

“한미FTA 재협상,
어떻게 대응할 것인가”

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한미FTA ‘재협상’논란, 비상구는 있는가?1)

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1. 오바마와 민주당 그리고 한미FTA

오바마의 미국이 탄생하였다. 부시 8년을 마감하고 새로이 탄생한 민주당정권과 기존 한미관계의 재조정은 불가피하다. 북핵문제와 한미FTA가 당장 초미의 관심사이다. 북핵문제와 관련해서는 이미 '외교대표부' 설치, 북미정상회담, 북미수교와 같은 로드맵이 회자되는 만큼 우리로선 오히려 한시름을 덜지도 모를 일이다. 하지만 한미FTA의 미래는 여전히 오리무중이다.

오바마가 한미FTA타결 직후부터 일관되게 한미FTA에 대해 반대해 왔음은 잘 알려져 있다. 예컨대 상원의원 오바마는 지난 2008년 2월 11일 '이명박대통령 취임을 맞이하여'라는 제목의 상원의사록에서 다음과 같이 밝히고 있다.

"한미경제관계 또한 양국에 이익이 되었고 양국의 결속을 심화시켜왔습니다. 마찬가지로 나는 예컨대 자동차, 쌀 그리고 쇠고기와 같은 우리의 핵심산업과 농업부문 그리고 노동, 환경기준의 보호에 적절한 주의를 기울이는 협정을 통해 양국의 무역 및 투자 결속을 증진시킬 방안을 지지하기를 기대합니다. 유감스럽게도 한미FTA는 이런 기준을 충족하지 못하고 있습니다."(<자료3,4> 참조)

오바마의 통상정책은 미국의 각 주별로 조직되어 있는 공정무역연합(Fair Trade Coalition)의 공개질의에 대한 답신에 잘 나타나 있다. 예컨대 2월 18일자 위스콘신주 공정무역연합의 공개질의에 대한 답신에서 그는 이렇게 밝히고 있다.

"나는 미국 노동자에게 아무 도움이 되지 않는 북미자유무역협정(NAFTA)과 같은 통상협정에 대한 귀족의 개혁요구를 경청하였고 또 귀족의 좌절감에 대해 공감을 표하는 바입니다. 북미자유무역협정은 투자자에게는 광범위한 권리를 보장한 반면, 노동의 권리와 환경보호의 중요성에 대해서는 단지 립서비스만을 하고 있을 뿐입니다. 십년이 지난 뒤에도 중미자유무역협정(CAFTA)은 마찬가지로 문제점을 안고 있었고 이것이 내가 이 협정에 반대표를 던진 이유입니다. 그리고 또한 이점이 공정무역원칙을 지키는데 실패한 한국, 파나마 그리고 콜롬비아FTA와 같은 다른 협정에 내가 반대하는 이유라 하겠습니다."(<자료5> 참조)

나아가 "한국에서처럼 조세와 규제를 통한 미국 자동차 생산자에 대한 중앙집중적인(centralized) 차별이 다른 미국산 제품과 서비스에 대해 다른 지역의 시장에서 되풀이 되지 않도록 하기 위해, 해외에서 미국생산자들을 위한 동등한 시장접근을 요구할 것입니다."

1) 이 글은 2008년 11월 <한미FTA 졸속비준 반대를 위한 국회비상시국회의>에 발표된 원고를 수정, 개고한 것임을 밝혀 둔다.

이후 민주당 경선과정에서도 언급한 것처럼 오바마가 보기에 한미FTA는 분명 '심각한 결함이 있는' 협정이요(<자료6>) 그 중 특히 자동차부문이 대표적이다. 자동차부문에 강력한 이의를 제기하는 것은 민주당의 강력한 지지기반이자 미 자동차 3사 노조가 위치한 시카고 지역운동을 통해 사회활동을 시작한 정치인 오바마로서 충분히 있을법한 일이다. 그리고 이에 대해서는 대통령 오바마뿐만 아니라 상하양원 모두를 장악하고 있는 민주당 지도부사이에 광범위한 인식의 공감대가 형성되어 있다고 보면 된다.

그렇다면 과연 집권후 오바마 행정부의 접근은 어떤가. 지난 3월 초 발표된 <2009 무역정책 어젠다 및 2008 연례보고서>에서 미 무역대표부는 이렇게 밝히고 있다. “우리는 현재 계류중인 통상협정들을 처리하기 위한 실행 계획을 의회와의 협의하에 마련하고 있는 중이다. 우리는 미-파나마FTA는 상대적으로 신속하게 진행시키기를 바란다. 컬럼비아와 한국과의 FTA와 관련해서는 진전을 위한 기준(benchmarks)을 정할 계획이다.”(<자료12>참조)

그런데 3월 9일 론 커크 미 무역대표부 지명자에 대한 미 상원 재경위 인준청문회 말미에 한 의원이 물었다. “한국에 대해서는 어떤 종류의 기준들(benchmarks)을 갖고 있는가?” 커크의 답변이다. “아직은 명확히 정의된 기준을 갖고 있지는 않다. 현재상태(status quo)로는, 수용할 수 없다.”(<자료13>참조)

당일 재경위 청문회에 대비 제출된 3월 9일자 서면답변에서 커크는 한미FTA에 비판적인 민주당의 스태비노우(Stabenow)의원의 질의에 이렇게 답하고 있다(<자료14>참조)

문: “한미FTA와 관련된 당신의 전략은 무엇인가? 자동차조항과 관련 재협상 계획이 있는가? 있다면 무엇인가?”

답: “우리는 자동차조항과 관련된 우려를 잘 알고 있고 이의 해결을 위해 당신과 협력할 것이다....”

문: “협정문상의 그 외 다른 조항도 협상테이블위에 올려 져야 한다고 생각하는가? 그렇다면 어떤 것인가?”

답: “해결될 필요가 있는 다른 쟁점이 있다는 생각에 반대하지는 않지만, 나는 한미FTA를 전반적으로는(generally) 지지한다.”

특히 쇠고기와 관련 재경위원장 보커스의원은 이렇게 묻고 있다.

문: “나는 한국이 미국산쇠고기에 대해 부분적으로 시장을 개방한 점에 대해서는 기쁘게 본다. 하지만 한국은 지난 4월 미국과 협상한 합의의사록을 완전 이행해야 한다. 한미FTA가 진전될 수 있게끔 한국 쇠고기시장의 완전개방을 지속적으로 압박하기 위해 당신을 믿어도 되는 가?”

답: “2008년 6월 개방이후 30개월 미만 미국산 쇠고기는 잘 팔리고 있다. ... 한국을 비롯한 다른 교역국과 같은 중대한 시장에서 쇠고기 교역을 정상화하기 위해 농무장관 빌색과 긴밀히 협조할 것이다.”

문: “... 미무역대표로서 당신은 특히 한국, 일본 그리고 중국에서 쇠고기시장의 완전개방을 당신 의제의 맨 위에 둘 것인가?”

답: “최우선순위(top priority)에 둘 것이다.”

이틀뒤인 3월 11일자 로이터통신의 보도에 따르면 미하원 세입세출위 무역소위 위원장 레빈의원은 이렇게 말하고 있다. 파나마, 컬럼비아, 한국과의 FTA와 관련해, “의회통과이전 반드시 해결해야할 중요한 쟁점들이 있다.” “기준”을 정하기가 상대적으로 수월한 파나마의 경우 예컨대 40인이하 사업장에 대해서는 노조결성을 금지하고 있는 관련법의 폐지와 파나

마내 조세피난처가 문제다. 반면 컬럼비아의 경우 노동법을 국제노동기구(ILO)수준으로 개정할 것과 특히 노조원에 대한 청부살인 문제를 제기하였다. 이어 레빈은 한미FTA의 경우 자동차문제를 언급한다. 그리고 지금의 미국의 한국차에 대한 수입관세 2.5% 즉시 철폐대신, 15년 뒤에나 한국차 수입관세를 철폐하기를 바란다고 밝혔다. 하지만 미국산자동차의 한국 수출이 일정 기준을 넘어선다면, 한국에 대해 자동차 비관세를 허용할 것이라고 말했다.

FTA등과 같은 통상법안에 대한 미의회내 소관상임위는 하원은 세입세출위, 상원은 재정위다. 특히 하원 세입세출위산하 무역소위는 관련 법안을 가장 처음 다루게 되는 위원회다. 따라서 자동차노조와 가까운 미시간 출신 레빈의원을 거쳐야만 한미FTA 관련 법안은 미의회에서 비로소 논의가 개시된다. 그만큼 강한 입김을 갖고 있다.

커크대표의 발언이 있는 뒤 과연 이것이 재협상요구 인지 아닌지, 그리고 우리 정부측은 공식발언이니 아니니 논란을 삼았다. 그리고 3월 9일자 서면답변에 나온 “전반적으로는 지지한다”를 놓고 “현재 상태로서는 수용할 수 없다”고 한 청문석상에서의 답변과 마치 대립되는 것처럼 보는 보도도 나왔다.

나로서는 이것이 실소를 머금게 하는 그래서 소모적인 논란이라고 본다. 다시 한 번 분명히 해두자면 ‘재협상(renegotiation)’은 명확히 정의된 법률 용어가 아니다. 그저 보통명사에 불과한 이 말을 우리처럼 괴이하게 사용하는 나라도 없을듯하다. 마치 이 말이 ‘추가’협상하고 엄청난 차이라도 나는 것처럼 말이다. 재협상이란 이미 합의된 사항을 고치거나 혹은 여기에 무엇을 추가하는 것을 말할 뿐이다. 그래서 재협상 없는 협상은 아예 있을 수 없다. 공식성 여부 논란도 어이가 없다. 미대통령이, 미국무장관이, 미주무장관이, 소관 상임위 위원장이 말해도 공식적이지 않다면 도대체 누가 말해야 ‘공식적’인가. 그래서 2년 전 한미FTA 타결직후부터 미민주당의 움직임을 분석해 온 바, 나로서는 이렇게 보는 것이 온당하다는 판단이다. 미국은 한미FTA 재협상을 이미 요구하였다.

2. 미국측의 재협상 의제: 자동차와 쇠고기

현재 다른 조건이 불변이라면 미국이 요구할 재협상의제는 자동차와 쇠고기가 주가 될 것으로 보인다. 그 외 쌀이 포함될 지, 그 외 미국측에서 협정 체결당시부터 문제제기된 바 있는 투자철폐 간접수용의 예외조항, 개성공단, 무역구제 완화우려 등이 포함될 지는 현재로서는 분명하지 않다.

그리고 노동, 환경조항등 민주당이 전통적으로 포함시킬 것을 요구해 온 부분은 사실 한미 2007년 5월 부시-펠로시 신통상정책 합의 이른바 ‘5월 10일 합의’(<자료1>참조)이후 재개된 이른바 ‘추가협정’ 혹은 1차 재협상을 통해 지금의 한미FTA 협정문안에 거의 다 반영되었다고 보면 된다. 이후 쇠고기문제와 관련해서는 이명박 정부 취임직후인 2008년 4월 이른바 ‘OIE기준’ 완전준수로 합의 되었지만, 이후 촛불국면에서 미국측의 QSA에 기초해 ‘소비자의 신뢰가 회복될 때까지’ 30개월 미만만 수입하는 것으로 시행중에 있다. 국내언론 보도에 따르면 막스 보커스 미상원 재경위원장은 청문회석상에서 이렇게 언급했다 한다. 보커스 의원은 알려진 것처럼 쇠고기를 주업종 하나로 하는 미몬타나주 상원의원으로서, 쇠고기 개방을 강력히 요구해 온 인물이다. “한국은 반드시 연령에 관계없이 미국산 쇠고기를 수용하는 방안을 찾아야 할 것”이라며 “그래야만 한.미FTA가 기여할 수 있을 것”이다. 뿐만 아니라 위 커크에 대한 서면질의에서 보듯이 30개월 이상 완전개방을 사실상 한미FTA ‘진전

을 위한 벤치마크'로 삼을 것을 우회적으로 압박하고 있고, 커크 역시 '최우선순위'로 하겠다 답변하였다.

작년 촛불정국 이후 여야는 국회에서 <가축법> 개정에 합의한 바 있다. 여야 합의 조항 가운데 “일본과 대만의 협상조건이 우리나라보다 유리할 경우” 우리도 미국과 쇠고기 재협상을 하기 위해 노력한다는 것이 들어 있다. 작년 쇠고기 협상 당시 미국은 자국이 국제수역사무국(OIE)을 통해 획득한 ‘광우병통제국’ 지위에 입각 모든 부위, 모든 연령대 쇠고기를 수입할 것을 요구했고 우리 정부는 이를 전적으로 수용한 바 있다. 바로 이 때문에 촛불이 점화되었다. 하지만 촛불의 압력에 밀려 당시 여야가 합의한 인접국과의 형평성에 기초한 재협상 노력이라는 조항은 어쩌면 매우 상식적인 조항이다.

그런데 <2009년 무역정책 어젠다 및 2008년 연례보고서> 어디를 뒤져 봐도 일본과 대만도 미국이 요구하는 소위 국제수역사무국 기준을 수용했다는 구절은 없다. 일본은 여전히 20개월 미만 기준을, 대만, 홍콩 역시 30개월 미만 살코기 기준을, 그리고 중국은 아예 수입금지를 고수하고 있다. 물론 협상이 끝나지 않았고, 또 언제 끝날지 아무도 모르는 상황이다. 이런 상황에서 한미FTA 재협상과 연계해 미국이 다시 30개월 이상도 이제 수입하라고 요구할 것이 예상되는 것이다. 그리고 실제 30개월 이상 쇠고기의 수출비중이 3-5% 정도에 불과한 만큼 보커스의원의 주장은 한국 뿐만 아니라, 여전히 OIE 기준을 수용하고 있지 않은 일본, 대만, 중국 등 주변국을 겨냥한 것이라고 보아야 한다. 한국의 OIE 기준 완전수용을 대 인접국 협상의 교두보로 삼고자 하는 것이니 만큼, 이 요구는 상당히 집요할 것으로 보인다.

미무역대표부 연례보고서가 말하고, 무역대표부 대표가 확인하고, 소관상임위 위원장이 구체화하고 있는 의회통과 기준 곧 ‘벤치마크’는 위에서 보듯 아주 구체적이다. 그냥 나온 것이 아니다. 특히 한국산 자동차 수입관세 15년 뒤 철폐, 관세와 한국내 내수시장에서의 미국산 자동차 점유율과 연동주장은 사실 이 번이 처음이 아니다. 특히 레빈위원장은 한미FTA가 타결되기 훨씬 이전부터 ‘한미자동차 공정무역법안’ 등을 통해 이런 주장을 해 온 사람이다. 2006년 11월 중간선거를 통해 미의회를 장악한 민주당은 부시가 추진하던 각종 FTA에 급제동을 걸기 시작한다. 특히 한미FTA 마지막 협상 즈음에 민주당은 공화당과 함께 ‘초당적 의회제안’을 당시 미무역대표부에 던지면서 강하게 압박을 가했다. 협상 막바지인 2007년 3월에 불거진 민주당의 강공 드라이브는 협상팀 모두를 곤혹스럽게 했다.

2007년 3월 한미FTA 타결직전 미민주당이 미무역대표부에 요구한 자동차협상안을 보자. 당시 7개가 문제가 되었다. 하나 빼고 나머지 6개 모두 관철되었다.

- (1) 이른바 '스냅백(snap-back)'조항이다. 우리가 협정을 위반하면, 해당사안에 대한 시정이 아니라 미국이 철폐키로 한 2.5%관세를 원위치한다는, 전대미문의 독소조항이다.
- (2) 배기가스등 각종 표준 관련해서 미국측에 특혜를 달라는 것이다. 환경부의 강력한 반대에도 결국 들어 주었다.
- (3) 자동차 관련 특소세, 자동차세를 개정하고 앞으로 배기량기준 세제를 시행하지 말라는 것이다. 명백한 조세주권 침해임에도 수용하였다.
- (4) 다음으로 신차구입시 구매하는 지하철공채를 일정 시일뒤 약 80%를 회수할 수 있다는 '확인서한',
- (5) 차량 보험료설정에 있어 수입차, 국산차를 차별하지 않는다는 '확인서한'이다.
- (6) 자동차기술규정이 미국에 불리한 무역장벽이 되어서는 안된다는 조항을 만들자는 것이다. 다 수용되었다. 그렇다면 남은 한 가지, 가장 중요한 것이 무엇일까. 한국내 시장에서

미국차의 수입이 '상당한 수준'에 이른 뒤 미국의 자동차관세 2.5% 철폐를 협의한다는, 그리고 그 '상당한 수준'을 정할 때 OECD회원국 평균인 40%를 고려하자는 것이다. 쉽게 말해 '상당한 수준'이 되기 전까지 관세철폐를 못한다는, 달리 말해 한국 내수시장의 일정 부분을 내놓으라는 말이다. 레빈위원장이 한미FTA 의회통과를 위한 '기준'으로 언급한 바로 그 내용이다.

그동안 정부측이 한미FTA를 그토록 자랑스러워했던 이유는 사실 자동차협상 때문이라고 해도 과언이 아니다. 그도 그럴 것이 백 개가 훨씬 넘는 협상쟁점가운데 거의 8할은 미국이, 고작 1할 못 미쳐 우리가 협상목표를 달성했다. 자동차 관련한 우리측의 협상목표는 '조기'철폐였다. 통상협상에서 '조기'란 대개 3년 정도라고 본다. 그런데 결과는 '즉시'철폐였다. 당연히 그에 상응한 무엇을 넘겨주었을 것이다. 하지만 사실 거의 유일하게 협상목표를 '초과'달성한 경우다. 그러나 미국의 셈법은 달랐다. 당시 미국 협상대표가 의회에 증언한 바에 의하면, 현대기아차의 대미 수출물량이 약 60만대인데, 어차피 수년이내 현대기아차의 미국 내 현지법인의 현지생산량의 비중이 70%에 달할 것이므로 관세 철폐해줘도 미국이 손해 볼 일이 없다는 말이다.

자동차 관세가 '즉시'철폐로 타결된 뒤 당시 환호작약하던 모습이 눈에 선한데, 이제 어쩔 것인가. 3년 뒤가 무언가, 지금 미국은 15년 뒤를 말하고 있다. 사실 자유무역하고는 무관한 차라리 미국산 자동차의 강제판매와 다름없는 새로운 세일즈 전략을 들이 대고 있지 않은가. 그토록 자랑하던 한미FTA의 성과가 모래성처럼 무너질 지경이다. 이제 뭐라고 말을 바꿀 것인가. "한미FTA 재협상, 추가협상없다"고? 그러면 한미FTA가 통째로 날아갈 판이다. 만에 하나 우리가 선비준할 경우, 최후의 협상카드를 날릴 뿐만 아니라, 재비준도 염두에 두어야 할 것이다.

3. 미민주당의 <2009년 신통상법>

2006년 11월 중간선거를 통해 미민주당은 의회권력을 탈환하였다. 선거과정에서 미민주당은 NAFTA 10년, 미유권자들의 '자유'무역에 대한 비판론, 회의론의 광범위한 확산과 피로감을 정치적으로 동원하는데 성공하였고, 그 결과 30여석의 '공정무역론자(fairtrader)'들이 자유무역론자들을 낙선시키고 의회에 진출하였다. 이후 이들은 '신통상정책'을 입안하였고, 부시의 USTR을 압박, 이미 페루의회가 비준을 마친 미-페루FTA, 서명을 완료한 상태였던 미-콜롬비아FTA, 파나마FTA, 당시 협상중이었던 한미FTA 모두에 재협상을 요구 결국은 관철시켰다. 당시 한국정부 협상단은 이를 '추가협약'등으로 본질을 호도했지만, 미민주당 입장에서는 페루, 콜롬비아, 파나마, 한국 모두가 노동, 환경 조항을 중심으로한 자신의 의제 즉 신통상정책에 따른 재협상에 다름 아닌 것이었다. 지난 2008년 11월의 연방선거에서도 미민주당의 공정무역론자들은 마찬가지로 30여석을 확보 세의 확장에 성공하였다. 현재 이른바 미의회내 '공정무역론자'들은 약 70석 전후인 걸로 파악되고 있다.

미민주당의 통상정책과 관련된 새로운 흐름을 잘 보여주는 것이 2008년 6월 4일 민주당 상원의원 서로드 브라운(Brown), 하원의원 마이크 미쇼드(Michaud)의원외 하원 53명, 상원 4명이 발의한 TRADE 법안 (Trade Reform, Accountability, Development and Employment Act)이다. 이 법안은 또한 미국내 AFL-CIO, Change to Win과 같은 노동단체, Friends of Earth, Sierra Club과 같은 환경단체, National Farmers Union, Institute of Agriculture and Trade Policy와 같은 농민단체, Public Citizen, Citizens Trade

Campaign과 같은 시민단체의 전폭적인 지지속에 발의되었다. 이 2008년 통상법이 원안대로 통과될 것인지 여부와는 무관하게, 이 법안의 내용은 미민주당과 미시민사회내에서 단편적을 논의되던 통상정책 개혁의 흐름들을 하나로 묶어 체계화하고 있다는 점에서 상당히 주목할 만하다. 법안의 주요내용을 보기로 하자. 2009년 현재 TRADE 법안은 재발의가 추진 중이다.

첫째, 재평가 대상이 되는 조약의 목록을 열거하고, 노동환경기준에 대한 정의를 포함시킨다.

둘째, 2010년 6월 10일까지 연방회계감사국(GAO)는 협정에 따른 국내외 경제적 영향과 각종 안전 및 사회 지표를 포함하여 기존 통상조약에 대한 포괄적 재평가를 실시한다.

셋째, 노동, 환경, 식품, 공산품 안전기준, 국가안보상의 예외 그리고 무역구제와 연방주의의 보호, 강화는 미국의 모든 통상협정에 포함되어야 한다. 북미자유무역협정 모델은 전통적 통상문제를 훨씬 넘어서고 있기 때문에, 법안은 이 부분과 관련해 공공서비스, 농업정책, 투자, 정부조달 그리고 의약품에 관련된 이행요건을 제시하고 있다.

넷째, 대통령은 현행 협정과 본 법안에서 제시된 기준사이에 연방감사원장이 확인한 차이점을 해결하기 위한 재협상 계획서를, 새로운 협정을 협상하거나 현재 계류중인 협정을 의회가 심의하기 “이전에” 제출해야 한다.

다섯째, 대통령의 재협상 계획서를 심의하기 위해 그 관할권에 있어 오늘날의 팽창적인 “통상” 협정들에 관련된 각 상임위의 위원장 및 간사로 구성된 별도의 위원회를 신설한다.

여섯째, 기존 신속협상절차(fast track)를 대신할 새로운 제도를 위한 ‘비구속적인 의회 결의안(sense of the Congress)’조항을 제시하고 있다. 이 새로운 절차는 미래의 협상파트너를 선정하기 위한 의회의 협상대기 기준(readiness criteria)을 포함하고 있고, 의회가 제시한 협상목표가 충족되었다고 의회가 확인한 뒤, 협정문 서명이전에 의회 투표가 실시되어야 한다.

우리로서 이 법안의 내용가운데 특히 서비스조항, 투자조항은 각별한 관심을 끌기에 충분하다.

(4)서비스 기준

협정문에 서비스 관련 조항이 포함된다면, 이 조항은

(A) 필수 공공 서비스를 유지하고 공공의 이익을 위하여 미국내 소비자에게 제공되는 서비스를 규제할 수 있는 연방정부, 주정부, 지방정부의 권한을 유지한다

(B) (i) 체약당사국은 협정문상 체약국의 의무에 해당되는 모든 서비스부문의 포지티브 리스트(positive list)를 제시하도록 한다.

(ii) 협정은 (i)의 리스트에 기재된 서비스부문에만 적용되어야 한다.

(C) 체약국이 유지하게끔 허용하는 시장접근상의 일반적 예외를 확보하고 국내외 서비스와 서비스공급자에게 적용될 때 유해하다고 간주되는 서비스에 대해서는 시장접근이 금지되어야 한다.

(D) 미국내 소비자에게 서비스를 공급하는 체약국 각국의 서비스 공급자는 미국의 환경, 토지이용(land use), 안전, 프라이버시, 투명성, 전문 자격 그리고 소비자 접근법과 규제를 준수하여야 한다.

...

(F) 국가안보, 사회보장, 보건, 공공안전, 교육, 물, 위생, 기타 시설, 항만, 운송과 관련된 서비스를 포함하여 체약국 각국의 공공서비스의 민영화 또는 탈규제를 요구해서는 안 된다.

(5) 투자기준

협정문에 투자관련 조항이 포함된다면, 그 조항은

- (A) 체약국이 자국의 필요와 우선순위에 따라 외국인 투자를 규제할 권한을 유지해야 한다.
- (B) 글로벌 금융불안과 무역불안정(volatility)을 감소하기 위해 체약국에 투기자본에 대한 건전성(prudential) 규제를 허용한다.
- (C) 협정상의 투자자-국가 분쟁해결제도(ISD)에 종속되지 않는다.
- (D) 미연방헌법이 미국내 투자자에게 부여한 권리이상으로 외국인투자자에게 권리를 부여해서는 안 된다.
- (E) 외국인투자자의 실질 자산 가치의 전부를 파괴하는 정부조치와 관련해서는, 정부 대 정부 간 분쟁 해결의 기회를 제공한다.
- (F) '투자'라는 용어는 자본의 투입(commitment) 또는 실질 자산의 획득이상을 의미해서는 안되며, 위협의 가정 또는 이익 또는 이윤의 기대치를 포함해서는 안 된다.
- (G) '투자자'라는 용어는 위(F)호에 기술된 자본의 투입(commitment) 또는 획득 하는 자만을 의미한다.
- (H) '직접수용'이란 용어는 정부조치로 인해 소유물의 가치가 감소되는 것을 의미하는 것이 아니라, 소유물의 모든 가치가 그로 인해 항구적으로 파괴하는 것으로 정의한다.
- (I) 천연자원, 공공근로 또는 정부통제하 기타 활동과 관련 체약국 정부와 외국인 투자자간의 계약의 집행과 관련하여 분쟁해결절차는 제공되지 않는다.
- (J) 최소대우기준은 제14차 개정헌법 제1부상의 적정절차조항에 의거 미합중국 시민이 누리는 법적 권리 이상을 제공하는 것은 아니라고 정의한다.

요약하자면 서비스부문에서는 (1) 네거티브리스트대신 포지티브리스트의 채택 (2) 필수 공공서비스부문에 대한 민영화 및 탈규제 반대가 그 핵심이라고 할 수 있다. 그리고 투자와 관련해서는 (1) ISD 적용 배제 (2) 투자, 투자자에 대한 엄밀한 개념 정의 (3) '투자계약'에 대한 분쟁해결절차 적용 제한 (4) 미국내 외국인 투자자에 대한 권리 제한등이 그 요점이라 하겠다.

노동, 환경 기준외 우리가 주목할 만한 그 외 조항들을 살펴보자면 이러하다.

(3) 식품 및 공산품 위생 안전기준

협정문에 위생, 안전관련 조항이 포함된다면, 그 조항은

- (A) 식품, 사료, 식품 첨가물 그리고 기타 관련 식품은 식품안전, 병충해, 검사, 포장 그리고 라벨링과 관련된 미합중국의 기준을 충족하거나 초과할 때에만, 체약국으로부터 미합중국으로의 수입이 허용된다.

...

(C) 그러한 기준이 공중보건과 안전을 보호한다고 명백히 입증되지 않는 한, 공중보건과 안전을 보호하기 위해 마련된 위생, 안전기준 의무를 체약국이 부과할 수 있도록 허용된다.

(6) 정부조달 기준

협정문에 정부조달 관련 조항이 포함된다면, 그 조항은

(A) 체약국은 협정상 체약국의 의무가 적용되는 제조업부문, 제품 및 서비스의 열거목록(positive list)를 제시해야 한다.

(7) 지적 재산권 기준

협정문에 지적 재산권 관련 조항이 포함된다면, 그 조항은

...

(B) 2001년 11월 14일 카타르 도하에서 개최된 WTO 제4차 각료회의에서 채택된 <지재산권 협정(TRIPS)과 공중보건에 관한 선언>에서 확립된, 특히 협정가입국이 결정한 근거에 따라 의약품 접근권의 촉진과 강제실시(compulsory licenses) 발동과 관련된 유연성과 권리를 명시적으로 또는 그 적용에 있어 제한하지 아니하는 특허 관련 조항만을 포함해야 한다.

(8) 농업기준

협정문에 농업 관련 조항이 포함된다면, 그 조항은

(A) 체약국의 농민들에게 적절하고 안정적인 시장 소득을 보장한다.

(B) 소비자들에게 안전한 식품을 적정하게 공급하도록 보장한다.

...

(D) 체약국의 농업 노동자에 대한 공정한 대우를 보장한다.

(9) 무역구제와 세이프 가드 기준

협정문에 무역구제 조항이 포함된다면, 그 조항은

...

(D) 수입품 범람으로 인한 미합중국 노동자, 기업 또는 농민의 경제적 부담을 초래하지 않도록 보장하기 위해 미합중국이 적절한 세이프가드를 유지하도록 허용하며, 아울러 이 세이프가드가 일정 기준하에 자동 발동되는 것을 포함한다.

(E) 체약국은 상당한 통화 이동이 무역에 미치는 결과를 조사하고, 일국의 통화가 국제무역상 비교우위를 촉진하기 위해 불합리하게(misaligned)된 것은 아닌지 면밀히 검토할 기구를 설치한다.

(F) 만일 체약국 일방의 통화가 의도적으로 불합리하다면(deliberately misaligned), 실질적이며 지속적인 통화이동을 상쇄하기 위해 자동 적용되는 세이프가드 구제조치가 확보되어야 한다.

적어도 실패한 협정으로 간주되는 'NAFTA식', 그것도 'NAFTA 플러스'라 할 한미FTA 협

정문과 비교해 볼 때, 2008년 미통상법 초안에 포함된 내용에서 볼 때 한미FTA 협정문은 핵심조항을 비롯 상당한 수정이 불가피하다. 한미FTA 협상 당시 정부측은 미국형 FTA의 특징적 구성요소가운데 하나인 네거티브리스트의 채택을 세계적 추세인양 자랑스러워했고, 자동법 역시 여기에 기초해 만들어진 것이다. 포지티브 리스트의 채택은 정부조달에서도 확인된다. 그리고 보건의료, 교육, 물등 필수 공공 서비스에 대한 민영화 및 규제완화를 서비스산업 '선진화'로 착각하고 있는 것도 여전하다. 나아가 ISD는 협상 당시부터 격렬한 논란을 불러일으켰지만 결국 미국의 요구대로 관철되었고, 투자, 투자자의 정의 역시 마찬가지이다. 세계에서 거의 최초로 '투자계약'이 포함되었고 또 ISD의 적용대상이 되었다. 그럼에도 불구하고 당시 정부는 미국과의 재협상을 통해 미국이 요구하는 미 2002년 통상법상의 조항 즉 외국인 투자자가 미국내에서 미국투자자보다 더 우월한 대우를 받지 못한다는 조항을 그것도 협정문 서문에다 받아 주었다.

지적 재산권 조항에서도 의약품 접근권과 '강제실시권' 언급은 한미FTA '허가-특허 연계'와의 상충가능성을 고려해야 하는데, 사실 이는 미민주당의 신통상정책에서 이미 철폐를 언급한 내용이다. 하지만 한미FTA 재협상과정에서 우리는 이를 전혀 관철시키지 못한 바 있다. 식품안전과 관련해서도 올 해 쇠고기협상을 떠 올릴 수밖에 없고, 한미FTA 농업조항이 2008년 통상법과 조화되는 지도 면밀히 검토되어야 한다. 무역구제는 오히려 강화되는 추세이며, 환율시장 불안의 만성화로 가고 있는 한국 환율시장의 상황에서 볼 때 외환의 급격한 진출입과 관련된 세이프가드를 재점검할 필요성을 증대시키고 있다. 특히 대표적인 부실협상 사례인 금융세이프가드 역시 재검토되어야 한다. 아울러 농업 특별세이프가드 역시 영터리 협상의 전형인 바, 미 2008년 통상법의 취지에서 보자면 전면 재협상되어야 할 것들이다.

2008년 통상법의 향방과는 관계없이 이 법안은 미국내에서 통상정책 개혁의 향방을 예고하는 것이다. 그리고 그 내용은 한미FTA의 핵심조항과 상당부분 상충하는 것들이다. 우리 국회가 선불리 선비준동의에 나설 필요도 또 그래서도 안 되는 이유 가운데 하나는 바로 이러한 미국내 논란과 논의가 지금도 진행중이며 그 결과를 아직은 예단할 수 없기 때문이다. 그리고 그 내용중 상당 부분은 우리의 입장에서조차 전혀 불리한 것들이 아닌, 오히려 독소조항을 제거하기에 좋은 기회가 될 수 있기 때문이다.

오바마 집권후 여론의 압도적 지지하에 통과된 정부조달분야의 '바이 어메리칸'규정에서 보듯 미국내 분위기는 얼핏 보호무역이 탄력을 받는 모습이다. 여기에 전통적인 신자유주의 '자유'무역과 민주당의 새로운 공정무역까지 더해져 현재로서는 어느 방향으로 미국 통상정책이 전개될 지 예단하기 어렵다. 현재로서는 일단 정지가 최상책이다.

4. 한국의 재협상의제: 시민사회와 '공공외교'(public diplomacy)의 관점에서

정부측에서는 '재협상'은 결코 없다고 수차 밝힌 바 있다. 그러나 정부측의 이 말을 액면대로 믿을 사람이 얼마나 될까. 진정 재협상을 하지 않으려면, 그에 대비한 준비를 하면 될 일이다. 즉 대항카드를 만들고 비축하면 된다는 말이다. 어떤 것이 있을까. 그 리스트를 만들어 본다.

첫째, 오바마 당선자도 수차례 언급한 것처럼 '쌀'이 안전한 것은 아니다. 그를 위해서는 한미FTA 전분야를 통털어 가장 실패한 부문중 하나인 농업의 재협상을 뺄 수는 없다. 미민주당의 통상정책은 특히 식품안전을 강조한다. 우리로선 광우병 쇠고기가 그러하다.

둘째, 로스쿨에서 헌법학을 가르쳤던 오바마 당선자는 '투자자-정부 소송제(ISD)'를 두고 강한 문제제기를 해온 사람이다. 즉 미연방정부에 대한 외국인 투자자의 제소권은 제한되어야 한다는 말이다. 일리가 있다. 차제에 이 말 많은 제도를 손 봐야 한다.

셋째, 미국이 재협상을 요구한다면 여럿 중 역시 자동차가 제1번이다. 자동차가 우리에게 유리한 협상이라는 것은 사실 착각이다. 자동차 관련 조항가운데 '스냅백 (한국이 협정위반 시 2.5% 자동차수입관세 철폐를 무효화하는 것)'조항은 대표적인 독소조항이다. 이 전대미문의 황당한 불평등조항은 당연히 삭제되어야 한다.

넷째, 미민주당은 페루, 콜롬비아, 파나마와 FTA 재협상을 하면서 이른바 의약품 특허권과 시판허가를 연계하는 허가-특허연계조항을 삭제한 적이 있다. 왜냐 하면 그만큼 이 조항은 초국적 제약회사에게만 유리하고 해당국 시민뿐만 아니라 심지어 미국인들의 약가부담을 증가시킬 문제조항이기 때문이다. 하지만 한국은 제외시켰다. 차제에 의약품분야를 통털어 가장 잘못된 조항인 이 조항을 삭제하자.

다섯째, 미국발 금융위기와 더불어 공론화되고 있는 한미FTA 금융서비스장이다. 한미FTA는 금융위기의 뇌관 역할을 한 CDS (신용부도스왑)등과 같은 파생상품에 대한 규제를 풀어놓았다. 아울러 일시적 송금제한과 같은 금융 세이프가드도 부실협상했다. 따라서 파생상품, 헷지펀드, 사모펀드, 금융세이프가드 조항등은 금융위기이후의 세계적 추세에 맞게 대폭 손질해야 한다.

여섯째, 한미FTA에는 '래킷' 메카니즘이라는 것이 있다. 이른바 한번 규제를 완화하면 다시는 되돌릴 수 없도록 소위 '역진방지'를 위한 시스템이다. 주로 한미FTA 투자와 서비스조항에 숨어있다. 이는 우리의 공공정책 선택권을 원천박탈하는 주권침해적 조항이다. 이번 기회에 말끔히 걸러내야 한다.

일곱째, 현재 우리가 목격하고 있는 한국영화의 위기는 한미FTA '이후'의 예고편이다. 한미FTA를 위해 가장 먼저 잘려나간 스크린쿼터가 물론 한국영화 위기의 유일 원인은 될 수 없다. 하지만 가장 중요한 원인가운데 하나임에는 틀림없다. 한미FTA가 발효되면 지금보다 더한 위기가 와도 스크린쿼터를 단 하루도 늘일 수 없다. 잘못된 협상의 결과이므로 바로 잡아야 한다.

여덟째, 협정문에는 '역외가공지역'이라 표기되어 있는 개성공단을 통상관료들은 성공한 협상이라고 말한다. 그러나 자세히 들여다보면 엉망이다. 미국이 달아놓은 개성공단 관련 각종 단서조항들을 걷어내야 개성공단이 제구실을 할 수 있다.

아홉째, 협상당시 반드시 가져온다고 통상관료들이 큰소리쳤던 것이 '전문직비자쿼터'이다. 아직도 감감 무소식이다. 분명히 요구해야 한다.

열 번째, 미민주당하에서 미국의 '무역구제'관련 규제는 강화될 전망이다. 협상당시 우리측은 무역구제분야를 협상의 '전략적' 목표 운운한 바 있다. 결과는 완전 실패였다. 분명 보완이 요구되어야 한다.

열 한번째, 한미FTA는 저작물의 무단복제, 전송등을 허용한 인터넷사이트에 대한 '폐쇄'조치마저 인정해준 전대미문의 협상이었다. 이와 관련된 부속서한은 삭제되어야 한다.

아래 표는 한미FTA를 '공정성'의 관점에서 재협상되어야 할 사항들을 정리한 것이다.

한미FTA협정문	해당 조항	개폐	비고
서문	국내법에 따른 투자자 권리의 보호	삭제	미통상법의

	가 미합중국에 있어서와 같이 이 협정에 규정된 것과 같거나 이를 상회하는 경우, 외국 투자자는 국내법에 따른 국내투자자보다 이로써 투자보호에 대한 더 큰 실질적인 권리를 부여받지 아니한다는 것에 동의하면서,		해당구절로서 불평등조항, 추가협상에 미국의 요구로 삽입
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제2.12조 배기량 기준 세제	3. 대한민국은 차종별 세율의 차이를 확대하기 위하여 배기량 기준에 기초한 새로운 조세를 채택하거나 기존의 조세를 수정할 수 없다.	삭제	불평등 조항, 조세주권침해
부속서 3-가 농업 긴급수입제한조치		재협상	섬유세이프가드와 비교해 불균형
제10장 무역구제		재협상	미 제로잉 조항등 개정해야
제5장 의약품 및 의료기기 제5.2조 혁신에의 접근(100)	나. 적절한 규제당국이 안전하고 유효한 것으로 승인한 의약품 또는 의료기기에 대한 급여액을 그 당사국이 결정하는 경우, 그러한 결정이 경쟁적 시장도출 가격에 기초하도록 보장한다.... 1) 특허 의약품 또는 의료기기의 가치를 자국이 제공하는 급여액에 있어 적절히 인정한다.	‘시장도출 가격’, ‘가치’등 용어 명료화 아니면 삭제	
제11장 제2절 투자자와 국가간 분쟁해결		전면재협상	
제11장 제3절 정의 투자(205)	라. 선물, 옵션과 그 밖의 파생상품 ... 바. 지적 재산권	삭제	
제11장 제3절 정의 투자계약 (205)	... 나. 발전 또는 배전, 용수 처리 또는 분배, 또는 통신과 같이 당사국을 대신하여 공중에 서비스를 공급하는 권리, 또는 다. 정부의 배타적 또는 현저한 이용과 혜택을 위한 것이 아닌, 도로, 교량, 운하, 댐 또는 배관의 건설과 같은, 기반 시설사업을 수행할 권리	삭제, 최소한 ‘투자계약’에 대한 ISD 적용 배제	필수 공공 서비스에 대한 ISD 적용 배제
부속서 11-나 수용 (209-210) 3. 간접수용	... 나. 예컨대, 행위 또는 일련의 행위가 그 목적 또는 효과에 비추어 극히 심하거나 불균형적인 때와 같은 드문 상황을 제외하고는, 공중보건, 안전, 환경 및 부동산가격안정화 (예컨대 저소득층 가계의 주거여건을	간접수용 삭제	USTR자문위에서도 위헌소지 논란

	개선하기 위한 조치를 통한)와 같은 정당한 공공복지 목적을 보호하기 위하여 고안되고 적용되는 당사국의 비차별적인 규제 행위는 간접수용을 구성하지 아니한다.		
제11.12조 비합치조 치	1. 제11.3조, 제11.4조, 제11.8조 및 제11.9조는 다음에 적용되지 아니한 다. 다. 가호에 언급된 비합치조치의 개 정. 다만 그 개정은 제11.3조, 제 11.4조, 제11.8조 및 제11.9조와 그 개정 직전에 존재하였던 조치의 합 치성을 감소시키지 아니하여야 한다.	삭제 내지 개 정	래 칫 (ratchet)조 항, 미래의 공공정책권 제한, 주권 침해
부속서 11-사 송금	가. 1년이하의 기간동안 유효할 것. 다만, 극히 예외적인 상황이 발생하 여 대한민국이 그러한 조치를 연장 하고자 할 경우, 대한민국은 사전에 어떠한 연장안의 이행에 관하여도 미합중국과 조율한다. ... 라. 모든 제한된 자산에 관하여 대한 민국 영역에서 시장 수익률을 획득 할 수 있는 투자자의 능력을 달리 방해하지 아니할 것 마. 미합중국의 상업적, 경제적 또는 재정상의 이익에 대한 불필요한 손 해를 피할 것 2. 제1항은 다음을 제한하는 조치에 는 적용되지 아니한다. 가. 경상거래를 위한 지급 또는 송 금. 다만, 다음의 경우는 제외한다. 1) 그러한 조치의 부파가 국제통 화기금협정 조항에 규정된 절차에 합치하고 2) 대한민국이 그러한 조치를 미 합중국과 사전 조율하는 경우, 또는 나. 외국인 직접투자와 연계된 지급 또는 송금	재협상, 금융 세이프가드의 실질적 확보	독소, 불평 등 조항
제12.6조 비합치조 치		삭제 내지 개 정	래 칫, 예 컨 대 이 조항

	1. 다. 가호에 언급된 비합치조치의 개정. 다만, 그 개정은 제12.2조, 제12.3조, 제12.4조 또는 제12.5조와 그 개정 직전에 존재하였던 조치의 합치성을 감소시키지 아니하여야 한다.		에 의거 현행 유보(부속서I)에 포함된 스크린 쿼터는 향후 단 1일도 늘일 수 없게됨
제13.20조 정의 금융서비스 (263-264)	차. 거래소 및 장외시장, 또는 다른 방법으로, 다음을 자기계산 또는 고객계산으로 거래하는 것 ... 3) 선물 및 옵션을 포함하나 이에 한정되지 아니하는 파생상품 4) 스왑, 선도금리계약과 같은 상품을 포함하는 환율 및 이자율 상품 카. 주간사로서의 인수 및 매출을 포함하여 모든 종류의 증권 발행에의 참여(공모 또는 사모) 및 그러한 발행과 관련된 서비스의 제공	대폭 개정, 최소 파생상품 삭제	KIKO 사례, 선도금리계약(Forward Rate Agreements)등 파생상품, 사모펀드, 헷지펀드등 규제강화해야
제13.6조 신금융서비스 (252)	각 당사국은 그 당사국에 의한 추가적인 입법행위없이 동종의 상황에서 자국의 금융기관이 공급하는 것을 허용할 모든 신금융서비스를 다른 쪽 당사국의 금융기관도 공급할 수 있도록 허용한다. ... 당사국이 금융기관에게 신금융서비스 공급을 위한 인가를 획득할 것을 요구하는 경우, 그 당사국은 합리적인 기간내에 그 인가를 발급할 것인지 여부를 결정하며, 그 인가는 건전성 사유로만 거절될 수 있다.	개정 (예컨대 “... 그 인가는 건전성 사유등으로 거절될 수 있다.)	파생상품등 신금융상품 규제강화
제18.9조 특정 규제 제품과 관련된 조치 제5항	나. 제품 또는 그 승인된 사용방법을 대상으로 하는 것으로 승인당국에 통보된 특허존속기간 동안 특허권자의 동의 또는 묵인없이 다른 인이 제품을 판매하는 것을 방지하기 위한 시판승인 절차에서의 조치를 이행한다.	이른바 “허가-특허 연계” 조항, 삭제	약가인상을 초래하는 대표적인 독소조항. 미민주당의 신통상정책에서 이미

			철폐권고
관련 부속서한 (399)	미합중국 또는 대한민국 중 어떠한 당사국도 협정 제18.9조 제5항 나호에 따른 다른 쪽 당사국의 의무에 대하여 협정 발효일 이후 처음 18월 동안 협정 제 22.4조를 발동하지 아니할 것이다.	제18.9조 제5항 삭제와 연계	
부속서한 (395)	양당사국은 저작물의 무단 복제·배포 또는 전송을 허용하는 인터넷 사이트를 폐쇄하는 목적, 에 동의한다.	삭제	인터넷사이프 폐쇄조항, 세계적으로 유례없음
부속서 22-가 자동차에 대한 대체적 분쟁절차	5. 최종 보고서에서 패널이 다음을 판정하는 경우, 제소당사국은 관세세번 8703호의 원산지 상품에 대하여 그러한 상품에 대한 현행 최혜국 실행관세율을 초과하지 아니하는 수준까지 관세율을 인상할 수 있다. 가. 피소 당사국이 이 협정상 의무에 합치하지 아니하였거나, 또는 피소 당사국의 조치가 제22.4조 다호의 의미상의 무효화 또는 침해를 초래하고 있다. 그리고 나. 패널이 판정한 불합치나 무효화 또는 침해가 제소 당사국의 원산지 상품의 판매, 판매를 위한 제의, 구매, 운송, 유통 또는 사용에 실질적으로 영향을 주었다.	불평등, 독소조항	이른바 ‘스냅백 (snap-back) 조항, 세계통상무역사에서 최초로 도입되는 조항
부속서 22-나 한반도 역외가공지역 위원회	3. 위원회는 역외가공지역들로 지정될 수 있는 지리적 구역들을 결정한다. 위원회는 역외가공지역으로부터의 상품이 이 협정의 목적상 원산지 상품으로 간주될 수 있기 전에 충족되어야 하는 기준을 수립한다. 그 기준은 다음을 포함하나 이에 한정되지 아니한다. - 한반도 비핵화를 위한 진전 - 역외가공지역들이 남북한 관계에 미치는 영향, 그리고 - 그 역외가공지역에서 일반적인 환	삭제	개성공단의 사실상 무력화

	경 기준, 노동 기준 및 관행, 임금 관행과 영업 및 경영 관행. 이 경우 현지 경제의 그 밖의 곳에서 일반적인 상황 및 관련 국제규범을 적절하게 참고한다.		
	5. 위원회의 일치된 동의에 따라 내려진 결정은 양 당사국에게 권고되며 양 당사국은 역외가공지역들에 대하여 이 협정의 개정을 위한 입법적 승인을 구할 책임을 진다.		
부속서I (517)	대한민국 내 영화상영관 경영자는 각 상영관에서 연간 73일이상 한국 영화를 상영하여야 한다.	삭제 또는 부속서II(미래유보)로	스크린쿼터
부속서II 대한민국의 유보목록 투자(536)	1. 대한민국은 투자의 설립 또는 인수와 관련하여 외국인투자촉진법(2007) 제4조와 외국인투자촉진법시행령(2007) 제5조에 따라 공공질서유지를 위하여 필요한 어떠한 조치도 채택할 권한을 유보한다.	개정, 공공질서 뿐만 아니라 공중보건, 환경, 안전등을 추가해야	
부속서II 대한민국의 유보목록 투자(537)	2. ... 그러나 대한민국이 그 조치가 제1항 가호 내지 마호까지의 모든 조건을 충족하였음을 중재판정부가 만족하도록 입증한 경우 청구인에게 유리한 판정이 내려질 수 없다.	삭제	‘입증 책임’ 조항으로 전형적인 불평등조항

5. 맺는 말

한미FTA와 관련해 오바마정부와 민주당 의회이 선택가능한 옵션은 대략 3가지일 것으로 예상된다.

첫째는 한미FTA 협정문의 개정(reopen)이다. 아마 우리 정부로서는 최악의 경우이다. 설사 오바마 행정부가 이를 추진하지 않더라도 민주당 의회가 이를 주장할 가능성도 없지 않다.

만일 미 상원이 30개월 이상 쇠고기 수입을 '벤치마크'로 요구한다면 이를 일종의 선결조건으로 처리해야 한다. 하지만 2008년 개정 <가축법>에 따라 이 경우 국회가 '심의'를 해야 하고, 이때부터 다시금 격렬한 '대내협상'을 거쳐야 한다. 그리고 자동차조항 재협상에 들어간다고 하더라도 그 결과가 어떨 지, 그리고 그것을 위해 협정문 본문에 관련 조항을 추가할 지 아니면 부속서, 부속서한을 협정문에 삽입할 지 현재로서는 예측하기 어렵다. 그렇지만 만에 하나 우리 국회가 한미FTA를 선비준한 조건에서 이것이 이루어진다면, 결국 재비준이라는 초유의 사태도 예상해야 한다.

둘째는 부속협정(side agreement)이다. 이미 클린턴행정부때 NAFTA의 부속협정 형태로 노동, 환경협약이 체결된 바 있고, 이미 2008년 초 오바마의 한반도팀의 자문위원가운데 한 명인 토마스 허바드 전 주한미대사가 타협책으로 시사한 바 있다. 이는 한국정부에 엄청난 부담을 가져다 줄 '재협상'대신, 자동차만을 분리해서 한미 쇠고기 합의처럼 양해각서(MOU)를 체결할 것인지 아니면 별도의 협정을 체결할 것인지가 문제가 될 것이다. 마찬가지로 이 경우에도 30개월 이상 쇠고기 완전 개방은 여, 야가 별도로 합의해 주어야 한다.

셋째는 현행대로 한미FTA를 미의회가 처리해 주는 것이다. 이명박정부로서는 가장 소망스러운 형태임이 분명하다. 하지만 현재 그 가능성은 사실상 매우 낮다고 판단된다.

다음 그렇다면 언제 한미FTA에 대한 미의회내 논의가 본격화될 것인가 하는 점이다. FTA 문제와 관련해 미국으로서 가장 큰 것은 아무래도 북미자유무역협정을 어떻게 '재협상'할 것인가 하는 점이다. 일단 NAFTA 개정이 오바마가 취임직전 언급한 나프타 '업그레이트'로 가닥이 잡힐 경우 그 폭과 수준이 문제가 될 것이다. 아무튼 이것이 어떻게 처리되는 가 하는 것이 다른 FTA가 처리될 방향을 가늠할 시금석이 될 것으로 보인다.

미의회내 절차로 보자면 한미FTA는 미-콜롬비아, 미-파나마FTA 다음에 처리되는 것이 순서이다. 그래서 그 시점은 미-콜롬비아FTA가 언제, 어떻게 처리되는가를 보아야 한다. 지난 4월 민주당 의회는 의회와 협의없이 부시가 미-콜롬비아FTA 이행법안을 제출하자, 미-콜롬비아FTA에 대한 신속처리 곧 '90일내 처리' 규정을 표결로 적용배제한 바 있다. 따라서 미-콜롬비아FTA는 미민주당 지도부의 결정이 없다면 영구미제로 갈 수 밖에 없지만, 향후 미무역대표부와 민주당 의회의 협의결과 '벤치마크'가 정해질 예정이므로 당분간 지켜볼 필요가 있다. 일단 파나마FTA의 처리시점이 언제인가가 문제가 될 것이다. 미국내 보도에 따르면 미의회 보좌진들간에 떠도는 올해 미의회 회기일정에 한미FTA는 포함되어 있지 않다고 한다. 즉 이 말은 한미FTA가 당장 올해 안에도 가시권에 들어오지 않을 수 있다는 의미이다. 그리고 여기에는 미국 자동차 빅3에 대한 처리방향, 미국내 실물 경제위기의 전개방향, 미국내 여론, 오바마와는 또 다른 미의회 분위기등 복합적인 다양한 변수들을 함께 고려해야 할 것이다.

정부와 한나라당에 따르면 우리가 선비준동의하는 것이 미의회를 압박할 수 있고, 나아가 미국의 '재협상'요구를 차단할 수 있다고 한다. 하지만 우리가 선비준동의했다고 해서 새로이 구성될 민주당 의회가 압박을 느낄 가능성은 사실상 전무하고, 페루, 콜롬비아의회가 선비준했음에도 민주당의 '신통상정책'에 따라 협정문을 변경한 전례가 있음에 유의해야 한다. 그래서 그것이 재협상이든 추가협의를든 그 용어와 관계없이 미국측의 한미FTA 재논의 요청을 상수로 놓는다면, 우리 국회의 선비준동의는 가장 피해야할 외교적 실책이 될 가능성이 높다. 쇠고기라는 가장 강력한 협상카드를 현정부가 헛되이 탕진한 마당에 선비준은 그나마 남아있는 마지막 협상카드마저 허비하게 됨을 의미한다.

그래서 바라건대 어차피 지금하나 1년 뒤에 하나 우리 국회의 비준동의는 미의회가 동의하

지 않는다면 아무런 실효도 없는 것이니 만큼, 일단 추이를 조심스럽게 관망함이 상책이다. 그리고 미국의 재협상요구를 진정 차단하길 원한다면, 경거망동할 것이 아니라 우리 역시 재협상요구를 제기해야 한다. 미 투자은행 국유화라는 한미FTA 타결시 전혀 예상할 수 없었던 사정변경에 따라 우리측에서 얼마든지 재협상을 요구할 수 있다는 말이다. 국내정책상 오류는 주워 담기라도 할 수 있지만, 외교적 실책은 한 번 저질러지면 되돌리는 것이 사실상 불가능하다. 우리 국회의 선비준동의가 바로 그러한 실책에 해당된다.

특히 시민사회 및 국회 비상시국회의의 관점에서 변화된 국내외 환경에서 특히 능동적이고 주체적인 대응이 요구되는 시점이 아닌가 한다. 특히 미국의 ‘재협상’요구는 한미FTA에 비판적이었던 진영에 분명 새로운 도전이다. 왜냐 하면 한편으로 분명 부당하기조차 한 미국의 재협상 요구를 단순히 반대할 경우, 잘못된 한미FTA 협상을 사실상 추인하고 이를 위해 싸워야 하는 딜레마에 봉착한다. 다른 한편 일부 보수언론에서 군불을 지피고 있는 재협상 수용론 역시 실패한 협정인 한미FTA를 맹목적으로 지지하고 게다가 또 하나의 불평등 조항을 수용하자는 것과 다름없다. 따라서 지금은 매우 신중하고 현명한 판단이 절실한 시점이다.

첫째, 그저 한미FTA ‘저지’ 그리고 ‘대책’요구라는 수세적 항변을 넘어서, 한미FTA 재협상을 공세적으로 요구해야 한다. 특히 이 과정에서 이번 연방선거를 통해 30여석 이상의 의석을 추가확보 대략 70석 안팎의 의석수를 가진 것으로 보이는 미의회내 ‘공정무역론자’와의 적극적 대화와 협상을 제안할 필요가 있다.

둘째, 공정무역의 관점에서 볼 때, 농업이 가장 심각하다. 그리고 대책 역시 여기에 집중될 수밖에 없다. 그러나 행정부의 무분별한 FTA공세가 계속되는 한, 그 때 마다 실효성없는 땀질식 대책만 남발될 뿐이다. 따라서 농업과 통상에 대한 새로운 접근이 준비되지 않는다면 이는 불가피하다. 그래서 다시 한 번 확인할 것은 농업은 ‘자유’무역의 대상이 아니다. 식량주권, 식량안보론의 문제의식의 연장에서 농업을 자유무역에서 항구적으로 제외하는 대안을 목표로 단계적인 로드맵을 마련할 필요가 있다. 국제적으로 현재 발효중인, 그러나 우리 국가가 여전히 비준동의하고 있지 않은 ‘문화다양성협약’이 좋은 선례가 된다. 문화는 교류의 대상이지 교역의 대상이 아니듯, 농업 또한 교역의 대상이 아님을 확인할 필요가 있다.

셋째, 이를 위해 시민사회 및 비상시국회의가 새로운, 대안적인 협정을 제안할 필요가 있다. 그리고 이는 단지 한미FTA 반대를 넘어, 심각한 결함이 있는 현 한미FTA 협정문보다 질적으로 훨씬 우위에 있고 금융위기이후의 세계 정치경제의 변화된 조건을 반영하는 새로운 협정 곧 ‘공정한’ 한미통상관계를 형성하는 새로운 기초를 놓는 일이다.

넷째, 이와 함께 새로운 대내적인 통상 가버넌스(governance) 구축을 위해 <통상절차법> 제정이 시급히 필요하다. 이는 이미 18대 국회 개원조건으로 여야가 합의 했음에도, 다만 실효성 없는 공청회이외 실질적 진전이 없다. 헌법 60조 1항에 보장된 국회의 ‘체결·비준동의권’의 적극적 원용이야 말로 행정부의 폭주를 견제할 실효적 방도이다.

다섯째, 새로운 통상정책에 대한 국민적 합의를 통상절차법에 따라 합의도출할 때까지 기존의 FTA정책에 대한 모라토리움이 필요하다. 한국형 신통상정책은 물론 자유롭되 당연히 공정해야 한다. 기존의 FTA로는 이런 조건을 충족시킬수 없다.

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- 3 · Congressional Record_senate (오바마 상원의원 발언 1 2008년 2월 상원속기록)
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PERU & PANAMA FTA CHANGES

*(On Colombia FTA, see attached letter.)
(On Korea FTA, see note, below.)*

- I. Provisions on Basic Labor Standards**
- II. Provisions on Environment and Global Warming**
- III. Provisions on Patents/IPR and Access to Medicines**
- IV. Provisions on Government Procurement**
- V. Provision on Port Security**
- VI. Provision on Investment**
- VII. Strategic Worker Assistance and Training (SWAT) Initiative**

Note

The Korea FTA raises additional major issues that the Administration will have to address. In particular, the problem of Korea's systemic barriers in the automotive, manufactured, agricultural and services markets will have to be addressed. A Bipartisan Congressional Proposal was provided to the Administration on March 1 to open Korea's automotive market. The Administration has suggested a proposal that would, like earlier efforts in 1995 and 1998, fail to open the Korean market.

I. Provisions on Basic Labor Standards

A. Enforceable Obligation as to ILO Standards

Countries would be required to adopt, maintain and enforce in their own laws and in practice the five basic internationally-recognized labor standards, as stated in the 1998 ILO Declaration:

1. Freedom of association;
2. The effective recognition of the right to collective bargaining;
3. The elimination of all forms of forced or compulsory labor;
4. The effective abolition of child labor and a prohibition on the worst forms of child labor; and
5. The elimination of discrimination in respect of employment and occupation.

The obligations of this agreement, as they relate to the ILO, refer only to the 1998 ILO *Declaration on the Fundamental Principles and Rights at Work*.

B. Enforcement of Law

A decision a Party makes on the distribution of enforcement resources shall not be a reason for not complying with the provisions of this Chapter. Each Party retains the right to the reasonable exercise of discretion and to *bona fide* decisions with regard to the allocation of resources between labor enforcement activities among the internationally recognized labor rights, provided the exercise of such discretion and such decisions are not inconsistent with the obligations of this Chapter.

There would be a requirement to show that nonenforcement of law occurred “in a manner affecting trade or investment between the parties” and “through a sustained or recurring course of action or inaction.”

C. Enforceable Non-Derogation Provision

Parties cannot derogate from this obligation in a manner affecting trade or investment.

D. Full Parity in Dispute Settlement

Labor obligations subject to same dispute settlement, same enforcement mechanisms (remedies), and same criteria for selection of enforcement mechanisms (remedies) as all other FTA obligations.

II. Provisions on Environment and Global Warming

A. Enforcement of Multilateral Environmental Agreements¹

1. The Parties must adopt, implement, and effectively enforce laws, regulations and all other measures to fulfill the Parties' obligations under each of the following MEAs, to which they are both parties, subject to existing and future reservations to the MEAs:

Convention on International Trade in Endangered Species
 Montreal Protocol on Ozone Depleting Substances
 Convention on Marine Pollution
 Inter-American Tropical Tuna Convention
 Ramsar Convention on the Wetlands
 International Convention for the Regulation of Whaling
 Convention on Conservation of Antarctic Marine Living Resources

The MEAs listed include current and future mutually-agreed protocols, amendments, annexes, or adjustments to the listed MEAs to which the Parties have agreed.

2. The obligation in (1) is subject to the FTA dispute settlement chapter, and there shall be an inconsistency if the failure to uphold the obligation affects trade or investment.

3. The Parties may agree in writing to modify the list in (1) to include any other environmental or conservation agreement to which they are full parties.

4. In the event of any inconsistency between the FTA and the obligations set out in any MEA listed in (1) a Party shall seek to balance obligations under both agreements, but this shall not preclude a Party from taking a particular measure to comply with its MEA obligations, as long as the measure's primary purpose is not as a disguised restriction on trade. For greater certainty, this is without prejudice to non-covered MEAs.

B. Derogation

1. (a) The FTA Parties cannot waive or otherwise derogate from, or offer to waive or otherwise derogate from, their respective environmental laws in a manner that weakens or reduces the protections afforded in those laws in a manner affecting trade or investment.

¹ This obligation is in addition to the existing obligations to effectively enforce environmental laws, as defined in each agreement (*see e.g.*, Peru Art. 18.2).

- (b) A Party is in compliance with its obligations under (a) where such waiver or derogation is allowed under its environmental laws and such waiver or derogation is not inconsistent with a covered MEA.

2. Sub-paragraph (b) does not apply to waivers or derogations with respect to Peru's forest sector laws.

C. Dispute Settlement

1. All FTA environmental obligations will be subject to same dispute settlement, same enforcement mechanisms (remedies), and same criteria for selection of enforcement mechanisms (remedies) as all other FTA obligations.

2. In applying the MEA obligation, dispute settlement panels convened under the FTA shall:

- (a) follow (*i.e.*, defer to) all interpretative guidance under the relevant MEA; and
- (b) given all interpretative guidance, where an MEA obligation is open to more than one permissible interpretation, and an FTA Party has chosen one of those permissible interpretations, accept that interpretation as being in conformity with the MEA obligation. This specific guidance shall prevail over any other guidance.

3. FTA to establish mechanism for the FTA's Environmental Affairs Council (EAC) to coordinate interaction with the relevant MEA body on questions arising with respect to MEA obligations. The mechanism will establish procedures for the following:

- (a) Where the EAC or an FTA panel considers matters related to adoption, implementation, or effective enforcement of laws, regulations and other measures necessary to fulfill obligations under a covered MEA, the EAC or FTA panel shall consult fully with the relevant MEA body(s).
- (b) In such consultations, the EAC or FTA panel shall accept views of the relevant MEA body(s), including whether laws, regulations and other measures by an FTA Party are in accordance with the MEA.

4. FTA Parties shall endeavor to first address issues related to MEA obligations through mechanisms established in the relevant MEA. This shall not preclude an FTA Party from raising any matter related to MEA obligations through the EAC or from raising an alleged inconsistency with the obligation to adopt, implement and effectively enforce laws, regulations and all other measures to fulfill a covered MEA obligation, under the dispute settlement chapter, where recourse to the MEA mechanism could result in unreasonable delay, including where the MEA mechanism requires consensus.

D. Logging (Peru)

1. USTR to conclude an Annex to the FTA covering forest sector governance and operations in Peru. Annex shall:

- (a) Provide for coordination of capacity building activities in Peru under the Environmental Cooperation Agreement (ECA) [this can also be through an MOU];
- (b) Provide for cooperation between the respective customs authorities and law enforcement authorities in regard to enforcement of forest sector laws;
- © (i) Provide for steps strengthening Peru's forest sector laws, regulations and other measures in the areas of: (I) forestry sector governance; (II) concession management; (III) related trade activities; and (IV) regulation of harvesting, transport and export of CITES listed tree species;
- (ii) Provide for a reasonable transition for Peru to implement the listed steps; and
- (iii) Ensure that implementation of outlined steps is actionable and fully enforceable under the FTA dispute settlement chapter.
- (d) Establish a fully enforceable obligation for Peru to conduct periodic audits of producers/exporters of CITES listed tree species (audits may be conducted by an agreed third party);
- (e) Establish a fully enforceable right for the USG to request special audits and for verification procedures by U.S. Customs and the Fish and Wildlife Service for CITES listed tree species (audits may be conducted by an agreed third party);
- (f) (i) Provide for restriction on U.S. imports of CITES tree listed species where Peruvian or U.S. verification shows that claim that the CITES listed species was legally harvested is insufficient or the producer/exporter provided incorrect information.
- (ii) Provide for restriction on U.S. imports of CITES tree listed species from a given producer/exporter where request for verification denied or where producer/exporter knowingly provided false information.

This provision is not intended to limit any existing or future authority under U.S. law for denying entry of shipments of CITES listed species or taking any other actions to enforce CITES.

2. Annex shall be developed by USTR, in consultation with State, the U.S. Forest Service, Fish and Wildlife, and Customs, and WM and Finance.
3. Specify that Peru forest sector laws are covered by definition of environmental laws.
4. Implementing legislation will provide for periodic Administration reports to Congress on relevant activities under the MOU, Annex, and ECA. SAA to list agencies that will be involved in developing the reports. The U.S. Forest Service, Fish and Wildlife Service, Customs, State, USTR and other appropriate agencies will participate in development of the reports.
5. Implementing legislation or other legislative vehicle (considered prior to the Peru implementing bill) to authorize and appropriate funds necessary for Customs and Fish and Wildlife to carry out responsibilities under the Annex, for capacity building money for Peru to implement obligations under the Annex, and to carry out activities of the ECA.
6. Make other changes to FTA text to make Annex workable. *E.g.*,
 - (a) Amend Peru Art. 18.2.3, which states that “nothing in this chapter shall be construed to empower a Party’s authorities to undertake environmental law enforcement activities in the territory of the other Party.” That provision should not apply to the verification procedures outlined above.
 - (b) Clarify that the Annex does not substitute for or amend Peru’s obligations under CITES.

III. Provisions on Patents/IPR and Access to Medicines

A. Data Exclusivity

As a general rule, where a marketing approval application includes undisclosed test or other data, the FTA would provide for five years of data exclusivity for new chemical entities, taking account of the nature of the data and the person's efforts and expenditures in producing them. However, if a Party relies on marketing approval granted by the United States FDA, and if that Party grants approval within six months of an application for marketing approval by a person that produced the data, the five-year period begins when the drug was first approved in the United States (a so-called "concurrent period").

B. Patent Extensions

FTAs currently provide that a Party "shall" extend the term of a patent to compensate for any unreasonable delays in the patent or marketing approval process, provided the delay is not attributable to the applicant. "Shall" would be changed to "may" with respect to patents on pharmaceutical products.

FTAs would also provide that a Party shall make best efforts to process patent and marketing approval applications expeditiously with a view to avoiding unreasonable delays. The United States and the trading partner would agree to cooperate and provide assistance to one another to achieve these objectives.

C. Linking Drug Approval to Patent Status

Amend FTA so that there is no "linkage" requirement between drug regulatory agencies and patent issues: in particular, no requirement that the drug regulatory agency withhold approval of a generic until it can certify that no patent would be violated if the generic were marketed.

However, a Party would be required to provide procedures and remedies, such as judicial or administrative proceedings and preliminary injunctions (or equivalently effective provisional measures), for adjudicating expeditiously any patent infringement or validity dispute that arises with respect to a product for which marketing approval is sought. There will be a transparent system to give patent holders sufficient time and opportunity to effectively enforce their rights (e.g., immediate notice sufficient to alert the

patent holder of submission of applications for marketing approval, such as the approval authority posting any application for marketing approval on its website, so that patent holders have opportunity to discover products that may infringe their patents), and to seek, prior to the grant of marketing approval, available remedies for an infringing product.

A Party could choose to implement the “procedures and remedies” obligation described above through a linkage system, provided that the Party makes available (1) an expeditious administrative or judicial procedure to challenge the validity or applicability of the patent (so as to break the “link” in appropriate cases), and (2) effective rewards for successfully challenging a patent. (U.S. law already meets this test.)

D. Side Letter on Public Health

The “Side Letter” currently included as part of U.S. FTAs should be made a part of the text of the FTA. The Parties (1) would affirm their commitment to the Doha Declaration, (2) clarify that the Chapter does not and should not prevent the Parties from taking measures to protect public health or from utilizing the TRIPS/health solution, and (3) include an exception to the data exclusivity obligation for measures to protect public health in accordance with the Doha Declaration and subsequent protocols for its implementation.

E. Amendments to Chapter based on Economic Development

The FTA could include a provision calling for the periodic review of the implementation and operation of the IPR Chapter, and giving the Parties an opportunity to undertake further negotiations. The Parties could agree to consider, among other things, whether any improvement in the level of economic development in the territory of the other Party would support amendments to the chapter.

IV. Government Procurement

Clarify that “technical specifications” requiring contractors to comply with generally applicable laws regarding fundamental principles and rights at work and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health, in the country in which the good is produced or the service is performed, do not create an “unnecessary obstacle to trade.”

V. Port Security

Clarify in services schedule that the specific commitment is subject to non-challengeable application of “essential security” exception to the FTA.

VI. Provision on Investment

Include provision in Preamble to recognize that foreign investors in the United States will not be accorded greater substantive rights with respect to investment protections than United States investors in the United States.

VII. Strategic Worker Assistance and Training (SWAT) Initiative

To promote education, training and portable health and pension benefits, design and implement concrete and comprehensive program, including public-private partnerships to educate youth, update and upgrade workers' skills on the job, stimulate science education and research, provide meaningful health and pension benefits and income support, go beyond the current TAA system to provide meaningful support, training and revitalization programs for entire communities hurt by the effects of trade and technology.

Note: there may also be private sector initiatives with respect to globalization and competitiveness.

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BRETT LOPER,
MINORITY STAFF DIRECTOR

May 10, 2007

The Honorable Susan C. Schwab
United States Trade Representative
Office of the U.S. Trade Representative
600 17th Street, NW
Washington, DC 20508

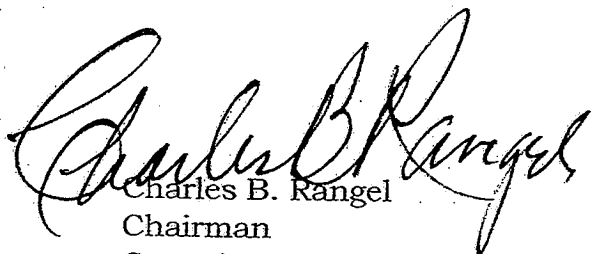
Dear Ambassador Schwab:

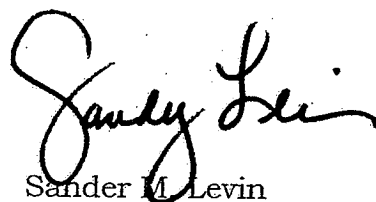
We have reached an agreement on the terms of the FTA for Peru and Panama, and those same terms must be incorporated into the Colombia FTA.

Colombia has special problems and considerations not presented in the context of the Peru and Panama FTAs, including the systemic, persistent violence against trade unionists and other human rights defenders, the related problem of impunity, and the role of the paramilitaries in perpetuating these crimes. Congress and the Administration must work with the Government of Colombia on these serious problems to determine what additional steps can be taken to allow for consideration of the FTA. Examples include a massive strengthening of the Attorney-General's Office to prosecute crimes against trade unionists and others, and to prosecute crimes by paramilitaries.

We are working to assess concrete proposals and undoubtedly will visit Colombia for first hand observations, as we explore a timely and effective solution.

Sincerely,


Charles B. Rangel
Chairman
Committee on Ways & Means


Sander M. Levin
Chairman
Subcommittee on Trade

Excerpts on Trade Language from Platform

In the past, with Bill Clinton and his free trade Administration in charge, activists have been lucky to get fair trade issues mentioned in DNC state and national platforms.

This final 2008 platform draft, at over 57 pages, includes more than 3000 words across 24 separate pages on trade and globalization. The Obama Agenda describes trade agreements as major tool to leverage labor and environmental standards, human rights, poverty alleviation, climate control, national security and a dozen other issues.

Highlights:

- Articulates his vision that trade policies “are not sustainable if they favor the few rather than the many.”
- States that trade deals “must not come as blank checks, and our support will only be “coupled with an insistent call for reform”.
- Promise to reform key global institutions—including the WTO and the G-8—so they “will be more reflective of 21st century realities.”
- Specifically states the WTO “must improve transparency and accountability”.
- Promise that consumer products coming in from other countries must be truly safe, with a requirement that the FTC protect vulnerable consumer populations.
- Promise to enforce trade laws that safeguard workers and farmers “from unfair trade practices—including currency manipulation, lax consumer standards, illegal subsidies, and violations of workers’ rights and environmental standards”.
- Promise of enforceable international labor and environmental standards.
- Promise that not future bilateral “will stop the government from protecting the environment, food safety, or the health of its citizens; give greater rights to foreign investors than to U.S. investors; require the privatization of our vital public services; or prevent developing country governments from adopting humanitarian licensing policies to improve access to life-saving medications.”
- Promise to stand firm against bilateral agreements that fail to live up to these benchmarks, with commitment to strive to achieve them in the multilateral framework.
- Promise to amend NAFTA so that it works better for all three North American countries.
- Promise to modernize and expand Trade Adjustment Assistance.
- Promise of a National Infrastructure Reinvestment Bank to create nearly two million new good jobs.
- Major Focus on U.S. renewable energy infrastructure investment, especially the use government procurement policies to incentivize job creation.
- Repeated calls to use trade as leverage for human rights, democracy, economic growth, job creation, and poverty alleviation.
- Repeated ties of trade agreements to support for strong legislatures, independent judiciaries, free press, vibrant civil society, honest police forces, religious freedom, equality for women and minorities, and the rule of law.
- Promise to address climate change with “binding and enforceable commitments to reducing emissions, especially for those that pollute the most: the United States, China, India, the European Union, and Russia.
- Promise to promote economic development in migrant-sending nations, to reduce incentives for immigration.

Trade and Globalization Excerpts are listed below. (Emphasis added.)

Main Trade Section - Pages 26 and 27

“Smart, Strong, and Fair Trade Policies”

We believe that trade should strengthen the American economy and create more American jobs, while also laying a foundation for democratic, equitable, and sustainable growth around the world. Trade has been a cornerstone of our growth and global development, but we will not be able to sustain this growth if it favors the few rather than the many. We must build on the wealth that open markets have created, and share its benefits more equitably.

Trade policy must be an integral part of an overall national economic strategy that delivers on the promise of good jobs at home and shared prosperity abroad. We will enforce trade laws and safeguard our workers, businesses, and farmers from unfair trade practices—including currency manipulation, lax consumer standards, illegal subsidies, and violations of workers’ rights and environmental standards. We must also show leadership at the World Trade Organization to improve transparency and accountability, and to ensure it acts effectively to stop countries from continuing unfair government subsidies to foreign exporters and non-tariff barriers on U.S. exports.

We need tougher negotiators on our side of the table—to strike bargains that are good not just for Wall Street, but also for Main Street. We will negotiate bilateral trade agreements that open markets to U.S. exports and include enforceable international labor and environmental standards; we pledge to enforce those standards consistently and fairly.

We will not negotiate bilateral trade agreements that stop the government from protecting the environment, food safety, or the health of its citizens; give greater rights to foreign investors than to U.S. investors; require the privatization of our vital public services; or prevent developing country governments from adopting humanitarian licensing policies to improve access to life-saving medications.

We will stand firm against bilateral agreements that fail to live up to these important benchmarks, and will strive to achieve them in the multilateral framework. We will work with Canada and Mexico to amend the North American Free Trade Agreement so that it works better for all three North American countries. We will work together with other countries to achieve a successful completion of the Doha Round Agreement that would increase U.S. exports, support good jobs in America, protect worker rights and the environment, benefit our businesses and our farms, strengthen the rules-based multilateral system, and advance development of the world’s poorest countries.

Just as important, we will invest in a world-class infrastructure, skilled workforce, and cutting edge technology so that we can compete successfully on high-value-added products, not sweatshop wages and conditions. We will end tax breaks for companies that ship American jobs overseas, and provide incentives for companies that keep and maintain good jobs here in the United States. We will also provide access to affordable health insurance and enhance retirement security, and we will update and expand Trade Adjustment Assistance to help workers in industries vulnerable to international competition, as well as service sector and public sector workers impacted by trade, and we will improve TAA’s health care benefits. The United States should renew its own

commitment to respect for workers' fundamental human rights, and at the same time strengthen the ILO's ability to promote workers' rights abroad through technical assistance and capacity building.

Important Platform Excerpts on Trade, Job Outsourcing and Globalization

Page 6

We will provide immediate relief to working people who have lost their jobs . . .

Page 7

By early August, the economy had shed 463,000 jobs over seven straight months of job loss.

Page 8

We are living through an age of fundamental economic transformation. Technology has changed the way we live and the way the world does business. . . . new challenges have emerged. Today, jobs and industries can move to any country with an Internet connection and willing workers.

Our current President pursued misguided policies, missed opportunities, and maintained a rigid, ideological adherence to discredited ideas. Our surplus is now a deficit, and almost a decade into this century, we still have no coherent national strategy to compete in a global economy. . . . to the tens of millions of Americans without health insurance and the workers who have seen their jobs shipped overseas, too many Americans have been invisible to our current President and his party for too long.

Page 9

We will devote \$50 billion to jumpstarting the economy, helping economic growth, and preventing another one million jobs from being lost.

We support investments in infrastructure to replenish the highway trust fund, invest in road and bridge maintenance and fund new, fasttracked projects to repair schools. We believe that it is essential to take immediate steps to stem the loss of manufacturing jobs. Taking these immediate measures will provide good jobs and will help the economy today.

Today, Americans change jobs more frequently than ever and compete against workers around the world for pay and benefits.

Page 10

Sidebar: "In late 2006, the company sent my production job to Mexico and China and I was laid off. I could not afford COBRA premiums." – quoted at Listening to America National Hearing

Page 15

Over the last few decades, fundamental changes in the way we work and live have trapped too many American families between an economy that's gone global and a government that's gone AWOL.

Page 16 Investing in American Competitiveness

At a critical moment of transition like this one, Americans understand that, more than anything else, success will depend on the dynamism, determination, and innovation of the American people. But success also depends on national leadership that can move this country forward with confidence and a common purpose. In platform hearings, Americans called on their government to "invest back" in them and their country.

Page 17

We know that the jobs of the 21st century will be created in developing new energy solutions. The question is whether these jobs will be created in America, or abroad. We should use government procurement policies to incentivize domestic production of clean and renewable energy. Already, we've seen countries like Germany, Spain and Brazil reap the benefits of economic growth from clean energy. But we are decades behind in confronting this challenge.

We hear that call and we Democrats commit to fast-track investment of billions of dollars over the next ten years to establish a green energy sector that will create up to five million jobs. Good jobs, like those in Pennsylvania where workers manufacture wind turbines, the ones in the factory in Nevada producing components for solar energy generation plants, or the jobs that will be created when plug-in hybrids start rolling off the assembly line in Michigan.

Page 18

We will direct the **Federal Trade Commission and Department of Justice to vigorously investigate and prosecute** market manipulation in oil futures.

This plan will create good jobs that pay well and can't be outsourced. With these policies, we will protect our country from the national security threats created by reliance on foreign oil and global insecurity due to climate change.

A World Class Education for Every Child

In the 21st century, where the most valuable skill is knowledge, countries that out-educate us today will out-compete us tomorrow. In the platform hearings, Americans made it clear that it is morally and economically unacceptable that our high-schoolers continue to score lower on math and science tests than most other students in the world and continue to drop-out at higher rates than their peers in other industrialized nations.

Page 21 (example)

"Our plant is closing in a year and, we hear, going to Mexico. With one year left before I can retire, I could end up losing my pension. I'm two years away from my retirement, but

I'm not going to quite make it. They tell me I can go to another factory, but I'd start out at lower pay and at the bottom of the rung. I feel like I'd be throwing everything away I've worked for over the last 24 years. The closest factory is three hours away. I've never really been interested in elections before. And honestly, the first time I ever voted was in the primary of this year. But everything seems more important to me this year. I've decided to get more involved. It's not the time to sit and watch the world go by. I know this year, with the economy, we've got to elect Senator Obama." –David Landrum, Bloomington, Indiana (Listening to America National Hearing)

Page 21

Invest in Manufacturing and Our Manufacturing Communities

We will invest in American jobs and finally **end the tax breaks that ship jobs overseas**. We will create an Advanced Manufacturing Fund to provide for our next generation of innovators and job creators; we will expand the Manufacturing Extension Partnerships and create new job training programs for clean technologies. We will bring together government, private industry, workers, and academia to turn around the manufacturing sector of the U.S. economy and provide assistance to automakers and parts companies to encourage retooling of facilities in this country to produce advanced technology vehicles and their key components. We will support efforts like the recently proposed Senate Appropriations measure that gives manufacturers access to low-interest loans to help convert factories to build more fuel-efficient vehicles. And we will invest in a clean energy economy to create up to five million new green-collar jobs. Our manufacturing communities need immediate relief. And we will help states and localities whose budgets are strained in times of need. **We will modernize and expand Trade Adjustment Assistance**. We will help workers build a safety net, with health care, retirement security, and a way to stay out of crippling debt. We will partner with community colleges and other higher education institutions, so that we're training workers to meet the demands of local industry, including environmentally-friendly technology.

Page 22

Creating New Jobs by Rebuilding American Infrastructure

A century ago, Teddy Roosevelt called together leaders from business and government to develop a plan for the next century's infrastructure. It falls to us to do the same. Right now, we are spending less than at any time in recent history and far less than our international competitors on this critical component of our nation's strength. **We will start a National Infrastructure Reinvestment Bank that can leverage private investment in infrastructure improvements, and create nearly two million new good jobs**. We will undertake projects that maximize our safety and security and ability to compete, which we will fund as we bring the war in Iraq to a responsible close.

A Connected America

In the 21st century, our world is more intertwined than at any time in human history. This new connectedness presents us with untold opportunities for innovation, but also new challenges. We will protect the Internet's traditional openness and ensure that it remains a dynamic platform for free speech, innovation, and creativity. We will implement a

national broadband strategy (especially in rural areas, and our reservations and territories) that enables every American household, school, library, and hospital to connect to a world-class communications infrastructure. We will rededicate our nation to ensuring that all Americans have access to broadband and the skills to use it effectively.

Page 23

We, the American farmer, have the ability, the enthusiasm, the skills, the tools, and the fierce sense of patriotism to win the war on foreign oil and still provide the food and fiber in a safe manner for not only for this country, but for the rest of the world.

Page 24

We will shut down the corporate loopholes and tax havens and use the money so that we can provide an immediate middle-class tax cut that will offer relief to workers and their families.

Page 25 Reforming Financial Regulation and Corporate Governance

We have let the special interests put their thumbs on the economic scales. . . .we do believe that government has a role to play in advancing our common prosperity: by providing stable macroeconomic and financial conditions for sustained growth; by demanding transparency; and by ensuring fair competition in the marketplace. We will reform and modernize our regulatory structures and will work to promote a shift in the cultures of our financial institutions and our regulatory agencies. . . and to meet the challenges of increasing global competitiveness, America will lead innovation in corporate responsibility to create jobs and leverage our private sector entrepreneurial leadership to help build a better world.

Page 26

We must guarantee that consumer products coming in from other countries are truly safe, and will call on the Federal Trade Commission to ensure vulnerable consumer populations, such as seniors, are addressed.

Page 28

It is a strategy that contends with the many disparate forces shaping this century, including . . . uncertain supplies of energy, food, and water; the persistence of poverty and the growing gap between rich and poor; and extraordinary new technologies that send people, ideas, and money across the globe at ever faster speeds. Barack Obama will focus this strategy on seven goals . . . (vi) advancing democracy and development; and (vii) protecting our planet by achieving energy security and combating climate change.

Page 36 (Support Africa's Democratic Development)

U.S. engagement with Africa should reflect its vital significance to the U.S. as well as its emerging role in the global economy. We recognize Africa's promise as a trade and investment partner and the importance of policies that can contribute to sustainable economic growth, job creation, and poverty alleviation.

Many African countries have embraced democratization and economic liberalization. We will help strengthen Africa's democratic development and respect for human rights, while encouraging political and economic reforms that result in improved transparency and accountability. We will defend democracy and stand up for rule of law when it is under assault, such as in Zimbabwe.

Recommit to an Alliance of the Americas

We recognize that the security and prosperity of the United States is fundamentally tied to the future of the Americas. We believe that in the 21st century, the U.S. must treat Latin America and the Caribbean as full partners, just as our neighbors to the south should reject the bombast of authoritarian bullies. Our relationship with Canada, our long-time ally, should be strengthened and enhanced.

And we must build ties to the people of Cuba and help advance their liberty by allowing unlimited family visits and remittances to the island, while presenting the Cuban regime with a clear choice: **if it takes significant steps toward democracy, beginning with the unconditional release of all political prisoners, we will be prepared to take steps to begin normalizing relations.**

Page 38 (China)

We must also forge a more effective framework in Asia that goes beyond bilateral agreements, occasional summits, and ad hoc diplomatic arrangements. We need an open and inclusive infrastructure with the countries in Asia that can promote stability, prosperity, and human rights, and help confront transnational threats, from terrorist cells in the Philippines to avian flu in Indonesia. We will encourage China to play a responsible role as a growing power—to help lead in addressing the common problems of the 21st century. We are committed to a "One China" policy and the Taiwan Relations Act, and will continue to support a peaceful resolution of cross-Straits issues that is consistent with the wishes and best interests of the people of Taiwan. It's time to engage China on common interests like climate change, trade, and energy, even as we continue to **encourage its shift to a more open society and a market-based economy, and promote greater respect for human rights, including freedom of speech, press, assembly, religion, uncensored use of the internet, and Chinese workers' right to freedom of association,** as well as the rights of Tibetans.

Page 39 Deepen Ties with Emerging Powers

We also will pursue effective collaboration on pressing global issues among all the major powers—including such newly emerging ones as China, India, Russia, Brazil, Nigeria, and South Africa. With India, we will build on the close partnership developed over the past decade. As two of the world's great, multi-ethnic democracies, the U.S. and India are natural strategic allies, and we must work together to advance our common interests and to combat the common threats of the 21st century. **We believe it is in the United States' interest that all of these emerging powers and others assume a greater stake in**

promoting international peace and respect for human rights, including through their more constructive participation in key global institutions.

Revitalize Global Institutions

To enhance global cooperation on issues from weapons proliferation to climate change, we need stronger international institutions. . . .We **support reforming key global institutions**—such as the U.N. Security Council and the G-8—so they will be more reflective of 21st century realities.

Page 39-40

Advancing Democracy, Development, and Respect for Human Rights

No country in the world has benefited more from the worldwide expansion of democracy than the United States. Democracies are our best trading partners, our most valuable allies, and the nations with which we share our deepest values. The United States must join with our democratic partners around the world to meet common security challenges and uphold our shared values whenever they are threatened by autocratic practices, coups, human rights abuses, or genocide.

Build Democratic Institutions

The Democratic Party reaffirms its longstanding commitment to support democratic institutions and practices worldwide. A more democratic world is a more peaceful and prosperous place. Yet democracy cannot be imposed by force from the outside; it must be nurtured with moderates on the inside by building democratic institutions. The United States must be a relentless advocate for democracy and put forward a vision of democracy that goes beyond the ballot box. We will **increase our support for strong legislatures, independent judiciaries, free press, vibrant civil society, honest police forces, religious freedom, equality for women and minorities, and the rule of law.** In new democracies, we will support the development of civil society and representative institutions that can protect fundamental human rights and improve the quality of life for all citizens, including independent and democratic unions. In non-democratic countries, we pledge to work with international partners to assist the efforts of those struggling to promote peaceful political reforms. Ongoing funding to the National Endowment for Democracy and other U.S. government-funded democracy programs reflects American values and serves our interests.

It is time to make the U.N. Millennium Development Goals, which aim to cut extreme poverty in half by 2015, America's goals as well. We need to invest in building capable, democratic states that can establish healthy and educated communities, develop markets, and generate wealth.

Page 40-41

But if America is going to help others build more just and secure societies, our trade deals, debt relief, and foreign aid must not come as blank checks. We will recognize the fragility of small nations in the Caribbean, the Americas, Africa, and Asia and work with them to successfully transition to a new global economy. **We will couple our**

support with an insistent call for reform, to combat the corruption that rots societies and governments from within. As part of this new funding, we will create a \$2 billion Global Education Fund that will bring the world together in eliminating the global education deficit with the goal of supporting a free, quality, basic education for every child in the world. Education increases incomes, reduces poverty, strengthens communities, prevents the spread of disease, improves child and maternal health, and empowers women and girls. We cannot hope to shape a world where opportunity outweighs danger unless we ensure that every child everywhere is taught to build and not to destroy.

We will modernize our foreign assistance policies, tools, and operations in an elevated, empowered, consolidated, and streamlined U.S. development agency. Development and diplomacy will be reinforced as key pillars of U.S. foreign policy, and our civilian agencies will be staffed, resourced, and equipped to address effectively new global challenges.

Page 42 Human Trafficking

We will address human trafficking—both labor and sex trafficking—through strong legislation and enforcement to ensure that trafficking victims are protected and traffickers are brought to justice. We will also address the root causes of human trafficking, including poverty, discrimination, and gender inequality, as well as the demand for prostitution.

Page 43 (Climate Control)

We need a global response to climate change that includes binding and enforceable commitments to reducing emissions, especially for those that pollute the most: the United States, China, India, the European Union, and Russia.

Page 45 (Immigration)

We must work together to pass immigration reform in a way that unites this country, not in a way that divides us by playing on our worst instincts and fears.

The American people are a welcoming and generous people, but those who enter our country's borders illegally, and those who employ them, disrespect the rule of the law.

We also need to do more to promote economic development in migrant-sending nations, to reduce incentives to come to the United States illegally.

Page 53-54 (No mention of fast Track) Open, Accountable, and Ethical Government

We will lift the veil of secret deals in Washington by publishing searchable, online information about federal grants, contracts, earmarks, loans, and lobbyist contacts with government officials.

We will not privatize public services for the sake of privatizing. We will use carefully crafted guidelines when determining whether to contract out any government service and whether a function is “inherently governmental.” We will provide improved

accountability, oversight, and management in the contracting process to protect the public.

We will have the wisdom to put the public interest above special interests.

Page 56 Partnership with Civic Institutions

Social entrepreneurs and leading nonprofit organizations are assisting schools, lifting families out of poverty, filling health care gaps, and inspiring others to lead change in their own communities. To support these results-oriented innovators, we will create a Social Investment Fund Network that invests in ideas that work, tests their impact, and expands the most successful programs. We will create an office to coordinate government and nonprofit efforts.

Also Of Interest:

- Page 7: "We cannot keep doing the same things and expect to get different results"
- Page 8: Use of the new term "fair economy" . . . "that will allow all Americans to take advantage of the opportunities of our new era."
- Page 14" "We will stop the abuse of privatization of government jobs. We will end the exploitative practice of employers wrongly misclassifying workers as independent contractors."
- Page 14: Shout out to Organized Labor
- Page 17: Shout out to Environmental Job Creation
- Page 23: Shout out to Farmers
- Page 24: Critique of unbridled Free Market
- Page 25: Argument for deep need of corporate oversight
- Pages 39-40: Strong Human Rights and Democracy focus, tied directly to trade
- Page 55: "We believe that our Constitution, our courts, our institutions, and our traditions work."

Appendix Segments on Fair Trade:

- Houston, TX, 7/20. "We support stimulation of our economy by the creation of jobs for infrastructure repair and ensuring we keep our jobs here by promoting small businesses and fair trade, not free trade."
- Portland, OR, 7/21. "All trade agreements and treaties must be reviewed with the well being of the citizens of the United States as the primary goal."
- Green Brook, NJ, 7/22. "We should be more willing to work with the global economy; at the same time, we should hold our trading partners to a higher standard."
- Chloe, WV, 7/26. "We resolve that free trade should be fair trade, for workers and consumers in all countries."

year-old on the other side of the country in Oroville, CA, held students hostage at Las Plumas High School, also resulting in a lock-down. Around that same time, an armed student suspected of plotting a Columbine-style attack on fellow high school students was arrested in Norristown, PA. The students in these situations were lucky and escaped without injury.

University of Memphis student Taylor Bradford was not so lucky. He was killed on campus last September in what university officials believe was a targeted attack. He was 21 years old. Shalita Middleton was not so lucky. She died last October from injuries she sustained during the Delaware State incident. She was 17 years old. Nathaniel Pew was not so lucky. He was wounded at Delaware State. High school teachers Michael Grassie and David Kachadourian and students Michael Peek and Darnell Rodgers—all of whom were wounded by a troubled student at SuccessTech Academy last October—were not so lucky. And the two female students killed this past Friday in Baton Rouge were not so lucky.

The School Safety and Law Enforcement Improvement Act responds directly to incidents like these by addressing the problem of violence in our schools in several ways. The bill authorizes Federal assistance for programs to improve the safety and security of our schools and institutions of higher education, provides equitable benefits to law enforcement serving those institutions including bulletproof vests, and funds pilot programs to develop cutting-edge prevention and intervention programs for our schools. The bill also clarifies and strengthens two existing statutes—the Terrorist Hoax Improvements Act and the Law Enforcement Officers Safety Act—which are designed to improve public safety.

Specifically, the bill would improve the safety and security of students both at the elementary and secondary school level and on college and university campuses. The K-12 improvements are drawn from a bill that Senator BOXER introduced last April, and I want to thank Senator BOXER for her hard work on this issue. The improvements include increased funding for much-needed infrastructure changes to improve security as well as the establishment of hotlines and tip-lines, which will enable students to report potentially dangerous situations to school administrators before they occur.

These improvements can save lives. After the four students and teachers were wounded at SuccessTech Academy, the press reported that parents had been petitioning to get a metal detector installed and additional security personnel added, and that the guard who was previously assigned to the school had been removed 3 years ago. In fact, at the time, the entire city of Cleveland had just 10 metal detectors that rotated throughout the city's

more than 100 schools. Title I of the bill would enhance the ability of school districts to apply for and receive grant money to fund the installation of metal detectors and the training and hiring of security personnel to keep our kids safe.

To address the new realities of campus safety in the wake of Virginia Tech and more recent college incidents, title I also creates a matching grant program for campus safety and security to be administered out of the COPS Office of the Department of Justice. The grant program would allow institutions of higher education to apply, for the first time, directly for Federal funds to make school safety and security improvements. The program is authorized to be appropriated at \$50,000,000 for the next 2 fiscal years. While this amounts to just \$3 per student each year, it will enable schools to more effectively respond to dangerous situations on campus.

The bill would also make sworn law enforcement officers who work for private institutions of higher education and rail carriers eligible for death and disability benefits, and for funds administered under the Byrne Grant program and the bulletproof vest partnership grant program. Providing this equitable treatment is in the best interest of our Nation's educators and students and will serve to place the support of the Federal Government behind the dedicated law enforcement officers who serve and protect private colleges and universities nationwide. I commend Senator JACK REED for his leadership in this area.

The bill helps law enforcement by making improvements to the Law Enforcement Officers Safety Act of 2003, LEOSA. These amendments to existing law will streamline the system by which qualified retired and active officers can be certified under LEOSA. It serves us all when we permit qualified officers, with a demonstrated commitment to law enforcement and no adverse employment history, to protect themselves, their families, and their fellow citizens wherever those officers may be.

The bill focuses on prevention as well, by incorporating the PRECAUTION Act at the request of Senators FEINGOLD and SPECTER. This provision authorizes grants to develop prevention and intervention programs for our schools.

Finally, the bill incorporates the Terrorist Hoax Improvements Act of 2007, at the request of Senator KENNEDY.

The Senate should move forward and act. The Virginia Tech Review Panel—a body commissioned by Governor Kaine to study the Virginia Tech tragedy—recently issued its findings based on a 4-month long investigation of the incident and its aftermath. This bill would adopt a number of recommendations from the Review Panel aimed at improving school safety. We must not miss this opportunity to implement

these initiatives nationwide, and to take concrete steps to ensure the safety of our kids. I hope the Senate will promptly move forward to invest in the safety of our students and better support law enforcement officers across the country by considering and passing the School Safety and Law Enforcement Improvement Act of 2007.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

INAUGURATION OF PRESIDENT-ELECT LEE MYUNG-BAK

• Mr. OBAMA. Mr. President, in just 2 weeks President-elect Lee Myung-bak will be inaugurated as the next President of South Korea. His inauguration offers a fresh opportunity to reaffirm and reinvigorate the U.S.-South Korea relationship for a new era.

The U.S.-ROK alliance has been a remarkably strong and successful one. Forged in blood during the Korean war more than a half-century ago, the alliance has sustained itself through the crucible of the cold war and remains central to U.S. security policy in East Asia. Our bonds have only deepened through the extensive social and cultural ties that have formed between our two countries, including 100,000 Americans who live in Korea, and the 2 million Korean-Americans who enrich our society through their classic American ethic of hard work, strong families, and tight-knit church communities.

Nonetheless, I do not think it is an overstatement to say that the U.S.-Korea relationship has been adrift in recent years. At the heart of it have been our respective approaches to North Korea. The Bush administration has been divided within itself on how to deal with Pyongyang, branding it a member of the "Axis of Evil" and refusing bilateral discussions with it before subsequently reversing course. This unsteady approach not only has allowed North Korea to expand its nuclear arsenal as it has resumed reprocessing of plutonium and tested a nuclear device. It also has understandably caused anxiety in South Korea, as its leaders and people have tried to figure out what the Bush administration policy is.

I have no illusions about North Korea, and we must be firm and unyielding in our commitment to a nonnuclear Korean peninsula. In the process we must pay attention to the interests of the South Korean people to ensure that we move forward in unity and common purpose.

The U.S.-Korea economic relationship has also benefited both nations and deepened our ties. I look forward as well to supporting ways to increase our bilateral trade and investment ties through agreements paying proper attention to our key industries and agricultural sectors, such as autos, rice, and beef, and to protection of labor and environmental standards. Regrettably,

the U.S.-Korea Free Trade Agreement does not meet this standard.

Given the importance of getting this relationship right I would encourage President Bush to invite President Lee to the White House as early as possible after his inauguration as a signal of the commitment of the United States to the alliance, and to reaffirm the importance of the alliance to the United States. In the process, we need to work with South Korea on a common vision for the alliance to meet the challenges of the 21st century, not only those on the Korean Peninsula but in the region and beyond.

An alliance that once was built solely on defense against common threats must today be built also on our shared values and strong mutual interests. I congratulate President-elect Lee on his election, pass on my good wishes for him and the Korean people for his inauguration, and honor the Korean people for their vibrant democracy. I look forward to the opportunity to work with him in the years ahead to replenish and revitalize this crucial relationship.●

ADDITIONAL STATEMENTS

CARROLL COLLEGE FIGHTING SAINTS

● Mr. BAUCUS. Mr. President, the December 24, 2007, "Year in Pictures" edition of Sports Illustrated featured a mud-soaked and elated Brandon Day on the cover. Day is a junior linebacker for the Fighting Saints of Carroll College in my hometown of Helena, MT. This amazing image was captured by photographer John Russell following the Fighting Saints fifth National Association of Intercollegiate Athletics football title in the past six seasons on December 15, 2007, in Savannah, TN.

The story of this team and the cover photo on Sports Illustrated has really moved me. With all the negative stories recently in the sports world, it was both heartening and appropriate for the magazine to honor the spirit of intercollegiate athletics by shining the spotlight on such a hard-working and deserving group of student athletes. The young men that make up Carroll's football squad truly embody the best of these ideals and Montana values. They have worked hard both on and off the field and have achieved not only athletic glory, but also success in the classroom and have given much back to the Helena community and their hometowns. Coming from small towns across Montana and the West, these student athletes certainly don't demand or expect this kind of recognition for their achievements, but they certainly are worthy of the praise. This group of young men are great ambassadors for the college they so proudly represent and are terrific role models for their fellow students and the many younger kids who look up to them.

This strength of character is certainly a tribute to their fine and caring

coach, Mike Van Diest, who has taught his players that devotion to school, family, and faith come before football. He demands excellence from his players both on and off the field, as does the president of the school, Dr. Thomas Trebon. Dr. Trebon recently wrote a letter to Sports Illustrated that tells the story of the Fighting Saints. I thank Dr. Trebon for all of his hard work and leadership at Carroll College, and I look forward to cheering on the Saints again in 2008. I know that they will continue to make Montana proud.

Mr. President, I ask to have the letter from Dr. Trebon printed in the RECORD.

The material follows.

DEAR SPORTS ILLUSTRATED: All of Montana is thrilled by the SI "2007 Pictures of the Year" front cover featuring Carroll College junior linebacker Brandon Day's euphoric reaction to the Fighting Saints' fifth NAIA National Football Championship win.

The untold story about the Saints found honest reflection in the SI cover photo, with Day and his victorious teammates soaked in mud while overcome with joy. It's a story about humble happiness through hard work, where every standout member of the Saints who receives recognition promptly points to his teammates as the real reason for their success. It's the story of Fighting Saint Luke DenHerder, who returned to the gridiron after beating a lethal cancer, while his fellow student-athletes cheered him and even shaved their heads in solidarity during his chemotherapy. It's the story of a team comprised of men hailing primarily from rural Western towns, ranches and farms, from struggling middle-class families, who know the meaning of hard work and who haven't seen much glory in return. Until now.

Carroll's story is about two-time NAIA National Coach of the Year (2003 and 2005) Mike Van Diest, who led the Saints to all five national championship wins, all while demanding that our athletes' priorities must be God first, family second, school third and football last. Indeed, the press corps following our team to Tennessee took more photos of our players studying for their final exams and volunteer reading to school children in Savannah, Tenn., than engaged in pre-game practice. This fall, seven Fighting Saints were named national Daktronics-NAIA Football Scholar-Athletes, the team maintains a grade point average over 3.2, and nearly half of our football squad is selected yearly as All-Academic honorees in the Frontier Conference. Yet, the true story about the Saints was told before the clock ran out during the championship game. After each play, our Carroll student-athletes showed their commitment to sportsmanship by helping their opponents up from tackles and shaking hands with the University of Sioux Falls players.

In these days when more of us long for a return to civility and yearn to see our star athletes and athletic programs meet the high standards of role models, SI's cover photo was distinctly gratifying. In one shot, photographer John Russell captured both a moment of athletic triumph and distilled our dream of bringing back the values of simpler times, when good men from humble beginnings win out in the end and become heroes.

THOMAS TREBON,
President, Carroll College.●

UNI-CAPITOL WASHINGTON INTERNSHIP PROGRAMME 2008

● Mr. CRAPO. Mr. President, I am proud to be involved for a second year

in the Uni-Capitol Washington Internship Programme, an exchange program in which outstanding college students from Australia's top universities compete to serve as interns for the U.S. Congress. The program is in its ninth year of bringing the Washington experience to our friends from Australia, firsthand. In addition to working in congressional offices, the program provides students with a number of other opportunities and activities, including visits to historic sites, visits to government agencies, meetings with government leaders, and educational events.

This year, Suzi Allan, a student from the University of Canberra, Australia, is taking a 2-month hiatus from her communications degree to help me serve Idaho constituents. Of the program, Suzi says, "The UCWIP has given me the unique opportunity to gain firsthand insight into the world's most influential government. I have had incredible experiences while working in Senator Crapo's office and have enjoyed learning more about the U.S. Congress. Working in the heart of America's political establishment is a fantastic experience that I will always remember."

This year, I would again like to thank Director Eric Federing and his wife, Daphne, for their continued commitment to enlarging the educational experience of students in their home country of Australia. Free nations have a responsibility to work together to promote the liberty that have provided social, cultural, and economic success. Bringing young people together in their formative educational years promotes these partnerships for prosperity across national lines and highlights our Nations' shared goals and interests. I am pleased to be able to participate in this well-crafted and successful program.●

TRIBUTE TO REVEREND WEBSTER TWO HAWK

● Mr. JOHNSON. Mr. President, it is my pleasure to speak today to recognize an outstanding lifelong resident of South Dakota, Rev. Webster Two Hawk.

Recently, Reverend Two Hawk marked 50 years of service to his church and his faith. His congregation is the St. Peter's Episcopal Church in Fort Pierre, SD, where he has been a volunteer priest for the last 27 years. Reverend Two Hawk, now retired, has a long list of accomplishments throughout his lifetime.

Reverend Two Hawk was born and lived near White River, SD, until going to schools in Todd County. Upon completion of high school in Mission, SD, now Todd County High School, he attended the University of South Dakota, my alma mater, where he graduated in 1952 with a degree in business administration. Upon leaving college, Two Hawk enlisted in the U.S. Army to serve in the Korean war. Upon his return from service, he attended Kenyon College in Ohio where he graduated

Barack Obama

February 18, 2008

Wisconsin Fair Trade Coalition
5027 W. North Avenue
Milwaukee, WI 53208

Dear Friends:

Thank you for the opportunity to respond to your call for a new trade agenda and to share my views with you. We can't stop globalization in its tracks, but what we can do is have a president who's looking out for American workers and farmers and our environment, and that's the kind of President I'll be.

Like you, I refuse to accept that we have to stand idly by while American workers lose their jobs, our communities struggle, and the American dream slips further out of reach. It's time to start putting working people ahead of special interests and Washington lobbyists. We need to make sure that the rules governing trade are fair and that we're investing in our workers so that they remain the most competitive in the world.

I have heard your call for reform and share your frustration with trade agreements like the North American Free Trade Agreement (NAFTA) that are not working for American workers. While NAFTA gave broad rights to investors, it paid only lip service to the rights of labor and the importance of environmental protection. Ten years later, CAFTA had many of the same problems, which is why I voted against it. And it's why I have opposed other agreements that failed to live up to fair trade principles, like the South Korea, Panama, and Colombia agreements.

We can do more. I will work to expand our trade agenda beyond lowering tariffs and protecting our commercial interests. One of the first things I'll do as president will be to call the Prime Minister of Canada and the President of Mexico and work with them to fix NAFTA. We'll add binding obligations to protect the right to collective bargaining and other core labor standards recognized by the International Labor Organization. And I will add enforceable measures to NAFTA, the World Trade Organization (WTO), CAFTA and other Free Trade Agreements (FTAs) currently in effect. Similarly, we should add binding environmental standards so that companies from one country cannot gain an economic advantage by destroying the environment. And we should amend NAFTA to make clear that fair laws and regulations written to protect citizens in any of the three countries cannot be overridden simply at the request of foreign investors.

In an Obama administration, we'll also have a U.S. Trade Representative who's actually representing American workers. And we'll do more to stop countries like China from acting



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unfairly when it comes to trade – because no country should get a free pass if they're bending the rules.

I have talked extensively about stepping up enforcement of our trade and product safety laws and I am committed to doing so. We will not allow the shipment of toys contaminated with lead to enter our country, nor will we place our people at risk of eating food that does not meet our safety standards. I will fight the manipulation of currency others are engaged in, including China, because it makes their products artificially cheaper than ours. And we will demand equal access to markets abroad for our producers so that the centralized discrimination against our auto producers in Korea through taxes and regulation is not repeated in other markets with other American goods and services.

As president, I will make sure that any goods coming into America meet American safety standards, and that the U.S. Consumer Product Safety Commission, the Food and Drug Administration and the other agencies that protect consumers have the tools necessary to make sure that what we're buying is safe. I will protect our producers from dumping, predatory pricing, and currency manipulation. And I will promote policies to reinvigorate our manufacturing sector by ending tax breaks for companies that ship jobs overseas. I will sign the legislation I introduced last year, the Patriot Employer Act of 2007, which provides a tax credit to companies that maintain or increase the number of full-time workers in America relative to those outside the US; maintain their corporate headquarters in America; pay decent wages; prepare workers for retirement; provide health insurance; and support employees who serve in the military.

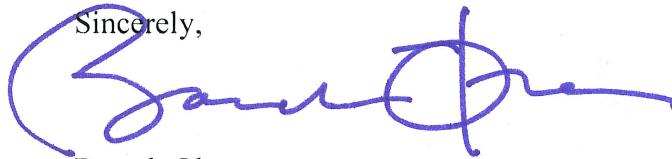
With regards to provisions in several FTAs that give foreign investors the right to sue governments directly in foreign tribunals, I will ensure that this right is strictly limited and will fully exempt any law or regulation written to protect public safety or promote the public interest. Our judicial system is strong and gives everyone conducting business in the United States recourse in our courts. The tribunal system was created to ensure that our investors would have access to similar protection abroad. I understand the concerns surrounding this issue, and am committed to working to address them.

But globalization is about more than trade agreements. It includes the rise of China and India and a rapidly changing technology, advanced manufacturing, and a services based economy. And as we work to change the rules of the global economy to help working people, I will undo the neglect by our own government of the needs and rights of working people at home. Just as we insist on the right to organize abroad, we must protect those rights here in the United States at our ports and in the sectors where trade has created jobs. We know that organized workers are better able to collectively bargain for their fair share of the wealth our economy creates.

I'll pass the Employee Free Choice Act – because if a majority of workers in an organization want a union, they should get a union. And I'll make sure we have a Labor Department that is actually committed to defending the rights of labor. In addition, I will add safeguards to our prevailing wage policies, and defend the worker protections under the Davis-Bacon Act. We do not use these policies as protectionist tools and I will work to ensure that other countries do not exercise protectionist tools either. I will replace Fast Track with a process that includes criteria determining appropriate negotiating partners that includes an analysis of labor and environmental standards as well as the state of civil society in those countries. Finally, I will ensure that Congress plays a strong and informed role in our international economic policy and in any future agreements we pursue and in our efforts to amend existing agreements.

Expanding global markets can be a good thing – but only when we sign trade deals that put American workers first and when Washington recognizes that increased trade alone is insufficient to create broad based growth at home or abroad. We need change and that's what I'll deliver as president.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Barack Obama', with a large, stylized initial 'B' and a circular flourish at the end.

Barack Obama

한미FTA등과 관련된 오바마상원의원의 발언 보도

Clinton and Obama Follow Edwards on Trade

By TEDDY DAVIS April 23, 2007

RSS John Edwards is not the only major Democratic presidential candidate with serious reservations about a proposed free-trade agreement between the United States and South Korea.

ABC News has learned that the former North Carolina senator's top two rivals -- Sen. Barack Obama, D-Ill., and Sen. Hillary Clinton, D-N.Y.-- also have grave concerns about the most economically significant free-trade pact since the North American Free Trade Agreement.

Trade is a difficult issue for Democrats because it forces them to weigh the concerns of friends in organized labor, who worry about the impact on U.S. jobs, and commercial interests who view trade liberalization as a ticket to faster economic growth.

"Senator Obama does not support the South Korea free trade agreement in its current form," Obama spokesperson Jen Psaki tells ABC News. "He has serious concerns about the effect that the agreement would have on the American auto, beef, and rice industries, as well as the lack of labor and environmental protections in the agreement. Senator Obama is also troubled that the Bush Administration has not done more to help American workers who are losing their jobs as a result of the changing world economy."

The Clinton camp also expressed reservations about the trade agreement whose details the Bush administration is still finalizing.

"Senator Clinton has serious concerns about how the agreement would impact the United States and is particularly worried about how the auto industry would be affected," Clinton spokesperson Phil Singer tells ABC News.

Edwards, who is staking much of his 2008 presidential bid on support from organized labor, announced his opposition to the South Korea trade deal while speaking Saturday to a Democratic Party dinner in Michigan, a state which has been hard-hit by the loss of manufacturing jobs.

"A trade agreement with South Korea needs to start with their willingness to open markets to American automobiles and other U.S. products and agree to trade fairly," Edwards said Saturday. "It must also include strong labor and environmental standards and lift up workers in both parties."

Obama's Opposition to the FTA with Korea

February 14, 2008

Lee Myung-Bak, Korea's President-elect, will be inaugurated later this month. In anticipation, Barak Obama had comments on U.S. Korean policy inserted into the Congressional Record: INAUGURATION OF PRESIDENT ELECT LEE MYUNG-BAK this past Monday (February 11).

The short statement covered a number of topics. The key trade statement was:

The U.S.-Korea economic relationship has also benefited both nations and deepened our ties. I look forward as well to supporting ways to increase our bilateral trade and investment ties through agreements paying proper attention to our key industries and agricultural sectors, such as autos, rice, and beef, and to protection of labor and environmental standards. Regrettably, the U.S.-Korea Free Trade Agreement does not meet this standard.

Three points:

The Koreans did refuse to liberalize rice. I haven't seen this objection raised often recently. But as the U.S. debate develops opponents of the agreement may raise it more often. At least one modeling effort has found that the U.S. could be a loser if Korea relaxes its rice import restrictions because we subsidize rice so heavily. The subsidies would cause disproportionate resources to shift to this sector if trade were liberalized (Negotiating the Korea-United States Free Trade Agreement, Schott, Bradford and Moll, page 6)

He doesn't say outright that he will vote against this agreement. Maybe his objections could be dealt with - everyone expects beef to be taken care of before the debate starts so in a way that's a non-issue. Maybe his remaining labor and environmental concerns can be addressed through supplementary letters clarifying each side's understandings? Auto opposition may be addressed or mitigated by supplementary legislation. One observer has suggested that

But the Bush administration needs to respond constructively to Democratic concerns about the FTA and the competitiveness of the US auto industry. For example, federal programs could assist the companies in complying with new fuel economy standards and financing their "legacy" pension and healthcare costs. In return Speaker Pelosi should encourage Chairman Rangel to negotiate a legislative compromise. Such a deal should focus on domestic measures that would help US automakers compete at home and abroad but also—for political reasons—may have to augment the FTA's auto safeguard provision (which seeks to ensure that commitments to reduce nontariff barriers to auto trade will be faithfully enforced) (The Korea-US Free Trade Agreement: A Summary Assessment, Schott, last page)

There seems to be an implied commitment to engage with the Koreans to seek new trade liberalizing agreements.

Obama urges Bush not to submit Korea deal to Congress

Fri May 23, 2008 8:58pm

1 of 1Full SizeWASHINGTON (Reuters) - Democratic presidential front-runner Barack Obama, in a letter released on Friday, urged President George W. Bush not to submit a "badly flawed" free trade agreement with South Korea to Congress for a vote.

"Instead of provoking unnecessary and potentially corrosive confrontation over this agreement, your administration could make a significant contribution toward re-establishing trust with Congress and restoring bipartisan cooperation on trade by withholding the agreement," Obama said.

Obama's Senate office released the letter, dated on Thursday, shortly after a White House event where Bush pushed for approval of free trade pacts with Colombia, South Korea and Panama before the end of this year.

The Illinois senator has long been opposed to the South Korean agreement. But the Bush administration has hoped it could leverage broad support from the business community to persuade the Democratic-run Congress to vote on the deal.

Obama's letter was a further blow to those hopes. It followed a similar letter this week signed by New York Sen. Hillary Clinton, Obama's rival for the Democratic nomination, and nine other Democrats.

"Like many members of Congress, I oppose the U.S.-Korea FTA, which I believe is badly flawed. In particular, the terms of the agreement fall well short of assuring effective, enforceable market access for American exports of manufactured goods and many agricultural products," Obama said.

He singled out the automobile provisions as unfairly tilted in South Korea's favour.

"Approval of the agreement as negotiated would give Korean exports essentially unfettered access to the U.S. market and would eliminate our best opportunity for obtaining genuinely reciprocal market access in one of the world's largest economies," Obama said.

(Editing by Patricia Zengerle) © Thomson Reuters 2008 All rights reserved.

Obama urges Bush back off Korea trade deal

Saturday May 24, 2008 MYT 6:01:57 AM By Doug Palmer

WASHINGTON (Reuters) – Democratic presidential front-runner Barack Obama in a letter released on Friday warned of a major fight over a free trade agreement with South Korea if President George W. Bush sends it to Congress.

U.S. Democratic presidential candidate Senator Barack Obama speaks during Cuban Independence Day celebrations during a meeting with the Cuban American national foundation in Miami, Florida, May 23, 2008. (REUTERS/Carlos Barria)

"Instead of provoking unnecessary and potentially corrosive confrontation over this agreement, your administration could make a significant contribution toward reestablishing trust with Congress and restoring bipartisan cooperation on trade by withholding the agreement," Obama said.

Obama's Senate office released the letter, dated on Thursday, shortly after a White House event where Bush pushed for approval of free trade pacts with Colombia, Panama and South Korea before the end of this year.

The trade pact with South Korea, the United States' seventh largest trading partner, is by far the biggest the Bush administration has negotiated and also the largest U.S. deal since the North American Free Trade Agreement.

The U.S. International Trade Commission has estimated it would increase annual U.S. exports to South Korea by between \$10 billion and \$11 billion, and increase imports from the longtime Asian ally by between \$6.4 billion and \$6.9 billion.

The fate of all three pending agreements has been up in the air after the House of Representatives voted last month to indefinitely postpone action on the Colombia agreement.

Bush acknowledged the current political climate made it difficult to win approval of the trade deals, but said he had not "given up hope" that Congress would approve the Colombia agreement and then the two other trade deals.

Obama, an Illinois Democrat, has long opposed the South Korean agreement. But the White House has hoped it could leverage broad support from the business community to persuade the Democratic-run Congress to vote on the deal.

FURTHER BLOW

Obama's letter was a further blow to those hopes. It followed a similar letter this

week signed by New York Sen. Hillary Clinton, Obama's rival for the Democratic nomination, and nine other Democrats.

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"Approval of the agreement as negotiated would give Korean exports essentially unfettered access to the U.S. market and would eliminate our best opportunity for obtaining genuinely reciprocal market access in one of the world's largest economies," Obama said.

The Bush administration has ruled out renegotiating the auto provisions, which it says will level the auto trade playing field by eliminating South Korea's 8 percent tariff on U.S. auto imports and reducing regulatory barriers.

In turn, the United States will have to eliminate a 2.5 percent tariff on South Korea cars, which U.S. Trade Representative Susan Schwab has said "is not going to have an appreciable impact on U.S. auto trade."

South Korea -- which recently agreed to drop a ban on U.S. beef in hopes of stirring action in Congress on the trade deal -- has also ruled out renegotiating the auto terms.

The recent beef agreement has caused South Korean President Lee Myung-bak's popularity to plummet.

After being accused of caving into U.S. pressure and ignoring public safety concerns, Lee apologized to the Korean people on Thursday in a nationally televised address.

The United States says its beef meets international safety standards more than four years after several cases of mad cow disease were found in the U.S. herd.

White House spokesman Tony Fratto said on Friday the United States understood "the sensitivities of the South Korean people" on the beef issue, but had no reason to believe Seoul would not honor the agreement to reopen its market.

(Additional reporting by Jeremy Pelofsky)



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Pennsylvania Fair Trade Coalition

2008 Presidential Candidate Questionnaire

Candidate Name: Barack Obama

Campaign Office Address: 233 North Michigan Avenue, Chicago, IL 60601

Contact phone: (312) 819-2008 Email: ntamarin@barackobama.com

Campaign Contact: Nate Tamarin

The Pennsylvania Fair Trade Coalition (PAFTC) is a statewide coalition of labor, family farm, faith, environmental and student organizations whose mission is to work for socially, economically and environmentally just trade policies which promote a fair global economy and to oppose unjust, unsustainable trade policies.

Members of the PAFTC include: the Pennsylvania AFL-CIO, United Steelworkers District 10, United Students against Sweatshops, Mid-Atlantic Region, Pennsylvania Joint Board UNITE HERE, Communications Workers of America, District 13, International Union of Painters and Allied Trades District Council 57, A United Methodist Witness in Pennsylvania, Philadelphia Council, AFL-CIO, Pennsylvania Farmers Union, Steelworkers Organization of Active Retirees District 10, Pennsylvania Council of Churches, International Brotherhood of Boilermakers, Local 13, Allegheny County Labor Council, Pennsylvania State Electrical Workers Association, Pennsylvania State Council of Machinists, Clean Air Council

The Pennsylvania Fair Trade Coalition is sending questions to candidates to determine who is most focused on addressing the trade crisis effectively -- by rejecting further agreements based on the NAFTA model, renegotiating existing agreements and promoting a new responsible trade and globalization model.

The following questions will be shared with our PFTC member organizations. We strongly encourage you to supplement answers with additional explanations and rationale.

Background

We believe the NAFTA-WTO model of globalization has failed the U.S. and our trading partners. During the NAFTA-WTO era, we have seen *one out of every four* U.S. manufacturing jobs destroyed and real wages

decline as income inequity has soared. Since 2000 Pennsylvania has lost over 200,000 manufacturing jobs. Under the current globalization model, income inequality has increased not only within our country, but between countries with extreme poverty and hunger in Latin America, the Middle East, Africa and Asia. WTO and NAFTA have resulted in scores of attacks on domestic environmental, health and safety laws upon which our communities rely. WTO, NAFTA and NAFTA-style agreements ban Buy-America initiatives and other procurement policies which ensure our tax dollars are reinvested to provide American jobs and to promote good wages. These pacts limit our ability to inspect for the safety of imported products and food. NAFTA resulted in the displacement of over one million Mexican peasant farmers, increasing immigration to the United States from Mexico by 60 percent. Similar results are projected from CAFTA's agricultural provisions, even as the United States has seen the loss of tens of thousands of farms during the same period.

Imported Food and Product Safety

1. Both Democratic presidential candidates have stated that, as President, he and she would take urgent action to remedy the current flood of unsafe imported products and food into the U.S. market. Will you commit to renegotiating our current trade agreements to remove the limits on imported product and food safety standards and inspection rates now included in WTO, NAFTA and the NAFTA-style FTAs and to require that only products that meet our U.S. safety standards are allowed to enter our market?

Yes

No

Additional Comments: I believe that we must have strong standards to accept imports of food and other products. Equivalent standards do not necessarily have to be identical to ours, but they must achieve the same level of protection for consumers. I support ensuring that our trade agreements include protections for consumers that are as good as U.S. safety standards.

Agriculture

The top priority of each future trade agreement must be to provide farmers and ranchers across the globe an opportunity to receive a fair price for their commodities. Each trade agreement since the early 1990's has resulted in opening our borders to cheaper, lower-quality imported food, without regard to how it is produced or who produces it. The free trade agenda has decimated our nation's agriculture trade surplus in the last several years. Competitive imports are outpacing exports as a result of an unlevel playing field in agriculture, with American producers required to meet stringent labor, health, environmental and safety standards, while competitors are not.

2. Do you intend to limit future trade agreement negotiations to regulating domestic support levels, export subsidies and market access or shift the focus to require negotiations include addressing differences in labor standards, environmental standards, health standards and the trade-distorting effect of currency manipulation and cartelization of agriculture markets?

Yes

No

Additional Comments: I will work to maintain the American farmer's competitiveness around the world, and ensure the growth of family farms. My pro-American trade agenda will ensure the interests of farmers and ranchers are not traded off in favor of other industries. I will work to ensure that all trade agreements contain strong and enforceable labor, environmental, and health and safety standards so American farmers are able to

compete on a level playing field. I will instruct the U.S. Trade Representative (USTR) to negotiate agreements that grant American products access commensurate to access provided foreign products to the U.S. market, and I will examine existing U.S. trade agreements like NAFTA and CAFTA to ensure they do not undermine U.S. farmers.

WTO and the “Doha Round”

The WTO “Doha Round” negotiations are designed to expand the existing WTO model rather than address the problems in the existing WTO rules. Among the proposals now on the table are new constraints on the use of U.S. anti-dumping, countervailing duty, and other trade laws. Under the existing WTO rules, the United States has lost 29 WTO challenges against its existing trade remedy laws.

3. Will you commit to ensuring that no such new limits are included in any new WTO agreement and that the existing rules are renegotiated to allow the United States to employ its trade laws to counter dumping, subsidies and other trade cheating?

Yes **No**

Additional Comments: I support ensuring that future WTO negotiations are productive and fair to working people and the environment. I believe that we can work within the framework of the WTO to ensure our international standards for workers, poor nations, public health, and the environment are all improved. And we must ensure that global trade rules allow governments to pass nondiscriminatory laws and regulations that are in the public interest.

4. As president, will you allow the current Doha Round at the WTO to continue?

Yes **No**

Additional Comments: Please see above

Also on the table at the WTO Doha Round talks is a major expansion of the WTO’s General Agreement on Trade in Services (GATS) The Bush Administration has offered to bind the U.S. higher education sector to WTO jurisdiction which would limit U.S. federal and state government policy space regarding education policy. As well, new disciplines on the regulation of services, including limits on standards, professional qualifications and licensing are included in the Doha Round.

5. Will you commit to removing higher education from the U.S. Doha Round offer and opposing any Doha Round agreement that further limits non-discriminatory domestic service sector regulation?

Yes **No**

Additional Comments: I do not support trade efforts that undermine important federal, state and local policies and long-time practices that have been designed and implemented to benefit American families. As such, before expanding GATS to other domestic sectors, I believe we must have a thorough assessment of how such a move would affect the existing practices and goals of U.S. federal, state and local governments.

Existing U.S. WTO commitments regarding health insurance, hospitals, pharmaceutical distribution and other service sectors must be amended in order to implement key aspects of the health care reform proposals forwarded by both Democratic presidential candidates’ health care proposals. For instance, the WTO forbids

needs tests and exclusive provider arrangements in these sectors. The Bush Administration recently petitioned WTO to remove the U.S. gambling sector from WTO jurisdiction to restore our ability to regulate this service.

6. Will you commit to removing U.S. health care services from WTO jurisdiction so that urgently needed reforms can be implemented?

Yes No

Additional Comments: I am committed to signing a universal health care plan into law by the end of my first term of office. I will instruct my USTR appointee to examine any existing WTO regulations, as well as proposed policies put forward by the outgoing Bush Administration, to ensure that there are no existing trade regulations that will affect implementation of this goal.

China

In November 2007, the United States reached a new record annual trade deficit with China -- without December's figures even being calculated. Pennsylvania manufacturers are unable to compete when China grants enormous subsidies to foreign investors and misaligns its currency, which Federal Reserve Chair Bernanke calls "an effective subsidy."

7. As President, what steps will you take to address China's unfair advantage over Pennsylvania workers and manufacturers?

Response: I will build on my efforts in the U.S. Senate to declare China a currency manipulator, and work to ensure that China is no longer given a free pass to undermine U.S. workers. I will also make enforcement the top priority of the U.S. Trade Representative (USTR) Office, and I will increase resources for the USTR so it can carry out its responsibility to protect American interests. Finally, I will also ensure that consumer products coming in from China are truly safe. I will increase funding for the Consumer Product Safety Commission and work with the Chinese government to establish a better system, including the possibility of stationing U.S. inspectors in overseas factories, to monitor and act when dangerous toys are identified.

Presidential Trade Negotiating Authority

Both Democratic presidential candidates have committed to opposing any further Fast Track/Trade Promotion Authority for President Bush. We are very interested in your thinking about what sort of trade authority you would seek as President. The AFL-CIO and the Change to Win labor federations passed resolution in 2006 calling for replacing the Fast Track/Trade Promotion Authority system with a new system that includes the following:

- A. Readiness criteria to determine appropriate negotiating partners;
- B. Binding obligations regarding what must and must not be in future trade agreements;
- C. The right of prior informed consent for states before they are bound to non-trade, investment, service sector and procurement rules in trade agreements; and
- D. The right for Congress to vote before agreements are signed.

8. Will you commit to replacing the outdated Fast Track/Trade Promotion Authority system with a new process that includes these core improvements?

Yes No

Additional Comments: I will not support extension of the existing Fast Track process that expired. I have not and would not support renewing Trade Promotion Authority for this President. The current Fast Track process does not mandate that agreements include binding labor and environmental protections nor does it give an adequate role to Congress in the selection and design of agreements. I will work with Congressional leaders to ensure that any new TPA authority fix these basic failings and open up the process to the American people for their participation and scrutiny.

NAFTA and NAFTA-Style “Free Trade” Agreements

We are pleased that both Democratic presidential candidates have committed to review NAFTA and renegotiate aspects of it. Senator Obama has also committed to adding enforceable ILO labor standards and environmental standards to our other existing FTAs and the WTO. Both candidates have committed to ensuring that future trade agreements do not include private investor-state enforcement systems and also ensure that state-state investment rules do not grant foreign investors and overseas companies greater rights than U.S. residents or businesses. Because they incentivize offshoring by removing the risks normally associated with relocating to low wage developing countries, the foreign investment rules in these pacts are the most direct causes of U.S. job loss and the downward pressure on American wages.

9. Will you commit to renegotiate NAFTA to eliminate its investor rules that allow private enforcement by foreign investors of these investor privileges in foreign tribunals and that give foreign investors greater rights than are provided by the U.S. Constitution as interpreted by our Supreme Court thus promoting offshoring?

Yes

No

Additional Comments: I firmly believe that foreign investors should have no greater rights than Americans in our trade agreements.

10. Will you commit to renegotiate CAFTA and the other FTAs now in effect to eliminate their investor rules that allow private enforcement by foreign investors of the FTA investor privileges in foreign tribunals and that give foreign investors greater rights than are provided by the U.S. Constitution as interpreted by our Supreme Court thus promoting offshoring?

Yes

No

Additional Comments: With regards to provisions in several FTAs that give foreign investors the right to sue governments directly in foreign tribunals, I will ensure that foreign investor rights are strictly limited and will fully exempt any law or regulation written to protect public safety or promote the public interest. And I will never agree to granting foreign investors any rights in the U.S. greater than those of Americans. Our judicial system is strong and gives everyone conducting business in the United States recourse in our courts. The tribunal system was created to ensure that our investors would have access to similar protection abroad. I understand the concerns surrounding this issue, and am committed to working to address them.

11. President Bush has negotiated and signed Free Trade Agreements with Panama, Colombia and South Korea that contain the foreign investor and procurement provisions included in NAFTA and CAFTA. Will you commit to renegotiate these pending pacts to eliminate their investor rules that allow private enforcement by

foreign investors of the FTA investor privileges in foreign tribunals and that give foreign investors greater rights than are provided by the U.S. Constitution as interpreted by our Supreme Court thus promoting offshoring?

Yes No

Additional Comments: Please see above.

12. Regarding the Korea FTA, will you commit to renegotiating the lopsided trade terms regarding automobiles and other products that the Bush Administration agreed to in the Korea FTA?

Yes No

Additional Comments:

Procurement

13. Will you commit to negotiate procurement provisions in WTO, NAFTA and the various FTAs now in effect that undermine the ability of federal and state governments to use tax dollars to create and maintain good jobs by banning Buy America and similar preferences and the provisions that limits federal and state governments' ability to use procurement policy to achieve other important social goals, including safeguarding prevailing wage, renewable energy, and recycled content?

Yes No

Additional Comments: I am committed to ensuring that U.S. products and services are treated fairly in our international trade agreements. I will start with a reevaluation of NAFTA and a renegotiation effort to fix it, and I will ensure that U.S. products are treated on a level playing field with those of other countries. I will also task my U.S. Trade Representative (USTR) with exercising our rights at the WTO and ensuring that U.S. products and services are not unfairly and illegally discriminated against abroad. I will increase resources for the underfunded-USTR Office so it has the tools it needs to carry out its responsibilities to the federal government and the American people. I will also end tax breaks for companies that ship America jobs overseas and shift those incentives to companies that keep and maintain jobs here in the U.S.

I attest that these answers represent my beliefs and positions, and may be used by Pennsylvania Fair Trade Coalition to keep its partner groups and the public informed about trade issues.



April 2, 2008

Signature

Date

Thank you for completing this Questionnaire. We would like to act as a resource of information to you and your campaign on trade issues. We look forward to working with you over the period of your candidacy, and thereafter.

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(Original Signature of Member)

110TH CONGRESS
2nd SESSION

H.R._____

To require a review of existing trade agreements and renegotiation of existing trade agreements based on the review, to set terms for future trade agreements, to express the sense of the House of Representatives that the role of Congress in trade policymaking should be strengthened, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. MICHAUD (for himself and Mr. PETERSON, Mr. RAHALL, Mr. CONYERS, Mr. BRADY, Mr. FILNER, Mr. MURTHA, Mr. DELAURO, Mr.HINCHEY, Mr. DELAHUNT, Ms. SCHAKOWSKY, Ms. SANCHEZ, Mr. HOLDEN, Mr. ROSS, Mr. VISCLOSKY, Mr. DAVIS of Illinois, Mr. KILDEE , Mr. GRIJALVA, Ms. WOOLSEY, Mr. DEFAZIO, Mr. SHULER, Mr. BRALEY, Mr. LOEBSACK, Mr. HALL of New York, Mr. RYAN of Ohio, Mr. CHANDLER, Ms. BOYDA, Mr. JOHNSON of Georgia, Mr. SARBANES, Mr. HARE, Ms. SUTTON, Mr. JACKSON, Mr. LIPINSKI, Mr. ELLISON, Mr. GREEN, Mr. GREEN, Ms. SOLIS, Ms. KILPATRICK, Ms. MOORE of Wisconsin, Mr. DOYLE, Mr. CLEAVER, Mr. ALLEN, Mr. LYNCH, Mr. JONES of North Carolina, Ms. BALDWIN, Ms. KAPTUR, Mr. KUCINICH, Ms. SHEA-PORTER, Ms. HIRONO, Mr. ARCURI, Mr. MURPHY of Pennsylvania 8th district, Mr. KAGEN, and Mr. WILSON of Ohio introduced a the following bill, which was referred to the Committee on _____.

A BILL

To require a review of existing trade agreements and renegotiation of existing trade agreements based on the review, to set terms for future trade agreements, to express the sense of the House of Representatives that the role of Congress in trade policymaking should be strengthened, and for other purposes.

1 *Be it enacted by the Senate and House of Representatives of the*
2 *United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Trade Reform, Accountability,
5 Development, and Employment Act of 2008” or the “TRADE Act of
6 2008”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

9 (1) CORE LABOR STANDARDS.—The term “core labor
10 standards” means the core labor rights as stated in the
11 International Labour Organization conventions dealing with—

12 (A) freedom of association and the effective recognition of
13 the right to collective bargaining;

14 (B) the elimination of all forms of forced or compulsory
15 labor;

16 (C) the effective abolition of child labor; and

17 (D) the elimination of discrimination with respect to
18 employment and occupation.

19 (2) MULTILATERAL ENVIRONMENTAL AGREEMENTS.—The
20 term “multilateral environmental agreements” means any
21 international agreement or provision thereof to which the United
22 States is a party and which is intended to protect, or has the effect
23 of protecting, the environment or human health.

24 (3) TRADE AGREEMENTS.—

1 (A) IN GENERAL.—The term “trade agreement” includes
2 the Free Trade Agreements entered into with Australia,
3 Bahrain, Chile, Israel, Jordan, Morocco, Oman, Peru and
4 Singapore as well as the North American Free Trade
5 Agreement (NAFTA) and the Dominican Republic-Central
6 America- U.S. Free Trade Agreement (CAFTA).

7 (B) URUGUAY ROUND AGREEMENTS.—The term “trade
8 agreement” includes—

9 (i) the General Agreement on Tariffs and Trade
10 (GATT 1994) annexed to the WTO Agreement;

11 (ii) the WTO Agreement described in section 2(9) of
12 the Uruguay Round Agreements Act (19 U.S.C.
13 3501(9)); and

14 (iii) the agreements described in section 101(d) of the
15 Uruguay Round Agreements Act (19 U.S.C. 3511(d));

16 (iv) the post Uruguay Round sectoral agreements on
17 information technology, telecommunications and
18 financial services; and

19 (v) any future WTO agreements that may result from
20 post Uruguay Round WTO negotiations.

21
22 **SEC. 3. REVIEW AND REPORT ON EXISTING TRADE**
23 **AGREEMENTS.**

24 (a) In General.—Not later than June 30, [2010], and every 2 years
25 thereafter, the Comptroller General of the United States shall conduct

1 a review of all trade agreements described in Section 2(3) and submit
2 to the Congressional Trade Agreement Review Committee established
3 under section 6 a report that includes the information required under
4 subsections (b) and (c) and makes the recommendations required
5 under subsection (d):

6 (1) This review shall relate to the effective operation of the
7 United States trade agreements program generally;

8 (2) The State Department, Department of Agriculture,
9 Department of Commerce, Department of Labor, Department of
10 the Treasury and other executive branch agencies shall cooperate
11 with the Comptroller General of the United States and the
12 Government Accountability Office in providing access to foreign
13 and U.S. government officials and documents to facilitate the
14 report required; and

15 (3) The Comptroller General of the United States and the
16 Government Accountability Office are encouraged to use the
17 findings of recent reports and those now being produced in
18 compiling the information required so as to enhance the efficiency
19 of the process.

20 (b) Information With Respect to Trade Agreements.—The report
21 required under subsection (a) shall, with respect to each trade
22 agreement described in Section 2(3), include the following
23 information covering the period between the date on which the
24 agreement entered into force and the date on which the Comptroller
25 General completes the review:

26 (1) An analysis of the economic impact of each trade

1 agreement, including—

2 (A) the dollar value in inflation-controlled terms of goods
3 exported from the United States and imported into the United
4 States by sector, State, and year delineated by trade partner
5 country;

6 (B) job gains and losses in the United States by sector and
7 State;

8 (C) median wage levels in the United States in inflation-
9 controlled dollar terms by sector, State, and year; and

10 (D) an analysis of production outsourcing decisions made
11 by U.S. companies before and after the implementation of
12 each trade agreement and the rate of value-added production,
13 number of employees, and competitive position of industries
14 in the United States significantly affected by the agreement;
15 and

16 (E) Income distribution in the United States showing
17 distribution by quintile and poverty rates for the United
18 States.

19 (2) A trend analysis of wage levels in inflation-controlled
20 dollars on a year-by-year basis in

21 (A) countries with whom the United States has trade
22 agreements described in Section 2(3)(A);

23 (B) countries who comprise the top U.S. WTO trade
24 partners including Belgium, Brazil, China, France, Germany,
25 Hong Kong, India, Ireland, Italy, Japan, South Korea,
26 Malaysia, Netherlands, Taiwan, and the United Kingdom;

1 (C) countries with whom the United States has considered
2 establishing Free Trade Agreements including South Africa
3 and Thailand;

4 (D) countries who are party to the Caribbean Basin
5 Initiative and the Andean Trade Preference Drug Eradication
6 Act; and

7 (E) Cambodia and Vietnam.

8 (3) An analysis of agriculture and food-related outcomes,
9 including—

10 (A) The trend of prices in the United States for agricultural
11 commodities and food products that are imported in
12 significant volumes into the United States from a country that
13 is a party to the agreements described in Section 2(3) on a
14 year-by-year basis;

15 (B) An analysis of the effects, if any, on price
16 transparency, price discovery, market concentration, and fair
17 competition in the markets for agricultural commodities and
18 food products that are subject to significant volumes of trade
19 between the United States and each other country that is a
20 party to the agreements described in Section 2(3);

21 (C) An analysis of the effects, if any, on the cost of farm
22 programs in the United States and each other country under
23 the scope of Section 3(b)(5); and

24 (D) The number of farms operating in the United States
25 and the number of acres under production for agricultural
26 commodities that are exported from the United States to any

1 other country that is a party to the agreement on a year-by-
2 year basis.

3 (4) An analysis of compliance with the terms of the relevant
4 agreements in effect between the United States and each country
5 listed in Section 3(b)(2) including a description of any
6 outstanding disputes between the United States and any country
7 that is a party to the agreements listed in Section 2(3), and the
8 status of all laws, regulations, or policies of the United States or
9 any State that any country that is a party to such an agreement has
10 challenged, or threatened to challenge, under the agreements.

11 (5) An analysis of the adequacy of the U.S. capacity to ensure
12 trade agreement partners' compliance with Customs and other
13 U.S. regulatory requirements, including as regards the agreements
14 listed in Section 2(3): ensuring duty payment and amount of
15 duties collected by the United States on goods imported into the
16 United States; an analysis of the rate and adequacy of inspections
17 of food and other products imported; and an assessment of the
18 extent to which goods produced in a country that is a party to the
19 agreements listed in Section 2(3) are transshipped through other
20 countries with which the United States has a bilateral or regional
21 agreement in effect that may result in a rate of duty on such goods
22 that is lower than the rate of duty under the agreement.

23 (6) A description of any privatization of public sector services,
24 in the United States or in any country that is a party to the
25 agreements listed in Section 2(3), if those sectors are covered by
26 investment, financial services, or services provisions of the
27 agreement, including an analysis of any effect such privatization

1 has had on the access of consumers to essential services, such as
2 health care, electricity, gas, water, telephone service, or other
3 utilities.

4 (7) An analysis of the price of pharmaceuticals and any effect
5 that changes in the price of pharmaceuticals has had on the access
6 of consumers to affordable medicines in the United States or any
7 country that is a party to the agreements listed in Section 2(3).

8 (8) A list of any potential concerns posed by any country that is
9 a party to the agreements listed in Section 2(3) to the national
10 security of the United States, including—

11 (A) any potential effect on the efforts of the United States
12 to increase the energy self-sufficiency of the United States;

13 (B) any increase in narco-trafficking as a result of
14 economic pressures on farmers in any such country to grow
15 illegal crops; and

16 (C) any increase in poverty in any such country as a result
17 of the displacement of workers in sectors impacted by the
18 agreement.

19 (9) An analysis of trends in the number of immigrants,
20 including undocumented immigrants, entering the United States
21 on a year-by-year basis from each country that is a party to the
22 agreements listed in Section 2(3).

23 (10) An assessment of the consequences of significant
24 currency movements and a determination of whether the currency
25 of a country that is a party to the agreements listed in Section 2(3)
26 is misaligned deliberately to promote a competitive advantage in

1 international trade for that country; and

2 (11) An analysis of contracts for the procurement of goods or
3 services by Federal or State government agencies from persons
4 operating in any country that is a party to the agreements listed in
5 Section 2(3).

6 (c) Information on Countries That Are Parties to Trade
7 Agreements.—With respect to each country with respect to which the
8 United States has a trade agreement listed in Section 2(3) in effect, the
9 report required under subsection (a) shall include information
10 regarding whether that country—

11 (1) has a democratic form of government;

12 (2) respects [core] labor rights, as defined by the Committee of
13 Experts on the Application of Conventions and
14 Recommendations and the Conference Committee on the
15 Application of Standards of the International Labour
16 Organization;

17 (3) respects fundamental human rights, as determined by the
18 Secretary of State in the annual country reports on human rights
19 of the Department of State;

20 (4) is designated as a country of particular concern with respect
21 to religious freedom under section 402(b)(1) of the International
22 Religious Freedom Act of 1998 (22 U.S.C. 6442(b)(1));

23 (5) is on a list described in subparagraph (B) or (C) of section
24 110(b)(1) of the Trafficking Victims Protection Act of 2000 (22
25 U.S.C. 7107(b)(1)) (commonly known as tier 2 or tier 3 of the
26 Trafficking in Persons List of the Department of State);

1 (6) has taken effective measures to combat and prevent public
2 and private corruption, including measures with respect to tax
3 evasion and money laundering;

4 (7) complies with the multilateral environmental agreements to
5 which the country is a party;

6 (8) has in force adequate labor and environmental laws and
7 regulations, has devoted sufficient resources to implementing
8 such laws and regulations, and has an adequate record of
9 enforcement of such law and regulations;

10 (9) adequately protects intellectual property rights; and

11 (10) provides for governmental transparency, due process of
12 law, and respect for international agreements.

13 (d) Recommendations.—Each report required under subsection (a)
14 shall include recommendations of the Comptroller General for
15 addressing the problems with respect to an agreement identified under
16 subsections (b) and (c). The recommendations shall include
17 suggestions for renegotiating the agreement to meet the requirements
18 described in section 4(b) and for negotiations with respect to new
19 trade agreements.

20 (e) Citations.—The Comptroller General shall include in the report
21 required under subsection (a) citations to the sources of data used in
22 preparing the report and a description of the methodologies employed
23 in preparing the report.

24 (f) Public Comment.—In preparing each report required under
25 subsection (a), the Comptroller General shall—

26 (1) hold at least 3 hearings that are open to the public; and

1 (2) provide an opportunity for members of the public to testify
2 and submit written comments.

3 (g) Public Availability.—The information in each report required
4 under subsection (a) shall be made available to the public not later
5 than 14 days after the Comptroller General completes that report.

6

7 **SEC. 4. INCLUSION OF CERTAIN PROVISIONS IN TRADE**
8 **AGREEMENTS.**

9 (a) In General.—Notwithstanding section 151 of the Trade Act of
10 1974 (19 U.S.C. 2191) or any other provision of law, any bill
11 implementing a trade agreement between the United States and
12 another country that is introduced in Congress after the date of the
13 enactment of this Act shall not be subject to expedited consideration
14 or special procedures regarding amendment or debate unless the trade
15 agreement meets the requirements described in subsection (b).

16 (b) Requirements.—Each trade agreement negotiated between the
17 United States and another country shall meet the following
18 requirements:

19 (1) LABOR STANDARDS.—The labor provisions shall—

20 (A) be included in the core text of the agreement;

21 (B) require each country that is a party to the agreement to
22 adopt into domestic law and enforce effectively core labor
23 standards;

24 (C) provide that failures to meet the labor standards
25 required by the agreement shall be subject to dispute

1 resolution and enforcement mechanisms and penalties that
2 are at least as effective as the mechanisms and penalties that
3 apply to the commercial provisions of the agreement;

4 (D) strengthen the capacity of each country that is a party
5 to the agreement to promote and enforce core labor
6 standards; and

7 (E)(i) establish a commission composed of—

8 (I) 11 representatives specializing in international and
9 comparative labor rights of which five shall be
10 representatives of independent labor unions of countries
11 who are parties to the agreement and two shall be
12 academic researchers; and

13 (ii) provide the commission with sufficient resources and
14 staff to rigorously and continuously carry out its functions;

15 (iii) vest the commission with authority to establish
16 specific indicators of compliance with the obligations set
17 forth in subparagraphs (B), (C), and (D);

18 (iv) vest the commission with authority to operate with the
19 rights of a Party in the agreement's dispute resolution
20 system—

21 (I) initiate complaints in an agreement's dispute
22 settlement system under expedited procedures included
23 in Section 4(11) with respect to violations of the
24 obligations set forth in subparagraphs (B), (C), and (D)
25 thus ensuring that labor standards violations are subject
26 to dispute resolution and enforcement mechanisms and
27 penalties that are at least as effective as the mechanisms

1 and penalties that apply to the commercial provisions of
2 the agreement;

3 (II) conduct investigations and hearings on such
4 complaints which shall be considered by the agreement's
5 disputes settlement tribunal on equal standing with
6 submissions of the involved country or countries;

7 (III) select the two panelists with labor rights expertise
8 one of whom shall be selected by the union members of
9 the commission who shall serve on the three-person
10 dispute resolution tribunal hearing any case initiated by
11 the commission under subparagraph (I);

12 (IV) review and comment on the dispute resolution
13 panel's preliminary ruling with transmission of the
14 preliminary ruling to the commission to occur
15 simultaneously with transmission of the preliminary
16 ruling to the country or countries involved.

17 (V) be treated with the status of a Party to the dispute
18 throughout all subsequent procedures of appeal,
19 enforcement action or sanction arbitration so as to
20 ensure a country's compliance with the obligations set
21 forth in subparagraphs (B), (C), and (D) or the imposition
22 of penalties of sufficient magnitude to ensure full and
23 immediate compliance with the obligations set forth in
24 subparagraphs (B), (C), and (D) and as appropriate
25 incremental reductions in trade penalties as benchmarks
26 are achieved; and

1 a. Any subsequent appeal or sanction
2 arbitration panel shall be comprised with
3 minimally two panelists with labor rights
4 expertise.

5 (v) vest the commission with authority to set benchmarks
6 for increasing compliance with such obligations;

7 (vi) verify that benchmarks have in fact been achieved;
8 and

9 (F) require any country that is a party to the agreement
10 to—

11 (i) cooperate fully with investigations by the
12 commission required under subparagraph (E);

13 (ii) ensure full access by the commission to
14 workplaces and government agencies responsible for
15 enforcement of labor rights and standards;

16 (iii) ensure that commission personnel are able to
17 conduct confidential interviews with workers, managers,
18 and government officials;

19 (iv) ensure full access by the commission to relevant
20 documents of employers and government agencies; and

21 (v) ensure that workers who seek to enforce
22 obligations described in this paragraph are protected
23 against reprisal by employers.

24 (2) ENVIRONMENTAL AND PUBLIC SAFETY STANDARDS.—The
25 environmental provisions shall—

1 (A) be included in the text of the agreement;

2 (B) prohibit each country that is a party to the agreement
3 from weakening, eliminating, or failing to enforce domestic
4 environmental or other public interest standards to promote
5 trade or attract investment;

6 (C) require each such country to implement and enforce
7 fully and effectively, including through domestic law, the
8 country's obligations under multilateral environmental
9 agreements and provide for the enforcement of such
10 obligations under the agreement; and

11 (D) prohibit the trade of products that are illegally
12 harvested or extracted and the trade of goods derived from
13 illegally harvested or extracted natural resources, including
14 timber and timber products, fish, wildlife, and associated
15 products, mineral resources, or other environmentally
16 sensitive goods;

17 (E) provide that the failure to meet the environmental
18 standards required by the agreement be subject to dispute
19 resolution and enforcement mechanisms and penalties that
20 are at least as effective as the mechanisms and penalties that
21 apply to the commercial provisions of the agreement; and

22 (F) allow each country that is a party to the agreement to
23 adopt and implement environmental, health, and safety
24 standards, recognizing the legitimate right of governments to
25 protect the environment and public health and safety.

26 (3) FOOD AND PRODUCT HEALTH AND SAFETY STANDARDS.—If

1 the agreement contains health and safety standards for food and
2 other products, the agreement shall—

3 (A) establish that food, feed, food ingredients, and other
4 related food products may be imported into the United States
5 from a country that is a party to the agreement only if such
6 products meet or exceed United States standards with respect
7 to food safety, pesticides, inspections, packaging, and
8 labeling;

9 (B) establish that nonfood products may be imported into
10 the United States from a country that is a party to the
11 agreement only if such products meet or exceed United
12 States standards with respect to health and safety,
13 inspections, packaging, and labeling;

14 (C) allow each country that is a party to the agreement to
15 impose standards designed to protect public health and safety
16 unless it can be clearly demonstrated that such standards do
17 not protect the public health or safety;

18 (D) authorize the Commissioner of the Food and Drug
19 Administration and the Consumer Product Safety
20 Commission to assess the regulatory system of each country
21 that is a party to the agreement to determine whether the
22 system provides the same or better protection of health and
23 safety for food and other products as provided under the
24 regulatory system of the United States;

25 (E) if the Commissioner or the Commission determines
26 that the regulatory system of such a country does not provide

1 the same or better protection of health and safety for food
2 and other products as provided under the regulatory system
3 of the United States, prohibit the importation into the United
4 States of food and other products from that country;

5 (F) provide a process by which producers from countries
6 whose standards are not found by the Commissioner or the
7 Commission to meet U.S. standards may have specific
8 facilities inspected and certified so as to allow products from
9 approved facilities to be imported into the United States;

10 (G) if harmonization of food or product health or safety
11 standards is necessary to facilitate trade, such harmonization
12 shall be based on standards that are no less stringent than
13 United States standards; and

14 (H) establish mandatory end-use labeling of imports of
15 milk protein concentrates.

16 (4) SERVICES PROVISIONS.—If the agreement contains
17 provisions related to the provision of services, such provisions
18 shall—

19 (A) preserve the right of Federal, State, and local
20 governments to maintain essential public services and to
21 regulate, for the benefit of the public, services provided to
22 consumers in the United States;

23 (B)(i) require each country that is a party to the agreement
24 to establish a positive list of each service sector that will be
25 subject to the obligations of the country under the agreement;
26 and

1 (ii) apply the agreement only to the service sectors that are
2 on the list described in clause (i);

3 (C) establish a general exception to market access
4 obligations that allows a country that is a party to the
5 agreement to maintain or establish a ban on services the
6 country considers harmful, if the ban is applied to domestic
7 and foreign services and service providers alike;

8 (D) require service providers in any country that is a party
9 to the agreement that provide services to consumers in the
10 United States to comply with United States environmental,
11 land use, safety, privacy, transparency, professional
12 qualification, and consumer access laws and regulations;

13 (E) require that services provided to consumers in the
14 United States, such as medical and financial services, that are
15 subject to privacy laws and regulations in the United States
16 may only be provided by service providers in other countries
17 that provide privacy protections and protections for
18 confidential information that are equal to or exceed the
19 protections provided by United States privacy laws and
20 regulations;

21 (F) not require the privatization of public services in any
22 country that is a party to the agreement or the deregulation of
23 a service, including services related to national security,
24 social security, health, public safety, education, water,
25 sanitation, other utilities, ports, or transportation;

26 (G) not subject local governments to the service sector

1 obligations under the agreement; and

2 (H) not include provisions with respect to immigration or
3 the movement of natural persons.

4 (5) INVESTMENT PROVISIONS.—If the agreement contains
5 provisions related to investment, such provisions shall—

6 (A) preserve the ability of each country that is a party to
7 the agreement to regulate foreign investment in a manner
8 consistent with the needs and priorities of the country;

9 (B) allow each such country to place prudential restrictions
10 on speculative capital to reduce global financial instability
11 and trade volatility;

12 (C) not be subject to an investor-state dispute settlement
13 mechanism under the agreement;

14 (D) ensure that foreign investors operating in the United
15 States have rights no greater than the rights provided to
16 domestic investors by the Constitution of the United States;

17 (E) provide for government-to-government dispute
18 resolution relating to a government action that destroys all
19 value of the real property of a foreign investor;

20 (F) define the term “investment” to mean not more than a
21 commitment of capital or acquisition of real property and not
22 to include assumption of risk or expectation of gain or profit;

23 (G) define the term “investor” to mean only a person who
24 makes a commitment or acquisition described in
25 subparagraph (F);

1 (H) define the term “direct expropriation” as government
2 actions that do not merely diminish the value of property but
3 destroy all value of the property permanently;

4 (I) not provide a dispute resolution system under the
5 agreement with regard to the enforcement of contracts
6 between foreign investors and the government of a country
7 that is a party to the agreement relating to natural resources,
8 public works, or other activities under government control;
9 and

10 (J) define the standard of minimum treatment to provide no
11 greater legal rights than United States citizens possess under
12 the due process clause of section 1 of the 14th amendment to
13 the Constitution of the United States.

14 (6) PROCUREMENT STANDARDS.—If the agreement contains
15 government procurement provisions, such provisions shall—

16 (A) require each country that is a party to the agreement to
17 establish a positive list of industry sectors, goods, or services
18 that will be subject to the obligations of the country under the
19 agreement;

20 (B) with respect to the United States, apply only to State
21 governments that specifically agree to the agreement and
22 only to the industry sectors, goods, or services specifically
23 identified by the State government and not apply to local
24 governments; and

25 (C) include only technical specifications for goods or
26 services, or supplier qualifications or other conditions for

1 receiving government contracts that do not undermine—

2 (i) prevailing wage policies;

3 (ii) recycled content policies;

4 (iii) sustainable harvest policies;

5 (iv) renewable energy policies;

6 (v) human rights; or

7 (vi) labor project agreements.

8 (7) INTELLECTUAL PROPERTY REQUIREMENTS.—If the
9 agreement contains provisions related to the protection of
10 intellectual property rights, such provisions shall—

11 (A) promote adequate and effective protection of
12 intellectual property rights;

13 (B) include only terms relating to patents that do not,
14 overtly or in application, limit the flexibilities and rights
15 established in the Declaration on the TRIPS Agreement and
16 Public Health, adopted by the World Trade Organization at
17 the Fourth Ministerial Conference at Doha, Qatar on
18 November 14, 2001, particularly the flexibilities and rights
19 relating to the promotion of access to medicines and the
20 issuance of compulsory licenses on grounds determined by
21 member states;

22 (C) require that any provisions relating to the patenting of
23 traditional knowledge be consistent with the Convention on
24 Biological Diversity, concluded at Rio de Janeiro June 5,
25 1992; and

1 (D) ensure that the access of the public to essential
2 medicines and to technologies critical to preventing climate
3 change is not obstructed by any provision of the agreement
4 relating to the protection of intellectual property rights.

5 (8) AGRICULTURAL STANDARDS.—If the agreement contains
6 provisions related to agriculture, such provisions shall—

7 (A) ensure adequate and stable market returns for farmers
8 in each country that is a party to the agreement;

9 (B) ensure adequate and affordable supplies of safe food
10 for consumers;

11 (C) protect the right of each country that is a party to the
12 agreement to encourage conservation through the use of best
13 practices with respect to the management and production of
14 crops;

15 (D) ensure fair treatment of farm laborers in each such
16 country;

17 (E) protect the right of each country that is a party to the
18 agreement to prevent dumping of agricultural commodities at
19 below the cost of production through border regulations or
20 other mechanisms and policies;

21 (F) protect the right of each such country to establish
22 policies with respect to food and agriculture that require
23 farmers to receive fair remuneration for management and
24 labor that occurs on farms and that allow for inventory
25 management and strategic food and renewable energy
26 reserves, while ensuring that such policies must not aid or
27 abet, or otherwise contribute to, or allow the dumping of
28 agricultural commodities onto world markets at below the
29 cost of production; and

1 (G) preserve any existing United States law relating to
2 antitrust and anticompetitive business practices from being
3 preempted or rendered ineffective by the agreement; and

4 (H) not contain provisions that conflict with agricultural
5 policy established in United States law.

6 (9) TRADE REMEDIES AND SAFEGUARDS.—If the agreement
7 contains trade remedy provisions, such provisions shall—

8 (A) preserve fully the ability of the United States to
9 enforce its trade laws, including antidumping and
10 countervailing duty laws and safeguard laws;

11 (B) not decrease the effectiveness of domestic and
12 international prohibitions on unfair trade, especially
13 prohibitions on dumping and subsidies, and domestic and
14 international safeguard provisions;

15 (C) establish mechanisms to address and remedy market
16 distortions that lead to dumping and subsidization, including
17 overcapacity, cartelization, and market-access barriers
18 through strong trade agreement terms disciplining subsidies;

19 (D) allow the United States to maintain adequate
20 safeguards to ensure that surges of imported goods do not
21 result in economic burdens on workers, firms, or farmers in
22 the United States, including providing that such safeguards
23 go into effect automatically based on certain criteria; and

24 (E) establish mechanisms among the parties to the
25 agreement to examine the trade consequences of significant
26 currency movements and to scrutinize whether a party's

1 currency is misaligned to promote a competitive advantage
2 in international trade; and

3 (F) if the currency of a country that is party to the
4 agreement is deliberately misaligned, establish safeguard
5 remedies that apply automatically to offset substantial and
6 sustained currency movements.

7 (10) RULES OF ORIGIN PROVISIONS.—If the agreement contains
8 provisions related to rules of origin, such provisions shall—

9 (A) ensure, to the fullest extent practicable, that goods
10 receiving preferential treatment under the agreement are
11 produced using inputs from a country that is a party to the
12 agreement; and

13 (B) ensure the effective enforcement of such provisions.

14 (11) DISPUTE RESOLUTION AND ENFORCEMENT PROVISIONS.—
15 If the agreement contains provisions related to dispute resolution,
16 such provisions shall—

17 (A) incorporate the basic due process guarantees protected
18 by the Constitution of the United States, including access to
19 documents, open hearings, and conflict of interest rules for
20 judges;

21 (B) require that any dispute settlement panel, including an
22 appellate panel, dealing with intellectual property rights or
23 environmental, health, labor, and other public law issues
24 include panelists with expertise in such issues; and

25 (C) require an expedited process for all dispute settlement

panels and processes related to violations of an agreement's labor and environmental obligations, recognizing that environmental and labor rights and the health, safety, and freedom of people and possibly irreversible damage to the physical environment are fundamentally different than property rights and thus require establishment of more expeditious timelines, together with the necessary resources for oversight and enforcement; and

(D) provide that dispute resolution proceedings are open to the public and provide timely public access to information regarding enforcement, disputes, and ongoing negotiations related to disputes.

(12) TECHNICAL ASSISTANCE.—If the agreement contains technical assistance provisions, such provisions shall—

(A) be designed to raise standards in developing countries by providing assistance that ensures respect for diversity of development paths;

(B) be designed to empower civil society and democratic governments to create sustainable, vibrant economies and respect basic rights;

(C) provide that technical assistance shall not be a substitute for nor supplant economic assistance; and

(D) not promote the exportation of goods produced with the exploitation of labor or unsustainable environmental practises.

(13) EXCEPTIONS FOR NATIONAL SECURITY AND OTHER

1 REASONS.—Each agreement shall—

2 (A) include an essential security exception that permits a
3 country that is a party to the agreement to apply measures
4 that the country considers necessary for the maintenance or
5 restoration of international peace or security, or the
6 protection of its own essential security interests, including
7 regarding infrastructure, services, manufacturing, and other
8 sectors;

9 (B) explicitly state that if a country invokes the essential
10 security exception in a dispute settlement proceeding, the
11 dispute settlement body hearing the matter shall find that the
12 exception applies;

13 (C) include a provision that gives priority to the
14 implementation of bilateral or multilateral agreements
15 relating to public health, human and labor rights, the
16 environment, or other public interest goals in the event of any
17 inconsistency between a trade agreement and such bilateral
18 or multilateral agreement; and

19 (D) include in its list of general exceptions the following
20 language: “Notwithstanding any other provision of this
21 agreement, a provision of law that is nondiscriminatory on its
22 face and relates to domestic health, consumer safety, the
23 environment, labor rights, worker health and safety,
24 economic equity, consumer access, the provision of goods or
25 services, or investment, shall not be subject to challenge
26 under the dispute resolution mechanism established under
27 this agreement, unless the primary purpose of the law is to

1 discriminate with respect to market access.”

2 (14) FEDERALISM.—The agreement may only require a State
3 government to comply with procurement, investment, or services
4 provisions contained in the agreement if the State government has
5 been consulted in full and has given explicit consent to be bound
6 by such provisions.

7 (15) TAXATION— Each agreement shall—

8 (A) provide for tax equity for U.S. producers and U.S.
9 exporters, including by forbidding taxation at the border on
10 U.S. exports in excess of taxes applied at the border by the
11 United States to imports from parties and/or banning the
12 rebate of taxes on exports in amounts in excess of any taxes
13 rebated by the United States.

14 **SEC. 5. RENEGOTIATION OF EXISTING TRADE**
15 **AGREEMENTS.**

16 The President shall submit to Congress a plan for renegotiating each
17 trade agreement that is in effect on the date of the enactment of this
18 Act to bring the trade agreement into compliance with the
19 requirements of section 4(b) not later than 90 days before the earlier
20 of the day on which the President—

21 (1) initiates negotiations with a foreign country with respect to
22 a new trade agreement; or

23 (2) submits a bill to Congress to implement a trade agreement.

24 **SEC. 6. ESTABLISHMENT OF CONGRESSIONAL TRADE**
25 **AGREEMENT REVIEW COMMITTEE.**

1 (a) Establishment.—There is established a Congressional Trade
2 Agreement Review Committee.

3 (b) Functions.—The Committee—

4 (1) shall receive the report of the Comptroller General of the
5 United States required under section 3;

6 (2) shall review the plan for renegotiation of trade agreements
7 submitted by the President under section 5; and

8 (3) may, not later than 60 days after receiving the plan
9 described in paragraph (2), add items for renegotiation to the
10 plan, reject recommendations in the plan, or otherwise amend the
11 plan by a vote of 2/3 of the members of the Committee.

12 (c) Appointment and Membership.—The Committee shall be
13 composed of the chair and ranking members of the following:

14 (1) The Committee on Agriculture of the House of
15 Representatives.

16 (2) The Committee on Education and Labor of the House of
17 Representatives.

18 (3) The Committee on Energy and Commerce of the House of
19 Representatives.

20 (4) The Committee on Financial Services of the House of
21 Representatives.

22 (5) The Committee on Foreign Affairs of the House of
23 Representatives.

24 (6) The Committee on the Judiciary of the House of
25 Representatives.

1 (7) The Committee on Natural Resources of the House of
2 Representatives.

3 (8) The Committee on Small Business of the House of
4 Representatives.

5 (9) The Committee on Transportation and Infrastructure of the
6 House of Representatives.

7 (10) The Committee on Ways and Means of the House of
8 Representatives.

9 (11) The Committee on Agriculture, Nutrition, and Forestry of
10 the Senate.

11 (12) The Committee on Banking, Housing, and Urban Affairs
12 of the Senate.

13 (13) The Committee on Commerce, Science, and
14 Transportation of the Senate.

15 (14) The Committee on Energy and Natural Resources of the
16 Senate.

17 (15) The Committee on Environment and Public Works of the
18 Senate.

19 (16) The Committee on Finance of the Senate.

20 (17) The Committee on Foreign Relations of the Senate.

21 (18) The Committee on Health, Education, Labor, and Pensions
22 of the Senate.

23 (19) The Committee on the Judiciary of the Senate.

24 (20) The Committee on Small Business and Entrepreneurship

1 of the Senate.

2 **SEC. 7. SENSE OF CONGRESS ON REQUIREMENTS FOR**
3 **TRADE AGREEMENTS.**

4 (a) In General.—It is the sense of Congress that the requirements
5 described in subsection (b) shall apply to any trade agreement that—

6 (1) is in effect with respect to the United States on the date of
7 the enactment of this Act; or

8 (2) enters into force with respect to the United States on or after
9 such date of enactment.

10 (b) Requirements With Respect to Trade Agreements.—The
11 requirements described in this subsection are the following:

12 (1) The trade agreement shall result in the creation of jobs in
13 the United States, increased wages, and a reduction of the trade
14 deficit by providing fair and transparent market access while
15 preserving the ability of the United States—

16 (A) to enforce domestic trade laws; and

17 (B) to address the negative impacts of currency
18 manipulation, financial instability, and high debt burdens on
19 United States trade relationships.

20 (2) The trade agreement shall preserve the ability of the United
21 States and the government of any country that is a party to the
22 agreement to foster and secure economic, social, and human
23 development so that the people of the United States can benefit
24 from—

25 (A) strong environmental, labor, health, and safety laws;

1 and

2 (B) economic development policies designed to increase
3 job availability and stable industries, revitalize the
4 manufacturing base in the United States, and bring economic
5 opportunity to communities hard hit by past trade policies.

6 (3) The trade agreement shall create a predictable structure for
7 international trade without providing foreign investors with
8 overreaching privileges and rights of private enforcement that
9 distort investment decisions.

10 (4) The trade agreement shall enable Federal, State and Local
11 governments—

12 (A) to regulate in the public interest;

13 (B) to develop procurement policies that create and
14 maintain good jobs;

15 (C) to promote economic opportunity and development and
16 achieve other legitimate social goals; and

17 (D) to provide high-quality public services and regulate all
18 essential services to protect the public interest.

19 (5) The trade agreement shall ensure that products imported
20 into the United States, including food, meet U.S. safety standards,
21 are thoroughly inspected, and accurately labeled.

22 (6) The trade agreement shall enable the public to participate
23 meaningfully in the decisions of the Federal Government relating
24 to trade, based on a process that is open, democratic, and fair.

25 (7) The trade agreement shall specifically provide that the trade

1 agreement does not allow for the preemption of the federalist
2 system of the United States with respect to issues of State and
3 local policy that are not related to international trade.

4 (8) The trade agreement shall reflect the interests of the United
5 States in preserving family farms and using best available
6 management practices.

7 (9) The trade agreement shall promote the ability of farmers to
8 earn a fair price for their products, including by prohibiting
9 export subsidies, cartels, and other anticompetitive practices and
10 promoting inventory management to stabilize price volatility and
11 to counter the oversupply problems that lead to dumping and
12 depressed prices.

13 (10) The trade agreement shall explicitly incorporate in the core
14 text of the agreement a requirement to adopt into domestic law
15 and effectively enforce core labor standards.

16 (11) The trade agreement shall—

17 (A) allow any country that is a party to the agreement to
18 follow environmental, health, and safety standards adopted in
19 reliance on the precautionary principle, recognizing the
20 legitimate rights of governments to protect public health,
21 safety, and the environment;

22 (B) incorporate requirements to adopt into domestic law
23 and enforce the major multilateral environmental agreements,
24 which comprise the global consensus on basic environmental
25 protection; and

26 (C) prohibit the importation of any goods that are illegally

1 harvested natural resources or products, or that are otherwise
2 environmentally sensitive into the United States, and
3 consider specific measures to enable customs agencies in all
4 countries that are parties to the agreement, to meaningfully
5 enforce those prohibitions, based in the principle that open
6 trade does not mean illegal trade.

7 (12) The trade agreement shall—

8 (A) provide that failures to meet the labor and
9 environmental standards required by the agreement are
10 subject to dispute resolution and enforcement mechanisms
11 and penalties that are at least as effective as the mechanisms
12 and penalties that apply to the commercial provisions of the
13 agreement; and

14 (B) ensure the availability of the resources necessary for
15 oversight and enforcement of the labor, environmental, and
16 intellectual property standards in the agreement.

17 (13) The trade agreement shall establish that, if the regulatory
18 standards of the countries that are parties to the agreement need to
19 be harmonized to facilitate trade, the harmonization shall be
20 based on standards that are no less stringent than the standards of
21 the United States.

22 **SEC. 8. SENSE OF CONGRESS ON IMPROVING THE**
23 **PROCESS FOR UNITED STATES TRADE NEGOTIATIONS.**

24 It is the sense of Congress that if Congress considers legislation to
25 provide for special procedures for the consideration of bills to
26 implement trade agreements, that legislation shall include—

1 (1) readiness criteria for the President to use in determining
2 whether a country—

3 (A) is able to meet its obligations under a trade agreement;

4 (B) meets the requirements described in section 3(c); and

5 (C) is an appropriate country with which to enter into a
6 trade agreement;

7 (2) a process by which the Committee on Finance of the Senate
8 and the Committee on Ways and Means of the House of
9 Representatives review the determination of the President
10 described in paragraph (1) to verify that the country meets the
11 criteria;

12 (3) requirements for consultation with Congress during trade
13 negotiations that require more frequent consultations than
14 required by the Bipartisan Trade Promotion Authority Act of
15 2002 (19 U.S.C. 3801 et seq.), including a process for
16 consultation with any committee of Congress with jurisdiction
17 over any area covered by the negotiations;

18 (4) binding negotiating objectives and requirements outlining
19 what must and must not be included in a trade agreement,
20 including the requirements described in section 4(b);

21 (5) a process for review and certification by Congress to ensure
22 that the negotiating objectives described in paragraph (4) have
23 been met during the negotiations;

24 (6) a process—

25 (A) by which a State may give informed consent to be

1 bound by nontariff provisions in a trade agreement that relate
2 to investment, the service sector, and procurement; and
3 (B) that prevents a State from being bound by the
4 provisions described in subparagraph (A) if the State has not
5 consented; and
6 (7) a requirement that a trade agreement be approved by a
7 majority vote in both Houses of Congress before the President
8 may sign the agreement.



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Joan Claybrook, President

Selected Campaign Statements By President Barack Obama on U.S. Trade and Globalization Policy

Obama On the North American Free Trade Agreement (NAFTA) and NAFTA Expansion:

“One of the first things I’ll do as President will be to call the Prime Minister of Canada and the President of Mexico and work with them to fix NAFTA. We’ll add binding obligations to protect the right to collective bargaining and other core labor standards recognized by the International Labor Organization. And I will add enforceable measures to NAFTA, the World Trade Organization (WTO), CAFTA [Central America Free Trade Agreement] and other Free Trade Agreements (FTA’s) currently in effect. Similarly, we should add binding environmental standards so that companies from one country cannot gain an economic advantage by destroying the environment. And we should amend NAFTA to make clear that fair laws and regulations written to protect citizens in any of the three countries cannot be overridden simply at the request of foreign investors.”¹

“I voted against CAFTA and never supported NAFTA. NAFTA’s shortcomings were evident when signed and we must now amend the agreement to fix them. While NAFTA gave broad rights to investors, it paid only lip service to the rights of labor and the importance of environmental protection. Ten years later CAFTA – the Central American Free Trade Agreement – had many of the same problems, which is why I voted against it. We must add binding obligations to the NAFTA agreement to protect the right to collective bargaining and other core labor standards recognized by the International Labor Organization. Similarly, we must add binding environmental standards so that companies from one country cannot gain an economic advantage by destroying the environment. And we should amend NAFTA to make clear that fair laws and regulations written to protect citizens in any of the three countries cannot be overridden simply at the request of foreign investors.”²

Obama On the WTO:

“I do not support trade efforts that undermine important federal, state and local policies and long-time practices that have been designed and implemented to benefit American families. As such, before expanding GATS to other domestic sectors, I believe we must have a thorough assessment of how such a move would affect the existing practices and goals of U.S. federal, state and local governments.”³

Obama On Imported Food and Product Safety:

“As president, I will make sure that any goods coming into America meet American safety standards, and that the U.S. Consumer Product Safety Commission, the Food and Drug Administration and the

other agencies that protect consumers have the tools necessary to make sure that what we're buying is safe."⁴

"I will enforce Buy America requirements to protect specialty crops. I also support immediate implementation of the Country of Origin Labeling law, which will require meat products and specialty crops including fruits and vegetables to indicate their country of origin. I believe that American producers should be able to distinguish their products from imported ones and that consumers deserve the right to know where their food comes from."⁵

"As president, I will also mandate independent, third-party system of all children's toys and other consumer products before they enter the United States. I will dramatically increase resources for the Consumer Product Safety Commission (CPSC). I will work with the Chinese government and other foreign governments to establish a better system, including the possibility of stationing U.S. inspectors in overseas factories, to monitor and act when dangerous toys, food and other products are identified... I believe that we must have strong standards to accept imports of food and other products. Equivalent standards do not necessarily have to be identical to ours, but they must achieve the same level of protection for consumers. I support ensuring that our trade agreements include protections for consumers that are as good as U.S. safety standards."⁶

Obama On Investment Rights:

"With regards to provisions in several FTAs that give foreign investors the right to sue governments directly in foreign tribunals, I will ensure that foreign investor rights are strictly limited and will fully exempt any law or regulation written to protect public safety or promote the public interest. And I will never agree to granting foreign investors any rights in the U.S. greater than those of Americans."⁷

Obama On Trade Negotiating Authority:

"I will replace Fast Track with a process that includes criteria determining appropriate negotiating partners that includes an analysis of labor and environmental standards as well as the state of civil society in those countries. Finally, I will ensure that Congress plays a strong and informed role in our international economic policy and in any future agreements we pursue and in our efforts to amend existing agreements."⁸

"I oppose extending or renewing the current Fast Track authority as designed, but would support a redesigned process that provided for greater transparency, more democratic participation, and required labor and environmental provisions in the core of agreements."⁹

"I will not support extension of the existing Fast Track process that expired. I have not and would not support renewing Trade Promotion Authority for this President. The current Fast Track process does not mandate that agreements include binding labor and environmental protections nor does it give an adequate role to Congress in the selection and design of agreements. I will work with Congressional leaders to ensure that any new TPA authority fix these basic failings and open up the process to the American people for their participation and scrutiny."¹⁰

“The process used to negotiate NAFTA, the text of the agreement itself having failed to include labor and environmental protections, and the inadequate consideration or transition assistance for those who would lose their jobs in both countries as a result of changing production patterns, all contributed to a failure of governance and that has indisputably hurt us.”¹¹

Obama On Agriculture:

“I will work to maintain the American farmer’s competitiveness around the world, and ensure the growth of family farms. My pro-American trade agenda will ensure the interests of farmers and ranchers are not traded off in favor of other industries. I will work to ensure that all trade agreements contain strong and enforceable labor, environmental, and health and safety standards so American farmers are able to compete on a level playing field. I will instruct the U.S. Trade Representative (USTR) to negotiate agreements that grant American products access commensurate to access provided foreign products to the U.S. market, and I will examine existing U.S. trade agreements like NAFTA and CAFTA to ensure they do not undermine U.S. farmers.”¹²

Obama On Labor and Environmental Standards:

“I strongly support the inclusion of meaningful, enforceable labor and environmental standards in all trade agreements. As president, I will work to ensure that the U.S. again leads the world in ensuring that consumer products produced across the world are done in a manner that supports workers, not undermines them.”¹³

Obama On Global Warming and Trade Agreements:

“The U.S. must lead efforts to combat climate change, but the only effective solution to this global problem will require the development and enforcement of an equitable global agreement that includes the participation of all our major trading partners. I will take all necessary and appropriate steps to ensure that policies designed to reduce global warming pollution are not constrained by trade agreements.”¹⁴

Obama on Health Care and Trade Agreements:

“I am committed to signing a universal health care plan into law by the end of my first term of office. I will instruct my USTR appointee to examine any existing WTO regulations, as well as proposed policies put forward by the outgoing Bush Administration, to ensure that these are no existing trade regulations that will affect implementation of this goal.”¹⁵

ENDNOTES

- ¹ Letter to the Iowa Fair Trade Campaign, December 26, 2007. Available at http://www.citizen.org/documents/Obama_IFTC.pdf.
- ² Response to a Texas Fair Trade Coalition questionnaire, March 3, 2008. Available at <http://www.citizen.org/documents/TXFairTradeCoalitionObama.pdf>.
- ³ Response to a Pennsylvania Fair Trade Coalition questionnaire, April 2, 2008.
- ⁴ Letter to the Iowa Fair Trade Campaign, December 26, 2007.
- ⁵ Response to a Texas Fair Trade Coalition questionnaire, March 3, 2008.
- ⁶ Response to a Texas Fair Trade Coalition questionnaire, March 3, 2008.
- ⁷ Response to a Pennsylvania Fair Trade Coalition questionnaire, April 2, 2008. Available at http://www.citizen.org/documents/PA_Fair_Trade_Coalition_Obama.pdf.
- ⁸ Letter to Wisconsin Fair Trade Coalition, February 18, 2008. Available at http://www.citizen.org/documents/WFTC_Obama_Letter.pdf.
- ⁹ Response to an Oregon Fair Trade Coalition questionnaire, May 9, 2008. Available at <http://www.citizen.org/documents/ORFairTradeCoalitionObama.pdf>.
- ¹⁰ Response to a Pennsylvania Fair Trade Coalition questionnaire, April 2, 2008.
- ¹¹ Response to an Oregon Fair Trade Coalition questionnaire, May 9, 2008.
- ¹² Response to a Pennsylvania Fair Trade Coalition questionnaire, April 2, 2008.
- ¹³ Response to a Texas Fair Trade Coalition questionnaire, March 3, 2008.
- ¹⁴ Response to an Oregon Fair Trade Coalition questionnaire, May 9, 2008.
- ¹⁵ Response to a Pennsylvania Fair Trade Coalition questionnaire, April 2, 2008.

Questions for the Record
Senator John Kerry
Nomination of Hillary Rodham Clinton
Department of State
Secretary of State

Role of Secretary of State

1. The new Administration will take over at a time of extraordinary challenges and opportunities for the country. What do you see as the most significant challenges facing the United States, immediately and over the longer term? What do you view as the most urgent international priorities for the new Administration? What do you see as the most significant opportunities? What role will the Secretary of State play in formulating and advancing U.S. policy objectives? What would you seek to accomplish during your first 100 days and your first year as Secretary of State?

I appreciate these vitally important questions, and I have given them a great deal of thought. I have worked to address them in the testimony that I will submit to the Committee under a separate cover. If you believe that submission does not address these issues sufficiently, I would be happy to follow up.

Afghanistan

2. What is your assessment of the security situation in Afghanistan? Has the Taliban gained or lost ground over the past year? Has our strategy to date been effective? How can we strengthen our efforts?

The security situation in Afghanistan is deteriorating and the Taliban is gaining ground. President-Elect Obama has proposed a new strategy for Afghanistan with several elements: First, end the war in Iraq responsibly and send additional troops to help complete the mission in Afghanistan. Second, provide a major increase in non-military aid to Afghanistan. Afghanistan needs a government more able to take care of its people's needs – something the President-Elect has communicated directly to President Karzai. We should help – and we should demand accountability. Third, take on the drug trade, which is funding al Qaeda and the Taliban, including the development of alternative livelihoods for poppy farmers. Afghanistan has turned into a narcostate. Fourth, develop a coherent Pakistan policy. First, that means

conditioning U.S. military aid on their efforts to close down training camps, evict foreign fighters, and prevent the Taliban from using Pakistan as a sanctuary. Second, it means tripling non-military aid to Pakistan, with a focus on the border regions, and improving the lives of the Pakistani people, so that over the long-term we are reducing the pull of the extremists.

3. Last February, Defense Secretary Gates acknowledged that some NATO members tend to group the wars in Iraq and Afghanistan together, and do not share our views on the necessity of European participation in ISAF. How does the administration plan to make a case for renewed and reinvigorated commitments to Afghanistan, including at NATO's 60th anniversary summit scheduled for this April?

President-Elect Obama and I believe that Afghanistan and the Pakistani border are the central front in the war on terror and we will make the case to our Allies that we must not let Afghanistan return to a safe haven for Al Qaeda and the Taliban. The Obama Administration will seek greater contributions from our NATO allies in Afghanistan. We will ask our NATO allies to eliminate national restrictions on NATO forces. The NATO force is short-staffed and some countries contributing forces are imposing restrictions on where their troops can operate, tying the hands of commanders on the ground. The Obama Administration will work with European allies to end these burdensome restrictions and strengthen NATO as a fighting force.

4. Should we be prepared to participate in negotiations with reconcilable elements of the Taliban that are willing to renounce al Qaeda and join the political process?

The President-Elect and I believe that it is worth exploring whether we can create opportunities for progress in Afghanistan as we did in Iraq – as does General Petraeus. In Iraq, we engaged with tribal leaders and regional leaders, which helped lead to the Sunni Awakening that changed the dynamic in Iraq fundamentally. We should certainly explore whether similar opportunities exist for engagement and collaboration with tribal and regional leaders in Afghanistan, including leaders who at one time or another may have been affiliated with or joined forces with the Taliban. Afghanistan and Iraq are very different countries, though. We cannot expect to simply export the Awakening strategy used with the tribes of Al-Anbar to Afghanistan. Any effort to separate moderate Afghans from radical elements will have to begin – and be deeply rooted in – the efforts of Afghans themselves.

5. How effective have U.S. development efforts been in Afghanistan? Do we need to increase United States economic assistance? To what extent are internationally-funded projects helping or hindering the ability of the Afghan government to realize an expanded role in Afghanistan's development?

In December 2001, the Bonn Agreement between Afghans and donors established an interim government, and donors were identified as lead nations to accomplish specific objectives. Subsequent conferences in Tokyo in 2002 and Berlin in 2004 saw donors pledge \$4.5 billion and \$8.2 billion, respectively. Due to uneven commitment among the donors, the 2006 London Conference discarded the lead-nation approach and adopted the Afghanistan Compact, a contract between the international community and the Afghan government to support a comprehensive approach to development. Donors pledged a total of \$10.4 billion.

Since fiscal year 2001, the international community has pledged approximately \$60 billion in assistance to Afghanistan. The U.S. government has provided approximately \$32.7 billion, or 57 percent, of the international total.

We need to improve our development efforts in Afghanistan. The President-Elect has proposed a policy of "more for more" – more troops and assistance from the U.S. as we seek more from NATO allies, and more from an Afghan government that needs to focus on improving the lives of its people. We will request additional non-military aid each year – above and beyond what is given now. That money will be focused on initiatives dealing with education, infrastructure, human services, and alternative livelihoods for poppy farmers and will be accompanied by tougher anti-corruption measures. We will make sure investments are made - not just in Kabul - but out in Afghanistan's provinces. We will tie aid to better performance by the Afghan national government, including anti-corruption initiatives and efforts to extend the rule of law across the country.

6. Versions of the Afghan Freedom Support Act passed the House in the 110th Congress, but did not pass the Senate. Do you support its passage?

The President-Elect and I support the goal of providing additional assistance to Afghanistan and if the legislation is reintroduced in the 111th Congress, we

look forward to reviewing the legislative language and consulting on it with Congress.

7. What are your expectations for the scheduled presidential and provincial elections in Afghanistan in 2009? What can the United States do to help ensure those elections are free and fair?

The incoming Administration hopes that the upcoming elections go forth smoothly. The U.S. can assist the Afghan military and security forces in efforts to prevent violence or disrupt the elections.

8. How do you assess the effectiveness of President Hamid Karzai's government? What more should the United States do to try to curb the widespread corruption in the Afghan government?

Despite achievements such as the expansion of educational opportunities, increased access to health care and improved sub-national governance, government effectiveness remains low. The Afghan government is plagued by limited capacity and widespread corruption. Efforts to improve the effectiveness of the Government of Afghanistan, particularly at the sub-national level, are a key element of Afghan and international efforts to stabilize the country. We need to ensure that investments are made not just in Kabul but in all of Afghanistan's provinces. We will tie aid to better performance by the Afghan national government, including anti-corruption initiatives and efforts to extend the rule of law across the country. A new strategy in Afghanistan will enable us to take the initiative back from the Taliban.

9. The Afghan National Police (ANP) are still widely acknowledged to be plagued by problems that hinder Afghanistan's capacity to improve security and development. What is your understanding of the current goal for the ANP's end-strength? Do you believe that is sufficient? What needs to be done to improve their effectiveness, and how can we strengthen efforts to train and equip them?

The President-Elect has said that we must focus more attention and resources on training Afghan Security Forces, including more incentives for Americans who carry out this mission.

The end-strength for the Afghan National Police is 82,000, and as of December 2008, there were fewer than 76,000 personnel. While it may be necessary eventually to raise the ceiling to provide wider law enforcement coverage, the immediate goal remains to staff fully the police to the level of 82,000 with vetted, qualified, trained, and equipped personnel. Once that benchmark has been reached and the quality of the police has improved, the Government of Afghanistan and the international community will be better able to assess whether to increase the ceiling.

The development and professionalism of the Afghan police have lagged behind the army's. Many police operate in extremely dangerous environments on the frontline of the war against the Taliban, conducting missions that are not traditional policing. The Afghan National Police has suffered a casualty rate three times that of the Afghan National Army. There is no single or easy answer on how to improve police effectiveness. Certainly, greater success in the core military effort will help create a more permissive environment and increase their chances for continued successful development. The Afghan National Police are key players in the counter-insurgency equation and their development and effectiveness are critically important to Afghanistan's future.

As for specific programs, the Focused District Development and In District Reform have shown positive results. These already in-place programs provide training and mentoring by international police advisors and U.S. military personnel in the police units' home districts. Given competing missions, however, we alone cannot meet the needs of the police. We must find increased roles for the European Police Mission to Afghanistan, which recently announced it would increase its staff to 400, and our NATO Allies, especially to act as police mentors.

These initiatives have improved Afghan National Police effectiveness and professionalism and I am hopeful that we have a dedicated partner in Minister of Interior Atmar.

10. How do you assess U.S. and Afghan counternarcotics efforts to date? What can be done to improve these efforts?

The United States, Afghanistan and other allies have made limited progress in reducing opium cultivation, but overall the counternarcotics strategy cannot be called a success by any measure. In 2008, the CIA Crime and Narcotics

Center estimated that Afghanistan cultivated approximately 116,365 hectares of opium poppy, down from 140,600 hectares in 2007. This quantity is believed to be enough to produce over 1,100 tons of heroin, far exceeding the world demand of approximately 400 tons per year. The glut of narcotics has fueled increasing addiction rates in Afghanistan, Pakistan, and Iran, and it serves to fund the insurgency in Afghanistan. The narcotics trade thrives in the anarchic conditions created by insurgents and warlords. In return for a portion of the profits, either paid in cash by drug lab operators and smugglers or paid in opium by farmers, the warlords provide protection for the labs, trucks, and drug markets. Exact figures for the black market economy are difficult to obtain, but the UN estimates that over \$100 million will flow from the narcotics trade to warlords, drug lords, and insurgents during 2008.

11. It will be difficult for U.S.-led efforts to stabilize Afghanistan to succeed without the full commitment and support of Pakistan's government and security services, but such a high level of cooperation may not be attainable as long as Pakistan's relations with India reflect a significant element of tension and mistrust. What new steps could the United States take to forward region-wide efforts at conflict resolution, and which countries would that involve? Would you favor the appointment of a special U.S. envoy to South Asia?

As the President-Elect and I have stated, Afghanistan and the Pakistani border are the central front in the war on terror. We cannot succeed in Afghanistan without a new and comprehensive strategy to deal with al Qaeda and Taliban militants across the border, and a Pakistan policy that conditions assistance to the government while increasing direct support for the Pakistani people. Addressing the border means implementing a sensible policy towards Pakistan. First, that means conditioning U.S. military aid on their efforts to close down training camps, evict foreign fighters, and preventing the Taliban and al Qaeda from using Pakistan as a sanctuary. Second, it means tripling non-military aid to Pakistan, with a focus on the border regions, and improving the lives of the Pakistani people, so that over the long-term we are reducing the pull of the extremists. The President-Elect and I have consistently supported bilateral dialogue between India and Pakistan that seeks to resolve their longstanding differences.

The United States should encourage India and Pakistan to work toward a peaceful settlement of their differences. No final decisions have been made on special envoys for South Asia.

Pakistan

12. There has been considerable discussion in the United States and other Western governments about the ability of Pakistan's new civilian government to crack down on extremism. How would you characterize the efforts of the Zardari government to crack down on extremists? Do you believe that Pakistan's intelligence services have severed ties with extremists in the aftermath of this November's attacks in Mumbai? To what extent do you believe that Pakistan's security concerns vis-à-vis India color their government's policies toward militancy in the tribal areas near Afghanistan?

President Zardari needs the support of the military to improve relations with neighboring Pakistan and India – to include addressing historical military ties to extremist groups – and the military has sought politicians' support in defending military operations in the Tribal Areas.

13. It is a delicate balancing act between voicing our concerns about the Pakistan government's counterterrorism strategy, while recognizing the many other challenges it faces and working to ensure this democratically-elected government has every chance to succeed. What is our strategy for balancing these interests? How do ongoing Predator strikes in the tribal areas figure into this equation? Are current U.S. policies aimed at improving security and development in Pakistan's Federally Administered Tribal Areas succeeding? How would you strengthen our efforts to combat the grave terrorist threat from the FATA?

We need a stronger and sustained partnership between Afghanistan, Pakistan and NATO to secure the border, take out terrorist camps, and crack down on cross-border insurgents. We cannot tolerate a safe haven for al Qaeda terrorists who threaten the American people. Pakistan and the international community must commit to a more comprehensive approach along the border – one that involves robust economic investment and development, good governance and government accountability, and enhanced security and law enforcement capacity. If Pakistan is willing to go after high-level terrorist targets like Osama bin Laden, we must give Pakistan all of the support it needs. The United States must also provide more assistance to benefit the

Pakistani people directly, so that our nations forge a deeper and more sustainable partnership.

14. In September, the Enhanced Partnership with Pakistan Act of 2008 was reported out of the Senate Foreign Relations Committee by a unanimous vote. The bill calls for building a long-term relationship with Pakistan, in part by tripling non-military U.S. assistance to \$1.5 billion per year. It also would condition certain further military assistance and arms transfers to Pakistan on annual certifications by the Secretary of State related to Pakistan's performance in combating terrorism and strengthening democratic institutions. Do you favor such an approach to dealing with Pakistan? What can be done to assist Pakistan in dealing with its present economic crisis?

The President-Elect, the Vice President-Elect and I supported the Enhanced Partnership with Pakistan Act of 2008 as Senators. But this is not a blank check. We should condition some military aid on ensuring that Pakistan is taking on the extremists. Should the 111th Congress choose to reintroduce a new version of the legislation, we look forward to working with this Committee and the Congress on legislation to help build a long-term relationship with Pakistan that combats extremism and supports Pakistan's people and democratically-elected government.

15. The congressionally-appointed Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism recently issued a report in which Pakistan was singled out as a potential source of a terrorist attack on the United States involving weapons of mass destruction. What is your assessment of the safety and security of Pakistan's nuclear weapons materials and technologies? Do you feel confident that the A.Q. Khan proliferation case is closed, as Pakistani officials claim?

As Chairman of the Joint Chiefs of Staff Admiral Mullen has indicated, we "don't see any indication right now that security of those weapons is in jeopardy, but clearly we are very watchful as we should be." Pakistan's security forces are professional and highly motivated. They understand the importance of nuclear security and we understand that they have taken significant steps to enhance it. But given the political situation in Pakistan, this is clearly something that we must closely monitor as is the commitment of Pakistan to non-proliferation efforts. I have not yet been briefed on the A.Q. Khan issue that you raise.

India

16. Supporters of the civil nuclear cooperation agreement with India saw the potential to leverage this deal into broader cooperation with India. How might the United States make best use of its strategic partnership with India to address global and regional problems of shared concern, such as international terrorism, poverty, and environmental degradation? Is U.S.-India counterterrorism cooperation an urgent and potentially fruitful priority, as many suggest?

India is our friend and our relations with it are deepening. As the world's oldest democracy, we have much in common with the world's largest democracy. While the civil nuclear agreement is important to both countries, our relationship is and must be bigger than one deal. If confirmed, as Secretary of State, I will work to fulfill the commitment of the President-Elect to establish a true strategic partnership with India, increasing our military cooperation, trade, and support for democracies around the world. As our relationship deepens, the United States and India can work together to address global and regional problems of shared concern including counterterrorism, poverty, and environmental degradation.

17. Advocates of the civil nuclear cooperation agreement with India frequently argued that it would bring New Delhi into the "mainstream" of the international nuclear non-proliferation regime. Does the new Administration intend to strengthen non-proliferation cooperation with the Indian government, including by encouraging India to sign the Comprehensive Test Ban Treaty? Are there other non-proliferation initiatives in South Asia that you might have in mind?

The U.S. and India should look ahead to working together to meet global proliferation challenges. Although exempting India from existing nonproliferation rules carries some risks, we can minimize those risks by intensifying our cooperation on nonproliferation efforts. The Obama Administration will seek ratification of the Comprehensive Test Ban Treaty and encourage India to become a party as well.

18. To what extent do you perceive the disputed territory of Jammu and Kashmir to be a central cause of region-wide insecurity? Taking into account Indian sensitivities, would you favor a more active U.S. government role in helping find solutions to this issue?

President-Elect Obama and I are very concerned about rising tensions in Kashmir: the situation is dangerous for India, for Pakistan, for the people of Kashmir, and the peace and stability of the world. We must encourage all parties to work toward peaceful settlement. The U.S. role in this Administration is the same as in previous ones: Facilitate settlement, but do not mediate. India and Pakistan must work harder to establish greater economic and social cooperation in Kashmir. Kashmiris themselves should be the linchpin. Kashmir tensions must not divert Pakistan from focus on fighting terrorism and rising insurgency along Afghan border.

Iraq

19. Most experts agree that while the level of violence in Iraq has declined dramatically in the last 18-24 months, the political situation remains far more tenuous. Please provide the committee with information on the status of the following reconciliation issues: negotiations over Iraq's petrochemical laws, the implementation of the amnesty and deBaathification laws, UN efforts to resolve the status of Kirkuk and other disputed territories, and the integration of the Sons of Iraq into the Iraqi Security Forces.

The President-Elect has made it clear that Iraq must do more to reconcile its political differences. National hydrocarbons legislation continues to languish for numerous reasons, one of which remains the differences between Baghdad and the Kurdistan Regional Government (KRG) over the development and management of oil and gas resources. Prior to enactment of national oil laws, the United States has discouraged companies from signing oil contracts with the KRG without Iraqi central government approval.

The Amnesty Law provides for the release of detainees who did not commit violent crimes. Review committees have granted approximately 20,000 detainees amnesty, but only 6,000-7,000 have been released. Iraq has enacted, but not implemented, legislation on de-Ba'athification reform. Disagreement between Sunni and Shi'a continues on whether this legislation adequately addresses de-Ba'athification reform.

The United States supports the role the United Nations Assistance Mission for Iraq (UNAMI) is playing in the process to resolve Disputed Internal Boundaries, including Kirkuk. UNAMI is expected to release its proposals in February.

The Sons of Iraq (SOI) program remains an important element of security efforts in Iraq. Successfully transitioning the SOI into the Iraqi Security Forces (ISF) and other employment remains critically important to sustaining recent security gains. In late summer 2008, the GOI agreed to transition 20 percent of the approximately 95,000 active SOI into the ISF and to facilitate alternative employment for the remainder. Prior to this, approximately 20,000 SOI had already transitioned into the ISF, other ministries, or other non-security education, training, and jobs programs. Of the 95,000, the GOI has transitioned over 3,000 into the Iraqi Police and over 1,600 into private employment.

20. As the United States changes our mission in Iraq to bring our troops home in meaningful numbers and allow for the redeployment of additional combat brigades to Afghanistan, renewed diplomatic efforts will be crucial to ensuring this transition occurs with the least disruption to stability in Iraq as possible. What diplomatic initiatives are you considering to help ensure a peaceful transition? Do you support the creation of a Standing Conference that includes all of Iraq's neighbors?

The Obama Administration will pursue a diplomatic initiative with all of Iraq's neighbors – including Iran and Syria – and the UN to secure Iraq's borders, isolate al Qaeda, address Iraqi refugee flows, and support national reconciliation within Iraq. It is in the interest of Iraq's neighbors and the international community to have a stable Iraq that does not become a battleground for sectarian tensions and animosities. And we will communicate that. More broadly, we have a range of diplomatic tools at our disposal that we can deploy to persuade and press Iraq's neighbors to play a constructive role. We have let these tools languish in recent years, but they have served us well in advancing our interests in other difficult conflicts. They can serve us well in Iraq.

21. Since 2003, it is well known that American efforts in Iraq have been hampered by coordination gaps between civilian and military efforts, though these gaps have been significantly reduced under the leadership of Secretary Bob Gates, Ambassador Ryan Crocker, and Generals David Petraeus and Ray Odierno. Please describe the steps you and Secretary Gates will take to ensure that the efforts of the State and Defense Departments will be as closely integrated as possible.

The President-Elect has repeatedly asserted that we must more effectively integrate our military and civilian tools of national power in order to have a successful and sustainable national security strategy. If confirmed as Secretary of State, I am committed to coordinating efforts closely with the Department of Defense in Iraq and elsewhere and to instill that culture of cooperation in the Department. Secretary Gates and I worked well together during my service on the Senate Armed Services Committee and I am confident that we can work together to ensure that we continue to close coordination gaps between the Department of State and the Department of Defense. In order to facilitate that coordination, we must strengthen our civilian capacity to operate alongside our military.

22. Article 24 of the recently approved U.S. – Iraqi Status of Force Agreement (SOFA) stipulates that all U.S. combat forces shall withdraw from Iraqi cities and towns by June 30, 2009, and that all U.S. forces shall withdraw from Iraq by December 31, 2011. There are about 30 Provincial Reconstruction Teams (PRTs) and Embedded Provincial Reconstruction Teams (ePRTs) in Iraq. How will the removal of U.S. combat troops from Iraqi towns and cities later this year affect the location and functionality of these PRTs and ePRTs, as well as the ability of the U.S. military to provide for their security? How viable is the PRT model after December 2011, or even June 30, 2009? By what other means can our diplomats engage in provincial and regional issues in Iraq?

The civilians who are serving in Iraq are making great sacrifices for the country and often serve in harm's way. The President-Elect and I are very mindful of the challenges that will come with a drawdown of U.S. troops, and the President-Elect has consistently said that protection for our civilians in Iraq will continue to be a mission for a residual force after a drawdown of our combat brigades. But there are no easy solutions to the security issues you are describing. Right now, much of the rebuilding is taking place under a security umbrella provided by the brave young men and women of our armed forces. Their departure from critical areas in Iraq will certainly change the security calculus. How we deal with this challenge – both generally and specifically with respect to PRTs – has been and will continue to be the subject of discussions among the national security team and with the President-Elect.

The incoming Administration will proceed with the following overall strategy and core principles, which we will bring to this set of security challenges. First, as we all know, Iraq is a sovereign country, and the steps we take on

security matters moving forward will have to be taken in consultation with the Iraqis. We will certainly do our best to press the Iraqi government to combat sectarianism in their security forces – and we will tie future training and equipping resources to progress on this front. Improved Iraqi security forces cannot fully replace U.S. forces in protecting reconstruction personnel, but they can certainly help, if the Iraqis step up. And our residual force will play a continued force protection role. Second, we will take additional steps to help the Iraqi government consolidate the security gains that have been made in the past two years – gains that have facilitated more intensive and effective rebuilding and aid efforts. That will include an intensive diplomatic and political strategy, including an effort to forge a comprehensive compact with Iraq’s neighbors. Third, we will pay particular attention to the humanitarian crisis in Iraq, which risks destabilizing parts of the country, including an aggressive effort to assist displaced Iraqis. But these are serious challenges, and much of this turns on the capacity and willingness of the Iraqis themselves.

23. Article 12 of the SOFA gives Iraq primary jurisdiction over U.S. contractors. However, Article 5 of the SOFA defines U.S. contractors as persons who “are citizens of the United States or a third country and who are in Iraq to supply goods, services, and security in Iraq to or on behalf of the United States Forces.” Are State Department contractors covered by the U.S.–Iraqi SOFA? What impact do you expect the SOFA to have on your department’s use of private security contractors?

I have forwarded your question to the SOFA negotiators so as to be certain that we have the exact right answer.

24. As a result of the war in Iraq, at least four million Iraqis have been displaced from their homes as refugees in neighboring countries or internally displaced persons (IDPs) within Iraq. President-Elect Obama has committed to provide \$2 billion in humanitarian assistance for these refugees and IDPs. Please provide the committee information on how the State Department will support Iraqi refugees and IDPs under your leadership.

America has both a moral obligation and a responsibility for security that demands we confront Iraq’s humanitarian crisis— there may be more than five million Iraqis who are refugees or are displaced inside their own country. The new Administration will seek to form an international working group to address this crisis. We will also make it a top priority to secure greater

regional contributions to humanitarian relief, refugee care and integration, and economic assistance, and we will make this an important subject on the agenda for regional diplomacy with all of Iraq's neighbors. Further, we will also fill all of the pledged slots for admission of Iraqi refugees to the United States, and we will be open to accept additional Iraqis, who took risks to support American efforts in Iraq.

25. During the three post-Saddam elections, the U.S. military was instrumental in providing both security and logistical support. What is your assessment of the Iraqi election commissions' related capacity at the national and provincial levels? What role will the U.S. military play in providing security and logistical support for the provincial elections scheduled for the end of January?

Unlike prior elections in post-Saddam Iraq, logistics and security for the January 31 Provincial Council elections will be Iraqi-planned, managed, and led. Iraq's Independent High Electoral Commission (IHEC), with significant technical support from the United Nations Assistance Mission to Iraq (UNAMI), manages elections planning and logistics. This includes voter, candidate, and coalition registration; ballot design and printing; election center and polling place staffing; observer certification; and voter education.

The IHEC is on schedule to carry out elections on January 31. The IHEC's ability to meet its announced February 23 deadline for certifying elections results will depend in part on the number of elections-related complaints that it must review. The seat allocation formula that IHEC has devised, with UNAMI assistance, is complex. Ballots are also complicated, with nearly 2,500 candidates appearing on the Baghdad Governorate ballot for the 57 council seats there. According to State Department reporting from Iraq, despite these challenges, the mechanics for a credible election appear to be moving ahead reasonably well.

Iraqi Security Forces (ISF) will provide the lead for all security measures required for elections, and the U.S. military will provide "outer ring" and emergency support as needed, as well as any necessary support to the ISF for the transportation and security of voting materials. The Elections High Security Committee, comprising senior security officials from the Iraqi Ministries of Interior and Defense, the office of the Iraqi National Security Advisor, and the U.S. military, has been planning for and advising the IHEC Board of Commissioners on security measures.

26. The embassy of the United States in Baghdad is, by a considerable margin, the largest in the world. About how many Americans diplomats and non-diplomats — are currently working in the New Embassy Compound (NEC)? How many diplomats of ambassadorial rank are currently assigned there? Are these staffing levels appropriate, given the declining military presence in Iraq and the plethora of foreign policy challenges facing the United States in the region and beyond?

There are approximately 12,500 U.S. diplomats, staff, contractors, and grant implementers from State and other civilian agencies serving under Chief of Mission authority in Iraq. Approximately 1,300 of these individuals are direct-hire USG employees.

One U. S. ambassador, Ryan Crocker, is accredited in Iraq. Some of the senior mission staff have formerly held ambassadorial appointments at other posts. One member of the mission on Temporary Duty until May is accredited as ambassador to Bahrain.

If confirmed as Secretary of State, I will work with the President-Elect and other Administration officials to determine what the appropriate staffing levels should be to pursue the President-Elect's policies and priorities.

Iran

27. There is deep concern among the United States and its key allies about Iran's nuclear program. Some have argued that Iran will soon have, if it does not already, the capability to enrich enough uranium to create a nuclear weapon. The Bush Administration's approach has not worked to date. What would the new administration do differently? What role do you envision for yourself in this process? Under what circumstances would it be appropriate for you or President-Elect Obama to engage in related talks?

The new Administration will present the Iranian regime with a clear choice: abandon your nuclear weapons program and support for terror and threats to Israel and there will be meaningful incentives; refuse, and we will ratchet up the pressure, with stronger unilateral sanctions; stronger multilateral sanctions in the Security Council; and sustained action outside the UN to isolate the Iranian regime. A nuclear-armed Iran is unacceptable, and all elements of American power are on the table to prevent Iran from obtaining a

nuclear weapon – that must begin with the power of aggressive and direct American diplomacy.

The Obama Administration will support tough, aggressive, and direct diplomacy, without preconditions, with our adversaries. Note that there is a distinction between preparations and preconditions. For possible negotiations with Iran, there must be careful preparation – including low-level talks, coordination with allies, the establishment of an agenda, and an evaluation of the potential for progress. The President-Elect has said that he is willing to engage in diplomacy with any leader, at a time and place of his choosing, if he believes that it can advance America’s interests.

The US should support and participate in ongoing efforts with our European allies and assemble an international coalition that will exert a collective will on Iran so that it is in their own interest to verifiably abandon their nuclear weapons efforts. We will carefully prepare for any negotiations— open up lines of communication, build an agenda, coordinate closely with our allies, and evaluate the potential for progress.

28. Does the administration intend to push for a new round of P5+1 negotiations with Iran over its nuclear program early on? What factors will inform the timing of these negotiations? When these talks occur, how would you seek to structure them to ensure Iran does not use them to stall for time as it continues its uranium enrichment activities? Would you seek to expand negotiations to include other issues of mutual interest, including Iraq and Afghanistan?

We will not sit down with Iran just for the sake of talking. But we are willing to lead tough and principled diplomacy with the appropriate Iranian leader at a time and place of our choosing – if, and only if – it can advance the interests of the United States. No decisions have been made regarding the timing, configuration, and scope of any discussions with Iran, but we will certainly coordinate closely with our allies as we move forward.

Through aggressive diplomacy, we can create new opportunities for progress. Even if diplomacy is unsuccessful, we will be better able to rally the world to our side, strengthen multilateral sanctions, and to convince the Iranian people that their own government is the author of its isolation.

29. In 2007, the U.S. and Iranian Ambassadors to Iraq met for three rounds of talks; they have not met since. Would you be supportive of continuing these talks? If so, should the dialogue focus on Iraq security issues, or be expanded to include other topics, as well?

As noted above, the incoming Administration will support tough negotiations with Iran and will be evaluating the best forums and interlocutors for that engagement. We have also supported direct engagement with Iran as a part of a diplomatic initiative involving all of Iraq's neighbors.

No decision has yet been made on the continuation of the specific talks that you identify.

30. Earlier this year, I and six of my colleagues wrote to President Bush, to encourage the establishment of a U.S. interests section in Iran. In November, Secretary Rice announced that although President Bush had made a decision "in principle" last summer to open an interests section, the decision would be left to the incoming administration. Have you made a decision regarding whether to open a U.S. interests section in Tehran?

The decision regarding whether to open a U.S. interests section in Tehran is under review and no decision has been made yet.

Israeli – Palestinian Peace Process

31. The November 2007 Annapolis peace conference did not meet its stated goal of concluding a two-state solution to the Israeli–Palestinian conflict by the end of 2008. How do you assess the prospects for the Israeli–Palestinian peace process in light of recent, ongoing, and future events? Do you think hopes for quick progress on the peace process have been dashed, as some suggest, by the recent crisis in Gaza? What has been achieved by the Annapolis process and how do you see your role in pushing those efforts forward? Does the April 2003 Road Map remain the operative mechanism for a two-state outcome?

President-Elect Obama has pledged to work actively from the beginning of his Administration to help Israel and the Palestinians achieve peace and security through a two-state solution, because this is in both parties' interests and because it is the United States' interests. Throughout 2008, he urged Israel

and the Palestinian Authority to make as much progress as possible in their negotiations that arose out of the Annapolis conference, so that a functioning process could be continued in 2009. And indeed, the parties report that progress has been made in these talks, which they hope to build upon. Our commitment is to help them build on that progress and achieve their goal of two states living side-by-side in peace and security. That commitment remains, even in the face of very difficult and challenging events, such as the recent events in Gaza and southern Israel. The Road Map, with the mutual obligations it places on the parties, remains one of the important bases for working toward a two-state solution.

32. By most accounts, the American-funded training efforts of Palestinian security forces have borne some fruit, particularly in Jenin and Hebron. Roughly 1,000 Palestinian National Security Force (NSF) and Presidential Guard (PG) members have been trained and several hundred more are currently undergoing training in Jordan. How do you assess the performance of the units that have received American-supported training? What additional resources are required to continue making progress?

The Palestinian National Security Force and Presidential Guard members who have been trained in Jordan under the auspices of the United States Security Coordinator have performed well in early tests in Jenin and Hebron. This is an important element of strengthening Palestinian capabilities to enable the Palestinian Authority to meet its commitments to combat terrorism and maintain law and order, which are crucial to ensuring security for Israelis and improving daily life for Palestinians. The Congress has provided approximately \$161 million in funding for this successful program in fiscal years 2008 and 2009. If confirmed, I will be consulting with General Keith Dayton and others to determine appropriate funding levels for this program to continue to achieve positive results.

33. In 2008, there have been a number of high-profile missions in support of the Annapolis Peace Process: General Jim Jones, General Paul Selva, and General Keith Dayton have served respectively as special envoys for Middle East security, road-map monitoring, and Palestinian security coordination, with separate reporting channels to the Administration. Additionally, former British Prime Minister Tony Blair serves as the Quartet's special envoy. Is the current architecture in support of the Annapolis process appropriately coordinated, or would it make more sense to streamline the various security missions under a single full-time high-level envoy?

General Jones, General Selva, and General Dayton have each played important and constructive roles in advancing U.S. efforts to promote peace between Israel and the Palestinians. Former Prime Minister Blair has also made an excellent contribution as the Quartet's special envoy, promoting economic development and institution-building in the Palestinian areas. No decisions have been made about the personnel structure we will use to implement our Middle East peace efforts, but each of the important functions carried forward by the Generals and Prime Minister Blair will need to be continued in whatever structure we ultimately decide upon.

Arab Peace Initiative

34. Many believe that real progress on the peace process will require greater participation and the support of Arab countries in the region, many of which attended the Annapolis conference. What role do you envision for the Arab states in Israeli–Palestinian diplomacy going forward? Do you believe that the Arab Peace Initiative can provide a framework for future negotiations?

I believe the Arab states have an important role to play in advancing efforts to achieve peace between Israelis and Palestinians. Their chief means to do so are providing political and economic support to the Palestinian Authority, and taking steps toward normalization with Israel. The Arab Peace Initiative contains some constructive elements which could be important bases for negotiations and for proactive steps to give the initiative a more operational character. I look forward to discussing these opportunities with Israeli, Palestinian, and Arab leaders and encouraging progress in these efforts.

Syria

35. Until September, Israel and Syria were talking indirectly through Turkish mediation. Many observers believe that the talks proceeded as far as they could without direct American engagement. Do you believe that a U.S. role in facilitating Israeli–Syrian negotiations could move those talks forward? Do you support direct U.S. engagement if that would facilitate further progress? What is the likelihood that the parties will reach an agreement?

The United States and Syria have profound differences on important issues, and the President-Elect and I believe that engaging directly with Syria increases the possibility of making progress on changing Syrian behavior. In

these talks, we should insist on our core demands: cooperation in stabilizing Iraq; ending support for terrorist groups; stopping the flow of weapons to Hezbollah, and respect for Lebanon's sovereignty and independence.

The President-Elect believes that we must never force Israel to the negotiating table with Syria, but neither should we ever block negotiations when Israel's leaders decide that they may serve Israeli interests. We should engage directly to help Israel and Syria succeed in their peace efforts, which both parties have indicated could help advance the talks. The prospects of success in these talks are unknown, but we are committed to making every effort to help them succeed.

36. The last U.S. Ambassador to Syria was recalled for "urgent consultations" in the aftermath of the February 2005 assassination of former Lebanese Prime Minister Rafiq Hariri. Since that time, the United States has not had an ambassador to Syria. Do you support sending an American ambassador to Damascus?

The President-Elect and I believe strongly that direct U.S. engagement with Syria will advance United States' interests. At this time, no decisions have been made regarding returning a U.S. ambassador to Damascus.

37. Although the U.S. embassy in Damascus remains open, American diplomats have been heavily restricted since February 2005 in their ability to interact with Syrian government officials, except on a narrow range of issues, such as Iraqi refugees. Do you support allowing U.S. diplomats more latitude in engaging with Syrian officials unless/until an ambassador is appointed?

We believe that direct U.S. engagement with Syria will advance United States' interests. I plan to consult with our chief of mission in Damascus to determine how best to carry out this principle in the context of the embassy's current structure.

38. The Secretary General of the United Nations, Ban Ki-Moon, announced recently that the Special Tribunal for Lebanon, established by the United Nations to try suspects in the assassinations of former Lebanese Prime Minister Rafiq Hariri and other Lebanese politicians, would begin operations on March 1, 2009. How soon do you expect indictments to be issued and trials to begin? There has been speculation among some observers that Syria hopes to leverage peace negotiations with Israel to earn a reprieve from

prosecutions of top Syrian officials by the tribunal. What steps have been and should be taken to ensure the tribunal is insulated from political interference?

The United States should continue to support efforts to uncover the truth about the assassinations, and to insulate these efforts from political interference. I am encouraged to see that the Tribunal will officially begin operations on March 1, but as the head prosecutor recently stated, it is unclear when the Tribunal will bring indictments. The Security Council established various safeguards to ensure an objective and expeditious judicial process. First, it includes provisions on enhanced powers, so the Tribunal may take independent measures to prevent unreasonable delays. Second, it mandated a transparent appointment process of international officials, including the judges and prosecutor. Third, it includes provisions on the rights of victims to present their views. The Security Council explicitly requested that the Tribunal be based on "the highest international standards of criminal justice," and I will work with our international allies to ensure this pledge is fulfilled.

Global Climate Change

39. At the climate change negotiations last year in Bali, and again this year in Poznan, one of the greatest points of disagreement between industrialized and developing countries was the format and structure of funding mechanisms to support mitigation, adaptation and technology transfer. What do you believe are the most useful entities and structures for directing funds to build capacity in developing countries to reduce their emissions and manage the impacts of climate change?

President-Elect Obama spoke throughout the campaign about the need to develop partnerships and capacity in developing countries as a part of a global effort to combat climate change. He believes that technology transfer, adaptation assistance and support for mitigation in developing countries are key components of a global climate change deal. His Administration will pursue mechanisms to achieve these goals that are effective, transparent, and provide accountability.

40. In 1997, the debate over the Byrd-Hagel resolution clarified the sense of the Senate that any global climate change treaty must secure the participation of both developed and developing countries. That sentiment has not changed,

and it will guide our debate as we approach the Copenhagen climate change negotiations next year. Is it the position of the Obama administration that any global deal on climate change must secure some type of measurable, reportable and verifiable actions from China, India and the other rapidly industrializing countries?

President-Elect Obama believes that climate change is a global problem that requires a global solution. The Bali Action Plan 2007 states that the post-Kyoto agreement should include measurable, reportable and verifiable actions by developing countries. The Obama Administration will pursue such commitments during upcoming negotiations.

41. A number of prominent national security officials and organizations have highlighted the security implications of climate change, culminating in a November report from the National Intelligence Council emphasizing that climate change will intensify food and water scarcity, serving as a threat multiplier around the globe. For its part, the UN has estimated that there may be as many as 50 million “climate refugees” by 2010. How will the Obama administration integrate climate change into its national security planning and response operations?

President-Elect Obama agrees that global climate change is likely to impact U.S. national security. He has warned that competition over resources could lead to conflict and population movements, and has called our dependence on foreign oil and gas a national security crisis. He plans to fulfill existing legal requirements to integrate such considerations into national security planning, and will work with Congress to identify and define additional measures as appropriate.

Terrorism

42. In July 2008, Secretary of Defense Robert Gates stated that “military efforts to capture or kill terrorists are likely to be subordinate to measures to promote local participation in government and economic programs to spur development, as well as efforts to understand and address the grievances that often lie at the heart of insurgencies.” Many have called for a new approach to terrorism that would re-conceptualize the “war on terror” as a “global counterinsurgency” that places military action in its proper context alongside our moral authority, diplomatic persuasion and development assistance. What are your views as to how we can craft a more effective worldwide

strategy that takes our military operations to capture and kill terrorists and folds them into a larger “information war” designed to win hearts and minds and prevent possible terrorists from ever being recruited?

I agree with Secretary Gates’ assessment. President-Elect Obama has made it clear that we need a comprehensive strategy to fight terrorism that balances and integrates military force, diplomacy, intelligence, law enforcement, financial action, economic might, and moral suasion. He has also stressed that our capacity must be driven by this strategy, saying that while the finest military in the world is adapting to the challenges of the 21st century, it cannot counter insurgent and terrorist threats without civilian counterparts who can carry out economic and political reconstruction missions – sometimes in dangerous places. He promised to strengthen these civilian capacities, recruiting our best and brightest to take on this challenge by increasing both the numbers and capabilities of our diplomats, development experts, and other civilians who can work alongside our military. This new construct will integrate all aspects of American might.

If confirmed by the Senate, I will also work with the President in launching a program of public diplomacy that is a coordinated effort across his Administration. And as others learn about America’s ways through their conversations with Americans, American citizens will listen and learn about people of other cultures and countries.

43. President-Elect Obama has called nuclear terrorism “the gravest danger we face.” The State Department, along with several other agencies, has a critical role to play to address this threat. In your view, has the United States done enough in its diplomatic relations with other countries to demonstrate the priority it attaches to nuclear security and the prevention of nuclear terrorism? What additional steps would you take to convey a sense of urgency and convince political leaders around the world that the threat of nuclear terrorism is real and that immediate steps are needed by every government to reduce this danger?

Terrorist use of weapons of mass destruction, especially nuclear weapons, is indeed the gravest security threat we face today. The most effective way of preventing nuclear terrorism is to secure weapons-usable nuclear materials at their source so that they are not vulnerable to theft or seizure by terrorist groups. The Obama Administration plans to secure all nuclear weapons and materials at vulnerable sites worldwide within four years. It will also work to phase out the use of highly enriched uranium in the civil nuclear sector, strengthen international intelligence and police cooperation to prevent WMD terrorism, and help build the capacity of governments around the world to prevent the theft or diversion of nuclear materials.

44. During the campaign, President-Elect Obama said he would appoint a White House coordinator for nuclear security, specifically a deputy national security adviser to be in charge of coordinating all U.S. programs aimed at reducing the risk of nuclear terrorism and weapons proliferation. What are your views on such an appointment? Should that position be Senate-confirmed as required by an existing statute? Should it cover all weapons of mass destruction or only nuclear terrorism?

The Obama Administration will follow through on the President-Elect's campaign pledge to appoint a White House Coordinator to address the threat of nuclear terrorism and the proliferation of weapons of mass destruction. Among the Coordinator's responsibilities will be to exercise budgetary oversight over all U.S. programs related to nuclear security and bio-security.

Nuclear Weapons and the START Treaty

45. As you know, the START Treaty is due to expire on December 5, 2009.

This treaty has served as a vital mechanism of stability and transparency in post-Cold War relations between the United States and Russia. The 2002 Strategic Offensive Reductions Treaty, or Moscow Treaty, has no separate verification measures, and limits deployed U.S. and Russian strategic nuclear warheads to a range of 1,700-2,200 for only a single day, December 31, 2012. The Bush administration has reportedly shared with Russia a START proposal that would, like the Moscow Treaty, limit operationally deployed strategic warheads, and would maintain some of the START Treaty's verification mechanisms. Do you plan to seek a legally binding replacement for the START Treaty that will enter into force by December 5, 2009?

The Obama Administration will seek deep, verifiable reductions in all U.S. and Russian nuclear weapons – whether deployed or non-deployed, strategic or non-strategic. As a first step, we will seek a legally binding agreement to replace the current START Treaty which, as you point out, expires in December 2009.

46. If a replacement cannot be ratified and brought into force by that time, what options will you consider? Should the United States, Russia, and the other States Parties to the START Treaty (e.g., Belarus, Kazakhstan, and Ukraine) extend the Treaty for five years, as permitted under Article XVII of the treaty, while negotiations for a substitute treaty continue?

If an agreement cannot be reached, a mutually-acceptable means should be found to give the negotiators more time, without allowing key measures, including essential monitoring and verification provisions, to lapse. Ending the Cold War practice of keeping nuclear weapons ready for launch on a moment's notice should also be a priority, if it can be done in a mutual and credible manner.

47. In your view, how important is it for a follow-on to the START Treaty to lead to further reductions in the numbers of deployed and reserve U.S. and Russian warheads? Should those reductions go below Moscow Treaty numbers? Should negotiations on a substantial follow-on to the START Treaty be delayed until the legally required Nuclear Posture Review is completed?

The Obama Administration plans to set a new direction in nuclear weapons policy, one that reflects the changed security conditions of the 21st century and that shows the world that the U.S. takes seriously its existing commitment under the Nonproliferation Treaty to pursue nuclear disarmament. Such a new direction should be fully explored and elaborated in the upcoming Nuclear Posture Review (NPR) that is mandated by statute. While some of the key elements of the revised approach may not take shape until the NPR is completed, negotiations on the next step in the arms reduction process – replacing the current START Treaty – can begin even while the posture review is underway.

Comprehensive Nuclear Test-Ban Treaty

48. Both you and the President-Elect have expressed your intention to work with the Senate to win its advice and consent to U.S. ratification of the Comprehensive Nuclear Test-Ban Treaty (CTBT). In preparing for such an effort, what are the most important lessons that you take from the Senate's 1999 rejection of a resolution of ratification on the Treaty? How do you plan to address the substantive concerns that were raised in that debate?

The President-Elect and I are both strongly committed to Senate approval of the CTBT and to launching a diplomatic effort to bring on board other states whose ratifications are required for the treaty to enter into force. A lesson learned from 1999 is that we need to ensure that the administration work intensively with Senators so they are fully briefed on key technical issues on which their CTBT votes will depend, especially the issues of how well the treaty can be verified and how well the reliability of the U.S. nuclear stockpile can be maintained without nuclear testing. Substantial progress has been made in the last decade in our ability to verify a CTBT and ensure stockpile reliability. It will be crucial to make sure that the Senate receives the best scientific evidence available on these two issues as well as on other questions relevant to the merits of the CTBT.

49. For the last several years, the State Department has requested insufficient funding to pay all of our voluntary contributions to the Preparatory Commission for the Comprehensive Test Ban Treaty Organization (Preparatory Commission). While Congressional actions have restored some of the funding, this shortfall has impaired construction of the International Monitoring System and has jeopardized U.S. voting rights at the Preparatory Commission. What are your views with regard to allowing sufficient and timely funding to make effective contributions to the Preparatory Commission?

The Obama Administration will fully support the CTBT's International Monitoring System, which gives the United States better capability to detect and identify very low-yield nuclear tests than we would have on our own. We will also support the work of the Comprehensive Test Ban Treaty Organization's Preparatory Commission and will want to ensure that it is adequately funded. On specific questions regarding the timing and level of U.S. funding, the new Administration will want to review the situation and consult with Congress on how to proceed.

Fissile Material Cutoff Treaty

50. The Commission on the Prevention of Weapons of Mass Destruction and Terrorism recommends that the United States should work "to build international support for the negotiation of a treaty halting the production of fissile materials for military purposes." The Conference on Disarmament for several years has been unable to achieve a consensus to allow negotiations to proceed. What importance do you attach to finding a way for negotiations on a Fissile Material Cutoff Treaty to proceed? What are the roadblocks to progress, as you see them, and how might we address them?

The President-Elect made it clear during the campaign that he supports the negotiation of a treaty banning the production of fissile material for use in nuclear weapons. Such a treaty could help avoid destabilizing arms races in regions such as South Asia and, by limiting the amount of fissile material worldwide, could facilitate the task of securing such weapons-usable materials against theft or seizure by terrorist groups. It would also demonstrate the willingness of the NPT nuclear weapon states to fulfill their obligation under NPT Article VI to pursue nuclear disarmament. However, for over a decade, the Conference on Disarmament has been unable to achieve a consensus to allow negotiations to proceed – in part because of the difficulty of reaching

agreement on a work program but, more fundamentally, because some key states wish to continue producing fissile materials for nuclear weapons or at least keep open the option for such production in the future. The Obama Administration will work to build the necessary support to get negotiations underway. One step it will take is to return to the policy of previous Republican and Democratic administrations and end the current policy of declaring that a fissile material cutoff treaty should not contain international verification provisions.

Nuclear Nonproliferation/2010 NPT Review Conference

51. The Commission on the Prevention of Weapons of Mass Destruction and Terrorism recently recommended that the United States “should work internationally toward strengthening the nonproliferation regime, reaffirming the vision of a world free of nuclear weapons.” The 2010 Review Conference of the Nuclear Non-Proliferation Treaty (NPT), which is scheduled for April and May 2010, provides one opportunity to pursue that goal. The 2000 Review Conference reached a consensus that 13 practical steps should be taken in order to demonstrate progress on the arms control and disarmament obligations set out in Article VI of the NPT. The 2005 Review Conference ended without reaching substantive consensus on next steps. What importance do you attach to the 2010 Review Conference, and what steps will you take in order to avoid the outcome of the 2005 Review Conference?

The President-Elect said during the campaign that he supports the goal of working toward a world without nuclear weapons. The Obama Administration will place great importance on strengthening the NPT and the nonproliferation regime in general. It will encourage all states to support more rigorous IAEA verification measures, tighter restrictions on transfers of sensitive technologies, and stronger means of enforcing compliance.

52. Though some of the conditions surrounding many of the 13 practical steps agreed to at the 2000 Review Conference have changed in the intervening years, do you see value in pursuing a comparable set of actions at the 2010 Review Conference?

The 2010 NPT Review Conference will provide an opportunity to reach agreement on such steps. But gaining the necessary support among NPT parties will require the United States and the other nuclear powers to

demonstrate that they take seriously their obligations to pursue nuclear disarmament. While the conditions surrounding agreement on the so-called “thirteen steps” at the 2000 NPT Review Conference have changed, support for a similar package of measures at the 2010 conference could help build the wide support needed to bolster the NPT regime.

IAEA

53. The Commission on the Prevention of Weapons of Mass Destruction and Terrorism recently concluded that the International Atomic Energy Agency (IAEA) “is constrained in serving as the world’s nuclear watchdog because its staff is aging and its budget has increased little over the past decade.” The Commission called on the United States to “lead an international effort to update and improve IAEA capabilities.” What steps do you envision taking to address the resource constraints facing the IAEA?

Especially if the world’s reliance on nuclear power increases substantially in coming decades, a huge burden will be placed on the IAEA to ensure that civil nuclear facilities and activities are not diverted to military uses and that nuclear facilities and materials are secure against theft or seizure by terrorist groups. The IAEA is understaffed and under-resourced for the current and growing responsibilities placed on it by the international community. That is why the President-Elect has called for doubling the IAEA’s budget over the next four years. We also favor strengthening the Agency’s verification capabilities by promoting universal adherence to the Additional Protocol and by expanding the Agency’s verification authorities beyond those contained in the Additional Protocol to provide more effective means of detecting clandestine facilities and activities.

Nuclear Fuel Bank

54. The Commission on the Prevention of Weapons of Mass Destruction and Terrorism has recommended that the United States should lead the international effort to create a bank that would guarantee countries a supply of nuclear reactor fuel. The United States has already transferred \$50 million to the IAEA to support the creation of a fuel bank, and the European Union recently agreed to contribute up to €25 million to support the effort. But the IAEA Board of Governors has not agreed on the mechanisms and rules under which the fuel bank will actually operate. What importance do you attach to actually expending the funds pledged and bringing the fuel bank into reality? Should there be a parallel effort to assure countries of affordable spent fuel services?

President-Elect Obama and I strongly supported legislation providing \$50 million to the IAEA for the creation of an international nuclear fuel bank. We believe the United States should work with other countries and the IAEA to put in place new mechanisms, including an international fuel bank that would allow countries to benefit from the peaceful uses of nuclear energy without increasing the risks of nuclear proliferation. An international fuel bank could reassure countries embarking on or expanding nuclear power programs that, as long as they comply with their nonproliferation obligations, they could reliably purchase reactor fuel in the event that their existing fuel supplies were cut off. This would reduce any incentives a country genuinely interested in nuclear energy might have for going to the trouble and expense of building its own enrichment or reprocessing facilities. Assuring countries of reliable spent fuel services (e.g., long-term storage) would serve the same goal of reducing incentives for acquiring indigenous fuel-cycle facilities.

Organization of the State Department for Arms Control and Non-proliferation

55. The bureaus of the State Department that report to the Under Secretary of State for Arms Control and International Security have undergone numerous organizational and personnel changes in the last decade. Do you envision taking any major steps early in your tenure as Secretary to further alter the organization of the bureaus reporting to this Under Secretary? What steps will you take to ensure that, in particular, the Political-Military Affairs Bureau and the Verification, Compliance, and Implementation Bureau have the people and the resources they need to carry out their important missions?

Because President-Elect Obama and I place such high importance on arms control, nonproliferation, and other political-military issues, I am giving special attention to the three bureaus of the State Department that report to the Under Secretary for Arms Control and International Security. It is essential that those bureaus be well organized and well staffed with first-rate professionals, both from the Civil Service and Foreign Service. I am currently reviewing the situation and am determined to take whatever steps may be necessary to ensure that those bureaus are fully capable of doing the crucial work we will be expecting of them in coming years. I will keep Congress fully apprised of my plans in this area.

UN Convention on the Law of the Sea

56. In 1994, the UN Convention on the Law of the Sea (the Convention) was submitted to the U.S. Senate for accession and ratification. While the Foreign Relations Committee has favorably reported this treaty in prior years, the full Senate has not yet taken it up. Secretary of State Condoleezza Rice wrote to this committee that the State Department supported "early Senate action" on the Convention. At the time, the Administration's Treaty Priority List expressed an "urgent need" for Senate approval of the Convention. More recently, President Obama stated in September 2008 that he will "work actively to ensure that the U.S. ratifies the Law of the Sea Convention." If confirmed, do you intend to make ratification of the Convention your top treaty priority at State?

The President-Elect and I both supported ratification of the Law of the Sea Convention as Senators and, as the question notes, he has publicly committed to working actively to ensure that the U.S. ratifies the Convention.

The Convention remains an important piece of unfinished treaty business. If confirmed, its ratification will be one of my top treaty priorities at State, and the new administration will work with the Senate to secure approval.

57.If the Foreign Relations Committee were to report out the Convention in the 111th Congress, how would the Administration plan to work with the Senate to help bring the Convention and Implementing Agreement to a successful floor vote?

As in the case of any treaty that the President supports, the Administration would work closely with this Committee and the Senate leadership on devising and implementing a strategy for successful approval of the treaty by the full Senate.

58.Admiral Mike Mullen, the Chairman of the Joint Chiefs of Staff, and Admiral Gary Roughead, the Chief of Naval Operations, support approval of the Convention. Admiral Roughead stated to the Senate Armed Services Committee that "accession to the Law of the Sea Convention is in our national security interests." Do you agree with him, and if so, why? What effect, if any, would accession have on the U.S. military's ability to conduct ongoing or future operations? Would accession in any way restrict efforts to prevent the shipment of weapons of mass destruction or any other non-proliferation programs, such as the Proliferation Security Initiative?

The incoming Administration agrees with the Chief of Naval Operations, and the other members of the Joint Chiefs of Staff, all of whom endorsed the Convention during the 110th Congress. Joining the Convention will advance the interests of the U.S. military. As the world's leading maritime power, the United States benefits more than any other nation from the navigation provisions of the Convention. Those provisions, which establish international consensus on the extent of jurisdiction that States may exercise off their coasts, preserve and elaborate the rights of the U.S. military to use the world's oceans to meet national security requirements.

Joining the Convention will enhance, not restrict, our ability to interdict shipment of weapons of mass destruction on the ocean. The Convention's navigation provisions derive from the 1958 law of the sea conventions, to which the United States is a party, and also reflect customary international law accepted by the United States. As such, the Convention will not affect applicable maritime law or policy regarding interdiction of weapons of mass

destruction, their means of delivery, and related materials.

Like the 1958 conventions, the LOS Convention recognizes numerous legal bases for taking enforcement action against vessels and aircraft suspected of engaging in proliferation of weapons of mass destruction, including exclusive port and coastal State jurisdiction in internal waters and national airspace; coastal State jurisdiction in the territorial sea and contiguous zone; exclusive flag State jurisdiction over vessels on the high seas (which the flag State may, either by general agreement in advance or approval in response to a specific request, waive in favor of other States); and universal jurisdiction over stateless vessels.

Nor will the Convention undermine the Proliferation Security Initiative (PSI). PSI requires participating countries to act consistent with national legal authorities and “relevant international law and frameworks,” which includes the law reflected in the Law of the Sea Convention. Finally, nothing in the Convention impairs the inherent right of individual or collective self-defense (a point which is reaffirmed in the Resolution of Advice and Consent proposed by the Committee in the 110th Congress).

National Security Reform

59. Last November, a prominent group of experts and practitioners from the congressionally- mandated Project on National Security Reform (PNSR) released a report that called for significant improvements in how the U.S. coordinates and implements national security strategy and programs. Do you agree that fundamental reform of our national security system, structures, and processes is needed so that this country can anticipate, prepare for, and respond to the kinds of complex and diffuse threats we face in the 21st Century? What types of reform are required?
60. National security missions increasingly require inputs from multiple departments to be successful. The PNSR report has concluded that existing interagency mechanisms are insufficient to achieve unity of purpose, effort, and command. Instead, PNSR has recommended that we provide interagency mechanisms backed by specific legal authorities related to the U.S. government’s capabilities to accomplish particular missions. Would you support such efforts? Would you be willing to cede authority over some of the assets and resources of your department so that an interagency team can accomplish its mission?

The President Elect has made it clear that the United States must enhance our ability to use, balance and integrate all elements of national power – military, diplomatic, intelligence, law enforcement, economic, and moral – to achieve our national security goals. He has called for the process of preparing the National Security Strategy (required by the Goldwater-Nichols Act of 1986) to determine the appropriate inter-agency infrastructure to maximize the use of all elements of our national power. This exhaustive review will include an examination of force sizing, intelligence agencies, and weapons systems, as well as the development of long-term plans to deal with emerging threats like cyber-terrorism. We are aware of the effort of the Project on National Security Reform report and we look forward to consulting with Congress on the appropriate structure for our national security agencies.

Foreign Aid Reform & Rewriting the Foreign Assistance Act

61. Many are calling for substantial reform of U.S. foreign assistance programs, which have been criticized as fragmented and uncoordinated, failing to match resource allocations with strategic objectives, inefficient, and lacking capacity to ensure appropriate accountability, oversight and implementation. To what degree are you in support of such reform efforts? What would you identify as the highest priority areas in need of reform?

The President-Elect is committed to a strengthened and enhanced role for foreign assistance and development in our foreign policy, as am I. It is both right and smart for the United States to renew its leadership as a nation that seeks to promote opportunity and security around the world. To that end, the President-Elect has committed to doubling U.S. foreign assistance over his first term, and I look forward to working closely with the Congress to fulfill this goal. The President-Elect has said that the current economic crisis could slow increases in foreign assistance.

Our foreign assistance infrastructure must be able to meet the challenges we face today while anticipating those in the months and years ahead. We should look at areas which can be better coordinated and streamlined, and would look forward to engaging the Committee on ideas for reform. The President-Elect has stressed the need for clearer leadership and coordination in Washington, and continued efforts to prevent abuses and corruption among recipient countries. Similarly, we should look at those areas which have

proved effective and build on those successes, while determining if poorly performing initiatives are able to be improved.

62. Many argue that to increase effectiveness, it is important to establish a strengthened and independent development agency separate from direct control and budgetary oversight of the State Department — a “USAID 2.0.” Some would even elevate this development agency to a cabinet-level department. To what extent would you support these proposals? Do you believe U.S. foreign assistance would be better served operating in an independent capacity? Is it worth revisiting the existing USAID operational model in favor of something significantly different?

USAID, like almost every federal agency, can be improved. President-Elect Obama shares the concerns that many members of this Committee have expressed about the ability of USAID and the other government aid agencies to provide help effectively and in a manner where foreign nations can sustain the progress that the United States helps to bring about. While there have been lifesaving and life-changing acts brought about by USAID, supporters and critics alike believe that the agency can do a better job at fulfilling its mission.

The President-Elect’s commitment to a strengthened and enhanced role for development in our foreign policy means a reinvigorated USAID, playing a central role in the formulation and implementation of critical development strategies. We have to make sure that we rebuild USAID so that is more nimble in the face of change, less reliant on contractors doing work that ought to be carried out by our own government professionals, and uses tax dollars responsibly. We are still in the process of thinking through the precise organizational design – and I look forward to the advice of the Committee and the Congress as we consider our approach. In moving forward with this process, the goal of the President-Elect – and my goal – is to enhance USAID’s capacity and standing to carry out its vital missions.

63. Others contend that U.S. foreign assistance should be closely linked to U.S. foreign policy priorities and should be integrated into the State Department’s operations to ensure close coordination. To what degree should the State Department exert policy oversight and control over U.S. foreign assistance programs? How would you ensure that development programs retained their distinctiveness and were not relegated to second priority status?

Efforts to modernize U.S. development and foreign assistance programs will require a substantial investment of time and effort. But the President-Elect believes that these efforts can pay significant returns in global stability, security, and prosperity. In addition, this modernization will increase accountability, transparency, and innovation. During the campaign, President-Elect Obama pledged to take a look at ways to improve the distribution of U.S. foreign assistance, including the possibility of consolidating key foreign assistance programs in an elevated and empowered USAID. I can assure this Committee that, if confirmed as Secretary of State, I will look to you for ideas and input. I also look forward to working closely with Secretary Gates, General Jones, and other members of the new administration on this challenge.

As for the possible relegation of development programs to a second-priority status, let me be clear: the Obama Administration is committed to a robust foreign assistance program.

64. What can Congress do to support foreign assistance reform efforts? Many have called for the Congress to rewrite the Foreign Assistance Act of 1961. Do you think this step is warranted? If so, what priority areas would you identify in need of legislative reform?

Congress – and particularly this Committee – will play an indispensable role in providing advice and guidance about the future of U.S. foreign assistance programs. As Secretary, I look forward to consulting with the Committee about foreign assistance priorities, and the implementation of those priorities. No decision has been made about the need for legislative reform.

65. There are at least 26 agencies variously responsible for different elements of foreign aid. How would you suggest reducing fragmentation and strengthening coordination? Should USAID's mandate be broadened to encompass all U.S. development programs (including those currently housed in other departments and agencies), as well as all humanitarian and post-conflict reconstruction & stabilization programs? Should the Millennium Challenge Corporation (MCC) and the President's Emergency Plan for HIV/AIDS Relief be placed under the umbrella of a strengthened U.S. development agency?

The President-Elect has committed to coordinate and consolidate programs currently housed in more than 20 executive agencies so as to enhance

effectiveness and accountability. He and I are also committed to a restructured, empowered, and streamlined USAID. If confirmed, I look forward to working closely with the Congress as we review the best way to maximize the impact of these essential programs. The Administration will review what programs can be consolidated to elevate the importance of development in our overall foreign policy, and improving budget planning, coordination, and execution.

66. President-Elect Obama has articulated a far-reaching and detailed platform to elevate and strengthen U.S. diplomacy and development assistance as critical tools for foreign policy and national security. His commitments include: doubling foreign assistance to \$50 billion by 2012, investing at least \$2 billion in a global education fund, increasing funding to combat HIV/AIDS, TB and malaria to \$50 billion over 5 years and ending all deaths from malaria by 2015. Do you believe that U.S. foreign assistance is under-resourced? What priority areas require more resources? How do you intend to advocate for these commitments in the current budgetary environment?

President-Elect Obama said during the campaign that he would double foreign assistance to \$50 billion during his first term in office. After the onset of the economic crisis, he said it could take slightly longer to phase in this increase by the end of his first term due to the budgetary restrictions created by the need to confront the economic crisis. We will ensure that these new resources are invested wisely with strong accountability measures and directed towards strategic goals.

President-Elect Obama identified key priorities for any development program in his Administration, including: fighting extreme global poverty; achieving the Millennium Development Goals; fighting corruption; eliminating the global education deficit; enhancing U.S. leadership in the effort to combat HIV/AIDS, malaria, and tuberculosis and improving global health infrastructure; providing sustainable debt relief to developing countries; expanding prosperity through training, partnerships, and expanded opportunities for small and medium enterprise; supporting developing countries in adapting to the challenges of a changing climate; reforming the IMF and World Bank; and supporting effective, accountable, democratic institutions and governments. If confirmed as Secretary of State, I look forward to working with this Committee and your colleagues in the House of Representatives Committee on Foreign Affairs to achieve these priorities.

67. The MCC has been one of President Bush's signature development programs. It has been both praised as encompassing innovative and creative ideas, as well as criticized for being too slow to disburse funds once a compact has been signed, not demonstrating results on the ground quickly enough, and being inadequately coordinated with other U.S. foreign assistance programs. What reforms would you advocate to strengthen the MCC?

President-Elect Obama supports the MCC, and the principle of greater accountability in our foreign assistance programs. It represents a worthy new approach to poverty reduction and combating corruption. However, there are challenges within the MCC. Pace of implementation is certainly one challenge, as is the danger of a lack of coordination with overall U.S. foreign assistance. The Obama Administration looks forward to working to build on the promise of the MCC as we move forward with modernizing U.S. foreign assistance programs.

Budget Issues

68. The U.S. National Security Strategies for 2002 and 2006 divide our national security apparatus into three components: defense, diplomacy and development. However, the International Affairs Budget represents less than 7% of our nation's national security budget. In July 2008, Secretary Gates stated: "Our diplomatic leaders...must have the resources and political support needed to fully exercise their statutory responsibilities in leading America's foreign policy." What efforts do you plan to undertake to secure greater funding of the International Affairs Budget?

America's national security interests require a vigorous and well-funded State Department. I am concerned that the Department's funding is insufficient to the task.

Both President-Elect Obama and I believe that our diplomacy needs to be more robust. In keeping with that goal, he has called for a 25 percent increase in Foreign Service staffing, opening more consulates, and a doubling of our foreign assistance levels during his first term in office. We clearly also need to invest urgently in the Department's technological and other infrastructure platform, so that our diplomacy can be both efficient and effective.

The Obama Administration plans to put forward a robust FY2010 budget request. I look forward to working closely with you and your colleagues to ensure that the Department is funded to achieve its goals on behalf of the American people.

69.State has recently been short positions in Iraq, Afghanistan, areas of emerging importance, and in new language and functional requirements, among other areas. What is the nature and scope of existing shortfalls in these and other high-priority areas for your department?

All of us should be proud of what the men and women of our Foreign Service do each day to advance America's interests abroad. They and their families also deserve our gratitude for stepping up to the demands of war zone service in Iraq and Afghanistan.

The Department's personnel system has been strained by staffing needs in Iraq and Afghanistan, however, leaving positions at many other important posts unfilled. We also need increased personnel to support a stronger diplomatic presence in countries of emerging importance to America's security and economic interests, and to tackle stabilization and humanitarian needs around the world. A training float is also essential if our diplomats are to learn the critical language and project management skills needed for success.

The 25 percent increase in Foreign Service staffing that President-Elect Obama has called for would do much to address these needs. That request is very much in line with the Department's own internal analysis, and with recommendations made by outside observers.

I look forward to working closely with the Congress in order to obtain the funding needed to realize this personnel increase as a high priority.

Role of Military in Foreign Policy

70.Secretary of Defense Robert Gates has said that "the United States military has become more involved in a range of activities that in the past were perceived to be the exclusive province of civilian agencies and organizations...This has led to concern among many organizations...about what's seen as a creeping "militarization" of some aspects of America's foreign policy. This is not an entirely unreasonable sentiment." Are you

concerned about this supposed trend towards the militarization of our foreign policy?

Improving the State Department's civilian capacity to respond to international crises will be a top priority for the Obama Administration – and the Department. We need to better integrate the military, the State Department, and other civilian agencies in stabilization and aid efforts. If confirmed, I look forward to working with Defense Secretary Gates and other members of the national security team to strike the right balance.

71. The Defense Department has been surprisingly vocal about calling for more civilian resources and capacity. Secretary Gates: “It has become clear that America’s civilian institutions of diplomacy and development have been chronically undermanned and underfunded for far too long – relative to what we spend on the military, and more important, relative to the responsibilities and challenges our nation has around the world.” What do you think it will take to bring civilian institutions up to the task? What reforms, investments and changes need to occur so civilians can be effective counterparts to the military? What is preventing these reforms from taking place currently? If the leaders of the State and Defense Departments are in such close agreement about the need for more resources for civilian national security agencies, do you see any possibility of reducing DoD’s share of the budget to make resources available? Or do we need to simply accept that America’s national security requires much larger State Department and USAID budgets, along with large military budgets?

The President-Elect has said that we cannot counter insurgent and terrorist threats without civilian counterparts who can carry out economic and political reconstruction missions -- sometimes in dangerous places. He has pledged to strengthen these civilian capacities, recruiting our best and brightest to take on this challenge, and to increase both the numbers and capabilities of our diplomats, development experts, and other civilians who can work alongside our military

I agree with Secretary Gates that “America’s civilian institutions of diplomacy and development have been chronically undermanned and underfunded for far too long.” In order to equip the State Department with the tools that it needs to address today’s challenges, we will need to invest additional resources in the Department. President-Elect Obama has also called for better integration of federal agencies and the military in

stabilization and aid efforts. Specifically, he has called for the creation of Mobile Development Teams (MDTs) that bring together personnel from the military, the Pentagon, the State Department, and USAID, fully integrating U.S. government efforts in counter-terror, state-building, and post-conflict operations. He has also called for the establishment of an expeditionary capability within non-Pentagon agencies (State Department, US Agency for International Development, Homeland Security, Justice, Treasury, Agriculture, and Health and Human Services, etc.) to deploy personnel where they are needed. These civilians will be integrated with, and sometimes operate independently from, our military expeditionary capabilities.

72. The dominant mode of cooperation among the State Department, USAID and the U.S. military on development operations in Iraq and Afghanistan has been the PRT model. Do you view this model as successful, and will you recommend continuing to use PRTs in other places as the need arises?

The President-Elect believes that we need to learn from the use of PRTs in Iraq and Afghanistan to build upon their successes while addressing any shortcomings.

The PRTs across Iraq and Afghanistan confront different conditions and challenges, and consequently differ in structure, focus, and results. As new situations arise, the Obama Administration will carefully consider what tools will best accomplish our goals including the future use of PRTs. If confirmed, I look forward to working with the national security team in reviewing the PRT model, considering its applications elsewhere, and consulting with this Committee and the Congress as we make decisions.

Stabilization and Reconstruction

73. A key lesson from Afghanistan and Iraq is that stabilization and reconstruction efforts are as important as war-fighting in achieving our national security priorities. The U.S. government lacks capacity and coherence in its efforts to assist stabilization and reconstruction in countries transitioning from war to peace. There is currently no entity within the US government that has the mandate and means to lead stabilization and reconstruction efforts. International cooperation, essential to success, is *ad hoc* and poorly managed. What steps should we take to address these deficiencies?

74. What do you believe is the appropriate role for the Office of Stabilization and Reconstruction (S/CRS)? Is it best served working out of the State Department? Or would it improve operational effectiveness if S/CRS and the Civilian Response Corps were relocated into USAID and consolidated with several other USAID offices? Will the administration be requesting additional funding for the Office in the upcoming supplemental or in the FY2010 budget?

As the Committee knows, the Office of Stabilization and Reconstruction was created several years ago, and its functions were codified last year by legislation sponsored by Senator Lugar and Vice President-Elect Biden. Their legislation is consistent with the President-Elect's goal to build civilian capacity that can be deployed on short notice to help stabilize countries in urgent need. Stabilization and reconstruction is a mission that is of growing importance to our national security, and it is also important that the State Department have the resources and authorities to carry out this function effectively. An effective stabilization and reconstruction function within State will both reduce the burden on our armed forces and lead to better coordination among our civilian agencies and with the Pentagon to act effectively to stabilize and rebuild societies at risk of or emerging from conflict. I believe that the Office of the Coordinator for Reconstruction and Stabilization at the State Department has made a lot of progress despite a number of challenges it faced in implementing its mandate. If confirmed, I look forward to enhancing its capacity and to working closely with the Committee to ensure the State Department has the means and the organization to carry out these important duties effectively.

State Department Operations

75. A recent study by the American Academy of Diplomacy calls for a rapid increase in resources, training and personnel for the State Department and related civilian agencies. It proposes adding 4,735 new hires at an annual cost of \$2 billion, as a minimum needed increase. It also calls for expanding public diplomacy programs at a cost of \$445 million by 2014. Do you support these proposals? Would you go further? What do you see as the priorities for increasing America's civilian capacity to more effectively execute U.S. foreign policy?

Current Foreign Service staffing clearly is insufficient to America's diplomatic needs in today's challenging world. The Academy's staffing

recommendation is broadly in line with President-Elect Obama's call for a 25 percent Foreign Service staffing increase. If confirmed, obtaining the funds needed to realize this staffing increase will be one of my highest management goals.

The Academy is, of course, correct in calling for a more effective public diplomacy effort to improve America's image and advance critical policy goals. We also need to do more to train our personnel for new demands, including those associated with reconstruction and stabilization missions.

I look forward to working with Congress to ensure that the Department of State is staffed and equipped to meet the many challenges that America faces abroad.

76. Do we need to rethink the current personnel system, including the foreign service system, which forms the backbone of the State Department and USAID? As the HELP Commission Report on Foreign Assistance Reform pointed out, the current human resource management practice is still based on the expectation that individuals will remain with a single government agency until retirement. Does such a system make sense given present-day workforce realities? Does it hinder creativity, innovation and flexibility?

This is an issue facing the federal government as a whole. I am sure that the President-Elect's nominee to head the Office of Personnel Management will be looking closely at this matter.

For my part, I certainly want the Department to do everything possible to keep the talented men and women it works so hard to attract. If confirmed, we will evaluate how the Department's personnel policies stack up against those of America's best private sector companies and work to see that our training, assignment, and promotion policies are geared toward ensuring that our workforce is as creative, innovative and flexible as it needs to be in today's challenging world.

Finally, minorities remain under-represented at the Department. As Secretary, I will ask the Director General and the Office of Civil Rights to work vigorously to ensure that our diplomatic corps reflects the diversity of American society.

Foreign Service Pay Reform

77. Under existing law, Foreign Service (FS) personnel stationed in the United States receive a salary adjustment that is based on comparable private sector salaries in their locality (e.g., Washington, DC). Although armed services personnel receive a similar comparability adjustment while stationed overseas, FS personnel do not, despite typically serving two-thirds of their careers abroad. Some have argued that the resulting pay disparity in 2008 effectively amounted to a 20.89 percent pay cut for FS members serving overseas. In 2009, that disparity is expected to grow to 23.10 percent. Do you intend to make correction of the FS pay disparity a top management priority at State? If so, how?

Rectifying this pay disparity will indeed be a high priority for me.

At heart, this is an issue of fairness. As you have noted, Foreign Service Officers are required to spend significant portions of their careers abroad. The loss of salary income they incur is grossly unfair, all the more so given that they are compensated less than colleagues at other agencies with whom they work side-by-side in service to our country. We cannot expect to retain the best talent in these conditions.

I know that this issue has been put before the Congress in previous years. I hope that we can work together to redress this matter on a priority basis.

Georgia

78. How has the United States recalibrated its policy toward Russia in the aftermath of the country's disproportionate military response in Georgia? Now that we have had a few months to digest recent developments in Georgia, how do the salient facts of the Russian-Georgian conflict inform your view of our policy towards Russia and Georgia?

Whatever sequence of events precipitated conflict within Georgia's borders in August 2008, the Russian military response was disproportionate and illegal, a fact recognized widely within the international community. Russia's decision to recognize Abkhazia and South Ossetia as independent states was also disturbing. The United States must work closely with our allies and friends throughout the world to ensure that the Russian government's decision to undermine Georgia sovereignty does not gain international legitimacy.

As we have begun to go through a multiyear \$1 billion assistance package assembled by the Bush Administration and approved by Congress last fall, the United States and our allies must help to rebuild Georgia. Collapse of Georgia's economy or democracy would embolden those inside Russia who support the use of military force to achieve Russian goals and would weaken democratic forces throughout the region. The Georgian government's recent pledges to strengthen democratic institutions are a positive sign, a demonstration of the learning and recalibration that can occur in democracies.

The United States can support Georgian territorial integrity, economic recovery, and democratic development and also work with Russia on issues of common strategic interest. The United States and Russia have many mutual interests, including countering nuclear proliferation, reducing our nuclear arsenals, expanding trade and investment opportunities, and fighting Al Qaeda and the Taliban. Russia's recent choices -- not our decisions -- threaten this future and remind us that peace and security in Europe cannot be taken for granted. At the same time, I look forward to working with my Russian counterparts on those issues of common interest even when we disagree about other issues.

79. Do you believe that Russian leaders view democratic government in Georgia or any other country within what President Medvedev has called Russia's "sphere of influence" as a threat? How should the West respond?

The United States and our allies must remain unequivocal in rejecting the principle of spheres of interests and affirming the sovereignty and territorial integrity of the countries in Russia's neighborhood. Helping these countries strengthen their sovereignty will include not only diplomatic and economic support but also developing a strategy for reducing their dependence on Russian energy exports. In parallel, we also must seek a more constructive relationship with Russia, as improved relations between the West and Russia might help to demonstrate to the Russian leadership that their long-term interests are best served by becoming a stakeholder in the international community and not served as well by using coercive instruments to assert Russian power abroad.

80. The United States has made a significant investment in the future of Georgia as an independent, democratic nation. What dividends are we seeing? How

would you assess the status of Georgia's democracy? What are the country's most pressing challenges? Are you satisfied with the safeguards that have been put in place to assure U.S. assistance to Georgia is spent appropriately? In your view, has the United States coordinated effectively with other donor countries to assure that assistance is used wisely?

Over the long haul, there is no question that American assistance to Georgia has yielded dividends regarding both Georgia's democracy and independence. In the last few years, however, independent evaluators such as Freedom House have recorded a decline in Georgian democratic practices. Obviously, Georgia's territorial integrity also has been weakened by the war last August.

The response to these setbacks should not be retreat but a better, smarter policy. The American aid package approved last year, coupled with the pledges of assistance made at the donors' conference last October, will help to begin rebuilding Georgia's infrastructure, which in turn will serve as an economic stimulus package to help jumpstart the Georgian economy.

Transparency regarding the spending of these resources is essential. Because democratic institutions facilitate oversight and accountability, deepening Georgian democratic practices must be a critical objective of our assistance. It is encouraging that Georgian President Mikheil Saakashvili and many other senior Georgian officials have expressed a similar recommitment to strengthening Georgian democratic institutions.

81. Georgia has expressed an interest in negotiating a free trade agreement (FTA) with the United States. Would you support an FTA with Georgia?

The United States has an interest in expanding export opportunities for American companies and securing the benefits of increased imports for the American consumer. The United States and our allies also have an interest in integrating Georgia into the Western community of democratic states, and trade can facilitate this process. I look forward to working together with Congress to create the proper legal framework for expanding trade between the United States and Georgia.

Russia

82. Which areas of our relationship with Russia offer the best prospects for cooperation going forward? Are there points of convergent interest where

we can work to improve relations? What incentives could we offer Russia to act more responsibly at home, in its neighborhood and on issues of common concern like arms control, counterterrorism, and Iran? What leverage do we have to change Russian behavior if incentives do not work?

President-Elect Obama seeks a future of cooperative engagement with the Russian government on matters of strategic importance, while standing up strongly for American values and international norms. That is my view as well. Some of Russia's recent actions have been reprehensible and they have disrupted its relations with the West. As we confront those actions, we must not shy away from pushing for more democracy, transparency, and accountability. Still, there can be no return to the Cold War. Russia is not the old Soviet Union, and this is not the 20th century. The new Administration will work with Russia on areas of common strategic interest like counter-terrorism and counter-proliferation, while pressuring Russia when it interferes with its neighbors and abuses power at home – for example on Georgia, where the President-Elect condemned Russia's escalation of the conflict and clear invasion of Georgia's territory and illegal recognition of Abkhazia and South Ossetia as independent states. Real pressure on Russia will not come from rhetoric alone – it will come from a unified transatlantic alliance, and forging that unity will be one of my top priorities. If Russia refuses to abide by international norms, its standing in the international community will diminish.

The Obama Administration will seek deep, verifiable reductions in all U.S. and Russian nuclear weapons – whether deployed or non-deployed, strategic or non-strategic. As a first step, we will seek a legally binding agreement to replace the current START Treaty which expires in December 2009. It is important that we not allow essential monitoring and verification provisions, which give us a better understanding of Russian strategic capabilities than we would have without them, to lapse. The Administration will also work with Russia in a mutual and verifiable manner to increase warning and decision time prior to launch of nuclear weapons.

83. For the last several years, the Russians have proven adept at dividing traditional allies within the Euro-Atlantic community. What steps would you take to develop a joint strategy for managing relations with Russia in cooperation with our European allies? Going forward, what are the prospects for forging a common approach to Russia given the arrival of a new administration?

America's national security interests require improved ties with our European allies and stronger Euro-Atlantic institutions. Russia's actions in Georgia last August highlight how important it is to work closely and effectively with our European allies to develop a unified approach to Russia, pursue energy security, and stand up for the rights of sovereign nations in Europe and Eurasia. The President-Elect has made it clear that a strong trans-Atlantic alliance is critical to our ability to encourage Russia to abide by international norms.

84. A number of observers have commented with increasing alarm on Russia's backsliding on democracy and human rights. How would you address this trend?

Democratic backsliding in Russia is real and disturbing. Yet, Russia's political system is not monolithic and pockets of pluralism, critical thinking, and independent actions exist in Russia today. Without any illusions about short-term fixes, our Administration must do what we can to support these democratic elements.

President-Elect Obama has made clear that we will not turn a blind eye to violations of human rights and democratic practices in the false belief that doing so will help us to secure Russian cooperation on other issues. At the same time, berating Russian leaders about democracy abuses also has not worked. Our Administration must rise above ineffectual bluster and empty threats on the one hand and business as usual on the other. We can cooperate with our Russian counterparts without pretending to be personal friends and without checking our values at the door.

To support democracy, transparent government, and the rule of law in Russia and the region, our Administration will strongly support funding for the Freedom Support Act (FSA) programs and ensure robust funding for the National Endowment for Democracy.

Eastern Europe and Eurasia

85. During the last several years, Russia utilized control over scarce energy resources — and an associated financial windfall — to pursue foreign policy goals that were often at odds with those of the United States. The recent reduction in global oil and gas prices along with increasing instability in

Russia's own economy might now erode Russia's ability to apply pressure on neighboring countries that seek independence from Moscow. Given these changing dynamics, what principles should guide U.S. policy in Eastern Europe and Eurasia? In particular, how can we work with our allies to decrease their dependence on Russia's energy supplies? How can we ensure that the region will be more hospitable to the development of independent, democratic governments?

U.S.-Russia relations have been become increasingly strained over the last several years. Russia's anti-democratic drift, threats and pressure against some of its neighbors, gas cutoffs to Ukraine and others, and especially the invasion and dismemberment of Georgia last summer have made it impossible for the United States to pursue business-as-usual with Moscow. That said, there has not been and will not be a return to the Cold War. The President-elect and I both seek to engage the Russian government on matters of strategic importance, while also standing up strongly for American values and international norms.

If confirmed, I will seek to engage Russia directly on a wide range of issues of potential cooperation, including strategic arms control, nuclear nonproliferation, terrorism, the environment, Afghanistan, and economic relations. I will make clear that we will not accept "spheres of influence" in Europe, but also that our two countries have many common interests that the Obama Administration stands ready to pursue with our counterparts in Moscow.

86. How do you assess the impact of the Russian military action against Georgia on neighboring countries? Do you believe it has caused them to reevaluate their strategic calculus?

Yes. Our NATO allies want to make sure that our Article 5 commitments to them are robust and we should signal that they are through contingency planning. Other non-NATO countries in the region with close ties to the West also have expressed new worries about their security. Developing a comprehensive new strategy for the entire region, which fosters stable peaceful relations between states and respect for sovereignty of all states in the region, is a central strategic challenge for our Administration and our partners in Europe.

87. At last year's summit in Bucharest, Romania, NATO did not issue Membership Action Plans for Ukraine and Georgia, but it did agree to a communiqué which establishes a firm commitment to eventual membership. At this December's NATO ministerial, the U.S. agreed not to put the MAP issue on the summit's agenda. Is NATO's door still open to Ukraine and Georgia, and if so, what does the likely road ahead look like for Ukraine's and Georgia's candidacies?

While there are different views among allies on the best way to promote eventual NATO membership for Georgia and Ukraine, it is essential that we work closely with our allies to develop a common approach on Alliance enlargement. The NATO-Ukraine Commission and the NATO-Georgia Commission (established last summer) are other avenues available for deepening relations between the Alliance and Georgia and Ukraine. NATO's door must remain open to European democracies that meet membership criteria and can contribute to our common security. How and when new countries might join must be determined together with all our allies in the alliance.

Ukraine

88. Ukraine is a country of tremendous strategic and political importance, but it has struggled to develop a stable, functional government since the Orange Revolution brought democracy to the nation four years ago. If confirmed, what steps will you take to help Ukraine fully realize its democratic potential?

President-Elect Obama and I understand the importance of helping to consolidate democracy in Ukraine. The failure of democracy in Ukraine would deliver a blow to the democratic forces throughout the entire region, including inside Russia.

We will need to work with our partners in Ukraine to develop an anti-crisis strategy, including a solution to the current standoff between Ukraine and Russia regarding gas prices. Today, an even more dramatic economic meltdown is the greatest threat to Ukrainian democracy.

In the long run, a Ukraine firmly imbedded in Europe's institutional architecture will have the greatest chance at stability and prosperity. Our

Administration will encourage our European Union partners to strengthen their links with Ukraine, including creating a membership perspective.

Transatlantic Relations

89. The United States' alliance with the democracies of Europe ranks among our country's most valuable strategic assets. However, during the last eight years, relations with our European allies have frequently been strained and occasionally dysfunctional. What are your expectations for the Euro-Atlantic alliance going forward? If confirmed, what concrete steps would you take to revitalize the United States' partnership with the members of NATO and the European Union? What should our allies expect from the new Administration — and what should we expect from them?

The U.S. alliance with the democracies of Europe is a valuable strategic asset. Indeed, of the many global challenges we will face in the coming four years — from the financial crisis to global warming, Iran, Iraq, Afghanistan, terrorism and nonproliferation — there is not a single one on which we are not stronger when we benefit from the cooperation of our European allies. The President-Elect has pledged to reestablish America's strong partnership with our European allies and I intend to support him in that critical task. As the President-Elect has said, we will "treat allies with respect, repair America's damaged moral authority, and recreate a mutually beneficial partnership with our European friends." At the same time, "we will ask more of our European friends. A more responsible and cooperative America will look to Europe to uphold its own responsibilities on issues such as Afghanistan, Iran, terrorism, Africa and the environment."

90. There are numerous mechanisms available to the United States when engaging the countries of Europe — NATO, the European Union, the Organization for Security and Cooperation in Europe, and our bilateral relationships are four of the most prominent. If confirmed, which of these mechanisms do you plan to rely on most heavily? Would you propose firmer guidelines designating specific forums for the discussion of specific issues or prefer to rely upon a more *ad hoc* approach?

NATO, the EU, the OSCE, and our bilateral relationships in Europe all serve U.S. interests in different ways. I do not believe we should favor any one mechanism over the others but rather consider all of them potential tools in helping achieve our goals of peace, prosperity and stability not just in Europe

but around the world. There are, of course, differences among these forums – NATO includes a collective defense commitment while the EU has a much greater economic role, for example – but in a world in which defense, security, and prosperity are closely linked all of these institutions must form part of a coherent overall strategy.

91. In your view, is it time for NATO to adopt a new strategic concept? If so, when and how should the process of formulating that concept occur? What should we expect when that process is over?

If confirmed, I will work with the President, the Secretary of Defense and the rest of our national security team to explore the potential need for a new NATO Strategic Concept. NATO last updated its Strategic Concept in 1999, before threats like terrorism, energy insecurity, cyber attacks, and climate change were as apparent as they are today, and before NATO was engaged in global missions such as Afghanistan. A new Strategic Concept would provide an opportunity for NATO allies, among other things, to reiterate their commitment to Article 5; reconsider and address new and emerging threats to allied security; clarify NATO's relationship to the United Nations and other multilateral bodies; clarify the NATO-EU relationship; and address the issue of global partnerships and missions. The April 2009 NATO summit will provide a useful forum for discussing this issue with our key Alliance partners and forging a consensus on whether to draft a new Strategic Concept and, if so, on the timetable for doing so.

Bosnia-Herzegovina

92. The United States made significant investments to help bring peace to Bosnia-Herzegovina in the 1990s, but the situation in the country has received too little high-level attention in the intervening eight years. Bosnia-Herzegovina is currently facing a serious political crisis that threatens much of what the country has achieved since the signing of the Dayton Accords. What plans do you have to address this crisis?

More than a decade after the United States led the effort to bring peace to Bosnia-Herzegovina, the situation in that country is still not satisfactory. We should be proud of the fact that, along with our NATO allies, we stopped a devastating civil war and gave the citizens of Bosnia-Herzegovina the opportunity to build a stable peace and functioning institutions, but much progress remains to be made. With the parties to the Dayton agreement at

odds over a range of issues, and with the international community uncertain about how to move forward, the situation requires urgent attention. If confirmed, I will ensure that Bosnia-Herzegovina receives the enhanced and sustained U.S. engagement it needs to overcome the divisions that prevent it from fulfilling its potential.

China

93. China's growing economic strength and global power presents the U.S. Congress with an extremely complicated set of policy issues. On the one hand, many see China as an essential partner for the United States on global issues such as the international financial system, alternative energy sources, climate change, public health and many others. On the other, many argue that China's size, international engagement, and growing confidence mean it is increasingly able to compete with — or even to challenge — the United States more directly and more effectively in economic, political, and military terms. What is the administration's view of China's role in the world? Is China a threat to U.S. interests, is it a "responsible stakeholder," or at times both? What does your assessment mean for the future of U.S. China policy, and how does it guide a U.S. strategy that can help shape China's choices?

China is a critically important actor in a changing global landscape. We cannot put a simple label on a complex relationship. We want a positive and cooperative relationship with China, one where we deepen and strengthen our ties on a number of issues, and manage our differences where they persist. But this is not a one-way effort – much of what we do depends on the choices China makes. We can encourage them to become a full and responsible participant in the international community – to join the world in addressing common challenges like climate change and nuclear proliferation – and to make greater progress toward a more open and market-based society. But it is ultimately up to them. As we engage with China, we also have to maintain and enhance our strong relationships with our allies in the region – Japan, South Korea, Australia, and others – who will help us meet the opportunities and challenges we are facing in Asia. The global financial crisis has demonstrated once again the need to think about common challenges in a new way. There are a number of emerging powers that will be critical players in this new century. With American leadership and their responsible engagement, we can improve the common good and confront common threats. That is the approach that I will take into my job if I am fortunate enough to be confirmed.

94. During the Bush Administration, the United States initiated several new high-level dialogues with China: the Senior Dialogue under the auspices of the State Department and the Strategic Economic Dialogue administered by the Treasury Department. How does the Obama Administration intend to continue or expand these efforts?

It is important to have high-level discussions to discuss economic issues with the Chinese government. We are looking carefully at the question of how to develop this important engagement with China. We expect high-level engagement to continue in some form.

95. China has been the world's fastest growing economy in recent years and is now the largest holder of U.S. Treasury Securities. What role does the administration see for China in dealing with the current global financial and economic crisis?

Our economic policy towards China has to be closely coordinated with our foreign policy. They cannot be pursued in isolation to one another. China is a critically important actor in a changing global landscape. We want a positive and cooperative relationship with China, one where we deepen and strengthen our ties on a number of issues, and manage our differences where they persist. But this is not a one-way effort – much of what we do depends on the choices China makes. The global financial crisis has demonstrated once again the need to think about common challenges in a new way.

96. Last year, China surpassed the United States as the world's largest emitter of carbon dioxide. While Prime Minister Hu Jintao has advanced and is implementing important clean energy policies, China continues to build one pulverized coal-fired power plant every week, and the country's primary energy demand is projected to double by 2030. This trend is unsustainable, in light of the urgent need to stabilize and reduce global greenhouse gas emissions. What steps will you personally – and the Obama Administration more broadly – take to improve U.S.-China collaboration on climate change and clean energy technologies?

Climate change is one of the most pressing challenges facing the United States and the global community. The United States will take a leadership role in combating the threat of global climate change from the beginning of the new Administration. The President-Elect has specifically pledged to set a goal of

an 80 percent reduction in global emissions by 2050 – a policy goal I am committed to as well. In pursuit of that goal, we will ask the biggest carbon emitting nations to join a new Global Energy Forum to lay the foundation for the next generation of climate protocols.

97. Taiwan remains the most sensitive issue in U.S.-China relations. Does the Obama Administration plan to hold another Taiwan Policy Review along the lines of that conducted in 1994 by the Clinton Administration?

The Administration's policy will be to help Taiwan and China resolve their differences peacefully while making clear that any unilateral change in the status quo is unacceptable. We will maintain our "one China" policy, our adherence to the three U.S.-PRC Joint Communiqués concerning Taiwan, and observance of the Taiwan Relations Act, which lays out the legal basis for our relationship.

98. The government of China and the Dalai Lama of Tibet disagree on the issue of greater autonomy for the Tibetan Autonomous Region, which has been a stumbling block in their ongoing dialogue. Meanwhile, many Tibetans have lost faith in the possibility of a negotiated compromise, while Chinese leaders have expressed a deep distrust of the Dalai Lama's intentions and foreign contacts. What options may be acceptable to both sides? What kinds of international pressure, if any, would be helpful in promoting a resolution?

The Obama Administration will speak out for the human rights and religious freedom of the people of Tibet. If Tibetans are to live in harmony with the rest of China's people, their religion and culture must be respected and protected. Tibet should enjoy genuine and meaningful autonomy. The Dalai Lama should be invited to visit China, as part of a process leading to his return. We will condemn the use of violence to put down peaceful protests, and call on the Chinese government to respect the basic human rights of the people of Tibet, and to account for the whereabouts of detained Buddhist monks. We will also continue to press China on our concerns about human rights issues at every opportunity and at all levels, publicly and privately, both through our mission in China and in Washington.

Japan

99. Some analysts have suggested that the U.S. alliance with Japan, a linchpin of stability in Asia, has become overly focused on military issues controversial

among the Japanese public. Do you think that the United States should continue to press Japan to step up its global engagement using its military resources, or instead concentrate on other shared interests like energy efficiency, climate change measures, and coordination on African development assistance? Is this an either/or choice?

The U.S.-Japan alliance has been one of the great successes of the postwar era. Japan's achievements and global leadership in world affairs over the past 60 years are a great testament to the Japanese people. A strong and enduring U.S.-Japan alliance, based on common interests and shared values, is the centerpiece for both American and Japanese policy in the Asia-Pacific region. Japan today plays a vital role in working alongside the United States to maintain regional security and stability, promote prosperity, and meet the new security challenges of the 21st century. As the world's two wealthiest democracies, the United States and Japan have shared interests that cut across a range of challenging issues: nuclear proliferation, terrorism, financial instability, poverty and climate change, to name but a few.

As the U.S.-Japan alliance continues to evolve into a truly global alliance, it must also develop truly global and complementary capacities across a broad range of issues, capacities that will allow us together to address the range of pressing issues on the regional and global agenda. We must strive, for close cooperation, communication and coordination, at every level. If confirmed as Secretary of State, I will look forward to building on our longstanding friendship to forge an even stronger alliance and partnership in the years ahead.

South Korea/KORUS FTA

100. President-Elect Obama has stated that he cannot support the KORUS FTA as it currently stands. What specific changes to the agreement will the Obama Administration be seeking? How can we work to ensure that the agreement does not affect South Korean perceptions of the United States and the U.S.-South Korean alliance?

South Korea is an important friend and ally and if confirmed I look forward to building an even stronger bilateral relationship in the years to come. If confirmed, I look forward to working with the United States Trade Representative, the Treasury Secretary, the Secretary of Commerce, and others on the President-Elect's economic team on these issues. We will

communicate forthrightly and fairly with South Korea, explaining that our concerns with the FTA are discrete and specific and have no bearing on the many collaborative dimensions of our alliance and friendship. We will also work to resolve these concerns to the satisfaction of both parties.

President-Elect Obama has opposed and continues to oppose the KORUS FTA that the Bush Administration negotiated because although it included some useful improvements for U.S. service and technology industries in South Korea, U.S. negotiators did not do a good job of obtaining a deal that provided for fair treatment for American cars and trucks and other manufactured goods. There are also concerns over U.S. beef exports that we are told are close to resolution.

Despite decades of bipartisan concern over the nontransparent practices used to block U.S. access to South Korea's market, this FTA failed to obtain a deal that provided genuine improvements in this area. Because the FTA gives South Korean auto exports essentially untrammelled access to the U.S. market, ratification of the agreement in its present form would mean the United States would lose its remaining leverage to counteract these non-tariff barriers. The result will be a competitive handicap for one of our most important industries.

If the South Koreans are willing to reengage negotiations on these vital provisions of the Agreement, we will work with them to get to resolution.

North Korea

101. What are your views on the recent State Department announcement that the United States and its partners would halt deliveries of heavy fuel oil to North Korea due to Pyongyang's refusal to agree, in writing, on a plan for verifying its nuclear program? Would the new administration be in a better position to take up the nuclear issue with North Korea if the formal verification plan was deferred into the future? Would you be prepared to travel to Pyongyang or to another capital to meet with North Korea's foreign minister or other appropriate official?

The Obama Administration will confirm the full extent of North Korea's past plutonium production and its uranium enrichment activities, and get answers to disturbing questions about its proliferation activities with other countries, including Syria. The North Koreans must live up to their commitments and fully and verifiably dismantle all of their nuclear weapons programs and

proliferation activities. If they do not, there must be strong sanctions. We will only lift sanctions based on North Korean performance. If the North Koreans do not meet their obligations, we should move quickly to re-impose sanctions that have been waived, and consider new restrictions going forward. The objective must be clear: the complete and verifiable elimination of North Korea's nuclear weapons programs, which only expanded while we refused to talk. As we move forward, we must not cede our leverage in these negotiations unless it is clear that North Korea is living up to its obligations.

As to the question about the HFO shipments, the President-Elect has made clear his view that North Korea is not entitled to international support. He said that if North Korea did not live up to its obligations we may in fact reinstate some sanctions. We are going to take a hard look at where the Bush Administration and our allies in East Asian ended up on the verification protocols, but we are very much open to maintaining the suspension of the HFO shipments.

As to the questions of any potential travel and meetings, no decisions have been made. Like the President-Elect, I would be willing to meet with any foreign leader at a time and place of my choosing if it can advance America's interests.

102. Would you support appointing a special ambassador to deal directly with the North Korean nuclear issue as the United States' chief negotiator?

No decisions have been made on whether to appoint a special Ambassador to deal directly with the North Korean nuclear issue.

103. It is generally understood that the U.S. has a dearth of information about events inside North Korea. The State Department sent an official to Pyongyang this year to be located there permanently. Would you favor expanding that initiative into a proposal to North Korea to exchange interest sections (similar to the U.S. arrangement with Cuba)?

No decisions have been made about whether to exchange interest sections with North Korea. The new Administration will carefully consider its diplomatic options with North Korea.

104. Will the United States pursue the normalization of diplomatic relations with North Korea without some progress on human rights measures, including opening up the country's reported labor camps?

We remain concerned about improving the lives of the North Korean people, including the lives of refugees. The United States is now the largest provider of food aid to the DPRK through the World Food Program and U.S. NGOs under a May 2008 agreement. This Administration will continue to address North Korea's human rights abuses, including as part of any normalization process.

Burma

105. Well over a year has past since Burma's military junta violently dispersed peaceful demonstrators, including unarmed Buddhist monks and students, who were protesting the repressive policies and widespread human rights violations of the ruling State Peace and Development Council (SPDC). In the interim, conditions inside Burma have hardly improved. What do you see as the proper way forward for U.S. policy in Burma? Are existing sanctions working? What over levers are available to pressure Burma's leaders to pursue policies that respect human rights, permit the release of political prisoners like Aung San Suu Kyi and allow for national reconciliation and a return of democracy? Given that existing approaches have not produced tangible results, are you considering alternative strategies?
106. Burma's neighbors — China, India, and Thailand — and Russia could play an important role in convincing Burma's military junta to engage in dialogue with opposition leaders and ethnic minorities towards national reconciliation. Do you intend to raise this issue with these countries and encourage them to modify their current positions?
107. Burma's people have endured tremendous hardships over the years and continue to face dire humanitarian conditions in the aftermath of Cyclone Nargis. What steps do you propose taking to ease their suffering? Would you support the provision of funds for humanitarian purposes to groups that are not affiliated with the Burmese regime beyond existing emergency International Disaster Assistance resources?

The continuing dire situation in Burma requires urgent attention. Burma's

military junta is one of the most repressive regimes in the world. Its odious behavior not only is harmful to the long-suffering Burmese people, but also threatens the stability of neighboring states, since Burma is a breeding ground for HIV/AIDS, narcotics and human trafficking. The Obama Administration will support U.S. trade and investment sanctions against Burma to demonstrate our strong, principled condemnation of the regime's oppressive rule and our solidarity with the Burmese people. The regime must release, unconditionally, all of the nation's political prisoners, including the symbol and leader of Burma's democracy movement, Aung San Suu Kyi.

But our sanctions, if they are to be effective, must be smart, tough and targeted. They must be crafted, as in the Lantos Bill, to bring pressure to bear on the regime itself, and seek, as best as we can, to spare the people of Burma further suffering. So I strongly believe that we should more fully explore possible modalities for humanitarian assistance that will reach the suffering people of Burma and that do not empower the military junta.

Also if confirmed, I look forward to working with the Senate to fill the important position of Special Envoy for Burma as soon as possible.

HIV/AIDS

108. One of President Bush's most notable achievements was the creation of the President's Emergency Plan for AIDS Relief which has made great strides in the fight against HIV/AIDS, particularly in helping to support treatment for over 2 million people. While the United States has created a new paradigm in demonstrating the capability to provide HIV/AIDS treatment on a wide scale in some of the poorest countries of the world, the spread of the disease continues to outpace treatment efforts. How can the United States assist partner countries in more effective HIV prevention efforts?

The President-Elect has applauded President Bush's efforts to combat HIV/AIDS, and pledged to continue and enhance PEPFAR. There are an estimated 33 million people across the planet infected with HIV/AIDS. We must do more to fight the global HIV/AIDS pandemic, as well as malaria and tuberculosis. The President-Elect is committed to fully implementing the President's Emergency Plan for AIDS Relief and to ensuring that best practices, not ideology, drive funding. He has committed to investing \$50 billion over five years to strengthen the program and expand it to new regions

of the world, including Southeast Asia, India, and parts of Europe. At the same time, the new Administration will work to more effectively coordinate PEPFAR with programs to strengthen health care delivery and address other global health challenges. The new administration will also increase U.S. contributions to the Global Fund to ensure that global efforts to fight endemic disease continue to move ahead through multilateral institutions as well. As part of these efforts, the new Administration will work with drug companies to reduce the costs of generic anti-retroviral drugs. And it will work with developing nations to help them build the health infrastructure necessary to get sick people treated - more money for hospitals and medical equipment, and more training for nurses and doctors.

Public Diplomacy

109. What measures do you think are necessary to improve U.S. public diplomacy efforts and restore America's image in the world?

The President-Elect intends to launch a coordinated, multi-agency program of public diplomacy. And I am committed to restoring the strength and vision of the State Department's public diplomacy mission. As the President-Elect has noted, this is not a peripheral enterprise, disconnected from the rest of our foreign policy. It is an important component of our overall counterterrorism strategy, and it is a vital part of our effort to restore American leadership and reassert American values.

With that in mind, the Administration will pursue concrete objectives, including opening "America Houses" in cities across the Arab world, which will be modeled on the successful program the United States launched following World War II. We will launch a new "America's Voice Corps," to rapidly recruit and train fluent speakers of local languages and public diplomacy skills. We will offer alternatives to madrassas through the Global Education Fund. In our own hemisphere, we will pursue vigorous diplomacy to rebuild the ties with our friends and neighbors in the Americas.

110. Many are critical of the decision to fold the U.S. Information Agency into the State Department in 1999, observing that the long-term efforts of public diplomacy have been subordinated to the short-term rapid-reaction goals emphasized by public affairs. Several have proposed reestablishing a U.S. agency responsible for public diplomacy and strategic communications that would be separate from the State Department. What is your assessment

of the relative strengths/weaknesses of how we conduct public diplomacy?
Are you open to considering some of the bolder proposals to restructure U.S.
public diplomacy and outreach?

If confirmed, I look forward to working to ensure that the State Department's mission of public diplomacy is matched by the personnel, resources, and organizational structure we need to carry out this critical mission. USIA was an effective, single purpose agency in many ways, but it is more practical at this time to improve the functioning of the public diplomacy in the Department than to recreate an independent entity. If confirmed, I look forward to a full assessment of public diplomacy at the State Department and will look to this Committee and the Congress for its counsel as we consider how to make improvements.

111. The 2008 Pew Global Attitudes poll found that anti-Americanism remains extremely strong in the Muslim world. Overwhelming majorities of every predominantly Muslim country surveyed except Lebanon, including Egypt, Turkey, Pakistan, Indonesia, and Jordan, had negative views of the United States. What can be done to stem the tide of anti-Americanism in the Middle East? What role do you see for the State Department in these efforts?

The President-Elect has made clear his determination to enhance our relations with the world's Muslims. As indicated above, no public diplomacy task is more important for the Obama administration than restoring the respect for America around the world, but more importantly, among the world's Muslim populations. In addition to the opening of America Houses, discussed above, the President-Elect has pledged to give a speech at a major Islamic forum in the first 100 days of his Administration. He will make clear, as will I, that we are not at war with Islam, that we will stand with those who are willing to stand up for their future, and that we need their effort to defeat those who proffer only hate and violence.

112. Genocide Prevention

The recently released report of the Genocide Prevention Task Force, co-chaired by former Secretaries Albright and Cohen, concluded that preventing genocide must be a national priority. The task force concluded that the United States and the international community currently lack critical tools to identify the early warning signs of impending mass atrocities and respond to them to prevent the escalation of

violence. “Gaps remain...in the strategic understanding of the challenges that genocide and mass atrocities pose and in developing appropriate ways to anticipate and address civilian protection.” What steps would you take to address potential acts of mass atrocity or genocide from occurring or to broaden the range of tools that could be brought to bear? How could these steps be applied to the current crises in the Democratic Republic of Congo or Darfur?

The President-Elect is committed to strengthening U.S. leadership and international efforts to prevent and respond to genocide and other humanitarian crises. He has welcomed this fine bipartisan report co-chaired by two distinguished Americans, has pledged to review its recommendations carefully, and has met with Secretaries Baker and Christopher to discuss the contents of their report

The President-Elect has said, and I agree, that we are diminished when genocide or ethnic cleaning is taking place and we stand idly by.

I anticipate that the Administration will review how the United States, working with our allies, partners, and international organizations, can build greater capacity and resolve to deter, prevent, and, when necessary, take action to stop mass atrocities. And I look forward to consulting with the Committee and other Members of Congress as we consider how best to organize to address this challenge so that there is a process in place to anticipate and address any concerns as early as possible.

Darfur

113. The situation in Darfur today is far more complex than it was in 2004. Two rebel groups have splintered into over two dozen and these rebels frequently prey upon civilians and aid workers. What are the Administration’s goals in Darfur and what is its strategy to achieve them in light of this complexity?

President-Elect Obama and I have been very clear and forceful in our condemnation of the genocide in Sudan and in our commitment to far more robust actions to end the genocide and maximize protection for civilians. We have also made very clear our intent to pursue more effective diplomatic efforts to resolve the conflict that underlies the genocide. Today the most immediate and urgent means of providing protection as swiftly as possible to

the civilians at risk is the rapid and full implementation of the UN-AU peacekeeping force, which is half its authorized strength.

114. More than four years after then-Secretary of State Powell's declaration that genocide was taking place in Darfur, the death toll has climbed still higher, the camps for displaced persons have grown more crowded, and humanitarian access to help people in need has diminished in many areas. The United Nations has not made good on its pledge to send 26,000 peacekeepers to Darfur, and has not provided them with the helicopters, vehicles, and other tools to fulfill their mission. Why has this process been so slow to date? What more should the U.S. government do to strengthen UNAMID so that it can effectively fulfill its mandate to protect civilians?

First, we need to send a clear message to Khartoum that they must end obstruction of the UN force, including through endless bureaucratic hurdles and delays. We also need to address some of the UN's own requirements that have inadvertently slowed UNAMID's deployment thus far. I expect that the questions of Sudan and Darfur will be subject to an early policy review. The Administration will take the opportunity to look at all of the steps that it can take most effectively and urgently to maximize protection for civilians, and help to bring this conflict to an end.

115. One of the critical gaps that peacekeepers face is the lack of attack and utility helicopters that are desperately needed to cover vast stretches of roadless territory in Darfur. What would you do, if confirmed as Secretary of State, to help secure these badly needed helicopters?

The Administration will, as part of its review, actively pursue options to fill such critical gaps. The President-Elect is committed to find ways to help move needed troops and equipment into place on an urgent basis.

Southern Sudan

116. The Comprehensive Peace Agreement (CPA) between North and South Sudan calls for elections in 2009 and a referendum in 2011 in which the South will vote on the question of remaining a unified country. What will your objectives be in regard to Southern Sudan and what potential pitfalls do you see in the implementation of the CPA?

As a guarantor of the CPA, the United States has a special responsibility to ensure that implementation of this landmark agreement remains a priority even in the midst of the Darfur crisis. We will work bilaterally to increase support to the Government of Southern Sudan to bolster capacity and good governance, and multilaterally to assure appropriate donor coordination and ongoing political and financial support for CPA implementation.

The Comprehensive Peace Agreement aims to give the Sudanese people greater voice in their political future, and this will remain a priority. National elections that were supposed to be held by July 2009 will clearly be delayed, but the United States will work to ensure that the delay is not protracted, and that free, fair, safe elections are held before the year is out. Preparations for the 2011 referendum must remain on track as well to retain the confidence of the South.

117. In April 2008, then-Senator Obama said that “the U.S. needs to work with the International Criminal Court (ICC) to ramp up the pace of indictments of those responsible for war crimes and crimes against humanity, while Khartoum must feel increased pressure to hand over those individuals already indicted by the Court.” On July 14, 2008, the ICC requested a warrant for the arrest of Sudanese President Omar Hassan al-Bashir for his role in the genocide in Darfur. Many observers expect the ICC to formally indict President Bashir on genocide and possibly other charges in early 2009. Does the administration intend to support the ICC’s efforts to hold Bashir and others in Sudan accountable for genocide and other heinous crimes, and, if so, how?

Yes. Without prejudging the outcome of the ICC prosecutor's recommendation to indict President Bashir, the President-Elect believes, as do I, that we should support the ICC's investigations, including its pursuit of perpetrators of genocide in Darfur. The Bush administration has indicated publicly a willingness to cooperate with the ICC in the Darfur investigation. I commend them for this position, which we also support. We can provide assistance in the investigation; we can and should work with our allies in this effort. This is important because it would send a sign of seriousness about Darfur and our determination to end the killings and bring those responsible for war crimes to justice.

International Criminal Court

118. President-Elect Obama has said that the United States should cooperate with the ICC on many activities, including Darfur. He has not, however, indicated that he will sign the Rome Treaty and join the ICC. Questions linger over the scope of the ICC's activities and, in particular, whether U.S. service members would have the necessary legal protections given their disproportionate burden in preserving international peace and security. What concerns, if any, need to be resolved before the administration would consider supporting ratification of the Rome Statute? How will the administration work with our military commanders, Congress, and the ICC to address such concerns?

Now that it is operational, we are learning more about how the ICC functions. Thus far, the ICC has operated with professionalism and fairness—pursuing perpetrators of truly serious crimes, like genocide in Darfur, and atrocities in the Congo and Uganda. The President-Elect believes as do I that we should support the ICC's investigations, including its pursuit of perpetrators of genocide in Darfur. Along these lines, the Bush administration has indicated a willingness to cooperate with the ICC in the Darfur investigation, a position which the new Administration will support.

But at the same time, we must also keep in mind that the U.S. has more troops deployed overseas than any nation. As Commander-in-Chief, the President-Elect will want to make sure they continue to have maximum protection. Therefore, we intend to consult thoroughly within the government, including the military, as well as non-governmental experts, and examine the full track record of the ICC before reaching decisions on how to move forward. I also look forward to working closely with the Members of the Committee. Whether we work toward joining or not, we will end hostility towards the ICC, and look for opportunities to encourage effective ICC action in ways that promote U.S. interests by bringing war criminals to justice.

Zimbabwe

119. The Mugabe government's brutality and mismanagement in Zimbabwe have ruined the country's economy, destroyed its health system, and deprived its citizens of basic rights and freedoms. Last March the people of Zimbabwe were brave enough to vote for change, but Mugabe continues his hold on power. A massive cholera epidemic is just the latest

symptom of the government's failure to provide for its people. What tools can the United States bring to bear to promote democratic change in Zimbabwe?

The people of Zimbabwe have suffered for far too long under a corrupt leadership that does not serve the needs of its people. The destruction of Zimbabwe's economy and repeated abuses of power have been a catastrophe for Zimbabweans, and threaten the stability of the region.

The United States and the world must take steps to address this growing crisis.

Widened U.S. sanctions are appropriate. It was the right policy to have supported a UN Security Council resolution calling for targeted sanctions and an arms embargo.

As Zimbabwe's crisis continues and becomes even more destabilizing to the Southern African region, South Africa, the African Union, and the SADC must play a stronger role in pressuring the Mugabe regime.

It will require concerted and sustained diplomacy to try to get the international community to acknowledge the need to act to apply more pressure to the illegitimate government of Robert Mugabe, and to bring an end to the man-made humanitarian crisis that grips Zimbabwe today.

The Zimbabwean people are suffering and the U.S. will push for more efforts, including having humanitarian NGOs resume activity in Zimbabwe.

We will need to consider incentives for reform, and work closely with the EU and other international donors to create a very generous aid and recovery package for Zimbabwe once it has a legitimate government. We would make very clear the specific and practical steps that any Zimbabwean government can take to qualify for this package.

120. **Mugabe and his government are responsible for the deaths of untold numbers of people in Zimbabwe. Is this an appropriate matter for the International Criminal Court?**

This is a question that the new Administration will review and consider carefully. If confirmed, I look forward to working with the national security

team to determine how best to confront and address the extreme abuses in Zimbabwe.

The suffering inflicted on the Zimbabwean people by the illegitimate government of Robert Mugabe is appalling. Ideally, the people of Zimbabwe will decide for themselves how best to address the issues of accountability and justice for crimes committed by Robert Mugabe and his inner circle in ZANU-PF.

As discussed in other responses, I believe that as a general rule we should support the ICC's investigations, including its pursuit of perpetrators of genocide in Darfur. And we should work with our allies in shaping this court for years to come. Whether the ICC is the best vehicle to address the situation in Zimbabwe will be the subject of discussions within the new administration, and if confirmed I would also look forward to hearing the views of this Committee.

Somalia

121. Somalia today embodies the principles of failed statehood. The recent increase in the number, range, and impact of acts of piracy in the Gulf of Aden and beyond are only the latest consequence of the lack of government and rule of law in the country. As Secretary of State, what will govern your strategy toward Somalia and the Horn of Africa as a region? What steps can the United States and the international community take to promote prospects for democracy, stability, and security in the region?

We need to take a very careful look at this set of questions. There are no simple solutions. First and foremost, we have a serious counter-terrorism challenge in the context of Somalia. Second, we have a serious humanitarian concern and imperative. Third, we have an interest in trying to facilitate national reconciliation and long-term stability in Somalia. In this context, the question is what tools and initiatives will best advance our efforts along all three of our objectives? If confirmed, I expect to consider this issue in the near future with the President-Elect and my colleagues in the cabinet. As a starting point, an important effort should be finding ways to increase support for and build the capacity of the African Union force.

AFRICOM

122. The creation of the new unified command for Africa, AFRICOM, may represent sound policy from the standpoint of efficiency and management. The new command also has the potential both to elevate and improve U.S. relations with many African countries, particularly in critical areas such as the training of peacekeepers and the professionalization of forces. However, the presentation and roll-out of the new command raised diplomatic concerns. The creation of AFRICOM has also raised questions about the role of the Department of Defense in U.S. development efforts. What do you see as the role of AFRICOM in U.S. Africa policy and in development and humanitarian engagement?

The President-Elect supports the concept of AFRICOM, but has concerns about how it is being implemented. The new Administration will review AFRICOM and consult with African nations. The original concept behind AFRICOM was that our engagement with Africa will be improved by streamlining our command structure so that there is a single unified command responsible for Africa, rather than three separate commands as has been the case. A well-conceived AFRICOM, playing the traditional role of a combatant command rather than supplanting the State Department's traditional role, can enhance U.S. government efforts to foster peace and stability on the continent. The President-Elect has cautioned that we must be very careful not to over-militarize our relations with African nations. On the other hand, there is a role to play for AFRICOM in helping train and equip African rapid response forces for peacekeeping operations. AFRICOM can also contribute to an enhanced capability of African nations to patrol their own waters.

U.S. Policy toward Latin America

123. Many observers believe that the United States has not dedicated adequate attention and resources to Latin America, allowing other countries with hostile ideologies to fill the vacuum. Would you agree with this assessment? What is your agenda for the Americas? What are the most significant challenges confronting U.S. interests in the region?

Too often, U.S. policy toward the Americas in recent years has been negligent to our friends, ineffective with our adversaries, and disinterested in the challenges that matter to peoples' lives throughout the region. The vacuum

created by the lack of sustained U.S. engagement with the region has been filled, in part, by others – including Hugo Chavez, who has tried to use this opportunity to advance outmoded and anti-American ideologies.

As President-Elect Obama has stated, Administration policy toward the Americas will be guided by the simple principle that what is good for the people of the Americas is good for the United States. We will work in partnership with countries throughout the region to promote an agenda that helps advance democratic governance, opportunity and security from the bottom up. It is time to focus on working to overcome the common challenges we face in the Western hemisphere, including economic development, climate change, energy security, and the battle against transnational illicit networks. We must also provide support for democracy that includes strong legislatures, independent judiciaries, free press, vibrant civil society, honest police forces, religious freedom, and the rule of law.

I look forward to working with members of this Committee, as well as other members of Congress to do exactly that and to help create the new partnership in the Americas described by President-Elect Obama.

Brazil

124. In recent years, the U.S. and Brazil have worked more closely together on several important issues, including peacekeeping efforts in Haiti and promoting the use and production of bio-fuels. At the same time, Brazil has taken a leading role in trade and political forums, such as MERCOSUR, the Rio Group, and the newly established Union of South American Nations, which have at times been at odds with U.S. interests in the region. How would you assess the current state of bilateral cooperation between the United States and Brazil? What are possible areas where we might strengthen our relationship? What is your view of the United States-Brazil Energy Cooperation Pact?

The current U.S.-Brazil relationship provides a foundation for a deeper, more comprehensive partnership between our two countries. We welcome the important leadership role Brazil has played in the United Nations stabilization force in Haiti. We look forward to ensuring that continued U.S.-Brazil energy cooperation is environmentally sustainable and spreads the benefits of alternative fuels. The expansion of renewable energy production throughout

the Americas that promotes self-sufficiency and creates more markets for U.S. green energy manufacturers and producers is vitally important.

There are a number of areas in which the United States and Brazil can work together. In partnership we can work to help advance democratic governance, opportunity, and security from the bottom up throughout the Americas. Brazil has an important voice on the global stage where we can work together on climate change, energy security, and the global financial crisis, among other important issues.

The March 2007 Memorandum of Understanding to Advance Biofuels Cooperation and the work that has been done since then are an important feature of the U.S.-Brazil relationship. We look forward to ensuring that continued U.S.-Brazil energy cooperation is carried out in an environmentally sustainable manner and in a manner that spreads the benefits of alternative energy development throughout the region while expanding the market for U.S. green energy manufacturers and producers. It is also important that U.S. biofuel producers not be prejudiced by efforts to increase U.S.-Brazil cooperation. We must also ensure that all stakeholders, including those from the labor, environmental and business sectors, are adequately represented in the biofuels cooperation process.

Colombia

125. An October 2008 report by the GAO concluded that, although Plan Colombia improved security conditions in Colombia, it has not significantly reduced the amount of illicit drugs entering the United States. What lessons can be drawn from Plan Colombia, not only to improve its effectiveness, but to improve other U.S. counternarcotics policies, including the Merida Initiative, in Latin America?

The President-Elect has supported the Andean Counter-Drug Program, and believes that it must be updated to meet evolving challenges.

The security situation in Colombia has improved, but very significant quantities of illicit narcotics continue to flow from Colombia to the United States. I look forward to working with Congress and our friends and partners in Colombia to ensure that future investments help staunch the flow of illegal drugs and help consolidate security gains to contribute to a durable peace in Colombia. To do so, we must learn from the successes and failures of the past.

We will fully support Colombia's fight against the FARC, and work with the government to end the reign of terror from right wing paramilitaries.

As we continue our struggle against the scourge of illegal drugs in our society and throughout the Americas, we must ensure that we are doing what is necessary here at home to reduce demand, enforce our laws through effective policing, and disrupt the southbound flow of money and weapons that are an essential element of the transnational illicit networks that operate in Colombia and elsewhere in the Americas. It is important that we work together with countries throughout the region to find the best practices that work across the hemisphere and to tailor approaches to fit each country.

126. In light of the concerns previously expressed by President Obama and others, including members of this Committee, related to violence against labor unions and other abuses in Colombia, what are your views on the U.S.-Colombia Free Trade Agreement? How can we work to minimize the impact that disagreements over trade have over other aspects of our bilateral relationship?

It is important that we not lose sight of the many aspects of the important, dynamic and complex bilateral relationship that the United States and Colombia have when we discuss the U.S.-Colombia Trade Promotion Agreement. I look forward to working to maintain the across-the-board vibrancy of the relationship.

With regard to the trade agreement, it is essential that trade spread the benefits of globalization. Without adequate labor protections, trade cannot do that. Although levels of violence have dropped, continued violence and impunity in Colombia directed at labor and other civic leaders makes labor protections impossible to guarantee in Colombia today.

Colombia must improve its efforts. I look forward to working with members of this Committee, as well as other members of the Senate and House of Representatives to see what the United States can do to help contribute to an end to further violence and continued impunity directed against labor and other civic leaders in Colombia.

The United States and Colombia have long enjoyed a close, mutually-beneficial relationship. I am confident that through continued cooperation on

the full array of bilateral issues, we can maintain and deepen that relationship. Active engagement with Colombia will be an important part of this Administration's approach to hemispheric relations.

Cuba

127. As you know, Cuban Americans currently must obtain a U.S. Treasury Department license to visit family in Cuba. Even if issued such a license, they are permitted to visit immediate family in Cuba only once in a three-year period. Similarly, Cuban Americans are allowed only to send up to \$300 to their family in any 3-month period. Will the new Administration ease these burdensome restrictions so that the Cuban people have to rely less on their repressive government for assistance, as President-Elect Obama called for during the election? If so, what is the likely timing of this announcement? Are there other ways that we can send a message to the Cuban people that the United States intends to play a positive role in their future and support their democratic aspirations?

There are many ways to that we can send a message to the Cuban people that the United States intends to play a positive role in their future. President-Elect Obama believes that Cuban-Americans especially can be important ambassadors for change in Cuba. As such, he believes that it makes both moral and strategic sense to lift the restrictions on family visits and family cash remittances to Cuba. We do not currently have a timeline for the announcement of such a new policy, and the Obama-Biden Administration will consult closely with Congress as we prepare the change.

President-Elect Obama also believes that it is not time to lift the embargo on Cuba, especially since it provides an important source of leverage for further change on the island.

Venezuela

128. U.S.-Venezuelan relations have been marked by considerable friction under the rule of President Hugo Chavez. There are a number of areas of U.S. concern: Chavez's concerted efforts to export his brand of populism throughout the region; declining Venezuelan cooperation on counternarcotics and counterterrorism; Venezuela's relations with Cuba, Iran, and Russia; its recent military exercises and arms purchases; and the state of democracy in Venezuela. How do you view recent developments in

Venezuela? What approach will you recommend to start to reverse some of these negative trends? Do you see any opportunities for direct engagement over these issues? Would you or President-Elect Obama participate in any discussions that occur? Under what circumstances?

For too long, we have ceded the playing field to Hugo Chavez – a democratically elected leader who does not govern democratically, and whose actions and vision for the region do not serve his citizens or people throughout Latin America. While we should be concerned about Chavez’s actions and posture, we should not exaggerate the threat he poses. It’s time for the United States to fill that void with strong and sustained US leadership in the region, and tough and direct diplomacy with Venezuela and Bolivia. We should have a positive agenda for the hemisphere in response to the fear-mongering propagated by Chavez and Evo Morales. We believe that bilateral cooperation with Venezuela and Bolivia on a range of issues would be in the mutual interest of our respective countries – for example, counterterrorism, counternarcotics, energy, and commerce.

The pursuit of tough, principled, direct diplomacy has been and must again be a hallmark of effective U.S. foreign policy. We should not take any tool off the table that may help promote our interests and values throughout the hemisphere. Direct, high-level diplomatic engagement with Venezuela, of course, also requires careful preparation and a partner willing to engage in meaningful dialogue. It remains to be seen whether there is any tangible sign that Venezuela actually wants an improved relationship with the United States.

No decision has been taken with regard to the appropriate manner and level at which to engage with the Venezuelan government.

Democracy Promotion and Human Rights

129. What role will democracy promotion and human rights have as part of the broader U.S. foreign policy agenda? What lessons do you take away from the Bush Administration’s efforts to promote democracy and human rights?

The President-Elect has pledged to be a strong advocate for democratic change around the world. And I wholeheartedly support this policy. Under his leadership, we will support new democracies and help them build

sustainable democratic institutions. Democracy must mean more than elections – it must mean support for strong legislatures, independent judiciaries, free press, vibrant civil society, honest police forces, religious freedom, and the rule of law.

We must not allow the war in Iraq to continue to give democracy promotion a bad name. Supporting democracy, economic development, and the rule of law is critical for U.S. interests around the world. Democracies are our best trading partners, our most valuable allies, and the nations with which we share our deepest values. But democracy must be nurtured with moderates on the inside by building democratic institutions; it cannot be imposed by force from the outside.

130. Although the Bush administration made the “freedom agenda” a centerpiece of its second term, by most objective measures these efforts have not been successful in the Middle East. The Middle East remains arguably the world’s least democratized region; regimes like Iran and Syria have been emboldened; Hezbollah and Hamas have been empowered at the ballot boxes; and prominent democracy and human rights activists are jailed throughout the region, including in countries enjoying close relations with the United States. How can the United States best promote democratization and political reform in the Middle East? Which aspects of the United States’ recent democracy promotion policies in the region need to change and which aspects have been effective?

There is no doubt that democracy has been slower to take root in the Middle East than it has in some other parts of the world. Promoting democratization and political reform in the Middle East will require skill, patience, and a clear commitment to our principles. It will involve engaging with leaders and with the region’s people to find opportunities to advance reforms that can benefit both. We need to understand that these changes happen over time, not overnight, and that they are most successful when they are homegrown, and not perceived to be imposed from outside. Elections are important, but they are not sufficient, and often fail when they precede the establishment of institutions that bolster democratic society—strong legislatures, independent judiciaries, free press, vibrant civil society, honest police forces, religious freedom, and the rule of law. In addition to standing for democracy in the region, we must also stand for opportunity for the region’s people – including greater access to education.

Public diplomacy, assistance to reformers, and dialogue with leaderships will all be crucial elements of our approach, but as President-Elect Obama has said, our greatest tool in advancing democracy is our own example. That is why closing the detention facility at Guantanamo Bay and following through on a commitment to end torture will not only strengthen our values at home, but will bolster our national interests overseas.

131. President Bush and Secretary Rice often met with foreign dissidents and victims of human rights abuses, apparently as a way to signal the importance of these issues to him and his administration. Do you intend to continue this practice?

Yes. Throughout my career, I have met with and championed the causes of those who have fought for their own rights and the rights of their fellow citizens, and I will continue to do so, if confirmed, in my role as Secretary of State.

Global Financial Crisis

132. What role can and should the State Department play in facilitating a recovery from the global financial crisis? What steps do you intend to take consistent with this role?

The President-Elect and I understand the connection between our economy and our strength in the world. We often hear about two debates – one on national security and one on the economy – but that is a false distinction. We must be strong at home to be strong abroad. It is close to an iron law of history that great nations owe their greatness to their economic strength – and that nations decline if they let their economy decline. Our economy supports our military power, it increases our diplomatic leverage, and it is a foundation of America’s leadership in the world.

As the new Administration develops new policy approaches and implements new initiatives to deal with the financial crisis, I intend to collaborate with my colleagues at Treasury and the White House to enhance international cooperation in support of our efforts. State will deploy our embassies worldwide to update foreign governments on U.S. policy responses, to encourage appropriate policies in other countries, and to discourage counterproductive or protectionist reactions to the crisis. And we will seek to

address the broader implications of the crisis for economic growth, development, and security around the world. It has become clear that this crisis, concentrated initially in the United States and Western Europe, is undermining both economic progress and stability in many developing and emerging economies, with adverse repercussions for U.S. economic and security interests.

Global Poverty

133. Today, more than 1 billion people live in slums around the world, with that number expected to grow to 2 billion within a couple decades. It is now estimated that for the first time in history more people live in urban areas than in rural areas. Yet, U.S. foreign assistance has almost zero capacity to deal with complex issues related to the concentration of poverty in slums. Furthermore, neither USAID nor the Department of State has an office devoted to addressing urban development issues, either from a programmatic or policy perspective. How do you intend to place greater emphasis on supporting those who live in extreme poverty and slums?

America must renew its effort to bring security and development to the disconnected corners of our interconnected world. These efforts must strengthen the capacity of weak and failing states, while expanding education and opportunity for the world's people. As we seek to lead the world, the United States has a significant stake in ensuring that those who live in fear and want today can live with dignity and opportunity tomorrow. That is why President-Elect Obama and I have embraced the Millennium Development Goals to cut global poverty in half by 2015. He has also pledged to double our foreign assistance budget over time – a pledge that I agree with and will help him implement.

The challenges posed by the rise of mega-cities, of the global youth bulge, of increasing resource scarcity, and of the growing gap between rich and poor are challenges we must face in order to uphold our common humanity and ensure our common security. The sharp rise in urban poverty – whether manifested in the growth of slums, an increase in youth violence, rampant unemployment, or gross shortfalls in health and education services – threatens the stability and well-being of literally billions of the world's people.

The good news is that there are clear steps we can take. We have seen in India, for example, that by investing in organizations that can create

employment opportunities for women and their communities, we can create jobs and foster dignity – even in slums. We also know that by helping to strengthen government institutions, build economic and trade linkages, and support the private sector – starting with small enterprises and building up – we can help to change the economic environment that generates urban poverty. And finally, we know that if we invest in agriculture, we can ease the global food crisis and help farmers to stay on their land.

Global Food Crisis

134. The global food crisis is a triple threat – humanitarian, economic, and strategic. It is pushing an additional 100 million people into poverty, and high prices have caused unrest and riots dozens of countries, including Egypt, Indonesia, the Philippines, and Haiti. This crisis can be explained by a convergence of factors – a dearth of investment and inattention to long-term agricultural development, high growth in demand, rising energy prices, over-reliance on corn-based bio-fuels, restrictive trade policies, and climate change. What steps would you advocate as Secretary of State to address some of the root causes of the global food crisis?

Although a long-simmering problem, the sharp increases in global food prices last year, combined with supply constraints in many parts of the world, created a severe humanitarian and economic crisis, particularly for countries least able to cope with these developments. A food crisis of this magnitude poses a threat to both prosperity and security in many developing countries. Millions of people are at risk of being pushed back into poverty, jeopardizing achievement of the Millennium Development Goals. Moreover, states that cannot feed their people are inherently fragile ones. The United States therefore has not only a moral responsibility but also a strong practical interest in doing its part to address a food crisis of this scope and severity.

The underlying causes of the food crisis that erupted last year were both cyclical and structural. The more immediate causes included poor harvests in key grain-producing nations, sharply higher oil prices, and a surge in demand for meat in high-growth Asian countries. Longer-term factors include inadequate investment in enhanced agricultural productivity, inappropriate trade and subsidy programs, and climate change.

Similarly, responses to the crisis must include both short- and long-term measures. In the near term, the United States must work with its partners in

the international community to address immediate humanitarian needs and make seeds and fertilizers available in critically affected nations. Key long-term steps include putting more focus on efforts to enhance agricultural productivity in the world's poorest nations, including agricultural research and development, and investment in improved seeds and irrigation methods.

I also fully support and will work to implement President-elect Obama's pledge to launch an "Add Value to Agriculture" (AVTA) initiative, which aims to increase the incomes of subsistence farmers, decrease the pressure on shrinking arable lands, and minimize the vulnerability of commodity exports to global price shocks.

Treaties

135. Does the administration intend to submit a Treaty Priority List during the 111th Congress? If so, when does the administration expect to submit the list?

We are still considering whether and when to submit a Treaty Priority List.

136. In the late 1980s and early 1990s, the bipartisan Senate Arms Control Observer Group gave members of the Senate an opportunity to observe arms control negotiations and to better understand the treaties that would ultimately be submitted to the Senate for its advice and consent to ratification. As Secretary, what consultative measures, prior to submittal of a treaty for Senate advice and consent to ratification, do you envision taking to ensure that the Senate is fully prepared to understand and evaluate such treaty? Will you restore regular prior consultation with our committee on treaties and invite Senators to directly observe arms control negotiations?

I will direct Department officials to closely consult with this Committee on treaty negotiations. Members of the Committee and the Senate must be kept well informed of the process of developing and negotiating arms control and nonproliferation agreements so that they have a better basis for evaluating such agreements when and if they are completed and brought before the Senate for review or approval. Various arrangements could be used to keep the Senate well informed, including a mechanism similar to the Senate Arms Control Observer Group. I and my Undersecretary for Arms Control and International Security will want to consult with Members to figure out which approach or approaches would be practical and effective.

54 House Members Send Letter to President Obama

Thursday, February 26 2009

WASHINGTON, DC – Today, Congressman Mike Michaud (D-ME), co-founder of the House Trade Working Group, sent a letter signed by 54 of his colleagues to President Barack Obama outlining a new American trade and globalization agenda that could produce the benefits of expanded trade while remedying the considerable problems of past approaches. The letter describes an array of policies that Congress and President Obama can work together on to move a new trade agenda forward.

WASHINGTON, DC – Today, Congressman Mike Michaud (D-ME), co-founder of the House Trade Working Group, sent a letter signed by 54 of his colleagues to President Barack Obama outlining a new American trade and globalization agenda that could produce the benefits of expanded trade while remedying the considerable problems of past approaches. The letter describes an array of policies that Congress and President Obama can work together on to move a new trade agenda forward.

The signatories reflect the broad demand in Congress for a new direction on trade. 54 Members of Congress signed the letter, including 6 committee chairs, 17 subcommittee chairs and many of the members of the classes of 2006 and 2008. The signers of the letter include members of the Democratic Caucus and Republican Caucus, the Blue Dogs Coalition and the New Democrats, the Hispanic Caucus and the Black Caucus, the Progressive Caucus and the Populist Caucus. They represent 24 states and a diversity of both urban and rural districts which have been negatively affected by current U.S. trade and globalization policy.

“Correcting our past trade and globalization policy mistakes and moving forward on a new path can help our nation face our considerable economic challenges,” said Michaud. “Happily, much of what these Members of Congress see as the way forward is the very trade reform agenda that the President pledged to implement during his campaign. In this letter we are letting President Obama know we are excited to help him deliver on his trade reform agenda. Having so many Members of Congress from across the nation sign this letter in support of changing direction on these issues is historic and sends a strong message that the same failed policies are unacceptable and President Obama’s reform agenda has broad support.”

The letter focuses on remedying the failed U.S. - China trade relationship by countering China’s currency manipulation practices, improving imported product and food safety, working with President Obama to deliver on his pledges to renegotiate NAFTA and CAFTA, how to handle the remaining Bush Administration Free Trade Agreements, and transforming the WTO Doha Round agenda to meet the goals of the current administration.

The letter also signals congressional opposition to various last-minute Bush Administration trade moves that were designed to tie the hands of the incoming administration. Among the last-minute Bush Administration proposals that the signatories oppose: yet another NAFTA-style Free Trade Agreement, this one with Vietnam, Brunei and four other Pacific Rim nations and a Bilateral Investment Treaty (BIT) with China which would replicate the NAFTA “Chapter 11” foreign investor privileges and thus create new incentives for U.S. firms to offshore to China and provide new rights for Chinese firms and sovereign wealth funds to acquire U.S. assets without oversight.

The letter and list of its signers are attached.

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February 26, 2009

<http://www.michaud.house.gov>

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The Honorable Barack Obama

The White House

1600 Pennsylvania Avenue

Washington, D.C. 20500

Re: Working Together to Deliver Your Trade Reform Agenda to the American People

Dear President Obama:

Your election and inauguration has inspired Americans of every region, race, and creed to hope for a better future for their families and our nation. We look forward to working with you to deliver on the promise of change realized in the recent election.

Among the great challenges our nation faces is creating new trade and globalization policies that serve America's workers, consumers, farmers, and firms. We believe that a unique opportunity exists for the legislative and executive branches to work in partnership to reform U.S. trade policies; to ensure that Americans enjoy the benefits of expanded trade; and to remedy the negative consequences on the American economy, environment, and public health and safety that have resulted from aspects of the current trade and globalization model.

We heartily agree with your conclusion that trade policies "are not sustainable if they favor the few rather than the many." Rebalancing our trade and globalization policies so that they create and retain good jobs in the United States, foster sustainable and equitable development worldwide, and provide government with the policy space necessary to solve pressing economic, climate, and other challenges is critical to prosperity and security at home and around the world.

The dramatic economic downturn — caused in part by the lack of prudent global regulation of commerce and massive trade and financial imbalances — has fueled the relentless demand from the American public for trade reform. Across the country, successful candidates in 2008 ran against the failed trade policy status quo and pledged a new approach. In the 2006 and 2008 elections, Americans elected a total of 72 new fair-trade reformers to the House and Senate to replace supporters of the North American Free Trade Agreement (NAFTA), the Central America Free Trade Agreement (CAFTA), the World Trade Organization (WTO), and our current China trade policies. The unprecedented U.S. election focus on trade and globalization reform reflects the public opinion that America's trade and globalization model needs a major overhaul.

It will be challenging to remedy the considerable damage that our past trade and globalization policies have wrought. However, we are confident that, working together, we can replace the failed policies of the past with those that deliver broadly shared benefits. We look forward to working with you to seize this exciting opportunity to create a more just American trade policy, in the areas outlined below and beyond.

Remedying the Failed U.S. - China Trade Relationship: We are eager to work with you to resolve the pervasive China currency manipulation problem. Our immense trade imbalance with China is gutting the U.S. manufacturing base and has serious economic and security implications. We urge you to remedy a broken U.S.-China trade relationship by engaging the Chinese government at the highest level, utilizing firm targets and deadlines. Further, we urge you to halt

negotiations recently launched by former President Bush to establish a new U.S-China Bilateral Investment Treaty (BIT). While many in Congress have echoed your call for an end to existing loopholes that promote offshoring, BITs provide new protections to assist U.S. firms' relocation of investment and jobs offshore. A China BIT would also empower Chinese firms, including state-owned firms, to purchase even more U.S. assets under preferential terms. Moreover, a BIT based on the existing U.S. model would allow these Chinese firms to skirt U.S. courts and use foreign tribunals to challenge U.S. regulation of Chinese firms operating here, extending the investor-state system you so rightly criticized during the campaign, and which we address in more detail below.

Improving Import Safety: We are also eager to work with you to deliver on your campaign pledge to create new import-safety policies to ensure that food and goods coming from China and all countries meet U.S. safety and inspection requirements as a condition of entering our market and homes. Ensuring that Americans are not exposed to serious and unnecessary risks from imported goods will require improvements to our existing trade agreements, which limit the safety standards and inspection rates applied to imports, and to our domestic imported product and food safety regimes and their funding.

Renegotiating NAFTA and CAFTA: During the campaign, you described needed changes to NAFTA and the NAFTA-model FTAs, such as CAFTA. We pledge our support for an inclusive process to review and renegotiate these pacts. The issues that you raised regarding the NAFTA model are those that have been the basis of congressional opposition to NAFTA-style pacts: excessive foreign-investor privileges and private enforcement systems; limits on domestic procurement policy and food-safety protections; and more. Your call to renegotiate NAFTA, CAFTA, and other pacts, combined with the longstanding interest by many in Congress to improve the U.S. trade-agreement model, provide a long-overdue opportunity for a much-needed debate about U.S. trade pacts, and what policies they must and must not include. We are eager to work with you to build consensus around a new model before considering future agreements. To this end, we ask you to reverse the Bush administration's unilateral September 2008 declaration that the United States will join in negotiations for a Trans-Pacific Strategic Economic Partnership (with Australia, Brunei, Chile, New Zealand, Singapore and Vietnam.)

The Bush Administration Free Trade Agreements (FTAs): We oppose the FTAs with Colombia, Panama, and Korea, which represent the "more-of-the-same" trade-agreement model promoted by the previous administration.

Colombia FTA. We would oppose any trade agreement with Colombia until we have witnessed a sustained period during which the current extreme human-rights violations against unionists, Afro-Colombians, and indigenous people have ceased. More than 460 unionists have been murdered in Colombia since President Álvaro Uribe took office in August 2002, including 49 in 2008 alone. This is a twenty-five percent increase from 2007, even as Colombia faced high levels of scrutiny related to the FTA. Additionally, there are growing revelations about the Uribe Administration's links to rightwing paramilitaries responsible for assassinations of unionists and other civilians. It is critical to send a signal to the world that the United States will not tolerate the assassination of people seeking to exercise their basic human rights.

Panama FTA. We also believe that Panama is not an appropriate U.S. FTA partner. A Government Accountability Office study identified Panama as one of only eight countries — and the only current or prospective FTA partner — that was listed on all of the major tax-haven watchdog lists. Panama has long been a key target of both the Organisation for Economic Co-operation and Development and other tax transparency entities for its resistance to international norms in combating tax evasion and money laundering. Indeed, Panama is one of few countries that has refused to sign any tax information exchange treaties. We applaud your cosponsorship last year of S. 681 (The Stop Tax Haven Abuse Act), which designates Panama as an "Offshore Secrecy Jurisdiction" targeted for that legislation's restrictions on the use of offshore tax havens and abusive tax shelters to avoid U.S. federal taxation. Panama is one of the top locations for multinational firms' subsidiaries — many created for the sole purpose of avoiding taxes

Korea FTA: In addition to its lopsided auto provisions, the Korea FTA includes major financial service-sector deregulation and liberalization provisions that contradict global and domestic congressional efforts to re-regulate this volatile sector.

We are eager to work with you to build support for the new trade agreement model we create together and for pacts with countries that respect the rule of law and human rights and that provide economic opportunities for American workers, farmers, and firms. While the Bush FTAs with Colombia, Panama, and Korea contain some improvements regarding labor and environmental standards relative to NAFTA, more work is needed on these and other provisions. Many of the most serious problems with the previous trade-agreement model are replicated in these FTAs. They must be renegotiated to ensure that these pacts at a minimum pass the most conservative “do no further harm” test.

This includes the FTAs’ investment chapters, which afford foreign investors with greater rights than those enjoyed by U.S. investors. These three pacts’ foreign-investor chapters contain the same provisions in CAFTA that led many Democrats to oppose that pact, and that you cited as problematic during your campaign. Such provisions promote offshoring and subject our domestic environmental, zoning, health, and other public-interest policies to challenge by foreign investors in foreign tribunals.

The Bush FTAs also still contain language that limits import inspection and requires the United States to accept imported food that does not meet our domestic safety standards. Further, the Bush FTAs contain procurement rules which forbid anti-off-shoring and many Buy America policies and subject to challenge many common federal and state procurement policies regarding renewable-energy, recycled-content, and other important standards. These terms must be changed to provide the policy space for many of your exciting “Green Economy” proposal, which we also support.

The Bush FTAs also contain the NAFTA-style agriculture trade rules which have simultaneously undermined U.S. producers’ ability to earn a fair price for their crops at home and in the global marketplace. Multinational grain-trading and food-processing companies have made enormous profits, while farmers on both ends have been hurt. As you noted in the campaign, one result of NAFTA-style agricultural rules has been the displacement of millions of farmers in developing-country FTA partners, with corresponding increases in illegal immigration to the United States.

Finally, while the most egregious CAFTA-based terms limiting access to affordable medicines have been removed from the Bush FTAs, the texts still include NAFTA-style terms that undermine the right to affordable medicines that were contained in the WTO’s 2001 Doha Declaration on Access to Medicines.

Transforming the WTO Doha Round Agenda: We are excited to work with you to create a new agenda for future global trade talks that address the existing problems in current WTO rules. Replacing the now-outdated and long-beleaguered “Doha Round” agenda provides a unique opportunity to reestablish the United States as a global advocate for economic fairness. In contrast, the Doha Round, if concluded, would expand the damage the WTO has already wrought both here and abroad. Since establishment of the WTO and NAFTA, the U.S. trade deficit jumped exponentially from under \$100 billion to over \$700 billion — over 5 percent of national income. At the same time, U.S. real median wage growth has flattened, despite impressive productivity gains. Meanwhile, the developing countries that have most faithfully adopted WTO rules have seen significant declines in their growth rates, and a global food crisis has caused growing hunger in many poor nations.

While your goal of adding labor rights to the WTO is not even on the Doha Round agenda, many troubling proposals are. Among the concessions demanded of the United States under the current talks are the unacceptable weakening of existing U.S. domestic trade laws, and the WTO-binding of increased numbers of guaranteed U.S. visas for foreign workers seeking employment here. Moreover, a key element of the Doha Round agenda is further service-sector deregulation and liberalization — including financial services and energy. Congress and the world at large are struggling to re-regulate financial services and create new energy policies to ensure our shared future; it is extremely counterproductive to permit imposition of new WTO limits on the domestic policy space needed in these critical areas. Indeed, a new WTO negotiating agenda must focus on creating the flexibilities needed to address the critical issues of our time, including policies to counter global climate change.

We are all eager to work with you to create American trade and globalization policies that promote our shared goals of

economic justice, poverty alleviation, healthy communities, human rights, and a sound environment. Correcting our past trade and globalization policy mistakes and moving forward on a new path can help our nation face our considerable economic challenges. We look forward to working with you to create new American trade policies that enjoy broad support.

Sincerely,

Representative Michael H. Michaud	Representative Louise M. Slaughter
Representative Rosa L. DeLauro	Representative Maurice D. Hinchey
Representative Bob Filner	Representative John Conyers Jr.
Representative Nick J. Rahall III	Representative Jerrold Nadler
Representative Walter B. Jones	Representative James L. Oberstar
Representative Janice D. Schakowsky	Representative Peter J. Visclosky
Representative Marcy Kaptur	Representative John F. Tierney
Representative Peter A. DeFazio	Representative Frank Pallone Jr.
Representative Linda Sánchez	Representative Betty Sutton
Representative Collin C. Peterson	Representative Bart Stupak
Representative James P. McGovern	Representative Brian Higgins
Representative Phil Hare	Representative Larry Kissell
Representative Donna F. Edwards	Representative Barbara Lee
Representative Jesse Jackson Jr.	Representative Gene Green
Representative Mike McIntyre	Representative Dennis J. Kucinich
Representative Michael A. Arcuri	Representative Dale E. Kildee
Representative Paul Tonko	Representative Heath Shuler
Representative Chellie Pingree	Representative Bruce L. Braley
Representative Keith Ellison	Representative Henry C. Johnson Jr.
Representative Steve Kagen, M.D.	Representative David Loebsack
Representative Mary Jo Kilroy	Representative Carol Shea-Porter
Representative Raúl Grijalva	Representative Tim Ryan
Representative Daniel Lipinski	Representative Travis W. Childers
Representative Mazie Hirono	Representative John A. Boccieri
Representative Mark H. Schauer	Representative Eric J. J. Massa
Representative Daniel B. Maffei	Representative Stephen F. Lynch
Representative Gary C. Peters	Representative John P. Sarbanes



2009 TRADE POLICY AGENDA AND 2008 ANNUAL REPORT

***OF THE PRESIDENT OF THE UNITED STATES
ON THE TRADE AGREEMENTS PROGRAM***

THE PRESIDENT'S TRADE POLICY AGENDA

I. THE PRESIDENT'S TRADE AGENDA: MAKING TRADE WORK FOR AMERICAN FAMILIES

President Obama has charted a course for economic recovery that will restore growth and promote broad-based prosperity. It will emphasize improvements in the living standards of American families while reorienting our economy to meet today's challenges – energy, the environment, and global competitiveness.

The President's trade agenda will contribute to achieving these objectives. It will reflect our respect for entrepreneurship and market competition, our environment, opportunity for all, and the rights of workers. We seek to benefit Americans and the world by pursuing trade policies that embody these values. We particularly recognize the need to pay special attention to how our policies influence the well being of people struggling both at home and in the poorest regions of the world. Fundamentally, our trade policy needs a keen appreciation of its economic consequences for our workers, their families, and their communities, a fact recognized in the progress our Congress is making to upgrade our existing adjustment assistance programs for workers.

Eliminating barriers to trade in the face of serious turmoil in our economy and financial markets will be a challenge. In enacting the Economic Recovery Act, the Congress affirmed our commitment to comply with the rules that govern international commerce and reached agreement to improve our trade adjustment assistance programs. These acts recognize the importance of trade to our economy and our responsibilities to those who face the highest hurdles in adjusting to changing trade patterns.

The President will use all available tools to address this economic crisis including achieving access to new markets for American businesses large and small. One of these tools is the authority Congress can grant the Executive to negotiate trade agreements and bring them to the legislature for an up or down vote. We will only ask for renewed trade negotiating authority after engaging in extensive consultation with Congress to establish the proper constraints on that authority and after we have assessed our priorities and made clear to this body and the American people what we intend to do with it.

Trade is a significant and increasingly important factor in contributing to the U.S. and global economies. In 2008, U.S. goods and services trade (exports plus imports) were equal to 30.8 percent of U.S. Gross Domestic Product (GDP), and exports alone accounted for 13.1 percent of the U.S. economy. World goods and services trade accounted for an estimated 33.5 percent of global GDP in 2008 (about \$20.8 trillion dollars). In other words, trade is a large and growing part of our everyday commerce, and the jobs produced by these transactions are significant and well-paying.

Yet, there are signs that trade, which has grown consistently in recent years, is slowing markedly. For the first time since 1982, global trade flows are projected to decline in 2009 by 2.1 percent to 2.8 percent. U.S. trade in goods and services already dropped by 14 percent between the 3rd and 4th quarters of 2008.

Pressing economic conditions require the discipline to respond to immediate problems while staying true to our long-term goals. The President's approach will be to promote adherence to the rules-based international trading system in order to promote economic stability, while introducing new concepts – including increasing transparency and promoting broader participation in the debate – to help revitalize economic growth and promote higher living standards at home and abroad. We are in the process of developing a plan of action to address the pending trade agreements in consultation with Congress. We

hope to move on the Panama Free Trade Agreement (FTA) relatively quickly. And we plan to establish benchmarks for progress on the Colombian and South Korean FTAs.

The President's agenda will take account of the changing contours of the world economy by underscoring the importance of continuing education and the mastery of new skills to ensure we continuously strengthen our competitiveness. The President's agenda will also stress the importance of harnessing new technologies to help our citizens learn, conduct business, and compete. It recognizes the impact of transportation and energy infrastructure on the location and productivity of economic activity. The President's agenda also recognizes the necessity of pursuing energy and environmental policies that ensure a sustainable and prosperous future for our planet. These changes will make environmental dynamics more central to the direction of the world economy.

We also want to expand the universe of those who benefit from trade and fully address the costs it creates. For example, trade and commercial policies should help small and medium-sized firms become more integrated as effective competitors in the global marketplace. Our goal should not only be to help them respond to competitive imports, it also should be to create conditions that help them become effective exporters.

Open world markets can incentivize people and capital to move from less productive to more productive jobs and uses. This process ultimately stimulates higher wages and innovation while lowering prices for consumers. But trade outcomes do not lift everyone up in the short run, and cause painful adjustments for some. It is the responsibility of government to ensure that people receive the assistance they need to make those adjustments. Our trade policy needs a keener appreciation of the consequences of trade for our workers, their families, and their communities. The Congress has already made meaningful progress on this front by upgrading our existing adjustment assistance programs for workers.

To make support for global markets sustainable, our consideration of the effects of trade can not stop at the edge of our borders. Trade is more beneficial for the world, and fairer for everyone, if it respects the basic rights of workers. Our trade policies should build on the successful examples of labor provisions in some of our existing agreements.

Also, as we tackle the issues of equity, we need to ask how trade policy can respond to mounting global environmental challenges. These range from climate change to dangerously depleted resources such as fisheries. We should aim to make trade a part of the tool kit of solutions for addressing international environmental challenges.

The clear implication of these global challenges is that simply lowering tariffs and eliminating tariffs will not produce a successful trade policy. Managing our nation's trade policy and engagement in the world economy has become an ever more complex challenge. Therefore, we must bring the same vigor and innovation to making trade policies more transparent and accountable that we are now applying to the process of developing and implementing our domestic economic policies.

PRESIDENT OBAMA'S POLICY PRIORITIES

Build on existing Free Trade Agreements and Bilateral Investment Treaties in a responsible and transparent manner

The Bush administration has left a legacy of numerous pending agreements and negotiations. We will conduct extensive outreach and discourse with the public on whether these agreements appropriately advance the interests of the United States and our trading partners. In particular, we will promptly, but responsibly, address the issues surrounding the Colombia, Korea and Panama Free Trade Agreements. We shall also review the implementation of our FTAs and bilateral investment treaties (BITs) to ensure that they advance the public interest.

We will also work with Canada and Mexico to identify ways in which NAFTA could be improved without having an adverse effect on trade. We will do this in a collaborative spirit and emphasize ways in which this process can benefit the citizens of all three countries. And, we will consider proposals for new bilateral and regional agreements when they promise to deliver significant benefits consistent with our national economic policies. If new negotiating authority is required, we will seek that from Congress.

III. BILATERAL AND REGIONAL NEGOTIATIONS AND AGREEMENTS

A. Free Trade Agreements

12. Republic of Korea

The United States and the Republic of Korea successfully concluded the negotiation of a free trade agreement on April 1, 2007 and signed the United States-Korea Free Trade Agreement (KORUS FTA) on June 30, 2007. The KORUS FTA is the most commercially significant free trade agreement the United States has concluded in 16 years. Once approved and implemented, the KORUS FTA will provide preferential access for U.S. businesses, farmers, ranchers, services providers, and workers to the United States' seventh largest export market, help solidify the two countries' long-standing alliance, and underscore the U.S. commitment to, and engagement in, the Asia-Pacific region.

For more details regarding the KORUS FTA, please see Chapter III, Section E.

B. Regional Initiatives

E. Asia

4. Republic of Korea

FTA:

In 2008, the U.S. Government continued to work with Congress to secure approval of the United States – Korea Free Trade Agreement (KORUS FTA), which is the United States’ most commercially significant free trade agreement in 16 years. Once approved and implemented, this agreement would provide significant economic, political, and strategic benefits for both sides. The U.S. International Trade Commission estimates that the reduction of Korean tariffs and tariff-rate quotas on goods alone would add \$10 billion - \$12 billion to annual U.S. GDP and around \$10 billion to annual merchandise exports.

Under the FTA, nearly 95 percent of bilateral trade in consumer and industrial products will become duty-free within three years of the date the agreement enters into force, and most remaining tariffs will be eliminated within 10 years. In agriculture, the FTA will eliminate immediately or phase out tariffs and quotas on a broad range of products, with almost two-thirds of Korea’s agriculture imports from the United States becoming duty-free immediately upon entry into force. In services, the FTA provides meaningful market access commitments that extend across virtually all major service sectors, including greater and more secure access for international delivery services and the opening of the Korean market for foreign legal consulting services. The FTA makes groundbreaking achievement in the area of financial services and will increase access to the Korean market, as well as ensure greater transparency and fair treatment, for U.S. suppliers of financial services.

The FTA goes well beyond eliminating tariff barriers – it also addresses non-tariff barriers in a wide range of sectors and includes state-of-the-art protections for investors and intellectual property rights, groundbreaking competition policy provisions, strong labor and environment safeguards, and far-reaching commitments related to transparency and regulatory due process. The KORUS FTA will also provide U.S. suppliers with greater access to the Korean government procurement market.

In addition to strengthening the United States-Korea economic partnership, the KORUS FTA will help to solidify the two countries’ long-standing alliance – serving as a pillar of bilateral relations for generations to come. In addition, as the first U.S. FTA with a North Asian partner, the KORUS FTA promises to serve as a model for trade agreements for the rest of the region, and will underscore the U.S. commitment to and engagement in the Asia-Pacific region.

Other Developments:

After the signing of the FTA, regular bilateral trade consultation meetings, which were suspended during the FTA negotiations, resumed in September 2007. Designed to address potential bilateral trade issues as they emerge, the bilateral trade consultation meetings, led by USTR with participation from the full range of U.S. international economic agencies, serve as the primary forum for discussing trade issues and are augmented by a broad range of senior-level policy discussions. In 2008, bilateral trade consultations were held on three occasions. The United States worked closely with Korea during these consultations to address and resolve issues related to the manufacturing, agriculture, and services sectors.

On April 18, 2008, the United States and Korea agreed to a protocol that defines conditions for the importation of U.S. beef to Korea and provides for a full reopening of the Korean beef market. The protocol is fully consistent with OIE guidelines and will permit all U.S. beef and beef products from cattle of all ages to be exported to Korea, with appropriate Specified Risk Materials (SRMs), as defined by the OIE, removed.

On June 20, 2008, Korean beef importers and U.S. exporters reached a commercial understanding – separate from the April 18 agreement – that only U.S. beef and beef products from cattle less than 30 months of age will be shipped to Korea, as a transitional measure to improve Korean consumer confidence in U.S. beef. At the request of U.S. exporters, the U.S. Department of Agriculture (USDA) set up a voluntary Quality System Assessment (QSA) Program that will verify that beef from participating plants is from cattle less than 30 months of age. As a result of the April 18 agreement and June 20 commercial understanding, U.S. exports began as of June 26, 2008, and from June to November nearly \$280 million worth of U.S. beef and beef products has been exported to Korea, with Korea now the fourth largest export market in terms of value for all of 2008 for U.S. beef and beef products, after Mexico, Canada, and Japan.

The United States also worked closely with Korea to address U.S. industry concerns that Korea's energy efficiency regulations may have resulted in under-reporting of energy consumption in Korean-manufactured refrigerators. As a result, the Korean Government adopted on April 30, 2008 the international energy test standard for refrigerators to address this problem. In addition, the Korean government has worked closely with stakeholders and the U.S. Government in implementing this standard to ensure that the new regulations do not unfairly disadvantage U.S. manufacturers. Furthermore, the United States and Korea worked cooperatively in 2008 to achieve progress in a number of areas related to technical standards, such as power cord adaptors for laptop computers and controlled access system technology for satellite and Internet protocol television, to ensure that U.S. technology providers continue to enjoy a level playing field and unfettered access to the important Korean market.

In close consultation with the U.S. Government and industry stakeholders, Korea implemented in July 2008, amendments to its system for certifying compliance with automotive emissions standards that create an improved, streamlined process for U.S. and other foreign automakers. Under the amended regulations, certifications are based on manufacturer-provided test data, eliminating the need for in-country testing or tests witnessed by Korean regulators. This change also benefits U.S. suppliers of off-road vehicles, such as lift trucks and excavators.

In an important market-opening development, the Korea Communications Commission (KCC) voted on December 10 to remove the requirement that all mobile phones sold in Korea include the Wireless Internet Protocol for Interoperability (WIPI), effective April 1, 2009. WIPI is a Korea-developed mobile platform intended to ensure cross-carrier interoperability of downloaded content. The Korean government in 2005 had mandated that WIPI be installed in all mobile phones sold in Korea. KCC's decision to remove this requirement is a significant liberalization of the Korean telecommunications market, making it far easier for foreign handset makers to access the Korean market and providing Korean consumers with more choice. The United States had consistently urged Korea to eliminate the WIPI mandate and to more fully embrace technology neutrality in telecom regulation.

The Korean government also worked constructively with U.S. publishers of academic and scientific journals to begin to address the publishers' concerns about fraudulent practices in Korea's national procurement system, which makes purchases of the journals on behalf of national universities and research institutes. Korea's Public Procurement System agreed to implement changes to its standard terms and conditions for contracts that should help to maintain the integrity of the contract process and prevent fraud, but continued monitoring is needed to ensure adequate enforcement of the provisions occurs and a decline in fraudulent practices takes place.

The United States and Korea also worked together to address a number of issues related to Korea's customs regulations. Korea modified its individual country-of-origin labeling requirement for oranges to allow labeling on the smallest retail packaging unit, and extended this exemption to bananas and durians as well. Korea also reconsidered its initial decision to reclassify certain solar panels containing photovoltaic cells and diodes to a tariff category which incurs a duty and announced its decision to continue to classify these products in a duty-free tariff line. The United States also worked with Korea to clarify marking requirements for goods made in Puerto Rico.

Finally, the United States and Korea cooperated extensively in a wide range of multilateral fora to advance open markets. Korea was a strong partner of the United States in the WTO Non-agricultural Market Access (NAMA) negotiations, supporting the push for ambitious liberalization. Korea has been an active participant in efforts to strengthen international IPR enforcement by joining the United States and others in negotiating an Anti-Counterfeiting Trade Agreement (ACTA). In APEC, the two countries worked closely to promote high-quality FTAs in the Asia-Pacific region.

[출처 : Eyes on Trade (blog of Public Citizen's Global Trade Watch)]

Live Blogging the Ron Kirk Hearing

March 09, 2009

5:06 pm: Chairman Max Baucus (D-Mont.) is kicking things off things. "Those who have followed international trade agreements are battered... your job will be to fight rearguard action on slipping on these commitments."

Baucus says that Kirk's tax problems should not be a dealbreaker.

Things are off to a good start with TAA.

Baucus is introducing customs reauthorization and an enforcement bill, and a preference bill.

5:08 pm: "I want to pursue 3 pending agreements. We should start with Panama. That is the one that is most ready for action and least controversial. I am also ready to set benchmarks on Colombia and Korea."

We need to export more to Asia. Bilateral engagement is necessary; a regional approach might also bear fruit.

Sen. Chuck Grassley (R-Iowa): 5:12 pm: You just released your Trade Agenda. You don't have staff to explain to our committee what it means. It was vital that you said trade would play most valuable role in the recovery.

It raises some concerns. I don't know what president means that we should build on labor standards in existing agreements. I'm reserving judgment on what these issues mean. The May 10 compromise was hard to reach, and we have yet to see 3 pending FTAs approved. If the president reopens the May 10 compromise, he risks losing support for the trade agenda.

I was also concerned that the report said trade may not reflect equity and employment. Our trade has reflected that for some time.

I am concerned about mixed signals on NAFTA renegotiation. If we open up NAFTA, Mexico may want to change tariffs on corn.

5:18 pm: Sen. John Cornyn (R-Texas) introducing his constituent Mayor Ron Kirk. USTR must be clearly and calmly against protectionism.

As mayor of Dallas, Kirk supported NAFTA and attracted investors to Dallas.

Mayor Kirk may not be first choice of those who oppose trade, but he is first choice of president.

Kirk: 5:22 pm: The president and I believe that trade plays a key role in our economy, and that the US will be a leader in setting the rules. Cheaper foreign products help hard pressed American families, and exports help create jobs. The overarching benefits of trade are diffuse, and the pain is concentrated.

I am a raging pragmatist.

We're not going to do deals just for the sake of doing them.

Our focus will be on enforcement.

We'll work with our partners in the WTO to advance Doha forward in the right direction. We'll see how we can get pending bilateral agreements moving, and negotiate new ones.

In an appropriate time, Obama will require authority to negotiate new agreements and bring them to you for approval.

Restoring the bipartisan negotiation will take time.

5:26 pm: Baucus hurried Kirk up, and is asking him the 3 standard questions on his background.

How will you restore bipartisanship? I want 45 sec answers.

Kirk: I will talk to you.

Baucus: How do you engage China?

Kirk: This will require a comprehensive strategy. We'll use all resources within WTO, we need to make them a consumer society.

Baucus: Softwood lumber?

Kirk: We'll move forward in a collaborative way.

Baucus : SPS?

Kirk: We will press EU to get SPS measures based on sound science, and not fear.

Baucus: Your enforcement priorities?

Kirk

Baucus: Is Panama FTA ready to move?

Kirk: We believe Panama is closest to being ready, and we're going to do an expedited review of all pending agreements.

5:32 pm Grassley: How do we reverse downturn in trade. Implementation of Colombia FTA is my number one priority. Will you do it this year?

Kirk: I cannot commit to a certain timetable. We're going to advance in a strategic, not tactical manner.

Grassley: There was good faith negotiations two years ago. When you have good faith between two political parties, you shouldn't look for other consensus or renegotiation.

Grassley: It was hard for me to accept May 10 labor compromise. I am worried that it has not yielded 4 agreements. I don't know that I will move from that standard.

Kirk: we are going to look at all agreements. The 5 elements of the Peru FTA will help move us forward so that people can believe in trade.

Kirk: Domestic labor law should be set by Congress.

Grassley: will you commit to reject agricultural renegotiation in NAFTA.

Kirk: I don't see how levying new tariffs will help strengthen the agreement.

Stabenow: I am deeply concerned about Korea FTA on autos.

Kirk: I realize that there are two sides to the story. I don't have "deal fever," but I didn't accept this job just to enforce what's already there. We need to create that level playing field. It's also a huge market.

QUESTION ON COOL. 5:40 pm

Kirk: We want to make sure that foods we eat are safe.

Wyden: the middle class does not like these trade agreements. What do you plan to increase support of middle class?

Kirk: We're going to utilize technology to tell the real story. Our website is "so" 1987.

Snowe: 5:44 pm: USTR has not taken any action on a public petition since 1996. I am worried about enforcement. What actions would you take?

Kirk: I am going to honor president's commitment to you.

Cantwell: 5:46 pm: We need a CHina bilateral on energy. What kind of benchmarks on Korea?

Kirk: Part of restoring America's confidence is to meet benchmarks. We don't have these defined yet. In case of status quo, it's not acceptable.



For Immediate Release
March 9, 2009

Contact: Dan Virkstis
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**Hearing Statement of Senator Max Baucus (D-Mont.)
Regarding the Nomination of Mr. Ronald Kirk to be United States Trade Representative**

On June 29, 1944, as an international conference began to envision the world that would emerge from World War II, President Franklin Roosevelt said: "Commerce is the life blood of a free society. We must see to it that the arteries which carry that blood stream are not clogged again, as they have been in the past, by artificial barriers created through senseless economic rivalries."

Slowly, a plan for global economic reemergence took shape. Far from the battlefield, economists and strategists in Washington drafted a document called Proposals for the Expansion of Trade and Employment. Published in 1945, the report was a blueprint for dismantling the protectionism that had crippled the international economy for decades. The report laid the foundation for the international trading system that would sustain the global economy for the next 60 years.

Mayor Kirk, as President Obama's nominee for U.S. Trade Representative, you will soon have the pen to draft a new international economic blueprint. This new blueprint will be no less historic and no less important. In many ways, your task is more challenging.

America emerged from World War II as the clear military victor. We were the world's strongest economic engine.

In the current global economic crisis, America is not the victor, but its first victim. Some in foreign lands see America as the main culprit.

Our economy is in recession. Our consensus to advance international trade is frayed. And our faith in the international trading system is badly shaken.

New economic powers are emerging. Historical trading powers are waning.

Economies that followed the letter and the spirit of international trade rules are battered. And foes of open trade are emboldened to take action that could undermine the global trading system for years to come.

--2 more--

Mayor Kirk, your job will be to fight a rear-guard action to combat new barriers to trade. And your job will also be to chart a course forward to free and open trade that endures.

I believe that you are the best man for the job. Now, this Committee's vetting process revealed mistakes in your tax returns. These are regrettable but, I believe, honest mistakes. You have acted to remedy them. And now you must focus on succeeding in the position for which the President has nominated you.

This year, American trade policy is off to a good start. In the economic recovery act, Congress worked with the administration to pass a landmark expansion of Trade Adjustment Assistance.

Passing TAA was a model of bipartisan cooperation. Senator Grassley, Chairman Rangel, Congressman Camp, and I worked to craft the agreement. Senators Snowe, Cantwell, Stabenow, Bingaman, and Rockefeller made valuable contributions.

I am committed to continuing that model of cooperation and engagement.

I plan to introduce bipartisan, comprehensive customs reauthorization legislation.

I plan to introduce bipartisan legislation to give the administration the tools and resources it needs to enforce our trade agreements and level the playing field for American workers, firms, farmers, and ranchers.

And I plan to introduce legislation to reform and reauthorize our preference programs in a way that will ensure that the world's poorest countries can trade, grow, and prosper.

I also want to find a way to begin consideration of the three pending trade agreements. And I am committed to approaching that process with the same cooperation and commitment that we demonstrated on TAA.

We should start with Panama. That's the agreement that's most ready for action. And it's the agreement that will win the greatest level of support.

With careful thought, consideration, and compromise, I also want to address the trade agreements with Colombia and Korea. We must find a way to address the real and significant concerns with labor violence in Colombia. And Korea must find a way to accept all American beef from cattle of all ages.

Done properly, I believe that the U.S.-Korea trade agreement could serve as a cornerstone of a broader economic agenda that embraces the dynamism of Asia.

--1 more--

Our exports to Japan and China — the world's second and third largest economies — are far from reaching their full potential. And surrounding these Asian heavyweights are promising markets in Vietnam, Malaysia, and Taiwan.

Bilateral engagement with these and other Asian countries is important. But a regional approach is also critical. The United States will chair the Asian Pacific Economic Cooperation group in 2011. We must start planning now to make our APEC leadership meaningful.

One way to do so would be to lead ongoing Trans-Pacific Partnership negotiations to a successful conclusion. The sooner that the Obama Administration commits to Trans-Pacific Partnership negotiations, the sooner that those negotiations can grow into a broader regional deal that encompasses Japan and other countries with greater commercial impact.

Opening new markets through new negotiations is essential to American workers, firms, farmers, and ranchers who struggle in today's economy. But equally important is unraveling the web of sanitary and phytosanitary barriers that keep the world's consumers from enjoying American agriculture products.

These barriers hurt every state represented on this Committee, in markets throughout the world. Unscientific beef import bans have cost ranchers in Montana and other states ten billion dollars in exports. And the European Union has effectively locked out American corn, soy, poultry, and beef from their market.

Mayor Kirk, you will also need all of your vigilance and tenacity to enforce our international trade agreements. Our Softwood Lumber Agreement with Canada is a prime example. American companies can go toe-to-toe with any global competitor. But they can succeed only if the competition plays by the rules of the game.

Mayor Kirk, the 1945 report on trade expansion and jobs that I mentioned earlier began with a simple observation. Its authors observed that America had "a limited and temporary power to establish the kind of world we want to live in." I urge you to approach your position as U.S.T.R. in a similar way.

And so, Mayor Kirk, I urge you to protect the life blood of free society. I encourage you to see to it that the arteries that carry that stream are not clogged again, as they have been in the past. And I urge you to use your position as U.S. Trade Representative to help to establish the kind of world that Americans want to live in.

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Statement of Ron Kirk
United States Trade Representative-Designate
Committee on Finance
United States Senate
March 9, 2009

Chairman Baucus, Senator Grassley, and Members of the Committee:

I appreciate the opportunity to testify here today and for the time many of you have taken to speak with me. And I am very grateful to the President for having nominated me to serve as the United States Trade Representative, subject to Senate confirmation.

The President and I believe trade plays a key role in contributing to the strength of our nation's and the world's economy. We believe fundamentally that fair, open and transparent rules-based trade can act as catalyst to benefit working families and business, large and small, throughout this country. To that end, this Administration will work to ensure that the United States continues to be a leader in advancing the rules-based international trading system. For all of the challenges in recent years and its imperfections, the world's trading system and institutions provide a strong foundation for commerce that has expanded the economic pie and bound together nations. We reaffirmed our bipartisan commitment to multilateral cooperation in commerce in the recent stimulus bill. Moving forward, we can build on this record and deepen our commercial relations with the world in a manner consistent with our values.

To achieve that end, we will work to expand the benefits of trade and ensure that our workers who are negatively impacted by trade receive the assistance they need to move forward and the skills required to compete in the 21st century economy. In doing so, we are mindful that the benefits of trade are diffuse while the costs are concentrated.

It is true that cheaper foreign products help squeezed American families stretch their dollars, and the sale of our goods and services abroad support American jobs. But it is also true that the overarching benefits of trade are difficult to appreciate when a plant closes in a small community because of increased foreign competition. Everyone there is aware of it and they all feel it. When that competition is fair, Americans adjust and rise to

the challenge. When it is not, our government must act to insist that everyone plays by the agreed upon rules. This we will do.

It is within that context that we must conduct a new, open, and inclusive dialogue with Congress on trade. And I fully appreciate the central role of Congress in that conversation. If confirmed, I will come to you early and often to consult and to listen.

Roughly a quarter century ago, I had the opportunity to work as a staff member for Senator Lloyd Bentsen, with whom some of you served during his tenure as Chairman of this Committee.

Like Senator Bentsen, I come from the state of Texas, where I grew up in a working class neighborhood in Austin. As Mayor of Dallas for six years, I was what I have described as “a raging pragmatist.” I approached people as individuals and problems from a nonpartisan perspective. When I did not know an answer to a question, I did not make one up but sought others out to gain their perspectives and insights. And when one of us in my administration made an error, I reached out and worked to make it right.

I expanded Dallas’ reach to the world through a range of trade programs, including trade missions. I sponsored a competition every year for small businesses to highlight those competing strongly in foreign markets and invited the winner on those trips. As USTR, I would continue to work to increase opportunities for American entrepreneurs in the global marketplace.

As I have said, I was honored to accept the President's nomination for USTR and now come before you with an intense sense of both purpose and humility. The world economy is in a fragile state. And the President and I believe that U.S. leadership will be vital to restoring confidence and certainty to the world's financial and trading system.

But I do not come to this job with what I have called in some of our meetings “deal fever”. I know that you want the referees at the WTO to call a foul when the rules are broken. And I agree. The first order of business for the Administration on trade is to ensure strong enforcement of the rules. We will value your thoughts on how best to achieve that, and look forward to discussing additional resources that will be necessary for these efforts. Other priorities include working with our trading partners to advance the

Doha Round negotiations, working with you and the countries in question on pending agreements, and pursuing new initiatives that will seek to channel trade as a driver of economic progress – if they are done right.

And at an appropriate time and with proper Congressional input and concerns addressed, this President will require the authority to negotiate new agreements and bring them to Congress for an up or down vote.

None of this will be easy. But I look forward to working together with you to address real concerns with trade policy in a substantive way. And if you accept that trade's winners and losers are all in this together – then as the African proverb says, “the winners should take no comfort in the hole at the other end of our boat.” We must ensure and provide for a fair hearing and fair treatment for all American industries and workers. On a level playing field, our workers and entrepreneurs are the best in the world.

If confirmed, I will work toward reaching consensus on agreements that promote a more open and fairer trading system and advance the interests of America's working families. I will fight to open markets to our goods and services. And I will work to ensure that the way we negotiate and trade reflects the best of who we are.

I recognize that is a big challenge and it will be difficult to restore people's faith in the process. Unfortunately, many Americans believe that we are losing good jobs because of a trading system that is tilted against them.

Some have dismissed these concerns as protectionist and misinformed for failing to account for the good jobs that expanded trade creates. But it is wrong to do so. I believe in trade and will work to expand it, but I also know that not all Americans are winning from it and that our trading partners are not always playing by the rules.

I respectfully submit that two strong steps toward restoring domestic confidence in open markets are a real and renewed commitment to enforcement of our trade rules, including those addressing labor and the environment, as well as a new commitment to a reformed Trade Adjustment Assistance program that truly helps all workers displaced by trade. I commend Congress for its recent action on TAA and believe it was a victory

for workers and a pro-trade agenda. And I look forward to working with you on the enforcement challenge.

The President and I believe that our mission is not simply to increase American exports, as important as that is, but to ensure that the way we promote trade reflects our country's values about economic progress and justice, including through the advancement of internationally recognized labor and environmental standards. And we believe that by building on the "May 10 consensus" that was reflected in the Free Trade Agreement with Peru, we can promote those values and continue opening new markets. It is only through bipartisan cooperation that a pro-America, pro-trade agenda can move forward.

I appreciate your time, your ideas, and your consideration and I look forward to working with you if I am fortunate enough to be confirmed. Thank you.

FINANCE COMMITTEE QUESTIONS FOR THE RECORD

**United States Senate
Committee on Finance**

**Hearing on
Confirmation of Mr. Ronald Kirk to be
United States Trade Representative
March 9, 2009**

Questions from Chairman Baucus

Question 18:

Korea's current beef import protocol recognizes that all U.S. beef is safe and allows for the eventual importation of all U.S. beef regardless of age. And Korea currently allows beef from cattle less than 30 months old to enter Korea. While I am pleased to see that Korea has partially opened its market to U.S. beef, Korea has yet to fully implement the protocol it negotiated with the United States last April. Can I count on you to continue pressing for full opening of Korea's beef market so that we can move the free trade agreement (FTA) forward?

Answer: U.S. beef from cattle under 30 months of age is selling well in Korea since the market was opened in June 2008 and Korea was the fourth largest 2008 export market for U.S. beef. I will work closely with Secretary Vilsack to engage with Korea as well as other trading partners to normalize our trade in beef in these important markets.

According to OIE guidelines, U.S. beef from cattle of all ages is safe. Unfortunately, many of our trading partners continue to block U.S. beef exports, despite the lack of a scientific basis for doing so. As USTR, will you continue to place to full opening of beef markets, particularly in Korea, Japan, and China, at the top of your agenda?

Answer: It is a top priority.

Question 20:

Many Members of Congress remain concerned by the level of violence against Colombian labor leaders and the rate of impunity for the perpetrators of such crimes. I support the Colombia FTA, but have been clear that more must be done to address labor violence before the FTA can move forward. The President's Trade Agenda called for the development of benchmarks to address these labor issues, which I support. Can I count on you to develop these benchmarks in close cooperation with Colombia, key stakeholders, and the Finance Committee?

Answer: Yes, we will work closely with all the relevant parties in developing those benchmarks.

Can I also count on you to work with us as you establish benchmarks for the Korea FTA?

Answer: Yes, I look forward to working with the Committee as we establish benchmarks for this agreement.

Questions from Senator Grassley

(ii) The President's Trade Policy Agenda states that the Administration will establish "benchmarks for progress" on the Colombia and South Korea trade agreements. Do you know what "benchmarks" are intended?

Answer: Benchmarks represent the steps necessary to address the concerns that have been raised with respect to each agreement. We will work with Congress to establish benchmarks for both countries and we will discuss them with both countries.

(v) Have you considered the economic benefits that we stand to gain upon implementation of the pending trade agreement with South Korea? Have you considered the impact of not implementing that trade agreement?

Answer: The Korea agreement would be the biggest we have implemented in 20 years. Implementing a strong Korea FTA would create important new market access opportunities for American workers, farmers and businesses. To date, the failure to create a basis to move the agreement forward constitutes a major missed opportunity of the last several years.

(vi) South Korea is currently negotiating with the European Union. Are you worried that the United States may get left behind in the South Korean market?

Answer: Even once concluded, the EU-Korea deal would take time to implement so I do not expect that European producers would have better access to the Korean market than we would for any significant period of time.

(vii) If we can find a way to address concerns about our bilateral trade in automobiles, would you be open to implementing our pending trade agreement with South Korea this year if confirmed?

Answer: I also need to determine if there is any additional concerns, particularly in relation to U.S. beef. Assuming we have resolved these issues, I would welcome the opportunity to work with you toward that end but I cannot commit to a timetable.

Questions from Senator Stabenow

Question 7:

(i) Today, the U.S. auto industry is on life support. Critics of the US-Korea FTA, including President Obama, argue that the agreement is unbalanced, as it on the one hand eliminates all barriers to Korean auto exports and reduces tariffs on light trucks, while leaving in place discriminatory non-tariff barriers to U.S. auto exports. Critics have also pointed to other problematic provisions, including new, ambiguous language in the investment chapter, a weakening of available trade remedies and an annex which contemplates the potential of goods made in an industrial complex in North Korea falling under the agreement. In November 2008, we also saw the unlawful arrest of several prominent trade union leaders.

What is your strategy with respect to the Korea FTA? Do you plan to renegotiate the auto provisions? If so, how?

Answer: We are well aware of the concerns with the auto provisions and will work with you to address them. Successful completion of the U.S.-Korea FTA holds the promise of expanding opportunities for American workers, farmers and businesses. Korea is an important friend and ally of the United States and its market is the seventh largest U.S. export market in the world. We are committed to working with U.S. stakeholders and our Korean counterparts to address the issues relating to the U.S.-Korea FTA and to ensure that the agreement fulfills its promise.

(ii) **Do you think that any other provisions of the agreement should be put back on the negotiating table? If so, please specify.**

Answer: I am not closed to the idea that there are other issues that may need to be addressed but I am generally supportive of the Korea FTA.

(iii) **Over the last 8 years USTR did not allow manufacturing to have a seat at the table during the negotiation of the Korea FTA.**

What steps could USTR have taken to ensure that the voice of a major industry, such as the auto industry, was heard during the negotiation of this agreement and what steps could they take to ensure manufacturing interests are heard in future trade agreements?

Answer: I plan to expand public participation in advising U.S. negotiators. For example, improved websites and more public consultations outside the established advisory groups are important methods for doing so.

Questions from Senator Cantwell

Question 1:

What will you do to resolve differences over access for U.S. autos and beef, so that we can move ahead with the U.S. – Korea Free Trade Agreement? I understand you will be setting benchmarks for progress on the U.S. – South Korea Free Trade Agreement. Could you tell me more about your plans?

Answer: Successful completion of the U.S.-Korea FTA holds the promise of expanding opportunities for American workers, farmers and businesses. Korea is an important friend and ally of the United States and its market is the seventh largest U.S. export market in the world. We are committed to working with U.S. stakeholders and our Korean counterparts to address the issues relating to the U.S.-Korea FTA and to ensure that the agreement fulfills its promise. We recognize that not implementing a good Korea agreement comes with opportunity costs. We will work with you and others to make the benchmarks we set for Korea transparent and objective.

Questions from Senator Carper

Question 6:

Japan is one of our largest trading partners and an ally of the U.S. in many ways. What it does in its trading relationship with us is carefully watched by the rest of the region, most notably by China and South Korea.

Recently, there have been reports that the government-owned postal insurance entity, which is in the early stages of becoming a private company, is trying to get approval to sell many products that U.S. companies sell--without first complying with all the regulatory rules and restrictions that apply to private companies. It is my understanding that this situation is moving forward rather quickly.

What is your plan of action with regard to dealing with it?

Answer: USTR has been closely following developments in Japan and has raised the United States' serious concerns on this issue with Japanese officials. We are prepared to continue to press Japan in all appropriate fora to provide fair treatment to U.S. insurance companies.

Questions from Senator Bunning

Question 5:

Pending trade agreements the United States has signed with Colombia, Panama, and South Korea have become a central point for political counterattack against free trade policies. Unwarranted assaults by some of my colleagues on the other side of the aisle that such agreements would result in unfair trade have left these pending agreements unknown. Should you become the United States Trade Representative, would you work to drop or renegotiate these free trade agreements, or work to gain congressional support for their ratification?

Answer: We intend to move forward with the pending agreements as soon as the issues the President has articulated are addressed.

Question from Senator Crapo

Question 1:

I appreciate the Administration highlighting in the 2009 Trade Agenda the importance of trade to the U.S. economy and the important contribution of exports to the U.S. Gross Domestic Product (GDP). Aside from the need to follow through on the commitments made to the countries that invested considerably to negotiate with the U.S. on the pending FTAs, the FTAs provide the mechanism to advance market growth for U.S. producers through broader export opportunities and contribute to our economy. The Administration's 2009 Trade Agenda suggests that the Administration will establish "benchmarks for progress on the Colombia and South Korean FTAs." Could you please explain what those benchmarks are, or may be?

Answer: Benchmarks represent the steps necessary to address the concerns that have been raised with respect to each agreement. We will work with Congress to establish benchmarks for both countries and we will discuss them with both countries.

Questions from Senator Roberts

Question 3:

Three U.S. trade agreements have been negotiated and await Congressional action: Colombia, Panama, and South Korea. Combined, they will give U.S. exporters enhanced access to markets of more than \$1 trillion and 100 million consumers. (Department of Commerce press release 9-29-08). It is well past time to act on these agreements for not only economic reasons, which is reason enough, but for geo-political reasons, particularly with Colombia. The Colombia FTA is a win-win. Right now, nearly all of Colombia's exports enter our market duty-free, under current preference programs. What the trade agreement will do is to balance the playing field for U.S. producers and exporters. However, the Colombia FTA is important from a national security perspective, too, with the growing anti-American sentiment and political instability that we're seeing in South America.

In this economic downturn, how can we afford to ignore opportunities to open market access to our exporters and producers through the pending FTA's?

Where is the Obama Administration on the Colombia, Panama, and South Korean FTA's? Will he send them up for Congressional action and if so, when?

Answer: We will work responsibly and expeditiously to address the concerns with the pending agreements that the President has expressed. And I look forward to working with you in a bipartisan spirit to reach consensus on what is fair and necessary to ask of our trading partners in order to ensure that real market access is achieved with adherence to the labor and environmental commitments made in the text of the agreements.

Questions from Senator Ensign

Question 2:

What is your view about passing the Colombia, Panama, and South Korea free trade agreements? The President's Trade Policy Agenda states that the Administration plans to establish benchmarks before consideration of the FTAs with Colombia and South Korea. What are these benchmarks? Will they be set in consultation with both parties in Congress and with the relevant officials in Colombia and South Korea?

Answer: The benchmarks we will establish will represent the steps necessary to address the concerns that have been raised with respect to the Colombia and Korea agreements. We will work with Congress to establish those benchmarks and will discuss them with the respective governments.

Question 4:

Do you think that the labor and environment provisions of the U.S.-Korea FTA are appropriate?

Answer: The U.S.-Korea FTA incorporates the May 10th Agreement, which established a strong foundation for bipartisan progress on trade.