

# COUNCIL HIGHLIGHTS

## NATIONAL FOREIGN TRADE COUNCIL

*"ADVANCING GLOBAL COMMERCE FOR NEARLY A CENTURY"*

*Council Highlights is a bi-monthly summary of news and events of the National Foreign Trade Council exclusively for its members.*

**August-September 2011**  
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### A Word From the President

**L**ately, I've decided to join the 21st century and have begun blogging. My first several blogs have been on the topic preoccupying the trade community right now — how to get the FTAs implemented and a TAA extension enacted as soon as possible, as U.S. market share in the FTA countries is already either declining or in danger because of our inaction and the agreements those nations have signed with our competitors. To follow are two of my most recent blogs.

#### **It's Time for Congress to Do the Right Thing on Trade Policy**

Congress and the Administration may have finally broken the log jam over implementing the Free Trade Agreements with Korea, Colombia, and Panama and renewing the Trade Adjustment Assistance program. Most of them discovered the obvious bargain – the Republicans want the former; the Democrats want the latter – so putting them together makes sense.

The mysteries are what took them so long and whether they will actually be able to cross the finish line. The impasse demonstrated the Republicans' uncanny ability to snatch defeat from the jaws of victory, and it certainly showed the Administration's odd inability to get ahead of this issue. After two and a half years of trying, the Republicans have gotten the President to conclude the agreements and announce his willingness to submit them. This is not only a victory for them; it's a victory for jobs and growth and for a sensible trade policy.

The casualties in the maneuvering have been renewal of TAA and some of our preference programs for least developed countries. The President, no surprise, wants those restored. There has been a lot said about the TAA program recently, and much of it is surprising because it has historically had broad bipartisan support as an integral element of an open trade policy.

*(Continued on page 2)*

### NFTC Spearheads Business Community Effort to Highlight Importance of Clean Energy Exports

On July 27, at a luncheon hosted by NFTC on Capitol Hill, major U.S.-based business associations released a set of principles encouraging more coordinated and aggressive promotion of U.S. clean energy exports.

The groups argue that global demand for America's clean technology products and services will be especially critical to create jobs and drive U.S. leadership of the 21st Century global economy. They list several areas where U.S. government activity could effectively target activities, for example through more targeted and robust commercial diplomacy, better monitoring of export promotion programs, and further developing flexible clean technology funding mechanisms. The principles also emphasize the importance of protecting American ideas and Intellectual Property Rights globally, which allows companies to create revenue flows that can be reinvested to support further development of innovative solutions to global challenges such as climate change. They also point to the importance of eliminating taxes and tariffs on environmental goods and services, which could increase global exports by nearly \$6 billion.

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# *News for Our Members*

## **A Word From the President**

*(Continued from page 1)*

I've followed the program for more than 30 years. Suffice it to say here that I think it has been both effective and cheap – coming in at less than \$1 billion per year even in its expanded form.

Some dissent remains among Republicans objecting to process more than substance. Hopefully they will move beyond that and see this deal for what it is – trade agreements that will create jobs and growth and badly needed assistance for unemployed American workers and people in the least developed countries. If they ultimately succeed in torpedoing the agreement, the tragedy is that the real losers will be the innocent victims -- our own unemployed and people in the poorest countries. If we can't solve this, we should be ashamed of ourselves.

### **Getting Back on (Fast) Track**

There seem to be some myths going around about how Trade Promotion Authority, or fast track, actually works. (We have to use both terms because for the past ten years Republicans and Democrats cannot even agree on what to call it, much less agree to renew it. Another example of form eclipsing substance, of which there seem to be many these days.)

The original process was devised in order to prevent Congress from piecemeal unraveling of a painstakingly negotiated multilateral agreement, and the concept was simple – the bill implementing a trade agreement, once submitted formally, was unamendable and unstoppable; that is, both Houses could be forced to vote on it without change. As with many things, while the concept was simple, the execution was not. Congress devised a system of "mock" markups in which the proposed legislation was reviewed by the two committees, possibly amended, the two versions reconciled and sent informally to the President with the implicit message, "Send us this text, and we'll pass it. Send us something else, and you take your chances." The first time it was used, to implement the Tokyo Round in 1979, President Carter submitted a bill that had a number of changes from what Congress informally sent him. They were not major (but not simply technical), and the bill passed overwhelmingly anyway. The important thing to remember is that the "mock" process is informal. The Congress can undertake it, or not, any way it wants, and the President can do whatever he wants with the advice he gets from Congress.

This time around, it appears the two committees will provide the President with conflicting advice on the question of including TAA in the Korea implementing bill. They don't have to – there is precedent for a mock conference to reconcile any differences – but no one thinks agreement is likely in this case. Once again this appears to be about form rather than substance. Agreement has actually been reached on the substance of a scaled-back TAA extension; the argument is whether to pass it separately or as part of the Korea package. Reasonable people, if there are any left, might ask at this point, who cares? If the votes are there to pass both TAA and KORUS, and both sides have asserted that, let's do that and move on. The fact that we cannot has led to suspicions that perhaps there is no agreement on substance after all, and the argument is really about whether the government should help retrain workers who have lost their jobs because of trade. The view of most of the business community on that is clear: yes, that is a longstanding responsibility of government and a foundation stone of our open trade policy since 1962.

To read more, visit: <http://www.nftc.org/blog/main.asp?id=271>.

## News for Our Members

### NFTC Spearheads Business Community Effort to Highlight Importance of Clean Energy Exports

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Signatories to the principles, which were developed in consultation with NFTC's member companies, include Business Roundtable, National Association of Manufacturers, U.S. Chamber of Commerce, United States Council for International Business, Information Technology Industry Council and NFTC.

At the luncheon, Senator Ron Wyden of Oregon and Representative David Dreier of California spoke about the importance of clean energy exports to the U.S. economy. Following their remarks, senior business and environmental representatives from GE Energy, Cree, Environmental Defense Fund and the Office of the U.S. Trade Representative spoke about how promoting U.S. clean energy exports can help unlock foreign markets and grow businesses and jobs in the United States during a discussion moderated by NFTC President Bill Reinsch.



Bill Reinsch NFTC and representatives from Cree, GE Energy, the Environmental Defense Fund, Office of the U.S. Trade Representative, and the U.S. Department of Commerce.

Ty Mitchell, Vice President for LED lighting for Durham, NC-based Cree, emphasized that, "you can be successful manufacturing technology in the United States" and that exports are an important path for creating jobs. Tim Richards, Managing Director for Energy Policy for GE Energy, said that the United States has a fantastic opportunity in the clean energy space, and emphasized the need for U.S. government efforts to help knock down trade barriers abroad and help counter state-owned or state-sponsored competition. Jennifer Haverkamp, Director, International Climate Program for the Environmental Defense Fund, suggested that addressing trade barriers and improving commercial diplomacy is important and highlighted the need to craft domestic policies that send the signal to globally-competitive businesses that it makes sense to invest and create jobs in the United States.

Chairman Dreier emphasized that this is the time for moving forward the U.S international trade agenda in order to fulfill the global demand for America's clean technology products and services, decrease dependence on foreign energy producers, create jobs and improve the environment. Senator Wyden declared that it's in U.S best interest to pursue green technology exports because it's U.S comparative advantage and endorsed the idea of a standalone agreement to eliminate tariffs on environmentally friendly goods and services. Mark Linscott, Assistant U.S. Trade Representative for Environment and Natural Resources with USTR, emphasized the Administration's work to advocate for lowering trade barriers through the World Trade Organization and the potential for an ambitious outcome as part of the transpacific partnership agreement. Ryan Mulholland of the Department of Commerce highlighted the International Trade Administration's new initiative, the Renewable Energy and Energy Efficiency Export (REEE) Initiative, through which the U.S. government is helping companies address challenges obtaining financing and accessing foreign markets and improves the Department's trade promotion efforts. More information on the REEE initiative is available at [www.export.gov/reee](http://www.export.gov/reee).

To read the full text of the principles please follow the URL:

[www.nftc.org/default/Trade Policy/Climate\\_Change/2011 Private Sector Clean Energy Exports Principles.pdf](http://www.nftc.org/default/Trade%20Policy/Climate_Change/2011%20Private%20Sector%20Clean%20Energy%20Exports%20Principles.pdf).

If you would like more information, please contact Jake Colvin at [jcolvin@nftc.org](mailto:jcolvin@nftc.org).

# *International Trade & Export Finance*

## **Sugar Policy Reform**

On July 15, the NFTC attended a forum hosted by the American Enterprise Institute (AEI) at the U.S. Capitol in order to monitor the sugar policy reform dialogue. The U.S. sugar program includes price supports, marketing allotment, import quotas and feedstock flexibility programs. Current U.S. sugar policy keeps domestic prices artificially higher than world sugar prices imposing a cost on U.S. consumers, small business and food manufacturers. From the NFTC perspective, sugar reform will avoid current policies that are protectionist and limit trade, and will increase the incentives for product innovation and job creation. Moreover, reform will decrease the distortions that current policies generate. That is why NFTC will continue being part of the Coalition for Sugar Reform as Congress prepares to write the 2012 Farm Bill. According to the Coalition for Sugar Reform, the U.S. sugar program increases sugar expenditures to consumers by about \$ 4 billion, making it in essence, a hidden tax on food and beverages.

- According to research done for the American Enterprise Institute, farm program subsidies could be reduced from current levels by about \$8 to \$10 billion without affecting the U.S. Food Supply. As an example, reforming the crop insurance delivery system could almost certainly save over \$1 billion of taxpayer funds, and reducing producer subsidies by about 20 percent (from 59 to 47 percent for the most frequently purchased insurance policies) would save another \$500 million.
- According to the Coalition for Sugar Reform, an estimated 112,000 jobs were lost in U.S. sugar-using industries between 1997 and 2009. In addition, the U.S. Department of Commerce estimates that for every sugar-growing job saved through high U.S. sugar prices, approximately three manufacturing jobs are lost. Moreover, only 4,700 sugar farms benefit from the federal sugar program and are supported at the expense of thousands of lost food manufacturing jobs. In contrast, there are more than 600,000 U.S. jobs in food industries that use sugar.
- The main farm subsidies programs were introduced in the 1930s. According to the U.S. Department of Agriculture, the world average wholesale refined sugar price between 1982 and 2010 was 12.9 cents per pound while the U.S. average wholesale refined sugar price was 26.7 cents per pound, during the same period. Now that world sugar prices are well above the price-support level for the first time in 30 years, and the industry is especially healthy, this would be an appropriate time to end the program.

For comments or questions on the Sugar Policy Reform, please contact Bill Reinsch at [breinsch@nftc.org](mailto:breinsch@nftc.org).

## **Congressional Consideration of Pending Free Trade Agreements Postponed Until September**

With mock mark-ups already completed, and all substantive issues in the U.S. Free Trade Agreements (FTAs) with South Korea (KORUS), Panama and Colombia practically resolved, the Administration and Congress have been at odds this summer over the process of approving the KORUS FTA implementing legislation which includes Trade Adjustment Assistance (TAA) for U.S. workers impacted by trade.

A compromise on the substance of the TAA renewal was ostensibly reached between the White House and House Republican Leaders in July, without the participation of Senate Republican Leader Mitch McConnell (R-KY) and others in the Senate Republican Caucus who strongly oppose an expanded version of TAA.

Both Senate and House Republicans, however, found common cause to oppose including TAA in the KORUS bill, with House Speaker John Boehner (R-OH) vowing to procedurally separate KORUS and TAA in the House. Therefore, the White House has remained firm in its belief (and lack of trust) that TAA might not pass Congress on its own, and is not willing to send the three FTAs forward without guarantee that they are passed in concert with TAA.

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## *News for Our Members*

### **Congressional Consideration of Pending Free Trade Agreements Postponed Until September**

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However, Senate leaders on August 3 came together and reached an agreement on moving forward the pending FTAs and TAA legislation following the August recess. Senate Majority Leader Harry Reid (D-NV) and Minority Leader Mitch McConnell (R-KY) announced a compromise on how to sequence votes on TAA and the FTAs, with plans to consider TAA first, followed by the FTAs.

The NFTC continues to advocate for both, and will press Administration officials and Congressional leaders to work together to schedule in September.

For more information, please contact Chuck Dittrich at [cdittrich@nftc.org](mailto:cdittrich@nftc.org).

### **TPP Partners Conclude June Negotiating Round in Vietnam, Work Toward September U.S. Round**

Following their last meeting in Singapore in March of 2011, the Trans-Pacific Partnership (TPP) countries met again in Ho Chi Minh City, Vietnam for the seventh round of negotiations from June 15-24, 2011. USTR described the negotiations as making steady progress, with the U.S. and other TPP countries tabling new proposals on intellectual property, transparency, telecommunications, customs, and environment; and advancing efforts to consolidate various proposals that countries put forward in previous rounds. The nine teams were particularly productive on addressing cross-cutting issues such as regulatory coherence and development.

The U.S. also reported progress on market access offers on industrial goods, agriculture, textiles and services, government procurement, investment, and product specific rules of origin. The U.S. tabled a “yarn forward” rule of origin on textiles.

Since the conclusion of the round, according to press reports, the U.S. is moving through inter-agency and stakeholder consultation to finalize its proposals related to treatment and disciplines of state-owned enterprises (SOEs), drug pricing and reimbursement, and possible revisions to its already tabled SPS (Sanitary and Phyto-Sanitary) proposals to move beyond WTO and existing U.S. bilateral FTA commitments to create standards that would serve as a showcase for transparency and risk-based scientific assessment and form a future template for the Asia Pacific region.

Additionally, unnamed U.S. trade officials have been reported as saying that in the Vietnam Round, the U.S. has for the first time in any trade agreement, tabled binding, enforceable language that would commit TPP countries to refrain from blocking the cross-border transfer of data over the Internet.

Other possible elements in any additional U.S. proposal for the free flow of digital information include eliminating local infrastructure requirements for digital service providers, assuring non-discriminatory treatment of digital products, and reducing or eliminating constraints that provide preference to indigenous technologies.

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## *International Trade & Export Finance*

### **TPP Partners Conclude June Negotiating Round in Vietnam, Work Toward September U.S. Round**

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The U.S. has been clear with TPP partners that it is not yet able to table text on the most controversial elements of IPR (including data exclusivity, patent term extension and patent linkage), labor and environment until after Congress votes on the pending FTAs with Panama, Colombia and South Korea. With the likely delay of those until September, these issues may not be tabled at the next TPP round beginning September 6 in Chicago. Most recently U.S. Trade Representative Ron Kirk downplayed U.S. delays in tabling key text, saying that it did not have a direct impact on the negotiating ambition of other partners, and he expected an intensification of effort before November.

The key milestone of TPP partners remains the APEC Leaders' Summit in Honolulu in November where countries hope to produce a broad outline of an agreement which would clearly indicate which issues the TPP would cover, as well as unresolved issues for review by heads of governments.

For comments or questions on the Trans Pacific Partnership negotiations, please contact Chuck Dittrich at [cdittrich@nftc.org](mailto:cdittrich@nftc.org).

### **NFTC Files Amicus Briefs in Four Lawsuits**

In June and July the NFTC filed three amicus briefs in support of member companies in lawsuits. On June 30th the NFTC and the NAM filed an amicus brief supporting Chevron in the case of *Chevron v. Donziger*, a lawsuit originally filed in Texas state court 1993 by Ecuadorian plaintiffs who alleged that Texaco, now owned by Chevron, had polluted the Amazon River basin and had failed to restore it adequately. Chevron has maintained that its restoration efforts far exceeded those of its Ecuadorian partner, PetroEcuador. The case has since turned on a jurisdictional issue, the doctrine of *forum non conveniens*. The case was moved to Ecuador for adjudication where a court issued an \$18 billion judgment against Chevron. Serious questions about the probity of the Ecuadorian court and fraudulent actions by the plaintiffs' attorney, Steven Donziger, are at the heart of the current case. In May 2011, a panel of the Second Circuit enjoined collection of the judgment in a U.S. or foreign court and the plaintiffs have appealed. The NFTC and NAM brief, written by Joseph Guerra at Sidley Austin, supports Chevron's contention that the injunction should be upheld. The case could set an important precedent for pre-emptive anti-foreign lawsuit injunctions.

On July 5th, the NFTC along with the USCIB, the American Petroleum Institute and USA\*Engage filed an amicus brief in *Carijano v. Occidental Petroleum*. The suit was filed in California by groups representing indigenous Peruvian communities claiming environmental degradation and personal injury due to Occidental's operations between 1970 and 2000. The lawsuit was originally filed in Peru in 2007 as a common law tort claim. The litigation has so far dealt only with jurisdictional issues, the doctrine of *forum non conveniens*, and not the underlying claims. The case, however, has great potential significance for litigation seeking to hold corporate defendants liable in U.S. courts for acts that occurred outside the U.S. The NFTC amicus brief, written by John Bellinger and his colleagues at Arnold & Porter, supports Occidental's appeal to the Ninth Circuit to have the case heard in Peru where the relevant facts arose and on the grounds that a U.S. plaintiff, Amazon Watch, was added to the case for the sole purpose of having the case heard in the U.S.

On July 11th, the NFTC and the Organization for International Investment filed an amicus brief in the Ninth Circuit in support of Daimler in the case of *Barbara Bauman v. DaimlerChrysler*. The lawsuit was filed in California under the alien tort statute alleging that employees of Mercedes Benz Argentina directed the kidnapping and torture of their employees by state security officials during the Argentine military government of 1976 to 1983.

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## News for Our Members

### NFTC Files Amicus Briefs in Four Lawsuits

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The District Court held that Daimler, as the distributor of its parent company's products in the U.S., is subject to the general personal jurisdiction of U.S. courts. The NFTC and OFII amicus brief, written by John Bellinger and his colleagues at Arnold & Porter, argues that the lower court was wrong to find that Mercedes-Benz USA, as a distributor, is an agent of Daimler and can therefore be held liable for the actions of its parent, let alone its Argentine subsidiary. Otherwise the many foreign companies that sell products in the U.S. could be subject to claims that have no connection to the U.S. Finally, the amicus brief argues that the District Court ruling is in conflict with the recent Supreme Court ruling in *Goodyear Dunlop Tires v. Brown*, which rejected a view of general jurisdiction that would "make any substantial manufacturer amendable to suit, on any claim for relief, wherever its products are distributed."

On April 8, 2011 the NFTC, along with the U.S. Chamber of Commerce, the Emergency Committee for American Trade and USA\*Engage filed an amicus brief supporting a petition for certiorari with the Supreme Court in the case of the *Faculty Senate of Florida International University v. State of Florida*. The brief argued that a Florida statute that prohibits the use of state money for travel by state employees to nations on the U.S. terrorist list – in this case Cuba – conflicts with the Supreme Court's ruling in *Crosby v. NFTC*. The Eleventh Circuit had upheld the statute, holding that "we do not see the Act as clashing sharply with federal law or policy." The amicus brief argued that the Circuit court's decision "allows Florida to go on record as having a foreign policy toward certain foreign countries – particularly Cuba – that is harsher than the federal government's...and enables Florida and other states to meddle with a sanctions regime that Congress and the President have carefully calibrated to respond to state sponsorship of terrorism." The brief argued that the Supreme Court should not only grant certiorari, but also request an opinion from the Solicitor General, which the Court did on May 16. The Court has yet to decide whether to grant the petition.

For more information, please contact Dan O'Flaherty at [doflaherty@nftc.org](mailto:doflaherty@nftc.org).

### World Trade Dinner – October 5

Thinking of attending the NFTC Foundation's 2011 World Trade Dinner? There is still time to reserve a table, but space is filling up fast! Because it was so popular with members last year, we have again chosen the beautiful and historic Organization of American States in Washington, DC for this annual black tie event on Wednesday, October 5.

Conceived as an architectural symbol of western hemisphere unity by the renowned architects Paul Cret and Albert Kelsey, the building at first glance appears to be predominantly Spanish colonial in design. A deeper look reveals a subtle plethora of Native American, French, Portuguese, and English influences. The tropical patio, marbled staircases and galleries, and monumental halls of this imposing structure are a visual delight to thousands of tourists and diplomats every year.

Unlike those visitors, we have the building for our private use. Our dinner will be held in the grand ceremonial *Hall of the Americas* with its impressive columns, Tiffany chandeliers, and ornate stained glass windows. This room is where the highest ranking meetings of the inter-American system take place. The reception will occupy both the colorful *Hall of Flags and Heroes* and the glass-enclosed tropical patio which the Hall overlooks. The patio features a symbol-laden fountain, red floor tiles with black figures copied from Mayan and Incan ruins, and the soaring Peace Tree (a hybrid of fig and rubber) that was planted by President William Howard Taft during the building's dedication ceremonies in 1910.

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## *News for Our Members*

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### **Problems at U.S. Borders? Let Us Know.**

The National Foreign Trade Council is participating in a pilot project intended to improve border efficiency. Commissioner Bersin has promised closer collaboration with the trade community and *Customs and Border Protection* wants company input on how its processes and regulations affect businesses and the trade industry. The focus naturally will be on problem areas that need improvement so CBP would like private sector suggestions on how and where they can change their processes. Of course, kudos for things that they do probably would be both welcome and helpful as well.

At this early stage, CBP has no formal timing or preferred format for submissions. That may change but, for now, they simply will pass along comments to Commissioner Bersin more or less on a monthly basis.

NFTC members who have comments, suggestions and complaints about border issues are invited to send them directly to Bill Kelly at [wkelly@nftc.org](mailto:wkelly@nftc.org), who will consolidate inputs and forward submissions to *Customs and Border Protection*. If, for any reason you prefer that your company not be identified to Customs, please make that clear in your submission to the NFTC. We will honor your request and delete any identifying company information.

To assure value to CBP and to member companies, please be as specific as possible in identifying ports of entry/land border crossing points, the issue encountered, the nature of its impact on your business and any suggestions for improvement.

## *USA\*Engage*

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### **Iran Update**

In homage to the late Senator Arthur Vandenberg, as of July 20, H.R. 1905, the Iran Threat Reduction Act of 2011, has attracted 198 bipartisan co-sponsors. S. 1048, the Iran North Korea and Syria Sanctions Consolidation Act of 2011, has 49 bipartisan co-sponsors. Both bills would extend U.S. unilateral sanctions to target sales of Iranian crude oil – in effect attempting a global, extraterritorial boycott. Perhaps owing to the impasse in both bodies over America's fiscal trajectory, mark up of either bill, in House Foreign Affairs or Senate Foreign Relations, has yet to occur.

Meanwhile, the Administration, still in concert with the EU and under the multilateral umbrella of UN resolution 1929, continues to implement the Comprehensive Iran Sanctions Accountability and Divestment Act (CISADA). Predictably, its choice of minor sanctions to apply to Venezuela's state-owned oil company, PDSVA, for sales of gasoline blending material to Iran was met with derision by Members of the House Foreign Affairs Committee in a recent treble subcommittee hearing. And Members of both House and Senate have waxed indignant at the Administration's failure to name any Chinese entity for ostensibly sanctionable transactions with Iran.

In fact, the Administration has aggressively employed the extraterritorial financial sanctions authority in CISADA. The U.S. Treasury Department has listed Tidewater Middle East Company ("Tidewater") as a "Special Designated National" (SDN), having concluded it is a front company for Iran's Islamic Revolutionary Guards Corps (IRGC). Tidewater manages most of Iran's ports of entry. As a recent Washington Post story illustrated, the negative economic effects on Iran's domestic economy and on middle-class Iranians of the U.S. led sanctions regime is not trivial. One important instance of collateral damage from the sanctions is the exponential increase in the difficulty faced by U.S. businesses in financing and exercising humanitarian trade with Iran under license from Treasury's Office of Foreign Asset Control (OFAC), despite the fact such trade remains an explicit element of stated U.S. policy towards Iran and was reaffirmed statutorily in CISADA.

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### **Iran Update**

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In sum, while congressionally mandated sanctions have become the principal instrumentality of the Administration's policy towards Iran, Congress remains adamant that sanctions be made more draconian, to the point of undoing the multilateral sanctions regime the Administration has orchestrated.

Presumably, this is due to the strategic threat posed by Iran's assumed march to nuclearization, though Iran's support of "terrorism" -- Hezbollah in Lebanon, Hamas in Gaza, Iraqi Shia insurgents in Iraq, the Taliban in Afghanistan, the regime in Syria -- as well as Iran's governing regime's abuse of domestic human rights are also cited as justifications.

The Administration's embrace of sanctions, however, may be driven by more immediate regional considerations. As the analysts at STRATFOR have repeatedly pointed out, thanks to the Al Qaeda (Wahhabi Sunni) orchestration of the 9/11 attacks, and the subsequent U.S. invasion of Iraq and overthrow of the Saddam Hussein (Sunni) regime, Iran has the historic opportunity to assert regional Shia (and Persian) dominance vis-a-vis Saudi Arabia. As the US reduces its military footprint in both Iraq and Afghanistan, the urgency of "rebalancing" U.S. strategic interests in the region may be driving its economic pressure on the Islamic Republic.

If that is the case, Congressional proponents of further draconian sanctions would do well to stand down criticism of the Administration and stop politics at the water's edge; eschew any effort to embargo Iran's crude oil exports, and explicitly maintain the legitimacy and viability of U.S. humanitarian trade with Iran.

If you would like more information, please contact Richard Sawaya at [rsawaya@nftc.org](mailto:rsawaya@nftc.org).

## *International Human Resources*

### **Report on the NFTC's 16th Annual International Human Resource Management Forum-New York City-July 14-15, 2011**

The NFTC 16<sup>th</sup> annual International Human Resources Forum was held at the New York Athletic Club, over 150 delegates participated. The theme of the forum was "Optimizing Global Human Capital Assets."

The opening speakers were Bill Kelly, Senior Vice President of the NFTC and John Stubbs, Executive Director of the Global Innovation Forum. Both speakers focused on the continued importance to the strength of the U.S. economy of innovations that are developed in the United States and of open markets for cross-border trade for American goods and services.

Their presentation was followed by Garrett Walker, Vice President-Talent Deployment and Mobility at IBM. Garrett described the evolution of IBM's global mobility program as their underlying businesses have changed in recent years. The connection between tactical and strategic staff deployment globally has been consciously integrated with development of current and future business leaders.

Bob Ernt, Senior Global Mobility Specialist, of Cargill, Chris Ciavatta, Manager-Global Mobility, of TE Connectivity and Sam Song, Human Resource Manager, TE Connectivity (China) described the importance of China to their respective companies but also provided useful information on experiences as their business activities continue to expand into second and third tier locations. Currently TE Connectivity employs over 30,000 staff in China. It was of special interest to the attendees to get the perspective of Sam Song.

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## *International Human Resources*

### **Report on the NFTC's 16th Annual International Human Resource Management Forum-New York City-July 14-15, 2011**

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Not to be forgotten, another session was on India. The session covered companies entering India, and Indian companies expanding into the United States and elsewhere. Ajay Agarwal, Director-India Center of Excellence, at KPMG, Morgan Crosby, Senior Consultant at AIRINC, Eric Drummond, Chief Human Resources Officer at the India – owned aluminum company Novelis and Jan Eckert, Director-Global Mobility Services at Honeywell International shared their perspectives and experiences.

Jeffrey D. Neuburger, Partner; and Cecile Martin, Proskauer Rose (Paris) led a session on current issues related to data privacy issues and regulations in Europe.

Of high interest to the attendees were two sessions related to how companies reacted to “the Arab Spring” and to the earthquake and tsunami in Japan. In addition to corporate speakers, there were security and medical professionals from International SOS and Aetna International who described how companies reacted so as to protect business travelers, expatriates and local national staff.

Terry Hogan, Director-Global Talent Management, at Citi and Maureen Potts, Director-Global Mobility Programs, at GSK described what their respective companies are doing in top leader development and cross-border assignments.

Other sessions were on such topics as:

- Candidate Assessment in Support of International Assignments
- Global Mobility in Non-U.S. Multinational Corporations
- Human Resource Management in the Middle East
- Best Practices in International Assignment Management
- Universities Going Global
- Legal Issues Related to Cross-Border mergers & Acquisitions
- Preparing for the Next Global Recession
- Risk Management Trends: Impact on Global Business

All together, as usual, the New York City forum was topical and interactive. The next IHR forum will be in Houston on March 21-22, 2012. If you have questions concerning the IHR Forum, please contact Bill Sheridan at [wsheridan@nftc.org](mailto:wsheridan@nftc.org)[Report on the NFTC's 16th Annual International Human Resource Management Forum-New York City-July 14-15, 2011](http://www.nftc.org/Report%20on%20the%20NFTC%27s%2016th%20Annual%20International%20Human%20Resource%20Management%20Forum-New%20York%20City-July%2014-15,%202011)

### **Save the Date: The 2011 NFTC Fall Tax Meeting Scheduled for October 6 & 7**

The 2011 NFTC Fall Tax Meeting is scheduled for October 6 & 7, at the Microsoft Innovation and Policy Center, 901 K Street NW, Washington, DC. Attend detailed roundtable discussions with key congressional, Treasury and IRS Officials. The meeting will begin on Thursday morning October 6 and will continue through to dinner and will continue with panels and a luncheon on Friday, October 7. A draft agenda and registration information will be available soon. Please join us for the NFTC Fall Tax Meeting. For more information, please contact Catherine Schultz at [cschultz@nftc.org](mailto:cschultz@nftc.org).

### **NFTC Tax Lunch Forum Welcomes Michael Caballero International Tax Counsel, U.S Treasury**

The NFTC welcomed Michael Caballero, International Tax Counsel at the U.S. Department of Treasury to the July 20, 2011 tax luncheon. Mr. Caballero discussed tax treaties and the guidance projects likely to be included in the 2011-2012 Business Plan.

Mr. Caballero explained that the Luxembourg, Switzerland and Hungary tax treaties were the subject of a June 7 Senate Foreign Relations Committee hearing. The Senate Foreign Relations Committee scheduled a July 26 Business meeting to report out the treaties, and Mr. Caballero was hopeful that there would be no problems in moving these treaties through the rest of the legislative and Administrative process. The tax treaty with Chile is still working through the process in the Administration, as is the OECD multilateral convention on the exchange of information. These treaties were not ready to send to the Hill in time to be included in the most recent treaty hearing.

The tax treaty with Poland is essentially complete, and is going through a translation process before it can be officially signed. There are on-going negotiations with Spain, with another round of negotiations scheduled for October 2011. Negotiations have opened with Japan, the U.K. and Vietnam. When asked about potential treaties with India and China, Mr. Caballero said that there are many issues with India that make the start of treaty negotiations difficult. The problems would have to be cleared up before any negotiations could start. Treasury is interested in pursuing negotiations with China and is thinking seriously about the issues that would have to be addressed before negotiations could begin. China has signed treaties with other countries recently, and Treasury will review those to see what positions China is taking in tax treaty negotiations. When asked about whether Hong Kong would be included in any potential treaty discussions, Mr. Caballero responded that Hong Kong would create separate issues that would have to be dealt with if negotiations take place. When asked how Treasury views the recent push by NGOs in both the OECD and U.N. to require country-by-country reporting, Mr. Caballero asked for more comments from the business community on this issue. He said that the NGOs are interested in this issue as a way to help developing nations collect taxes they believe they are rightfully owed, but he understands that the issue is more complicated than that.

Turning to the discussion of guidance likely to be included in the upcoming Business Plan, Mr. Caballero said that the contract manufacturing regulations sunset in December. He would like to hear comments from the business community on the issues associated with these regulations. Guidance may also be issued in several other areas in the next few months, according to Mr. Caballero. These issues include PFICs, FATCA, intangibles, FTC splitters, covered asset acquisition, interest expense allocation, and cost-sharing. Guidance on Section 987 is likely sometime in the plan year, and these proposed regulations are going to receive more attention in the next six months.

If you would like more information, please contact Catherine Schultz, Vice President for Tax Policy, at [cschultz@nftc.org](mailto:cschultz@nftc.org).

# Global Innovation Forum

## Innovation Watch summaries

Global Innovation Forum (GIF) Executive Director John Stubbs spoke at the NFTC's Annual International Resources Management Forum on July 14, 2011 to a senior corporate audience on the importance of innovation to American trade policy and the Global Innovation Forum's efforts to promote a trade agenda based on America's competitive advantage in innovation. GIF's Innovation Watch initiative also moved forward with Research Associate Joshua Meah attending events on Capitol Hill and at the Newseum that promoted federal use of cloud computing technology and Congressional support for policy that encourages US companies to train and retain American workers. In August, the GIF Breakfast Series will host US International Trade Commission Chief International Economist Robert Koopman and Senior International Economist Zhi Wang as they explain how statistical innovations in calculating value-add in international trade flows can help create better US innovation-related trade policy.

## The Atlantic Intelligence Series *The New Work Era*

What follows is a summary of an event held by The Atlantic and in partnership with McKinsey & Company on July 19th.

GIF's five-sentence summary: All panelists agreed that national economic policy needed a greater focus on job creation; however, they prioritized policy initiatives very differently. Senator Mark Warner argued that resolving the national debt and budget crisis would stimulate job creation and constitute the greatest economic stimulus plan that Congress could possibly devise. Jeff Joeress, CEO of Manpower Inc., argued that the main reason Fortune 500 companies are not hiring is because there is no demand for management to do so; instead, executives are receiving rewards for padding the bottom-line by cutting hiring costs, sustaining working business models, and only hiring when candidates are hyper specialized to the tasks a job requires. Though most panelists noted the importance of promoting science, technology, engineering, and math (STEM) related fields specifically in education, Dean of NYU John Sexton argued that innovation and jobs would arise from generally encouraging students to be curious, passionate, and tenacious about something, whatever that something may be. Co-founder and former Chairman and CEO of AOL Steve Case argued that the most significant job creation comes from fast-growth companies; therefore, simplifying and making more attractive the Initial Public Offering process for companies would stimulate innovation and create jobs.

For more information contact John Stubbs at [jstubbs@nftc.org](mailto:jstubbs@nftc.org).

## Opportunity for NFTC Members

A fascinating but sobering presentation at the NFTC's June Board meeting dealt with catastrophic solar storms and the devastating economic and other effects they are capable of having on electricity grids and equipment, industrial equipment and the like. Lesser geomagnetic storms occur regularly within human lifespans and truly catastrophic ones on somewhat longer schedules. A large scale event in 1859 was of limited impact because the then-existing electrical technology consisted of telegraph wires and equipment. An event of similar magnitude today would have a potential effect difficult to exaggerate.

The National Defense University and NORTHCOM are organizing a public-private sector planning exercise that will "work through the implications of long-term infrastructure failure" and discover ways to "mitigate such a disaster, improve sustainability of communities and protect communications while enhancing energy and food security." This exercise affords NFTC members an unprecedented opportunity to be involved early in the planning process, to assure private sector input and to make government officials aware of the business implications of both a major solar storm and of proposed measures to mitigate its impact.

NFTC member companies that may wish to consider participation in the upcoming session or in future such meetings will find the [attached](#) letter from Chuck Manto and the other attachments (see URLs below) to be of particular interest.

- <http://www.nftc.org/default/2011Temp/Chuck Manto letter to NFTC.pdf>
- <http://www.nftc.org/default/2011Temp/NDU Secure Grid 11 letter.pdf>
- <http://www.nftc.org/default/2011Temp/Manto EMP SIG INMA Letter.pdf>
- <http://www.nftc.org/default/2011Temp/NERC NFPA JH NDU.pdf>

## *News for Our Members*

### **USTR Briefing on Russian WTO Accession**

On August 3rd, Assistant USTR for WTO and Multilateral Affairs Chris Wilson briefed the business community on Russia's WTO accession. He reported that 90% of the Working Party's report is now complete. The current schedule involves plurilateral meetings on agriculture and TBT in August and September and a mid-September Working Party session on the goods schedule. A draft consolidated goods schedule is expected by mid-August. At the end of September the Working Party chair will convene the group to review the text. In October the Working Party will hold its last informal meeting for a final review and to verify the goods schedule. The Working Party will then hold a formal meeting on November 10-11 to sign off on the report, which is to be completed in time for the December ministerial. The Georgians, not a member of the Working Party, are in separate negotiations led by the Swiss on border issues and are expected to sign off. In December the Council of Ministers will formally invite Russia into membership. The effective date of membership following implementation is expected to be three to six months after accession. Wilson emphasized that there is no room for slippage in the schedule, as the Working Party's guidance is to complete the deal by December.

Chief among the outstanding issues is SPS, which Wilson reported has dominated recent negotiations and on which the Russians are expected to produce a draft the week of August 8th. The sole unresolved issue is the section on Russian inspection of foreign exporting facilities, which Wilson expects to be difficult to resolve. Other outstanding issues include TRIMS, the automotive investment section, and meat. Although the CAIRNS group and other member countries are not yet on board, issues involving beef, pork and poultry have been resolved with the US and the EU. The encryption section still needs work, which has been slowed by new personnel at the Russian FSB who need to be brought up to speed. Although IPR protection is not included in the document, there is an understanding that concrete progress needs to proceed in parallel with implementation of WTO accession.

While the text will not be released publicly during this period, USTR will publish a fact sheet on the benefits of Russian accession, and of PNTR, to the US by state and by sector of the economy. On-going USTR briefings with Congress will intensify with staff during recess and when the Congress returns. The US will invoke non-application in mid-November to mid-December because Russia remains subject to Jackson-Vanik. USTR anticipates a vote on exempting Russia from Jackson-Vanik to take place on "a vehicle" in the fall. There was no indication of what the vehicle would be.

For more information, please contact Dan O'Flaherty at [doflaherty@nftc.org](mailto:doflaherty@nftc.org).

### **World Trade Dinner – October 5**

*(Continued from page 7)*

The reception starts at 6:30 p.m., followed by a seated dinner at 7:30 p.m. It is a uniquely enjoyable event for social and business entertaining. Net proceeds benefit the NFTC Foundation, the educational arm of the NFTC. The Foundation is (a 501(c)(3) entity and the annual World Trade Dinner is its only fund-raiser.

Tables seating 10 persons are available at Platinum and Gold Levels. If you are unable to buy a table this year, individual tickets also are available. As always, we invite senior Administration, Congressional, diplomatic officials and other VIPs to join us as guests of the NFTC. Needless to say, we will be very pleased to work closely with you to assure the success of the dinner for you and your invited guests.

To reserve a table or a ticket, please contact Bill Kelly, NFTC Senior Vice President at [wkelly@nftc.org](mailto:wkelly@nftc.org) or by phone at (202) 464-2021 or follow the URL: [http://www.nftc.org/default/World\\_Trade\\_Dinner\\_2011/RSVP\\_Form.pdf](http://www.nftc.org/default/World_Trade_Dinner_2011/RSVP_Form.pdf)

# News for Our Members

## In Case You Missed It

### NFTC Hosts Press Roundtable on Economic Costs of FTAs Delay

With the recent implementation of the EU-Korea FTA on July 1 and the Canada-Colombia FTA set to enter into force on August 15, the NFTC today hosted a press roundtable on the economic costs of further delaying the pending free trade agreements (FTAs) with Colombia, Panama and Korea. The discussion was led by the following guests, who made the economic case for why Congress and the Administration should work together to get the FTAs passed as soon as possible:

- Ed Gresser, Director, ProgressiveEconomy
- Nick Giordano, Vice President and Counsel, International Affairs, National Pork Producers Council
- Wayne Hurst, President, National Association of Wheat Growers

### NFTC Statement on Status of Doha Round Negotiations

NFTC President Bill Reinsch on July 27th released the following statement on the status of the Doha Round of World Trade Organization (WTO) negotiations:

*"Meetings in Geneva this week have diminished substantially any hope for a workable package in time for the upcoming December meeting of trade ministers. It's unfortunate, as there were a number of items under discussion that would have been a win-win for jobs, growth and development.*

*We hope that the failure to agree on a December package will spur key stakeholders to return their focus to the larger package of issues in the Doha Round and come to terms with what can only be described as a long-term impasse. While tremendous potential remains to improve the global economy through an ambitious conclusion to the Round, it is clear that key countries are not prepared to show the kind of flexibility that would permit negotiators to wrap up such a package in the short term."*

To read the full statement follow the URL

<http://nftc.org/newsflash/newsflash.asp?Mode=View&id=236&articleid=3290&category=All>

### NFTC, CEE Presidents Urges Reauthorization of Ex-Im Bank

In separate letters to House Speaker John Boehner (R-OH), NFTC President Bill Reinsch and Coalition for Employment Through Exports (CEE) President John Hardy on Wednesday expressed support for H.R. 2072, the "Securing American Jobs Through Exports Act of 2011," which will reauthorize the U.S. Export-Import Bank (Ex-Im Bank).

Reinsch wrote: *"The NFTC strongly agrees with the goal set by President Obama to double U.S. exports by 2014 and believes the Bank to be integral to this endeavor. Support for exports will boost growth, helping to create jobs for the nearly 14 million unemployed Americans while enhancing American competitiveness. The Bank was an integral component in more than \$400 billion in U.S. exports in the past 70 years. It helps to cover critical trade finance gaps through the provision of loan guarantees, export credit insurance, and direct loans for U.S. exports in developing markets where commercial bank financing is unavailable or insufficient. In Fiscal Year 2010, it provided roughly \$26 billion in authorizations that sustained 227,000 U.S. jobs at more than 3,300 companies. Furthermore, the exports financed by the Bank indirectly supported 33,000 smaller businesses in all 50 states, Washington DC, and Puerto Rico that are critical suppliers for exporting companies."*

Hardy wrote: *"By extending the Ex-Im Bank's authorization through 2015, H.R. 2072 will enable Ex-Im Bank to introduce thousands of small businesses to the export arena, and enable thousands of other exporters, both small and large, to compete on an international playing field where competitors of U.S. firms continue to enjoy significant and aggressive support from their countries' export credit agencies (ECAs). The bill will also encourage the Bank to take into account the reality of our innovative economy with increased support for services and high-tech jobs while continuing its strong support for manufacturing jobs."*

Both letters can be found at <http://www.nftc.org/default/trade/LHouseEximreauthorization%20711.pdf> and <http://www.nftc.org/default/CEE/FinaleCEEHr2072Letter.pdf>

# News for Our Members

## Calendar of Events

Date	Event and Location
September 13	USA*Engage Annual Lunch - Washington DC
September 21-23	Expatriate Management Committee* - San Jose, CA
September 26-28	International Assignment Management Committee (IAMC)* - McLean, VA
October 5	National Foreign Trade Council's Annual Meeting - Washington, DC
October 5	National Foreign Trade Council Foundation's 2011 World Trade Dinner & Award Ceremony – Washington, DC
October 6-7	Fall Tax Meeting - Washington, DC
October 20	International Benefits Committee - New York City
November 9	Tax Lunch Forum - Speaker: Steve Musher, Associate Chief Counsel,( International) IRS - Washington, DC
November 9	International Compensation and Benefits Committee - Houston, TX.
December 7	Tax Lunch Forum - Speaker: TBA - Washington, DC
March 21,22, 2012	Annual International Human Resource Management Forum - Houston TX


*\*Note: The WTO Committee Meetings, Trade Committee Meetings, Expatriate Management, Global compensation, International Assignment Management, and International Benefits Committees are by invitation only. For information about them please contact NFTC at (202) 887-0278 or e-mail [nftcinformation@nftc.org](mailto:nftcinformation@nftc.org).*

**WORLD TRADE DINNER  
& AWARD CEREMONY**  
*Advancing Global Commerce for Nearly a Century*

*You are cordially invited to the*  
**National Foreign Trade Council Foundation's  
2011 World Trade Dinner & Award Ceremony**

*Wednesday, October 5, 2011  
Organization of American States  
17th Street & Constitution Avenue, NW  
Washington, DC*

*Black Tie | Reception - 6:30 p.m. | Dinner - 7:30 p.m.*

 **NATIONAL FOREIGN TRADE COUNCIL FOUNDATION**

Company sponsorship opportunities are still available, as are a limited number of individual reservations. Contact NFTC at 202-887-0278 or [nftcinformation@nftc.org](mailto:nftcinformation@nftc.org) for details. To RSVP follow the URL: [http://www.nftc.org/default/World Trade Dinner 2011/RSVP Form.pdf](http://www.nftc.org/default/World%20Trade%20Dinner%202011/RSVP%20Form.pdf)

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## NATIONAL FOREIGN TRADE COUNCIL

*"ADVANCING GLOBAL COMMERCE FOR NEARLY A CENTURY"*

*The National Foreign Trade Council is a leading business organization advocating an open, rules-based global trading system. Founded in 1914 by a broad-based group of American companies, the NFTC now serves hundreds of member companies through its offices in Washington and New York.*

*For membership opportunities, please contact us at  
[nftcinformation@nftc.org](mailto:nftcinformation@nftc.org) or 202-887-0278.*