents of that letter are matters ‘arising’ under the agreement.” As the list below indicates, there is no evidence such a side letter came to fruition.

While the labor and other May 10 provisions remained a huge [point of contention](#) after President Obama took office, there was also significant pushback on Panama’s tax-haven status. Later in 2009, there were rumblings that Panama and the Treasury Department would negotiate either a double taxation treaty (DTT) or a comparatively strict tax information exchange agreement (TIEA) in an effort to [remove the trade agreement’s road blocks](#). However, various Republicans and Democrats argued that a DTT would [not solve the problem](#), while Panama maintained that including automatic exchange of tax information in a TIEA was a “red line” request. Ultimately, the United States and Panama signed a TIEA in hopes of [hurrying](#) along the TPA. After years of going back and forth, the Obama administration and Congress were [sufficiently satisfied](#) that Panama had brought its labor laws and enforcement mechanisms into compliance with the hard-fought TPA.

*** The agreement was renegotiated to comply with May 10 agreement, and Panama agreed to a separate tax treaty.**

** The corresponding date for each linked document is the signing day of the agreement unless otherwise specified.

SIDE LETTERS

- [Automobiles](#)
- [Ship repairs](#)
- [Information Technology Agreement](#)
- [Panama free zones](#)
- [Article 9.15](#)
- [Specified sectors](#)
- [Retail sales](#)
- [Cross-border financial services](#)
- [Insurance](#)
- [Pensions](#)
- [Traditional knowledge](#)
- [Taxation](#)
- [U.S.-Panama Agreement Regarding Certain SPS Measures and Technical Standards Affecting Trade in Agricultural Products](#) [Before signing day—December 20, 2006]
- [Letter exchange to remove additional certification statements for U.S. beef and beef products entering Panama](#) [After entered into force—February 28, 2013]
- [Letter exchange to revise additional certification statements for U.S. pet food containing animal origin ingredients entering Panama](#) [After entered into force—June 9, 2014]

OTHER DOCUMENTS

- [May 10 Agreement](#)

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