Council Highlights

NATIONAL FOREIGN TRADE COUNCIL

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

August/September 2008 Issue

Word From the President

"Senate Fails to Act on [insert issue of the week]" is a common headline in today's papers. Gridlock in the Senate is certainly nothing new, but it is clearly becoming more and more common, to the detriment of dealing with the country's pressing problems. Over the past fifteen years the institution has wandered far from the model we all read about in that high school classic, "How a Bill Becomes Law."

While there are many reasons for this state of affairs, a lot of them political, the most important factor is simply that senators have fallen into bad habits. The Senate was designed to move slowly (remember the saucer and tea cup analogy), and it has succeeded through a finely tuned system of minority rights. Since much of the Senate's business is conducted by unanimous consent and since "holds" on taking legislation up are generally respected, it is easy for a single senator, or a small group, to block progress. When a senator's party routinely supports its individual members' obstructions, forcing the leadership to produce 60 rather than 51 votes, gridlock becomes the rule rather than the exception.

Changing the rules to solve this problem is unlikely to happen. Every senator sooner or later employs delaying devices, and they are not going to vote to give them up. Fortunately, there is another approach: a good old-fashioned vote – as the Constitution intended.

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Inside this issue:

Hagel and Blumenauer Discuss Free Trade and Food Prices at USA*Engage Annual Event

USA*Engage honored Senator Chuck Hagel (R-NE) and Representative Earl Blumenauer (D-OR) for their leadership on issues relating to U.S. diplomacy and global engagement at a luncheon on June 25. Both Hagel and Blumenauer spoke at the event on the importance of the United States maintaining an open dialogue with the rest of the world.

Senator Chuck Hagel (R-NE)

In his remarks, Senator Hagel discussed the critical link between U.S. diplomatic efforts and the United States continuing to open markets abroad to U.S. goods and services exports. "Trade is not just an exchange of goods and merchandise. Trade is the only bridge into other nation's culture and society. It is the one bridge that gets across the great chasm of differences; it is the one relevant and realistic option for countries to continue to grow and improve," he said. "We can fall prey to the narrowness of politics, but trade will overcome it."

Representative Blumenauer spoke about the need for multilateral cooperation on a range of issues – from environmental protection and global poverty to international trade. "Fighting global poverty must be one of our country's top priorities. We have a responsibility to help developing nations, yet we continue to fall disturbingly short. America invests less than two-tenths of one percent of our gross national product in ending global poverty," said Blumenauer.

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News for Our Members

A Word from the President

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For example, what is a “hold?” Procedurally, it is the implied threat of a filibuster. Instead, the Senate leadership should adopt a “work to rule” policy. If a senator threatens a filibuster, call his or her bluff, make him do it, use the Senate’s rule prohibiting two speeches on the same subject the same day and invoke frequent “live” quorum calls to keep senators coming to the floor, and keep the Senate in session late into the evening and overnight if necessary – all in the spirit of moving legislation along. If a senator is alone in his objection, he won’t last long. If he has friends, the leadership will soon find out who – and how many – they are, as will the press and the public. Nothing smokes anonymous objectors out like having to be accountable.

Another example: the Senate increasingly ties itself in knots trying not to vote – the opposite of what the Constitution intended. Over time, the minority – and this has been true of each party at different times – has become adept at “gotcha” votes on amendments that are irresponsible but politically attractive. Senators who vote “no” can then be attacked in their next reelection campaign. The leadership’s response has been to try to avoid voting – filling up the amendment tree with benign amendments to block others, refusing to bring bills to the floor without an agreement limiting amendments to those previously vetted, invoking cloture at the first opportunity in order to preclude nongermane amendments, and pulling bills down if pre-agreement on the parameters of debate cannot be reached.

The solution here is also simple, albeit painful: The Senate should do what the Senate is supposed to do and what the people expect – vote. Let senators offer whatever amendments the rules permit, allow them to be debated – again, this will take more time – and then, if necessary, close debate by moving to table them. In the short run this will mean some difficult votes, and the leadership will lose some of them, which means they’ll have to be cleaned up in conference with the House. But in the long run, the benefit will be significant – discipline in the process. Senators will eventually go back to focusing on the substance of the bills before them if they know they can offer amendments and have them debated on their merits, and the leadership will learn a forgotten lesson – that with good management and sound preparation it can win most battles, even though it might be hard work. And if it loses a battle or two, well, that’s democracy. Hard to complain too much about the majority ruling.

This will take time. As parents of unruly teenagers know, bad behavior doesn’t change overnight, but maturity does eventually set in if expectations remain high and the rules are enforced. In the Senate’s case there is a convenient roadmap – that classic high school civics pamphlet.

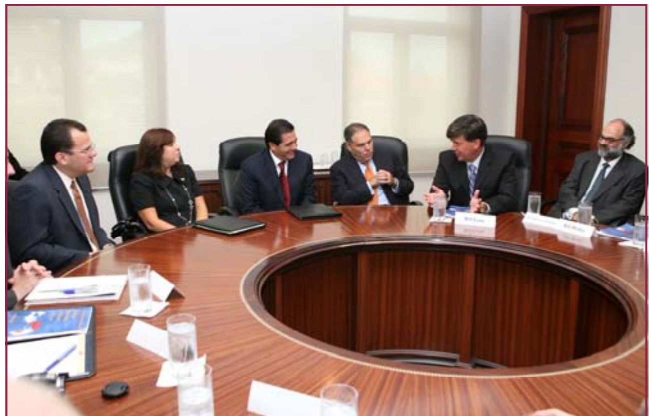
NFTC’s Annual World Trade Dinner – September 10, 2008

NFTC’s Annual World Trade Dinner and Award Ceremony is scheduled for Wednesday, September 10, 2008, once again being held in Washington, D.C., this year at the Newseum, "World's most interactive museum." The NFTC’s World Trade Dinner is a popular event for senior corporate and public officials; a night featuring a formal address by our keynote speaker, presentation of our annual world trade award, and, of course, much socializing. Past speakers have included such respected figures as House of Representatives Majority Leader Steny Hoyer; United States Trade Representative, Ambassador Susan Schwab; Secretary General of the United Nations, Kofi Annan; then UN-Ambassador John Negroponte, as well as several Heads of State.

For more information contact the NFTC at 202-887-0278 or nftcinformation@nftc.org; to follow the link to RSVP.

Coalition Visits Panama to Underscore U.S. Business Commitment to U.S.-Panama FTA

In late July, Chuck Dittrich, Vice President, Regional Trade Initiatives, NFTC participated in a Latin America Trade Coalition delegation visiting Panama to meet with U.S. and Panamanian business in the country as well as senior officials of the Panamanian government, including Panamanian President Martin Torrijos and U.S. embassy staff. As one of three Free Trade Agreements currently pending U.S. Congressional approval (along with Colombia and South Korea), the agreement will likely have widespread bipartisan support when it comes up for a vote in Congress. Panama incorporated key provisions of the May, 2007 bipartisan Congressional compromise on labor into the text of the agreement, and on June 21, 2007, Panama's National Council of Organized Workers — Consejo Nacional de Trabajadores Organisados (CONATO), the umbrella group for all of Panama's trade unions — endorsed the U.S.-Panama Trade Promotion Agreement.



Members of the Latin American Trade Coalition meet with Panamanian officials: (from left to right): Panamanian Ambassador to the U.S. Frederico Humbert, Minister of Commerce & Industry Carmen Vergara, President, Martin Torrijos, Vice President and Foreign Minister Samuel Lewis and NFTC members Bill Lane, Caterpillar Corporation and Francisco Conto, Citibank Panama.

President Torrijos, elected in 2004, has pursued a strategy of increased government transparency, institutionalizing democratic and social reforms, and his cabinet and senior government officials have a reputation as technocrats focused on measurable gains toward achieving UN Millennium Development Goals. The main political barrier to the agreement in the U.S. Congress, centering on the leader of the Panamanian parliament, has also now been resolved with him not standing for re-election and the election of a new parliamentary leader slated for September 1, 2008.

With services accounting for around 80% of Panama's GDP, the nation is a regional financial center which views the FTA as critical to attracting foreign investment. The FTA will accord substantial market access to U.S. firms across the entire services sector. Additionally, over 88 percent of U.S. exports of consumer and industrial goods to Panama will become duty free immediately upon implementation of the agreement with the rest becoming duty free within 10 years. More than half of current U.S. farm exports will become duty free immediately. Tariffs on most remaining products will be phased out within 15 years. The NFTC has strongly urged Congress to bring the U.S. – Panama FTA to a vote before the end of 2008.

News for Our Members

Doha Round: Last Gasp or New Foundation

On July 21, 2008, more than 30 WTO Trade Ministers gathered in Geneva for a last ditch attempt to reach agreement on the so-called modalities for the agriculture and non-agriculture market access (NAMA) provisions of the Doha Development Round. The modalities would establish the framework (basic formulas/exclusions, etc.) for the final negotiations on agriculture and NAMA which could then be joined with the other negotiating groups relating to services, rules, trade facilitation, etc, to create the single undertaking of the Doha Round.

The Trade Ministers worked tirelessly in Geneva for nine straight days, alternating between small group sessions of seven key countries (G-7), the larger "Green Room" meetings of the 30-plus trade ministers to sessions of the full WTO Membership. The G-7 consisted of the United States, the EU, Japan, Australia, China, India and Brazil. By Friday evening, there was tentative consensus among six of the seven G-7 countries to work from a modalities text distributed by WTO Director General Lamy. The seventh country, India, voiced objection to substantive provisions of the text. Nonetheless, it permitted the text to be presented to the broader group of Ministers.

Given the progress on the NAMA/agriculture front, the Director General (DG) hosted a conference July 26 on services. This was slated to be a "signaling conference," during which countries would give indications of their willingness to liberalize their services sectors. By all accounts, this conference was more successful than expected with several countries making positive comments about providing new market access in the services arena. The results of this conference have since been formalized in a report by the DG now on the WTO Web site.

For its part, the G-7 continued to work throughout the July 25-27 weekend in an effort to move forward on the agriculture and NAMA modalities. By Monday, however, there was evidence of trouble. By then, China had joined India in voicing objections to the Lamy text. It was one thing for India to stand alone in an effort to block a Doha breakthrough, it was quite another when two of the world's largest economies joined forces. The immediate target of their wrath was a technical provision in the agriculture text relating to the so-called special safeguard mechanism, which permit countries to increase tariffs in the face of unexpected import surges. India, supported by China, wanted carte blanche to raise tariffs beyond the rates bound in the Uruguay Round. The U.S. Government strongly opposed this, arguing for limits on tariff increases and a strict trigger for action.

By Tuesday, it became clear that the negotiations were teetering on the edge. That morning the U.S. Government made a strong statement critical of both the Indians and Chinese positions. The talks collapsed later that day.

Whither Doha?

Prior to the mini-Ministerial, most observers said this was the last chance for the Doha Round to proceed towards completion this year. Given the collapse of the talks last week, many expected epitaphs on the Round and much pointing of fingers of blame. This has not happened. In fact, Ambassador Susan Schwab commented on Wednesday before leaving Geneva that more progress had been made in the nine days of talks than in the seven years since the Doha Round had been launched in 2001. Instead of recriminations, countries were asking how this considerable progress could be captured for the future, given the "nothing is agreed to until all is agreed to" nature of the WTO. Some have even suggested that work in Geneva continue after the summer break.

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NFTC Leads Coalition In Support of Civilian Nuclear Agreement with Russia

The NFTC is leading a coalition to ensure congressional approval of the "123 Agreement" with Russia. This agreement establishes a framework for future civilian nuclear cooperation between the United States and Russia subject to explicit safeguards. The United States currently has such agreements in force with 18 nations, including China, Japan, the Republic of Korea, Canada and Brazil. It is strongly in the interest of the United States that the Agreement come into force.

The United States and Russia have publicly agreed that preventing nuclear proliferation and nuclear terrorism is of paramount interest to both nations. Specifically, preventing Iran from acquiring nuclear weapons cannot be achieved without the active cooperation of Russia. The United States government is confident that implementing the Agreement will contribute to Russian cooperation on multilateral efforts to counteract Iranian nuclear weapons development. With implementation giving Moscow a tangible vested interest in continued cooperation with Washington, approval of the Agreement will greatly enhance the United States' ability to play a constructive role in shaping Russia's future nuclear policy.

Failure by Congress to approve the Agreement, on the other hand, would have the opposite effect and would weaken the ability to work with our Russian counterparts. Moreover, the Agreement also contains other significant, tangible benefits and safeguards. Specifically:

- If Russia does not cooperate on Iran, the United States can withhold further nuclear cooperation.
- Transactions under the Agreement require case-by-case approval by the U.S. government.
- The Agreement will strengthen nonproliferation efforts by committing both nations to cooperate in nuclear safety; handling nuclear waste and the implementation of required safeguards to prevent re-export of nuclear materials and technology.
- The Agreement guarantees adequate physical protection of nuclear facilities.
- The Agreement can facilitate United States-Russian cooperation in developing proliferation-resistant nuclear energy technologies and in developing a new international civil nuclear energy regime that will allow other nations to develop nuclear power for their energy needs without increasing the danger of weapons proliferation.
- The Agreement will give Russia an incentive to develop an international spent fuel storage facility which serves nonproliferation objectives.
- The Agreement would create export opportunities for the United States nuclear industry, including vital nuclear safety technologies. The United States currently imports from Russia half of the enrichment services, under the United States Russian High-Enriched Uranium Agreement, used in our nuclear power plants, while the United States is unable to export nuclear material to Russia.
- Some countries will not contract for United States sales of nuclear fuel, services or technology without transfer rights to Russia. The Agreement opens that access.

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News for Our Members

NFTC Leads Coalition In Support of Civilian Nuclear Agreement with Russia

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- In February of this year, the United States and Russia agreed to provide the U.S. nuclear industry access to Russian uranium and to conversion and enrichment services. Without this Agreement this access will not be practical.

Approval and implementation of the 123 Agreement will contribute to better U.S.-Russian relations and cooperation on nuclear policy. Failure to approve the agreement will certainly have the opposite effect, giving Russia an incentive to continue expanding its network of nuclear agreements with third countries.

If the Congress does not act within ninety legislative days of the submission of the Agreement to Congress on May 14th, it automatically enters into force. If Congress holds to its planned date of adjournment, the ninety days will not have run their course in which case the Agreement would be considered by the 111th Congress. Congressional concern about Russian nuclear sales to Iran has led to opposition to the Agreement. As a result a resolution of disapproval has been introduced by Congressman Markey.

Congressmen Berman and Ros-Lehtinen have introduced a resolution, approved by the House Foreign Affairs Committee on July 24, that would approve the Agreement with conditions that must be met before it can enter into force. The coalition is concerned that the conditions in the resolution are so onerous as to prevent the Agreement from being implemented. The coalition supports a straightforward resolution of approval which Senators Biden and Lugar have introduced in the Senate. The President could veto a resolution of disapproval or a conditional resolution of approval.

Save the Date: September 18, 2008, NFTC Global Food Safety Policy Program

With an increasingly global food supply chain, food safety is a leading topic on the world's political agenda. The changing environment and on-going farming issues will continue to drive food safety to issues to the forefront. In an effort to create 'bridges' among industry and policy leaders, the National Foreign Trade Council and Waters Corporation are hosting a Global Food Safety Policy Forum focused on technology and policy solutions to develop a safe, healthy world class food supply chain in the United States and among its foreign trading partners.

The Forum will feature speakers and panels representing food manufacturers and government officials to address globalization, changing marketplace pressures, and a look forward in an U.S. election year. The Global Food Safety Policy Forum will take place at the Grand Hyatt, Washington DC, on September 18, 2008, from 8:30 a.m. to 3:00 p.m.

For an updated agenda and registration details, please visit:
http://guest.cvent.com/EVENTS/Info/Summary.aspx?e=815c2312-4282-4ce2-9b6d-56d949873c9c

NFTC Leads Trade Negotiating Authority Debate

One of the NFTC's major projects this spring and summer has been the preparation of trade negotiating authority legislation intended to replace the expired Trade Promotion Authority legislation enacted in 2001. Our intent in launching this project was to put the business community on record in support of new authority and a fresh approach to trade agreements. Legislation has already been introduced by several senators (Byron Dorgan and Sherrod Brown, to mention two) that takes a more restrictive approach to new negotiations, and the NFTC's Trade Committee felt it was time for the business community to weigh in and re-balance the debate. In addition, the unfortunate collapse of the Doha Round will force all of us to rethink what kind of trade policy makes the most sense for the United States, and this bill will make an important contribution to that debate.

What makes our effort different from those of other organizations is that it is actually a draft bill, not just a statement of principles. While it is based on previously enacted bills dating back to the Trade Act of 1974, it makes a number of significant changes designed to refocus attention on the needs of companies trying to compete in a globally integrated world and intended to reestablish a relationship of trust and confidence between the executive and legislative branches of government on trade policy.

Reorienting Our Negotiating Objectives

The purpose of developing new negotiating objectives is to focus debate on the rapid economic change that has led to a much more globally integrated world, a trend the bill anticipates continuing regardless of what the US does or does not do.

That means that trade is even more important to the U.S. than it has been before, but that it cannot be viewed in a vacuum, but rather in the context of a range of other issues including investment, R&D, work force capabilities, education, health care, energy, the environment, and infrastructure. The NFTC bill does not provide objectives for these but simply makes the point that trade is part of a larger puzzle and should not be pursued without that context in mind, something both our presidential candidates should bear in mind as they debate the issue.

Trade, however, now means more than simply exports and imports. U.S. companies are busy constructing – and dealing with – global supply chains wherein issues of restrictions on investment and mobility as well as regulatory barriers are even more important than they have been before. Our objectives are designed to focus U.S. negotiating efforts on lowering those obstacles in order to maximize US participation in the global marketplace on our terms.

In tackling the issues, we divided the material into findings, fundamental objectives, multilateral objectives, regional/bilateral objectives and environmental objectives.

Our fundamental objectives focus on trade liberalization, barrier reduction, capacity building, ILO core labor standards, mobility, and sanctions – the "big" themes common to trade legislation in the past.

Multilateral objectives are much shorter than in previous legislation because we tossed out most of the "special interest" or sector-specific provisions that made their way into previous bills. NFTC members are not necessarily opposed to those provisions, but as an association that represents many sectors we felt that those groups or companies with the biggest stake in a particular provision should do the work of getting it in.

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News for Our Members

Save the Date: Panama Forum 2008, Washington D.C., September 16—17, 2008

With one of the fastest growing economies in the Western Hemisphere and the historic expansion of the Panama Canal, the world's most vital maritime artery, the Republic or Panama has now become a "Gateway to the Americas" and beyond.

The Panama Forum is an exclusive event that brings together Panama's most senior government representatives and business leaders with top U.S. executives, high-ranking administration officials and key policymakers. This intimate gathering offers an unparalleled opportunity for leaders of both countries to initiate or strengthen bilateral business partnerships.

Join us and explore the sweeping changes that are shaping the future of investment in one of Latin America's most dynamic markets.

Confirmed Speakers:
H.E. Martin Torrijos, President of the Republic of Panama
H.E. Samuel Lewis Navarro, First Vice President & Minister of Foreign Affairs of Panama
H.E. Carmen G. Vergara, Minister of Commerce of Panama
Mr. Alberto Aleman Zubieta, Panama Canal Administrator

Invited Speakers:
H.E. Carlos Gutierrez, U.S. Secretary of Commerce
H.E. Mary Peters, U.S. Secretary of Transportation
Amb. Susan Schwab, U.S. Trade Representative

In Partnership with:
Council of the Americas
National Foreign Trade Council (NFTC)
Emergency Committee for American Trade (ECAT)
U.S. Chamber of Commerce
Association of American Chambers of Commerce in Latin America (AACCLA)
Latin America Trade Coalition

To register, please contact the Panama Embassy at: panamaforum@embassyofpanama.org

2008 Fall Tax Committee Meeting Will be Held on October 8-10 at the Wintergreen Resort in Wintergreen, Virginia

The 2008 NFTC Fall Tax Meeting will be held from October 8-10 at the Wintergreen Resort in Wintergreen, Virginia. The first speakers, Mukesh Butani, Vijay Mathur, and Rahul Garg, tax practitioners and former government tax officials from India, will discuss the current issues facing U.S. multinationals doing business in India. Mary Bennett, Head of Division, Tax Treaty, Transfer Pricing and Financial Transactions Division of the OECD will give an OECD update. Tom Neale, head of the Common Corporate Consolidated Tax Base Commission will explain the final report of that commission, scheduled to be released in September. A panel of tax practitioners, including John Magee, Bob Green and Bill Sample will discuss the latest tax controversy issues facing companies. The final panel will focus on pending IRS regulations. Steve Musher, Associate Chief Counsel International, IRS will lead a group discussion of the current regulatory situation. Please join us for the NFTC Fall Tax Meeting. For more information, please contact Catherine Schultz at cschultz@nftc.org.

NFTC Submits Comments for the July Senate Foreign Relations Committee Tax Treaty Hearing

The Senate Foreign Relations Committee held a hearing on July 10 on the Protocol with Canada and the Tax Treaties with Iceland and Bulgaria. The only witnesses to testify before the Committee on the tax protocols and treaties, were Michael Mundaca, Treasury Deputy Assistant Secretary for International Tax Affairs, and Emily McMahon, Deputy Chief of Staff at the Joint Committee on Taxation. The NFTC submitted comments for the record which can be viewed on the NFTC website: www.nftc.org. The NFTC strongly supports the ratification of all of the pending tax agreements.

The agreements contain important provisions to eliminate the risk of double taxation furthering the trend of the administration to open trading relationships around the world. The tax treaty with Canada contains a mandatory arbitration provision that is very important to many U.S. companies doing business with Canada. The Canadian treaty is strongly supported by the business community, but does contain a few provisions that cause some concern.

The 2007 U.S.-Canada Protocol includes a provision that would abolish the permanent establishment threshold for the provision of certain services, permitting taxation by one country of income from services performed by a resident of the other country even when the resident does not maintain a fixed place of business in the taxing country.

This provision is an exception to U.S. tax treaty policy and practice, and has been included in only a handful of U.S. tax treaties with developing countries (a well as the pending tax treaty with Bulgaria). In the developing country context, the provision does not appear to have been subject to significant scrutiny or objection. The provision also has been proposed by the OECD in the context of the Commentaries to the OECD Model tax treaty as an “alternative” provision that can be adopted by countries wishing to impose increased taxation at source on income from the performance of services. The U.S. Treasury Department has been a staunch opponent of including this provision in the OECD Commentaries. The NFTC believes that the Treasury position in the OECD should remain the U.S. policy and the services provision included in the Canadian Protocol should not serve as a precedent in future treaty negotiations.

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NFTC Submits Comments for the July Senate Foreign Relations Committee Tax Treaty Hearing

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In his testimony before the Senate Foreign Relations Committee, Treasury Deputy Assistant Secretary Mundaca assured the Committee that the U.S. position on permanent establishment has not changed, and that the services provision included in the Canadian Protocol was the result of intense negotiations. The U.S. was willing to cede the services permanent establishment position in order to gain another provision, possibly the mandatory arbitration provision. Mr. Mundaca also stated that Treasury would be issuing guidance for taxpayers who have to administer the new services provision.

The U.S.-Canada Protocol also contains a provision that changes the tax treatment of hybrid entities. The new Canadian Protocol will reduce the withholding tax rate on interest payments made from a Canadian company to a company in the U.S., from the previous tax rate of 10% to a new rate of zero. However, this new reduction in the withholding tax rate does not apply to dividends, which remain subject to a 5% withholding tax rate. For hybrid entities, the rate is even higher. For example, if payments are made from a so-called "hybrid entity" in Canada, such as a Nova Scotia Unlimited Liability Company or "NSULC", to a U.S. shareholder, none of those payments get the benefit of reduced Treaty withholding tax rates under the Protocol. Instead, those cross-border interest or dividend payments are treated as being subject to a non-treaty rate of 25%. If the payments are dividends which have been paid from profits previously taxed in Canada, the NFTC believes that those dividends should be subject to the continuing 5% withholding rate. Treasury will have to negotiate a new protocol with Canada to correct the hybrid entity problem.

The Senate Foreign Relations Committee must approve the agreements before they move to the Senate floor for approval. The Committee will make a recommendation regarding the agreements and they will be reported to the Senate floor where they must be passed by two-thirds of the members present. The final phase of the ratification process involves exchanging instruments of ratification with Canada, Bulgaria and Iceland before the agreements become effective.

NFTC Weighs In Against International Tax Proposals

On July 21st and 23rd, the NFTC sent letters to the Swedish and German governments respectively to voice opposition to proposals that would negatively impact American companies and their ability to compete in international markets.

Sweden

National Foreign Trade Council President Bill Reinsch on Monday sent letters to Swedish Minister of Finance Anders Borg and State Secretary Ingemar Hansson, urging the ministry to refrain from adopting tax policies, which would place greater restrictions on the deductibility of interest. The NFTC sent the letters in response to a recent report developed by Sweden’s Tax Administration.

“Sweden has, in part, been a favored destination for inward investment both because of its stable tax regime, and because of a consistent effort by Swedish lawmakers to provide an attractive investment environment.

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NFTC Weighs in Against International Tax Proposals

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However, the Ministry of Finance has now released a report from the Tax Administration which proposes dramatic restrictions on the deductibility of interest in certain related party settings," wrote Reinsch. "Were this proposal to be enacted in its current form, it could have a very serious effect on inward investment into Sweden."

Reinsch continued, "We would, at the very least, encourage you to postpone the effectiveness of any provisions until 2010, and extend the comment period to allow proper consultation on, and consideration of, these proposals." Further, while Reinsch acknowledged that Sweden is entitled to protect its tax base through a potential law change, he argued, "any such rules should take into account international norms, as well as legitimate business practices. The proposed rules, as currently drafted, would not do this."

The NFTC outlined its objection to the proposed rules, including that they would put companies doing business in Sweden at an unfair disadvantage, as they are much stricter than any other similar rules. The proposed rules also ignore "several important areas of normal and legitimate business," including post-acquisition restructurings and the loan tracking provisions could potentially be "exceptionally burdensome."

"We would urge you not to jeopardize your hard-won reputation as a stable, welcoming environment for multinational business and investment. You could do this by a hasty adoption of an interest restriction regime which would hit legitimate business transactions, and greatly add to the cost of doing business in Sweden," Reinsch concluded.

Germany

The National Foreign Trade Council on Wednesday sent letters to 16 German finance and economic ministers, in response to Germany's proposal to transfer electronic accounting records to European Union (EU) and European Economic Area (EEA) countries. The NFTC opposes the proposal because it would inflict undue penalties on U.S. companies already acting in compliance with international accounting and audit rules.

"We welcome Germany's interest in attracting and retaining investment and the German tax rate reductions recently enacted to that end," wrote NFTC President Bill Reinsch. "Our member companies are concerned, however, about the proposed change in the rules relating to the transfer of electronic accounting records to EU/EEA countries. By requiring records to be kept in Germany, the EU or the EEA, Germany is failing to recognize the global nature of today's marketplace."

Reinsch continued, "The provision requiring the immediate relocation of electronic financial records to the tax entity's home country, if so requested by the German Tax Authorities, is unreasonable in today's global marketplace….The NFTC opposes the imposition of the new territorial restrictions. Generally, all accounting activities not located in EU countries, e.g. the United States, would be considered illegal, and would be subjected to penalties of up to €250,000. The penalties should be eliminated."

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NFTC Weighs in Against International Tax Proposals

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"For a US-based multinational, the main accounting function is likely to reside in the U.S., and this typically includes data relevant for the companies' German operations. Under current law, companies have generally been able to maintain records in a third country without incurring punitive penalties," wrote Reinsch. "It has been possible to satisfy the record maintenance requirements by preparing regular secure backups of the data and transferring this information, when needed to the Germany-based subsidiary. The pending proposal will nullify these arrangements."

The NFTC letter requests that Germany modify the proposed rule significantly, pointing out that Germany's proposal goes beyond the reach of comparable rules in other EU member states. Reinsch concluded by citing the tax treaty recently ratified by the United States and Germany, arguing that "under the provisions of the tax treaty, financial records of U.S.-based multinationals doing business in Germany, should be permitted to be retained in the U.S., or another non-EU or non-EEA country, without penalty."

USA*ENGAGE

Hagel and Blumenauer Discuss Free Trade and Food Prices at USA*Engage Annual Event

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"I truly believe that trade should be used to help lift people out of poverty. We must provide effective food aid to nations that need it, particularly now as the cost of food skyrockets. Sending food overseas can take months and undercuts local food markets, which is why we must streamline our delivery mechanisms."

Senator Hagel and Representative Blumenauer have consistently received high marks on USA*Engage's scorecard of congressional votes. Senator Hagel has emerged as a consistent champion of diplomacy. Representative Blumenauer has sought to promote diplomacy, trade and humanitarian engagement abroad, and as a new member of the House Ways and Means Committee, he has been a strong supporter of a bipartisan trade policy. Both honorees have supported legislation to reform the way in which unilateral sanctions are considered by the United States Congress.

Representative Earl Blumenauer (D-OR) with Del Renigar, USA*Engage Co-Chairman and Senior Counsel for International Policy and

Annual International Human Resource Management Conference: New York City, July 16 & 17, 2008

The National Foreign Trade Council hosted its fourteenth annual international human resource management conference at the New York Athletic Club on July 16 and 17, 2008. There were 150 international business and human resource management professionals in attendance. The NFTC appreciates the time and expertise provided by the faculty, sponsors and helpers which made the conference a success.

The underlying theme at this year's conference was the need for multi-national corporations to source, develop, and retain talent for current and future cross-border business operations and opportunities. The program included sessions on:

- China and India
- Developing a Global Business Leader Pipeline
- Employee Engagement in Challenging Times
- Operating in "New" Foreign Jurisdictions-Due Diligence for Business and IHR Executives
- Virtual Team Effectiveness
- Cross-Border Mergers and Acquisitions
- Global Healthcare Management
- Best Practices in Global Mobility Management
- Expatriate Assignment ROI-Managing Repatriation
- Short Term Business Assignments and Cross-Border Business Travelers: Managing Compliance Risks
- "Localizing" Expatriates: Practices, Pitfalls and Lesson Learned
- Strategic Corporate Branding and Global Leadership
- Global Mobility Programs-A Corporate Best Practice Case Study

Speakers included colleagues from: Accenture, Alcatel-Lucent, AOL, BAE Systems, Bearing Point, Citi, Colgate-Palmolive, GE, Honeywell, HSBC, McGraw-Hill, Motorola, Stryker and TMA. Additionally there were subject matter experts from the conference co-sponsors: AIRINC, Cartus, CIGNA International Expatriate Benefits, DDI and KPMG LLP.

The topics covered in the conference will continue to be focused upon within the NFTC's working groups on global mobility, international benefits and manpower development. They will also be contained in the March 2009 annual IHR conference in Houston.

Doha Round: Last Gasp or New Foundation

(Continued from page 4)

It has been announced that Director General Lamy will be travelling to both India and the United States during the month of August to meet with Indian Trade Minister Nath and U.S. Ambassador Schwab. Presumably, Lamy will be exploring ways to get the talks back on track this Fall. Even if this is not possible, there is talk of preserving the progress made to date in the form of the negotiating group reports to the WTO's Trade Negotiations Committee. Many of these were filed prior to the beginning of the mini-Ministerial. As mentioned, Lamy recently filed the report on services. Reports on the negotiations related to agriculture and NAMA are expected soon and will reflect the consensus reached on a number of issues during the ministerial meetings. While speculative, these series of reports could provide the basis for future negotiations on the Round operating in a manner similar to the 1991 Dunkel text near the conclusion of the Uruguay Round. That text was picked up by the Clinton Administration in 1993 and the negotiations were brought to a successful conclusion by the end of that year.

Clearly, the time to finish the Doha Round is long overdue. With sufficient ambition, it holds out the promise of significant economic benefit to both developed and developing countries and the continued credibility of the multilateral trading system. It would be a shame to lose these benefits or the momentum to turn to the real trade policy issues of the 21st century. The challenge for the next President will be recognize the potential the Round holds for global economic growth and not pass up the chance to bring it to a conclusion.

New Members

Thomson Reuters Corporation: As one of the leading sources of insight and analysis on a range of topics including business news, media issues, financial analysis, as well as scientific and healthcare related topics, Reuters is a respected name in providing the leading edge to businesses and individuals worldwide. The product of a joint venture, Thomson Reuters enjoys a listing in the FT's Global 500 and mustered $7296.1 (in millions) for the FY 2007. With over 50,000 employees, Reuters harbors a bright future ahead of itself as it seeks to expand its services in light of the increasingly lucrative nature of business information in a globalizing world. The NFTC is proud to have Thomson Reuters on board.

TPL Group: Providing a boutique of services, the TPL Group is dedicated towards aiding corporations in maintaining the development, commercialization, and management of IP related assets. Actively lobbying against the implementation of unfair patent related legislation, the TPL Group also possesses legal counsel that often litigates on the behalf of certain companies claiming to have had their patents violated. As a leading advocate for strong IPR protections, the NFTC is proud to have the TPL Group on board.

Cardinal Health: Cardinal Health is an $87 billion global manufacturer and distributor of medical and surgical supplies and technologies dedicated to making healthcare safer and more productive. The company is the second-largest distributor of pharmaceuticals and other medical supplies and equipment in the US. The company provides a variety of prescriptions and medical supplies to pharmacies, hospitals, doctors' offices, and other health care businesses. The NFTC looks forward to helping Cardinal meet the demands of an ever growing market. With great enthusiasm, the NFTC looks forward to working with Cardinal Health.

Calendar of Events

Date	Event	Location
September 10, 2008	Annual World Trade Dinner and Award Ceremony: Newseum	Washington, DC
September 11, 2008	Annual Meeting	Washington, DC
September 11, 2008	Board of Directors Meeting	Washington, DC
September 16-17, 2008	Panama Forum 2008	Washington, DC
September 18, 2008	NFTC Global Food Safety Policy Forum	Washington, DC
September 23–25, 2008	Expatriate Management Committee*	Charlotte, NC
September 24-26, 2008	International Assignments Management Committee*	Charlotte, NC
October 8, 2008	International Benefits Committee	New York City
October 8-10, 2008	Fall Tax Meeting	Wintergreen Resort, VA
October2008 (Dates TBA)	Talent Management in Asia-Pacific	Chicago, New York, Santa Clara
November 13, 2008	Tax Lunch Forum	Washington, DC
November 2008 (Date TBA)	Global Talent Management Committee* (initial meeting)	New York City
December 10, 2008	Tax Lunch Forum	Washington, DC
December 2008 (Date TBA)	Holiday Networking Reception: NFTC IHR Members	New York City
March 4-5, 2009	Annual International Human Resources Management Conference	Houston, TX

Note: The Tax Steering Committee Meetings, Expatriate Management, Global Compensation, International Assignment Management, and International Benefits Committees are by invitation only. For information about them contact NFTC, (202) 887-0278 e-mail nftcinformation@nftc.org

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.

NFTC Leads Trade Negotiating Authority Debate

(Continued from page 7)

The important new elements in the multilateral section are our support for a two-track WTO, which implies more negotiations on a non-MFN basis, a tougher line on the "substantially all trade" requirement for regional or bilateral agreements, new efforts to harmonize the disparate standards of such agreements, and a new goal on bribery and corruption. This will lead to some debate in the trade community because it suggests that the Most Favored Nation (MFN) concept, where a concession made to one is available to all, may have run its course. It is apparent, certainly from the Doha Round's problems, that some countries are prepared to move faster on trade liberalization than others. We believe it is appropriate to negotiate within the WTO ways in which such liberalization can be pursued either sectorally or regionally for those countries that want to participate while leaving the door open for the reluctant to come in later. This is a variation of the "competitive liberalization" idea put forward by former U.S. Trade Representative Robert Zoellick several years ago, but we think it is a model worth pursuing, not to move away from the WTO but to revitalize it.

The NFTC draft bill's regional objectives place priority on agreements with significant economies as well as with those that would reinforce our multilateral goals by establishing useful precedents in areas like investment, regulatory policy, due process, environmental protection, improved labor conditions, etc. We also focus on harmonizing the "spaghetti bowl" of conflicting rules and definitions currently reflected in the growing number of bilateral and regional FTAs and on making sure others' FTAs don't discriminate against the United States.

The draft bill also includes a new section specifically on the environment which emphasizes the need for policies that address climate change to be multilateral rather than unilateral and makes the point that trade can be a driver to multilateral solutions. Our specific goals emphasize increasing market access to and reduction in cost of environmental technologies, goods and services, and liberalizing services trade needed to facilitate effective implementation of a global cap and trade system should one be adopted. The NFTC has not taken a position on cap and trade and is unlikely to do so, but we felt we needed to remind the Hill of the trade implications of such a program should the Congress go forward with it.

Updating the Congressional Process

The NFTC drafting group spent a lot of time thinking about how to improve the Congressional-Executive consultation process and concluded that the best way to enhance it was to invest a new organization with formal status – hence a Joint Committee on Trade – and some specific duties, most notably voting to approve FTA negotiations. We also give it a variety of other duties including holding hearings on notifications submitted by the President and other related matters, conducting briefings for its members and providing information to other Members, consulting with the USTR on appointment of private sector advisory committee chairmen, and issuing periodic reports. NFTC members are concerned that the historic bipartisan good relationship between the executive and legislative branches on trade is in tatters and needs to be rebuilt. We concluded that the best way to do that was to create a body that would provide a meaningful role for Congress to play in trade policy and one that includes more Members than those from the two committees of jurisdiction. Trade policy today involves so many more issues like intellectual property, agriculture, labor and mobility where other Congressional committees have legitimate equities and deserve to be involved. (The bill, however, retains the primacy of Ways and Means and Finance by insuring that their chairmen chair the Joint Committee, they have a disproportionate number of members of the Joint Committee, and they continue to be the committees of jurisdiction for acting on any implementing legislation.)

(Continued on next page)

NFTC Leads Trade Negotiating Authority Debate

(Continued from previous page)

The Joint Committee would be chaired in alternate Congresses by the chairs of Ways and Means and Finance, beginning with the former. In addition to chair and ranking member, each of those committees would also have 3 additional members. In addition, chairs and ranking members from other committees with trade jurisdiction would serve – the committees are listed specifically in the text of the bill – and the leadership in each body could appoint three additional members (a two-one majority-minority split).

We hope that with a Joint Committee with expanded powers and the duty to authorize FTA negotiations, Members will be actively involved in the Committee's work and in the dialogue with the executive branch and will become more invested in developing the kind of cooperative consultative relationship that existed in the past.

Overall, the draft NFTC bill generally tracks the structure of current law. Negotiating authority is extended for four years with an option to extend for four more. The logic was to have the authority coincide with a Presidential administration. The procedure for obtaining the second four years is the same as was used the last time for the additional two years.

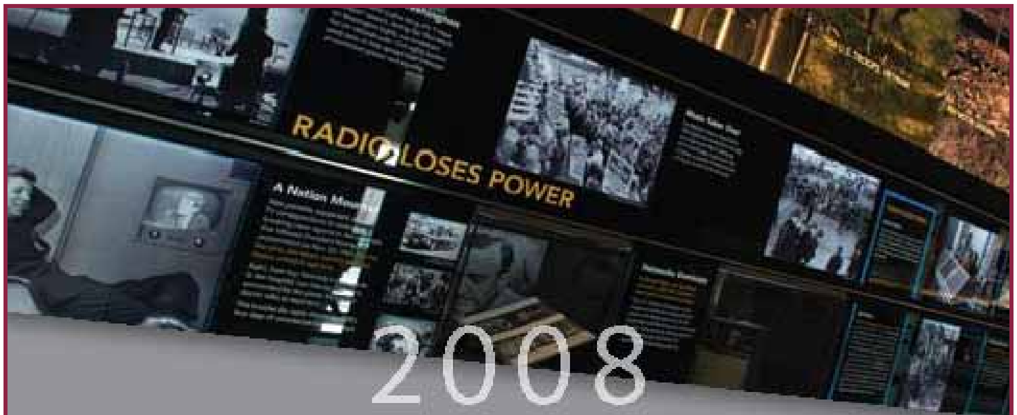
Notification procedures would also be much the same, except that proposals to negotiate a bilateral or regional FTA would have to be approved by a vote of the Joint Committee on Trade mentioned above. The Joint Committee must vote within 90 days of notification, and the negotiations cannot begin unless they vote affirmatively for a resolution of approval. This does not apply to multilateral rounds.

The bill also includes transition rules to address the status of agreements launched or concluded but not acted upon by Congress prior to enactment of this bill. In essence, negotiations concluded but either not submitted or submitted and not voted on by the Congress would retain their existing fast track status should the President choose to resubmit them in a subsequent Congress. The same would be true of the Doha Round, even though it would not likely be concluded. Other negotiations begun but not concluded (UAE, Thailand, Malaysia, etc.) would not have fast track status. That means that if FTAs with Colombia, Panama and Korea are not addressed by the current Congress they could still be considered under expedited procedures in the next one.

Finally, the draft bill adds two new authorities – authorization for the President to eliminate duties on items where there is no domestic production, which would obviate the need for many miscellaneous tariff bills, and authority for fast track approval of changes in existing FTAs that are made solely for the purpose of harmonization as in our regional objectives.

This has been a significant project for the NFTC – we've been working on it since February, and many members played important roles in the process – so many that I cannot begin to mention them all for fear of leaving someone out. I do want to thank, however, two outside experts who also helped us whose names are familiar to those who work on trade -- Grant Aldonas and Greg Mastel. In addition, I do want to express appreciation to the chair of the NFTC Trade Committee, Brendan Harrington, of Kodak, for his patience, good will and help in shepherding this project through to its conclusion.

We have made the bill available to Members of Congress and have brief relevant staff on it. On their advice, we have not sought to have it introduced this year but will revisit that decision in the next Congress, which is when the real debate will occur. Between now and then we will continue to circulate it on the Hill and encourage the trade community to discuss its contents. The bill and associated materials are posted on our website at the following URL: http://nftc.org/newsflash/newsflash.asp?Mode=View&articleid=1969&Category=All and comments are welcome.



2008

Annual World Trade

DINNER AND AWARD CEREMONY

Advancing Global Commerce
for Over 90 Years

Wednesday, September 10, 2008

NEWSEUM
World's Most Interactive Museum

555 Pennsylvania Ave., N.W., Washington, DC

Reception 6:30 p.m. | Dinner 7:30 p.m.

Black Tie RSVP

THE NATIONAL FOREIGN TRADE COUNCIL FOUNDATION

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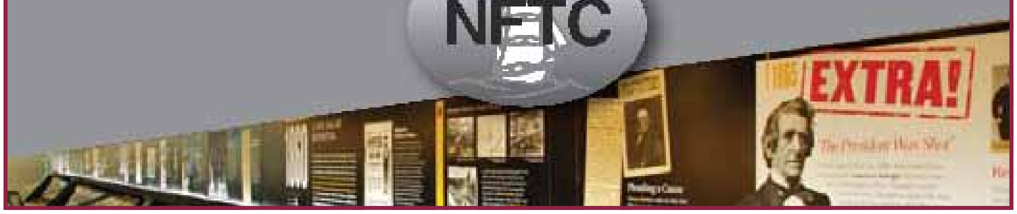

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