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Kalan R. Geisler
Editor

U.S. TRADE WITH DEVELOPING COUNTRIES

Policy, Programs and Trends

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PREFACE

This book focuses on U.S. trade building with developing countries; a heterogeneous group of low and middle-income countries that have become an increasingly significant factor in U.S. trade flows and trade policy over the last two or more decades. The growth of developing countries' economies and foreign trade presents the United States with opportunities and challenges. The imports from many developing economies provide U.S. consumers with an ever widening range of choices of products at lower prices, raising real incomes and contributing to a higher U.S. standard of living. A number of the developing countries have also become robust markets for U.S. exports because of rapid economic growth and trade liberalization. This book describes trade with developing countries, which also raises a set of virtually unique issues regarding labor rights, environment protection and intellectual property rights that have become fixtures on the U.S. trade agenda. This book also describes trade capacity building and discusses the history of Trade Capacity Building (TCB)in foreign assistance. There is also a discussion of legislation affecting TCB, including appropriations and legislative restrictions on foreign assistance.

Chapter 1 - Developing countries, a heterogeneous group of low- and middle-income countries, have become an increasingly significant factor in U.S. trade flows and trade policy over the last two or more decades. Their influence is reflected in the issues on the trade agenda of the 110th Congress: the possible renewal of fast track trade authority/Trade Promotion Authority; implementing legislation for free trade agreements; re-authorization of trade adjustment assistance (TAA) for workers and firms; review and possible re-authorization of Generalized System of Preferences and other trade preference programs; and oversight of the Doha Development Agenda (DDA) round negotiations in the WTO.

The growth of developing countries' economies and foreign trade presents the United States with opportunities and challenges. The imports from many developing economies provide U.S. consumers with an ever widening range of choices of products at lower prices, raising real incomes and contributing to a higher U.S. standard of living. A number of the developing countries have also become robust markets for U.S. exports because of rapid economic growth and trade liberalization.

At the same time, many U.S. workers are competing with an expanding pool of lower-wage labor from India, China, and other developing countries. Such competition induces U.S.-based firms to reduce costs by using labor-saving technology, moving production offshore, or shutting down, forcing workers to adjust. Even workers in the high-end services sector are feeling the pressures of competition from some developing countries.

Trade with developing countries also raises a set of virtually unique issues regarding labor rights, environment protection, intellectual property rights, among others, that have become fixtures on the U.S. trade agenda. At the same time, developing countries are challenging U.S. policies on trade remedies, high tariffs on wearing apparel and other import-sensitive products, pricing of medicines, and the temporary entry of foreign workers.

If current trade trends hold, developing countries can be expected to account for increasing shares of U.S. exports and imports and for world trade. As a result, these opportunities and challenges will likely continue, if not expand.

The analysis of U.S. trade trends also exposes a significant divide among groups of developing countries. Some countries, such as China, South Korea, Mexico and Chile, have made great strides and, are expanding their role in U.S. and world trade. Others including most of Africa, many in South Asia, and some in Latin America, lag behind or are losing shares of U.S. and world trade. These differences suggest that effective U.S. trade policy may need to differentiate among the various groups of developing countries. These differences could play a role in how the United States proceeds on trade preferences, regional and bilateral trade agreements, and multilateral negotiations in the WTO. This report will be updated as events warrant.

"Developing Countries," a heterogeneous group of low- and medium-income economies, are making an increasingly strong impact on U.S. foreign trade and investment and world trade. This impact is both economic and political and is likely to increase. Developing countries have been shaping U.S. trade patterns, trade policy priorities and policies. They are re-shaping the international trading system, asserting greater influence at bilateral and multilateral trade negotiations, and challenging the United States and other developed countries to reappraise long-held policies. At the same time, developing countries' advancement on the international trade stage has forced them to confront the challenges of international competition and the responsibilities that come with membership in the international trade community: Developed countries are demanding that developing countries jettison economic policies that protect domestic markets for local producers and workers.

The growing role of some developing countries in U.S. and world trade raises sensitive policy issues for Members of Congress as they consider legislation to implement trade agreements, to monitor Administration enforcement of agreements and of trade laws, and to develop policies. Many of the U.S. free trade agreements (FTAs) in place or that are under negotiation are with developing countries. Furthermore, the United States has been engaged with the other 149 members of the World Trade Organization (WTO) in the Doha Development Agenda (DDA) round of negotiations. The vast majority of the WTO members are developing countries who are using the strength of their large numbers to influence the agenda and the pace of the negotiations. The DDA negotiations are now indefinitely stalled because of, among other reasons, conflicts between developed and developing countries on agricultural trade.

Congressional interests and the congressional legislative agenda are filled with issues pertaining to trade with developing countries. The U.S. Generalized System of Preferences (GSP) program and other trade preference programs are subject to periodic reviews and renewals. Some Members of Congress have suggested that the Congress needs to re-examine the rationale for these programs and their eligibility criteria in light of the rapid economic advancements that some developing countries have made. In addition, the Congress has recently considered and passed legislation implementing FTAs with developing countries and will probably consider a number of others in the near future. Congressional debate and final action over these measures will likely be influenced by the perception of the role that developing countries play in U.S. trade.

The purpose of this report is to assist the Congress in assessing and developing U.S. foreign trade and economic policies by examining the role that developing countries are playing in trading with the United States. The report will be updated as determined by events.

Chapter 2 - Following the end of the apartheid era in South Africa in the early 1990s, the United States sought to increase economic relations with sub-Saharan Africa. President Clinton instituted several measures that dealt with investment, debt relief, and trade. Congress required the President to develop a trade and development policy for Africa.

The economic challenges facing Africa today are serious. Unlike the period from 1960 to 1973, when economic growth in sub-Saharan Africa was relatively strong, since 1973 the countries of sub-Saharan Africa have grown at rates well below other developing countries. There are some signs of improvement, but problems such as HIV/AIDS and the debt burden are constraining African economic growth.

In May 2000, Congress approved a new U.S. trade and investment policy for sub-Saharan Africa in the African Growth and Opportunity Act (AGOA; Title I, P.L. 106-200). U.S. trade with and investment in sub-Saharan Africa have comprised only 1-2% of U.S. totals for the world. AGOA extends preferential treatment to imports from eligible countries that are pursuing market reform measures. Data show that U.S. imports under AGOA are mostly energy products, but imports to date of other products have grown. AGOA mandated that U.S. officials meet regularly with their counterparts in sub-Saharan Africa, and six of these meetings have been held.

AGOA also directed the President to provide U.S. government technical assistance and trade capacity support to AGOA beneficiary countries. Government agencies that have roles in this effort include the U.S. Agency for International Development, the Assistant U.S. Trade Representative for Africa (established by statute under AGOA), the Overseas Private Investment Corporation, the Export-Import Bank, the U.S. and Foreign Commercial Service, and the Trade and Development Agency. In addition to bilateral programs, the United States is a member of several multilateral institutions that provide trade capacity building.

In AGOA, Congress declared that free-trade agreements should be negotiated, where feasible, with interested sub-Saharan African countries. Related to this provision, negotiations on a free-trade agreement with the Southern African Customs Union, which includes South Africa and four other countries, began in June 2003, but were suspended in April 2006.

Several topics may be important to the 110th Congress in the oversight of AGOA and in potential legislation amending the act. These issues concern expanding the number of beneficiary countries which use AGOA benefits; diversifying AGOA exports away from primary commodities such as oil; making trade capacity building more effective for AGOA beneficiaries; and strengthening the link between poverty reduction and trade in Africa. This product will be updated periodically.

Chapter 3 - In a speech on March 14, 2002, President Bush outlined a proposal for a major new U.S. foreign aid initiative. The Millennium Challenge Account (MCA) is managed by the Millennium Challenge Corporation (MCC) and provides assistance, through a competitive selection process, to developing nations that are pursing political and economic reforms in three areas: ruling justly, investing in people, and fostering economic freedom.

The MCC differs in several respects from past and current U.S. aid practices:

the competitive process that rewards countries for past and current actions measured by 17 objective performance indicators;

the pledge to segregate the funds from U.S. strategic foreign policy objectives that often strongly influence where U.S. aid is spent; and

the requirement to solicit program proposals developed solely by qualifying countries with broad-based civil society involvement.

As announced by the President in March 2002, the initial plan had been to fund the MCC annually at $5 billion by FY2006, but this figure has not yet been reached. The Administration has sought a combined $12.8 billion for the MCA program, FY2004-FY2008, while Congress appropriated $7.5 billion, or less than two-thirds of the total sought. FY2009 funding is currently provided under the terms of a continuing resolution (H.R. 2638/P.L. 110-329), which provides foreign aid spending at the level in the FY2008 Consolidated Act ($1.54 billion). The resolution expires on March 6, 2009.

Congress authorized the MCC in P.L. 108-199 (January 23, 2004). Since that time, the MCC's Board of Directors has selected 27 eligible countries during the period from FY2004 through FY2008 (another, The Gambia, was suspended in 2006) and approved 18 Compacts with Madagascar (April 2005), Honduras June 2005), Cape Verde (July 2005), Nicaragua (July 2005), Georgia (September 2005), Benin (February 2006), Vanuatu (March 2006), Armenia (March 2006), Ghana (August 2006), Mali (November 2006), El Salvador (November 2006), Mozambique (July 2007), Lesotho (July 2007), Morocco (August 2007), Mongolia (September 2007), Tanzania (September 2007), Burkina Faso (June 2008), and Namibia (July 2008).

MCA implementation matters continue to unfold, including the relationship of MCA and USAID, sectors chosen, and the impact of rising costs on country programs. A growing question raised by some Members of Congress concerns the level of funding to support MCC programs. Some fear that insufficient funds might force the MCC to reduce the number of recipients or the size of the grants. Others, however, support reductions in MCC budget requests, believing that the slower-thananticipated pace of Compact agreements means that the Corporation has enough resources.

This report will be updated as events unfold.

Chapter 4 - Talks continue in the World Trade Organization's (WTO) Doha Development Round of multilateral trade negotiations. The negotiations, which were launched at the 4th WTO Ministerial in 2001 at Doha, Qatar, have been characterized by persistent differences between the United States, the European Union, and developing countries on major issues, such as agriculture, industrial tariffs and nontariff barriers, services, and trade remedies. Depending on the outcome, some U.S. industries may gain access to foreign markets, and others may see increased competition from imports. Likewise, some U.S. workers may be helped through increased access to foreign markets, but others may be hurt by import competition.

The negotiating impasse put negotiators beyond the reach of agreement under U.S. trade promotion authority (TPA), which expired on July 1, 2007. With the deadline passed, the parties are now attempting to make progress in the negotiations in the hope that the 110th Congress will extend TPA. During the second half of 2007, the chairmen of the agriculture, industrial, and rules negotiating groups released new draft texts and revisions to those texts have been made in the course of 2008. Yet, trade ministers again failed to reach a breakthrough at an eight day negotiating ministerial held in Geneva in July 2008.

Agriculture has become the linchpin of the Doha Development Agenda. U.S. goals are substantial reduction of trade-distorting domestic support; elimination of export subsidies, and improved market access. Some had looked to a potential Doha Round agreement to curb trade-distorting domestic support as a catalyst to change U.S. farm subsidies in the 2007 farm bill, but this source of pressure for change dissipated with the continued Doha impasse. In addition, Members of Congress likely will carefully scrutinize any agreement that may require changes to U.S. trade remedy laws.

Three issues are among the most important to developing countries, in addition to concessions on agriculture. One issue, now resolved, pertained to compulsory licensing of medicines and patent protection. A second deals with a review of provisions giving special and differential treatment to developing countries. A third addresses problems that developing countries are having in implementing current trade obligations.

Chapter 5 - On July 1, 2007, Trade Promotion Authority (TPA — formerly known as fast track), expired. TPA is the authority Congress grants to the President to enter into certain reciprocal trade agreements (FTAs), and to have their implementing bills considered under expedited legislative procedures, provided he observes certain statutory obligations in negotiating them. TPA allows Congress to exercise its constitutional authority over trade, while giving the President added leverage to exercise his authority to negotiate trade agreements by effectively assuring U.S. trade partners that final agreements are given swift and unamended consideration.

TPA reflects years of debate, cooperation, and compromise between Congress and the Executive Branch in finding a pragmatic accommodation to the exercise of each branch's respective authorities. The core provisions of the fast track legislative procedures have remained unchanged since first enacted in 1974, although Congress has expanded trade negotiation objectives, oversight, and presidential notification requirements. While early versions of fast track/TPA received broad bipartisan support, renewal efforts became increasingly controversial as fears grew over real and perceived negative effects of trade, and as the trade debate became more partisan in nature, culminating in a largely party-line vote on the 2002 renewal. Any debate on TPA renewal would likely center on the broad effects of trade on the United States, with an emphasis on numerous specific issues that may be given greater weight in th future: labor, environment, and public health provisions; stricter enforcement of trade agreements; enhanced trade adjustment assistance programs; and revisions to the role of Congress in trade policy making.

Bilateral agreements with Panama, Peru, Colombia, and South Korea were signed in time to be considered under the 2002 TPA. The House and Senate passed implementing legislation for the Peru FTA, which President Bush signed into law on December 14, 2007. The President sent implementing legislation for the Colombia FTA to Congress on April 8, 2008, but the House passed a rule suspending the application of parts of the expedited legislative procedures for this bill alone. The protracted World Trade Organization (WTO) Doha Round of multilateral negotiations are still incomplete and may yet result in the remaining key trade agreement that could compel Congress to consider extending or renewing TPA.

Some observers also suggest that TPA is important to support future bilateral FTA negotiations, particularly given that many countries appear ready to continue pursuing FTAs irrespective of U.S. trade policy. Key Members of the House and Senate, however, have signaled that TPA renewal is not at the top of the legislative agenda and will require considerable deliberation before it can be passed. Congress has many options in dealing with TPA: take no action; extend temporarily; revise and renew; grant permanent authority; or devise some hybrid solution. How this issue plays out depends on a host of political and economic variables. This report will be updated as events warrant.

On July 1, 2007, Trade Promotion Authority (TPA — formerly known as fast track) expired, and with it the authority that Congress grants to the President to enter into certain reciprocal trade agreements, and to have the legislation needed to implement them considered under expedited legislative procedures. Although the President has the authority under the Constitution to negotiate free trade agreements (FTAs), typically implementing legislation and thus congressional action are required to bring them into force. The United States Trade Representative (USTR) completed bilateral trade agreement negotiations with Peru, Colombia, Panama, and South Korea prior to TPA expiration. Congress approved the Peru FTA. The President sent implementing legislation for the Colombia FTA to Congress on April 8, 2008, but the House passed a rule suspending the application of parts of the expedited legislative procedures for this bill alone and has taken no further action on it. (See footnote 19 on p. 12.) A Doha Round agreement and any future bilateral FTAs cannot be considered under TPA's expedited procedures unless those procedures are renewed by Congress.

For over 30 years, Congress has granted the President TPA/fast track, agreeing to consider trade implementing legislation expeditiously and vote on it without amendment, provided the President meets certain statutory negotiating objectives and consultation requirements. TPA strikes a delicate balance by allowing Congress to exercise its constitutional authority over trade, while giving the President additional negotiating leverage by effectively assuring trade partners that a final agreement will be given swift and unamended consideration by Congress. Earlier incarnations of TPA, although controversial, were adopted with substantial bipartisan majorities. Over time, however, trade negotiations have become more complex, Congress has insisted on tighter oversight and consultation requirements, and the trade debate has become more partisan in nature, making congressional renewal of TPA, if anything, even more controversial.

The Democrats' assumption of control in the 110th Congress may also affect prospects for TPA renewal by shifting trade policy priorities, as seen in the "New Trade Policy for America," a bipartisan position crafted jointly by congressional leadership and the Bush Administration. The "New Trade Policy" framework incorporates important changes, some with broad social implications, that have already altered the language of recently signed FTAs with Peru, Colombia, Panama and South Korea. Among important changes from previous FTAs, signatories must now: adopt as fully enforceable commitments the five basic labor rights defined in the United Nations International Labor Organization's (ILO) *Fundamental Principles and Rights at Work and its Follow-up (1998) Declaration*; adhere to numerous multilateral environmental agreements (MEAs); and accept pharmaceutical intellectual property rights (IPR) provisions that could hasten that country's access to generic drugs.

The expiration of TPA raises the central question of whether, when and in what form TPA should be renewed, including to what degree if any, provisions of the "New Trade Policy America" might be incorporated. Some have argued that TPA should be renewed to cover, at a minimum, the World Trade Organization's (WTO) Doha Development Agenda (DDA) round multilateral agreement, if it can be concluded, and perhaps also potential future bilateral FTAs. The DDA negotiations, however, are bogged down and pending FTA negotiations appear dormant. In addition, the House Democratic Leadership has signaled that TPA is not at the top of its legislative agenda, indicating that a quick resolution to the TPA debate seems unlikely to occur.

This report presents background on the development of TPA, a summary of the major provisions under the recently expired authority, and a discussion of the issues that have arisen in the debate over TPA renewal. It also explores the policy options available to Congress and will be updated as the congressional debate unfolds.

Chapter 6 - Trade capacity building (TCB) is a form of development assistance provided by the United States and other donors to help developing countries participate in and benefit from global trade. In addition to helping developing countries negotiate and implement trade agreements, TCB includes development assistance for agricultural development, customs administration, business training, physical infrastructure development, financial sector development, and labor and environmental standards. Some experts believe that TCB is necessary for developing countries to adjust to trade liberalization and achieve trade-led economic growth.

In FY2007, the United States obligated about $1.4 billion in TCB worldwide. The U.S. Agency for International Development (USAID) funds and implements the majority of U.S. TCB programs. In FY2005, the Millennium Challenge Corporation (MCC) began to fund TCB activities, and in FY2006 and FY2007 it overtook USAID as the agency with the highest TCB obligations. Other agencies also provide TCB, including the U.S. Department of Agriculture, the Department of Commerce, the Treasury Department, the Department of Labor, and the U.S. Trade and Development Agency (USTDA). The United States also contributes to multilateral funds for TCB, and it contributes to multilateral development banks such as the World Bank, which also provide TCB programs.

Congress has played a key role in TCB by providing funding through appropriations legislation. In the 109th Congress, the House passed a measure to create a Trade Capacity Enhancement Fund in the 2007 Foreign Operations Appropriations Bill (H.R. 5522), but this measure was not included in the Senate bill. The 110th Congress directed the administration to use at least $550 million of foreign aid appropriations for TCB in the Consolidated Appropriations Act of 2008 (P.L. 110-161). TCB may become a key part of the 110th Congress' discussions on potential free trade agreements (FTAs) with developing countries, renewal of trade promotion authority (TPA), and U.S. involvement in the Doha round of WTO negotiations. The 110th Congress may also be interested in using TCB to increase the effectiveness of trade preference programs initiated through legislation such as the African Growth and Opportunity Act (AGOA).

In the past, Congress has passed legislation restricting the use of foreign assistance for certain activities promoting trade in developing countries. While TCB generally has trade-promoting motivations, any resulting increased import competition could also raise Congressional concern.

This report describes trade capacity building and discusses the history of TCB in foreign assistance. It also provides an overview of U.S. bilateral TCB assistance, as well as multilateral and bilateral TCB assistance from other donors. There is also a discussion of legislation affecting TCB, including appropriations and legislative restrictions on foreign assistance. Finally, this report highlights some of the policy issues concerning TCB. This report will be updated as events warrant.

Chapter 7 - U.S. trade preference programs promote economic development in poorer nations by providing export opportunities. The Generalized System of Preferences, Caribbean Basin Initiative, Andean Trade Preference Act, and African Growth and Opportunity Act unilaterally reduce U.S. tariffs for many products from over 130 countries. However, three of these programs expire partially or in full this year, and Congress is exploring options as it considers renewal.

GAO was asked to review the programs' effects on the United States and on foreign beneficiaries' exports and development, identify policy trade-offs concerning these programs, and evaluate the overall U.S. approach to preference programs. To address these objectives, we analyzed trade data, reviewed trade literature and program documents, interviewed U.S. officials, and did fieldwork in six countries.

Chapter 8 - U.S. trade preference programs promote economic development in poorer nations by providing duty-free export opportunities in the United States. The Generalized System of Preferences, Caribbean Basin Initiative, Andean Trade Preference Act, and African Growth and Opportunity Act unilaterally reduce U.S. tariffs for many products from over 130 countries. However, two of these programs expire partially or in full this year, and Congress is exploring options as it considers renewal.

This testimony describes the growth in preference program imports since 1992, identifies policy trade-offs concerning these programs, and evaluates the overall U.S. approach to preference programs. The testimony is based on two recent studies on trade preference programs, issued in September 2007 and March 2008. For those studies, GAO analyzed trade data, reviewed trade literature and program documents, interviewed U.S. officials, and did fieldwork in six trade preference beneficiary countries.

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Chapter 1

U.S. TRADE WITH DEVELOPING COUNTRIES: TRENDS, PROSPECTS, AND POLICY IMPLICATIONS*

William H. Cooper

SUMMARY

Developing countries, a heterogeneous group of low- and middle-income countries, have become an increasingly significant factor in U.S. trade flows and trade policy over the last two or more decades. Their influence is reflected in the issues on the trade agenda of the 110th Congress: the possible renewal of fast track trade authority/Trade Promotion Authority; implementing legislation for free trade agreements; re-authorization of trade adjustment assistance (TAA) for workers and firms; review and possible re-authorization of Generalized System of Preferences and other trade preference programs; and oversight of the Doha Development Agenda (DDA) round negotiations in the WTO.

The growth of developing countries' economies and foreign trade presents the United States with opportunities and challenges. The imports from many developing economies provide U.S. consumers with an ever widening range of choices of products at lower prices, raising real incomes and contributing to a higher U.S. standard of living. A number of the developing countries have also become robust markets for U.S. exports because of rapid economic growth and trade liberalization.

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* This is an edited, reformatted and augmented version of a Congressional Research Service Publication RL 33945, dated March 28, 2007.

Trade with developing countries also raises a set of virtually unique issues regarding labor rights, environment protection, intellectual property rights, among others, that have become fixtures on the U.S. trade agenda. At the same time, developing countries are challenging U.S. policies on trade remedies, high tariffs on wearing apparel and other import-sensitive products, pricing of medicines, and the temporary entry of foreign workers.

If current trade trends hold, developing countries can be expected to account for increasing shares of U.S. exports and imports and for world trade. As a result, these opportunities and challenges will likely continue, if not expand.

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The purpose of this report is to assist the Congress in assessing and developing U.S. foreign trade and economic policies by examining the role that developing countries are playing in trading with the United States. The report will be updated as determined by events.

DEVELOPING COUNTRIES AND THEIR ROLE IN U.S. AND WORLD TRADE

The category "developing countries" includes economies representing many levels of economic development. However, they share one important quality: they are generally technology receivers rather than technology innovators, and so their economies still have room to "catch up" with industrialized countries through the increased application of technology-based production. Some of the developing countries have been more successful in "catching up" than others, leading to wide gaps in economic welfare among them. For the purposes of this report, developing countries include all countries except Australia, New Zealand, Europe, Japan, Canada, and the United States. The term also excludes the former Soviet republics and the former communist states in Central and Eastern Europe.[1]

Trends in Developing Countries Trade with the United States

Developing countries have accounted for growing shares of U.S. exports and imports of goods over a 20-year span. Data presented in the table below (**Table 1**) illustrate this trend.

Table 1. Share of U.S. Exports and Imports, 1985-2006 (percentages)

Country Group	1985		1995		2000		2006	
	Exp	Imp	Exp	Imp	Exp	Imp	Exp	Imp
Developing Countries of which:	32.8	34.5	44.5	44.2	44.5	49.0	47.0	54.7
Asia of which:	12.6	16.4	23.4	26.9	20.3	28.1	23.7	32.5
NIEs	7.5	11.3	12.7	11.0	10.8	9.2	9.4	5.9
ASEAN	3.6	4.3	6.8	8.4	6.0	7.2	5.5	6.0
China	1.8	1.1	2.0	6.1	2.0	8.2	5.3	15.5
India	0.8	0.7	0.6	0.8	0.5	0.9	1.0	1.2
Latin America of which:	14.0	13.6	16.5	14.0	21.8	17.2	21.5	17.9
Mexico	6.2	5.5	7.9	8.4	14.2	11.1	12.9	10.7
Africa of which:	3.1	3.5	1.7	2.1	1.4	2.3	1.8	4.4
Sub-Saharan Africa	1.7	2.8	0.9	1.7	0.9	1.9	1.2	3.2
LDCs	1.1	0.8	0.4	0.6	0.4	0.9	0.6	1.3
OPEC	5.0	5.9	3.3	4.5	2.5	5.5	3.9	7.9

Source: CRS calculations using U.S. Department of Commerce data.