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 2009 Issue

A Word From the President
Dangers of Democracy

One of the great political and economic themes throughout history has been the class struggle – the efforts of the poor to redistribute political and economic power in their favor. These struggles have been sometimes violent, sometimes peaceful, sometimes successful, but more often not. The response of the "haves" has varied from repression to benign neglect to the pursuit of economic policies intended to produce growth and welfare gains for everybody. All of those responses have in different situations both succeeded and failed.

The 21st century, far from being the "end of history," has brought with it a resurgence of the class struggle, but this time largely through the ballot box. In a growing number of countries – Bolivia, Venezuela, Thailand, Ecuador, Nicaragua, Honduras, arguably Iran and others—new leaders are being elected democratically on platforms of shifting economic and political power to the "people," meaning peasants, farmers, and workers and away from the upper and middle classes that have controlled the government and economy in these societies for generations.

Once in office, however, these leaders encounter predictable resistance from the groups who stand to lose if they achieve their goals. Their response to resistance has generally been to move farther to the left on economic policy and to resort to a variety of undemocratic tactics to get their way – rigged elections, referenda that sidestep elected representatives through direct appeals to the people, control of the media and other institutions that influence public opinion, revisions of the constitution that allow them to remain in power, and use of government funds to reward and influence selected groups – the "bread and circuses" policy pioneered by the Romans.

(Continued on page 2)

USLBA Board of Directors Transitions Management of Association to NFTC

In July, the U.S.-Libya Business Association (USLBA) Board of Directors announced that it had transitioned management of the association to the National Foreign Trade Council (NFTC). The USLBA was previously managed by David Goldwyn, President of Goldwyn International Strategies, LLC, a leading international energy consulting firm. Goldwyn is departing the association to embark on a new opportunity, which will be announced shortly. The USLBA announced its new incoming corporate Chairman Ian Davis, Vice President of Government Relations for Occidental Petroleum, and its new Executive Director, NFTC Vice President for Regional Trade Initiatives Chuck Dittrich.

"We thank David for his many years of dedicated service on behalf of the U.S.-Libya Business Association. He has provided invaluable strategic counsel, analysis, and leadership to the association during his tenure, and we wish him all the best in his next assignment," said outgoing USLBA Chairman Kay Larcom, Director of Federal Affairs for ConocoPhillips.

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Inside this Issue:

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A Word From the President

(Continued from page 1)

These tactics do not always succeed. Thailand's Prime Minister Thaksin and Honduras' President were both removed and effectively exiled. In Venezuela and Bolivia, Chavez and Morales have been more successful – so far. But both the presence of these leaders in power and the circumstances of their removal if it occurs pose significant policy dilemmas for the United States as illustrated in the current case of Honduras. On the one hand, the U.S. supports rule of law. President Zelaya was lawfully chosen in an election that few complained about at the time, but his removal was extra-legal, though not necessarily unpopular. Just as the critical test of our First Amendment one's willingness to support speech that is offensive to everyone not just disagreeable to a few, the United States' support for democracy is best tested when we have to deal with democratic outcomes we dislike. If we mean what we say about democracy, then we should accept the will of another country's electorate even if it is not the outcome we would prefer.

On the other hand, in the case of Honduras it was apparent that the president had lost the support of the country's other political institutions and was probably engaged in an effort to stay in power after the expiration of his term early next year. In addition, he was beginning to pursue policies that would likely not be in the interest of American business and investment in Honduras. Thus, one can argue that US interests, not to mention Hondurans' interests, lie with a change of government, and we should be finding a way to support the regime that has taken over. It would have been easier if Zelaya had engaged in clearly unconstitutional actions – which could well have occurred if he had had more time – then we could then have supported his ouster in the name of restoring democracy. Instead, we have only the word of the *coup* leaders that democracy was in peril. (Moral to prospective *coup* leaders – if you want international support, accumulate more evidence before you act.)

The United States, and more importantly, Honduras, will no doubt survive the current crisis. More interesting is the lesson it gives us going forward because there will only be more of these situations. One of the consequences of both globalization and the rapid development and dissemination of modern communication devices is that disparities in income between countries and within countries are much more obvious than they used to be. The peasant farmer who never in his life has been more than twenty miles from his birthplace now has a cell phone and a television set, and so now he can see what others have and how they live. As a result, pressures on governments for wealth and power redistribution will only grow, and the temptation for populist leaders to promise everything in order to get elected will prove irresistible in many cases. Likewise, the determination of the "haves" to resist the "have-nots" is entirely predictable. (Another consequence of globalization is the exacerbation of income inequalities – but that will be the subject of another column another time.)

This is not new, the world has survived numerous such leaders over the past sixty years. It is precisely the fact that it is not new that is so depressing. In the post-Soviet Union era and when government after government began to pursue deregulation and free market policies, it was easy to claim that the class struggle was over and that a clear path to prosperity had been identified. All nations had to do was follow it closely, and everyone would win. We are now learning, first, that the path is not so clear; second, that governments are not necessarily going to follow it; and third, that the beneficiaries of the *status quo* are not going to surrender without a fight. That means more Venezuelans and Honduras's in the future and more dilemmas for the Obama Administration in figuring out where to stand.

USLBA Board of Directors Transitions Management of Association to NFTC

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The association will remain a separate entity but will be co-located with the NFTC. Incoming Executive Director Chuck Dittrich has a background in Middle East affairs and has managed the NFTC's U.S.-Middle East Free Trade Coalition since its inception. Dittrich has also led the Council's advocacy and outreach efforts to press for passage and implementation of free trade agreements with Bahrain, Morocco and Oman. Dittrich will retain his position at the NFTC as Vice President for Regional Trade Initiatives.

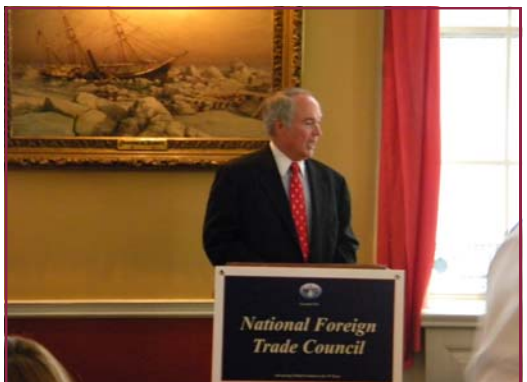
"The NFTC is one of the most highly regarded trade associations in Washington, and their team is deeply steeped in U.S.-Middle East policy issues," said Davis. "We have worked alongside the Council on a number of U.S-Libya related matters, specifically, and we look forward to working with the organization in this new capacity."

The USLBA was organized to enhance commercial relations between the United States and Libya, educate the public about their importance, and facilitate commercial and diplomatic dialogue between the two countries. The association is a non-profit, member-based organization that sponsors regular policy conferences, briefing sessions and major events featuring senior U.S. and Libyan officials. Ambassador David Mack serves as the association's honorary chairman.

For more information, visit www.us-lba.org or www.nftc.org.

NFTC Celebrates 95th Anniversary in New York

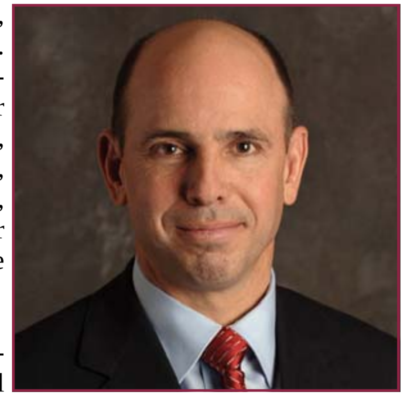
On June 24th, the NFTC held its Summer Board meeting at India House in New York City. The meeting was followed by a luncheon open to NFTC members and guests to kick-off a year of celebration. The NFTC was established in 1914, by a resolution of the first National Foreign Trade Convention, during its proceedings in Washington D.C. In this resolution, the convention called for the creation of a national organization "to coordinate the foreign trade activities of the nation." The convention appointed 35 delegates to serve as charter members of the NFTC, with James A. Farrell, then-President of U.S. Steel, the new organization's first chairman. The location Mr. Farrell chose for its initial meeting place was India House in New York.



Bill Reinsch, NFTC President

News for Our Members

John Surma, of U.S. Steel Speaks at 95th Anniversary Luncheon



U. S. Steel was a charter member of the NFTC in 1914 and then-President, James Farrell, served as NFTC's first Chairman. In his role at the NFTC, Mr. Farrell also presided over the organization's first meeting. Mr. Surma discussed the 107 year history of U.S. Steel -- the world's first billion dollar corporation. They now make steel in four countries – including the U.S., Canada, Slovakia and Serbia, and are in the top 10 of global steel producers, employing 45,000 people. Speaking to the company present representative, Surma acknowledged that we all share a common goal in that each of our companies is looking to compete and win in an increasingly competitive global economy, regardless of economic conditions.

Surma discussed the ups and downs of the domestic steel industry and acknowledged the role that James Farrell had in helping manage U. S. Steel through the depression of 1913 and the so-called "Great Depression." Surma further noted that some of the impact on the U. S. steel industry was not tied to the economy, but, rather historically significant developments in the industry including the post-war rebuilding of the Japanese steel industry, technology changes, and currency foliations. Also, a wave of "dumping" and subsidized steel imports heavily impacted the industry.

Reflecting back on James Farrell, Surma said that Farrell certainly understood the importance of the global marketplace. Farrell, he noted, was a well known proponent of free trade, and in a 1932 speech in Vancouver, British Columbia, Mr. Farrell spoke of the subject as follows: "People of all countries should unite in resistance to undue isolation and the restriction of international trade ... With world trade free of unnecessary restrictions, these potential [international] markets are open to the industrial nations of the world, and the possible rise in living standards and the resulting power of consumption is sufficient to blot out the present anomaly of one-half of the world suffering from a surplus of goods while the other half is subject to extreme deprivation. This is indeed a heavy price to pay for nationalistic desire for self-containment."

Surma also discussed the impact of China on the world market. He shared that China is now the world's largest steel producer and exporter, with annual steel capacity in excess of 500 million metric tons in a world of 1.2 billion metric tons of total capacity. The U. S. domestic steel industry produces around 100 million metric tons annually. This served as a segue for a discussion of the impact on labor and environment. He noted that the U.S. International Trade Commission recently handed down an important preliminary determination unanimously supporting the steel industry's position that unfairly traded imports of Chinese product caused material injury to domestic markets. He stated that in the last year, producers from Australia, Canada, the European Union, India and Russia filed trade actions against steel imports from China.

On climate change, he said that the American steel industry, as a whole, has reduced energy consumption by more than 33 percent since 1990, with corresponding reductions in emissions — well beyond the targets called for in the Kyoto Protocol. He discussed "carbon leakage," a term that implies that a carbon tax in one country or region is likely to cause a "leakage" of manufacturing and employment to another where no such carbon constraints exist. He expressed concern that steel manufacturing jobs will undoubtedly "leak" overseas to countries where the steel industry already suffer from terrible environmental pollution. For example, he said that the World Bank now estimates that 99 percent of those living in urban areas in China are breathing unsafe air.

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Chairman U. S. Steel Speaks At NFTC's Luncheon Celebration

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U. S. Steel believes that a global climate change solution of any kind cannot be achieved unless the developing world is part of the process. U. S. Steel is working diligently with members of Congress, the United Steelworkers, and other energy-intensive industries to respectfully convey a message to protect against legislation that could put lower-emitting operators out of business while high-emitting industries expand.

Finally, Surma stated that, "in a world that now views sustainability as a global imperative, steel can be – must be – the material of choice." Steel, he said, is the most recycled material in the United States and leaves a smaller carbon footprint than any alternative material a consumer might reasonably consider. As an example, he cited a life cycle assessment of canning versus freezing green beans conducted by the Institute for Environmental Research and Education. The results indicated that one serving of canned beans requires nearly 30 percent less CO2 to produce and deliver to your pantry than the frozen version. That simple example, he noted, "is as compelling for consumers feeding their families as it is for engineers designing energy-efficient vehicles or governments planning sustainable cities."

NFTC Forms New Trade and Climate Working Group

Given the increasing attention to trade-related aspects of climate legislation, NFTC has formed a new Trade and Climate Working Group. The Working Group is open to NFTC board members and is designed to provide opportunities to collaborate on and advance member company interests with respect to trade-and-competitiveness aspects of U.S. and international climate policies.

NFTC is pleased to announce that Jeremy Preiss, Vice President, Chief International Trade Counsel for United Technologies Corporation (UTC) and a member of NFTC's board, will serve as the corporate chair of the new Working Group.

The Working Group will address key policy issues at the intersection of trade and climate change, which are increasingly under discussion as Congress prepares climate legislation and U.S. negotiators work towards a global climate agreement this December in Copenhagen. These issues include: ensuring trade-related climate measures in domestic legislation comply with global trade rules; promoting liberalized green trade and U.S. leadership in support of a comprehensive environmental goods and services trade agreement; highlighting the need for strong protection of intellectual property rights to spur the development of new environmental technologies and "green" jobs in the United States; and advocating an international framework for dealing with trade and competitiveness-related climate measures.

NFTC has been provisionally accredited as an observer organization with the United Nations Framework Convention for Climate Change (UNFCCC). NFTC staff participated in intercessional meetings in June in Bonn, Germany. Representatives from NFTC plan to participate as observers in the Conference of Parties (COP) 15 in Copenhagen this December, the set of international negotiations held under the UNFCCC which are expected to result in an international agreement on climate policies.

For more information, contact Jake Colvin at jcolvin@nftc.org.

News for Our Members

NFTC Launches Facebook Page

The National Foreign Trade Council (NFTC) has made its Facebook debut. NFTC's new Facebook page will be updated regularly to include all press releases, relevant news articles, upcoming events and important announcements. Additionally, in the future it may be used as a forum for discussions about trade-and tax-related issues and current events. Its purpose, therefore, is twofold: to provide up-to-date information from the NFTC and to facilitate discussion and promote dialogue about the NFTC's most pertinent issues.

We invite you to be part of our Facebook community.

It's easy! Follow the three steps below to become a "fan" of the NFTC's Facebook page:

(1) Go to the Facebook Web site – http://www.facebook.com
(2) Go to the Search tab in the top right-hand corner and type in "National Foreign Trade Council."
(3) A thumbprint of NFTC's page will appear on the screen. Click "Become a fan" to the right of the NFTC logo.

Once you've done that, NFTC's page will be automatically linked to your personal Facebook profile, so you can check it as often as you'd like. To post something in response to a news update or press release, simply write on the NFTC Facebook wall and click "Share" once you're finished.

Click here for a direct link to NFTC's page: http://www.facebook.com/pages/Washington-DC/National-Foreign-Trade-Council/105955409792#/pages/Washington-DC/National-Foreign-Trade-Council/105955409792?ref=ts

Not on Facebook? Joining is easy. Simply go to Facebook.com, enter your current e-mail address and create a basic profile. It's a great way to network with other people; communicate with your friends, family and colleagues; and follow the people and organizations that interest you.

We hope to see you on Facebook soon!

NFTC Summer Board Meeting

Chairman John Mullen opened the business portion of the Board meeting by recognizing the importance of the mission and activities of the NFTC. The results of the fiscal year ending April 30, 2009 were reviewed. In spite of the current global economic situation, the NFTC managed to end the fiscal year within budget. A new budget the fiscal year from May 1, 2009 through April 30, 2010 was approved. Three new Board members were elected. They were Jay Farrar, Bechtel; Bill Lane, Caterpillar; and Dave Modi, Ingersoll Rand.

President Bill Reinsch commented on the NFTC's tax deferral efforts, its importance to our members, and the work being done in collaboration with other organizations. He also expressed concern about the slow pace of the Administration's development of a pro-active trade agenda, pointing out that in the absence of such an agenda, protectionist proposals like "Buy America", the Mexican truck driver's restrictions, and the restrictions on Chinese chicken imports are filling the gap. The NFTC will fight those, as expected, but looks forward to a more ambitious agenda from USTR. In addition, the NFTC's work continues on business-related immigration visas, bi-lateral trade agreements, intellectual property protection and the relationships of global climate and cross-border trade issues.

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NFTC Summer Board Meeting

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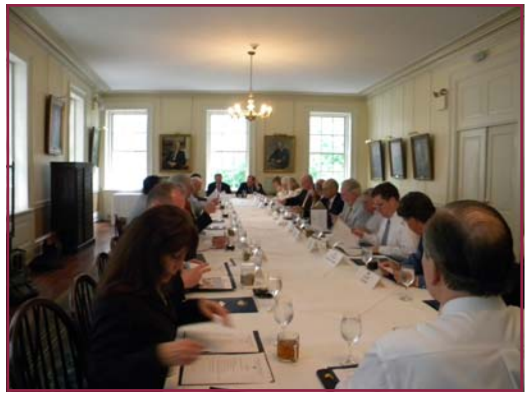


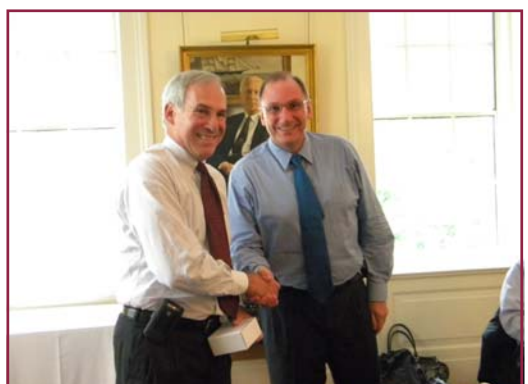
USA*Engage was created in the late 1990's to combat unilateral sanctions by the US government and sub-federal jurisdictions. In the later case, states and municipalities have attempted to impose punitive restrictions on firms working within their jurisdiction and also conducting business in countries for which these governmental entities have created their own sanctions. Our biggest success occurred on June 19, 2000, in a unanimous decision in the case of Crosby vs. NFTC, when the U.S. Supreme Court struck down the Massachusetts Burma law. The Court ruled that the law impermissibly intruded on the federal government's authority and was preempted by federal law regarding Burma. This issue at both the federal and local levels requires an ongoing vigilance, as states continue to enact such laws notwithstanding the Court's decision.

Today, USA*Engage remains active on the sanctions front. Reinsch noted that regarding sanctions on Iran, up until the recent Iranian election, the Administration had focused on trying to start a dialogue but is finding itself under increasing pressure from neoconservatives and others to take a much harder line with respect to Iran. The Administration has also been taking a more open approach to sanctions on Cuba and working quietly to reduce points of contention.

President Reinsch announced that the NFTC is assuming management of the U.S. - Libya Business Association at the request of the latter. He believes it is a good fit for the NFTC, as the NFTC has long been involved in Libya issues and knows the membership well, since most of them are also NFTC members.

He also commented on the work being done with the Global Innovation Forum, including a program in April 2009 at Howard University that included USTR Ron Kirk. The Forum focuses on international innovation policy issues, including global trade rules and the protection of intellectual property rights worldwide. The central idea of the Forum is to engage all of the relevant stakeholders including the UN and other NGOs. (Our members believe innovation is critical to solving global challenges and is one of the single most important drivers of economic growth.) The Forum's efforts are being led by John Stubbs of Romulus Global Issues Management.

Before adjourning, the chairman, president and board thanked Gerry Swimmer of Ingersoll Rand, who is resigning from the Board, for his many contributions over the years which included chairmanship of the Plans and Policy Committee, as well as leading roles in creating USA*Engage, managing our lawsuit against Massachusetts, and as part of the FSC/ETI Coalition.



Gerald Swimmer, Ingersoll-Rand Company and John Mullen, NFTC Broad Chairman

Business Associations Urge President Obama to Pursue Green Trade, Ask Congress to Fight Green Protectionism

In separate letters released this month, NFTC joined other leading business associations to promote green trade and ask Congress to reconsider provisions contained in climate legislation which passed the House of Representatives in June, which could conflict with U.S. trade obligations or encourage a new "green trade war."

In a July 22nd letter to Senate leadership, NFTC joined three other associations – the Emergency Committee for American Trade, the U.S. Chamber of Commerce and the U.S. Council for International Business – urging them to refrain from including in their bill certain trade and competitiveness provisions included in the House-passed American Clean Energy and Security Act of 2009. The organizations wrote, "We are concerned that some provisions contained in H.R. 2454, such as those creating the international reserve allowance program and permitting tariffs or 'border measures' on carbon-intensive imports, are highly inflexible, and likely to conflict with obligations the United States has undertaken in international trade agreements. In fact, these provisions are already stirring consternation among some of our key trading partners and could trigger a 'green trade war.'"

Senate committees are expected to work on climate legislation during the August recess and seek to finalize an agreement before December, when world leaders are scheduled to conclude an international climate agreement in Copenhagen. Senator Barbara Boxer, Chair of the Senate Environment and Public Works Committee, has indicated she plans to have a draft of a climate bill ready once members of Congress return from the August recess.

Separately, NFTC joined other leading business associations in a July 30 letter to President Obama, strongly urging the administration to pursue a swift conclusion of a comprehensive Environmental Goods and Services Agreement. Our organizations asked the president to use a variety of channels to lower trade barriers to green goods and services and promote the economic and environmental benefits of green trade, including the World Trade Organization (WTO), other economic forums and climate negotiations.

In addition to the NFTC, the letter was signed by groups including the Business Council for Sustainable Energy, the Coalition of Service Industries, the Emergency Committee for American Trade, the Information Technology Industry Council, the National Association of Manufacturers, the Organization for International Investment, the Retail Industry Leaders Association and the U.S. Chamber of Commerce.

The letter urged the administration to explore "alternative or complementary efforts" to achieve a green trade agreement, including through forums such as the OECD or APEC. The NFTC and the other organizations encouraged the President to promote the environmental benefits of green trade in international environmental forums, including the United Nations Framework Convention on Climate Change and the Major Economies Forum. The letter also underscored the importance of protecting intellectual property rights in green technologies with respect to stimulating American innovation and creating green jobs, and urged the President and Congress to emphasize the importance of green trade in domestic legislation.

For more information, contact Jake Colvin at jcolvin@nftc.org and for a copy of the letter visit www.nftc.org.

USA*Engage Joins Academic Organizations to Urge Lifting Cuba Academic Travel Restrictions

The National Foreign Trade Council (NFTC) and USA*Engage joined academic, cultural exchange and trade groups in sending a letter to President Obama, urging the Administration to lift restrictions on academic travel to Cuba. The letter sent by NAFSA: Association of International Educators and 16 other organizations recommended that academic travel to Cuba be permitted under general license and similarly, that visas be granted to Cubans coming to the United States for academic and cultural exchange.

The letter notes that, “We are approaching the start of another academic year in which American students will find their opportunities to study abroad in Cuba to be severely curtailed because of regulations issued by the Bush administration...we write in support of the very welcome actions that you have taken to begin to chart a new course in U.S. relations with Cuba, and to urge you, as you continue to develop new policies toward the island nation, to restore academic travel between our countries.”

In addition to the NFTC, USA*Engage and NAFSA, the letter was signed by organizations ranging from the American Association of State Colleges and Universities and Community Colleges for International Development, to Orbitz Worldwide, the Latin America Working Group and the Washington Office on Latin America.

For more information, contact Jake Colvin at jcolvin@nftc.org.

Iran Sanctions, Spitting in the Wind

As events in the Islamic Republic of Iran continue to unfold unpredictably, the congressional domestic politics of U.S. policy remain frozen in a curiously bipartisan time long-past. Republicans like Mark Kirk and John Kyl assert that Congress must pass immediately additional unilateral, extraterritorial sanctions targeting Iran’s energy sector, gasoline imports in particular. Democrats like Howard Berman and Evan Bayh join the chorus, with the caveat that none occur until the September 24-25, G20 summit in Pittsburgh, the putative deadline of the Obama administration for a response to its offer to negotiate directly with the Iranian government over, principally, nuclear proliferation.

Meanwhile, the world witnesses the continuing consequences of Iran’s June 12 election, which has occasioned a crisis of governance in the revolutionary Islamic Republic. As Fareed Zakaria concludes in his July 27 column, “On Iran, Wisely Doing Nothing”: “Time is not on the current Iranian regime’s side. Amid all this confusion, we have a clear answer to a crucial puzzle. We always wondered, are there moderates in Iran? Yes, it turns out – millions of them.”

History demonstrates that U.S. unilateral economic sanctions have penalized U.S. commercial interests, prevented direct engagement with the millions of Iranians hungering for commerce with “the Great Satan” – Khomeini knew his Milton – and in fact assisted the authoritarian *status quo*. As Michael Slackman wrote in his July 21 *New York Times* article, “Stifling Dissent, Hard-Line Force Extends Control of Iran’s Society”: “What is less quantifiable is the [Iran Revolutionary Guards] corps’s black market smuggling activity, which has helped feed the nation’s appetite for products banned by sanctions, while also enriching the corps. The Rand report quoted one member of Iran’s Parliament who estimated that the Revolutionary Guards might do as much as $12 billion in black market business annually.”

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Iran Sanctions, Spitting in the Wind

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In the face of the record, voices continue to be raised for more sanctions. In a July 22 testimony before the House Foreign Affairs Committee, Arizona State University Professor of Law Orde Kittrie, co-director of the Iran Energy Project, Foundation for Defense of Democracies, stated: "While IRPSA is an excellent bill, a cutoff of Iran's refined petroleum supplies may not be sufficient to convince the Iranian regime that the benefits of its nuclear program are outweighed by the sanctions costs of proceeding with the program. There are a number of provisions in other Iran sanctions bills that I urge be passed alongside IRPSA . . . These additional provisions include – and I'll highlight just a few – first, provisions that would cut off most remaining direct U.S. trade with Iran. According to recent reports by the Associated Press and other sources, the U.S. had $685 million in exports to Iran in 2008. That is an eightyfold increase over the $8 million in U.S. exports to Iran in 2001 – an eightyfold increase."

Professor Kittrie is citing the sale of humanitarian goods and services – agricultural and medical products, permitted under the Trade Sanctions Reform Act of 2000, subject in every case to license from the Office of Foreign Asset Control of the U.S. Treasury. Apparently, the millions of moderates in Iran – self-selected from its general population are to be deprived of such humanitarian products in order to move the regime on an issue that has factored in U.S.-Iran relations since the Eisenhower administration and notwithstanding the black market realities that sanctions have created.

Not coincidentally, the Advisory Committee on International Economic Policy, on which NFTC President Bill Reinsch serves as chair of the Sanctions Subcommittee, has taken a more considered view of humanitarian trade between the U.S. and Iran under TSRA. See the text of ACIEP's letter to Secretary Clinton on page 11.

Save the Date...2009 World Trade Dinner and Award Ceremony, October 14, 2009

National Foreign Trade Council Foundations Annual World Trade Dinner and Award Ceremony is scheduled for Wednesday, October 14, 2009, once again being held in Washington, D.C., this year at the National Geographic Society, 1145 17th Street NW. The NFTC's World Trade Dinner is a popular event for senior corporate and public officials and foreign dignitaries; 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 U.S. House of Representatives member Gregory Meeks and 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 company support opportunities or individual reservations contact the NFTC at 202-887-0278 or nftcinformation@nftc.org.

ADVISORY COMMITTEE ON INTERNATIONAL ECONOMIC POLICY

July 27, 2009

The Honorable Hillary Rodham Clinton
Secretary of State
2201 C Street N.W.
Washington, DC 20520

Dear Madam Secretary:

The Advisory Committee on International Economic Policy applauds the Administration's strategy to engage the Islamic Republic of Iran. However, the Administration's policy, in order to be successful, must be consistently and coherently applied. Unfortunately, at the moment there are uncoordinated activities resulting in inconsistent and confusing application of U.S. laws. We write to encourage you to take steps to clarify our policy in one important respect.

The Trade Sanctions Reform and Export Enhancement Act (TSRA), passed in 2000, made it standing U.S. policy to permit humanitarian, agricultural and medical commerce between the U.S. and Iran, subject to stringent licensing by the Office of Foreign Assets Control (OFAC) in the Treasury Department. At this critical moment in relations between the U.S. and Iran, we recommend the Administration clearly reaffirm the TSRA policy of permitting licensed humanitarian based commerce. Reaffirmation is badly needed because of perceptions that have taken root in the international banking community regarding licensed U.S. transactions with Iran.

OFAC provides specific one year licenses for the sale of medical and agricultural products to Iranian persons and entities by U.S. persons and entities. These transactions necessarily involve services by third party financial institutions, usually through letters of credit. As part of the U.S. sanctions regime, U.S. banks have been prohibited, however, from engaging in such activities. Other international financial institutions have been willing to provide the requisite services. In the past year, however, many international financial institutions have declined to continue this practice because they have decided that, notwithstanding the legality of TSRA licensed transactions within long-established U.S. policy, they will incur the risk of being "punished" by multiple U.S. authorities. This has placed severe cash flow strains on OFAC-licensed U.S. exporters. U.S. law firms, as well, are finding it no longer possible to receive payment from Iranian clients, even though TSRA specifically allows U.S. entities to provide legal services for Iranians regarding U.S. laws.

We recommend the Administration clearly support and encourage all OFAC-licensed trade permitted under TSRA and publicly indicate that it does not discourage the provision of necessary facilitating services by third party financial institutions. OFAC-licensed humanitarian trade between the U.S. and Iran is a small, but significant means of constructive engagement that provides an important connection to the people of Iran. At this juncture in the Administration's strategic effort *vis-à-vis* Iran, we believe it would be useful to clearly support and encourage such trade, including, specifically, ensuring that necessary third party financial services in support of OFAC-licensed transactions are not obstructed.

Yours truly,

Theodore W. Kassinger
Chairman
Advisory Committee on International Economic Policy

William A. Reinsch
Chairman
Subcommittee on Economic Sanctions

NFTC Expresses Concern Over Shift in India's Approach to Taxation of Cross-Border Investment

The National Foreign Trade Council (NFTC) in July expressed concern over arguments being made by Indian revenue authorities that the country is entitled to tax certain capital gains on global mergers and acquisitions taking place outside of the country. In a letter sent by NFTC President Bill Reinsch to Indian Minister of Finance Pranab Mukherjee, the NFTC expressed deep concern over such assertions.

"U.S.-based multinational companies in particular have a history of robust investment in India, where our investors have created significant jobs and wealth. We are writing to express our concern about a recent shift in the approach of Indian revenue authorities towards the taxation of cross-border investment that seems at odds with the efforts of the Government of India to liberalize India's foreign investment policies," wrote Reinsch.

Over the past two years, the NFTC and many of its members have noticed that Indian revenue authorities have begun to argue that India is entitled to tax certain capital gains on global mergers and acquisitions taking place outside of the country, particularly in the case of a transfer of shares in a non-Indian company between two non-Indian residents.

In addition, the NFTC letter pointed out, "it seems that the revenue authorities are trying to apply this to already completed transactions (e.g., in the Vodafone – Hutchison matter). Thus, the revenue authorities are seeking to recover the tax from non-resident buyers who, they assert, were required to withhold the tax from the consideration paid to sellers -- even if the buyers and sellers have no connection with India. The revenue authorities have sought to support this position with retrospective tax legislation enacted in 2008."

The letter also noted that Indian tax laws have not been amended in relation to these very commonplace transactions, suggesting, "the new approach is based on a novel interpretation of existing provisions." Reinsch wrote, "The new approach is novel not only in relation to long-standing Indian interpretation but also compared to generally accepted norms of international taxation. Very few countries seek to tax transfers of shares in foreign companies merely because the companies have underlying assets in country. Such measures are widely regarded as inappropriate due to their extraterritorial scope."

The NFTC also expressed concern that the new approach taken by the Indian revenue authorities to tax cross-border transactions is undermining the Government's efforts to liberalize its investment policies and could discourage future foreign investment.

"NFTC Members urge the Government of India to move swiftly to undertake a policy review of whether taxation of the transactions in question is appropriate. If, following such review, the Government of India remains convinced that these transactions should be taxable in India, our Members believe that the necessary changes should be made to the laws with prospective effect only, rather than through retrospective changes in interpretation of current law or application of withholding tax provisions," Reinsch concluded.

For a copy of the letter, please visit http://www.nftc.org/default/tax/Tax%20Treaties/Indian%20MoF%20letter.pdf. For more information, contact Catherine Schultz at cschultz@nftc.org.

NFTC Tax Treaty Survey Results

Thank you to everyone that responded to the *2009 NFTC Tax Treaty Survey*. The survey continues to be an important tool for NFTC members to communicate their tax treaty wish list and issues to the U.S. Treasury and the IRS. An overview of the survey responses follows.

Country Priorities

While there was some change in the ranking of the most significant countries to NFTC member companies who responded to the survey ("respondents"), two countries emerged as the top priorities for the most number of respondents, and the countries in the top tier shifted. As has happened in the past, the countries that rank in the top two tiers (those that were selected by the most respondents) were clustered in groups of four or five; thereafter, a significant drop in votes per country occurs.

- The country that was identified as the most important to respondents with 72% of the vote (down from 81% last year) was Brazil--permanent establishment, and residence were the greatest concerns, followed very closely by interest, royalty and dividend withholding.
- The country that received the second highest number of votes with 68% of the vote was India—permanent establishment and business profits were the greatest concerns, followed by interest, royalty and dividend withholding. There were also concerns about treaty implementation issues and the MAP process.

The countries that were identified as the next most significant to respondents with 48-60% of the votes (these countries were also most frequently listed as the first or second most important country by respondents) are: China, Singapore, South Korea and Taiwan. Canada has fallen off the list of top priorities following the ratification of the U.S.-Canada in 2008. China and Singapore were in this tier last year, but South Korea and Taiwan have moved up in significance to respondents. The negotiation items that were listed as most significant in each country are:

- China: reducing withholding rates on interest, royalties, and dividends were uniformly important;
- Singapore: permanent establishment, interest, dividends and royalty withholding were uniformly important;
- South Korea: permanent establishment, business profits and royalties were the most important, closely followed by interest and dividends;
- Taiwan: business profits, royalties and dividends were uniformly important.

The countries that were included in the second tier (with 36-44% of the votes) were Argentina, Canada and Mexico. The priority of the countries in the second tier shifted, as Canada has become more of a priority for treaty implementation issues and moved down on the overall priority list. The items that were selected as most important for these countries are:

- Argentina: reducing withholding rates on interest and dividends were all significant, followed closely by permanent establishment;
- Canada: treaty implementation, the MAP process, interest, royalty and gains were all uniformly important;
- Mexico: gains, interest withholding and royalties were important, followed by permanent establishment.

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The countries that comprise the third tier garnered significantly fewer votes. Receiving between 20-32% of the votes were: Saudi Arabia, Chile, Columbia, Italy, Kuwait, Russia, Turkey, Australia, France, Angola, and Spain. The items that were selected as the most important for these countries are:

- Saudi Arabia: permanent establishment, interest and royalties.
- Chile: dividend withholding;
- Columbia: interest, royalty and dividend withholding;
- Italy: interest, dividends, business profits and permanent establishments were all uniformly important;
- Kuwait: permanent establishment followed by withholding on interest and dividends;
- Russia: business profits and permanent establishment;
- Turkey: permanent establishment, business profits, royalty, dividends and the mutual agreement process;
- Australia: permanent establishment and business profits were both important;
- France: permanent establishment, gains, interest, royalties and dividends were uniformly important;
- Angola: permanent establishment, interest, business profits and gains were all important;
- Spain: reducing withholding on royalties and interest.

The fourth tier of countries received only 16% of the votes. These countries in order of significance: Germany, Qatar and Malaysia. The remaining countries received only one to three two votes each.

<u>Question Responses</u>

Question #1 asked respondents to expand upon any tax treaty negotiation issues that were noted in the selection of countries and items.

- The most frequently cited response was the enhancement of the U.S. tax treaty network to countries in which multinational corporations have significant business activities: Singapore, Brazil, and China were mentioned most frequently.
- Respondents also reiterated the importance of eliminating withholding taxes on interest, royalties and dividends. Specific countries were cited as having high withholding rates, including Mexico and Turkey.
- Problems were encountered in permanent establishment interpretations in India, China, and Kuwait. India was cited as taking particularly aggressive positions on permanent establishment.
- The Middle East and sub-Saharan Africa also were cited as areas where tax treaties could reduce the potential for permanent establishment abuse. Respondents also recommended doing regional treaties, based on a new regional "model" tax treaty, with some of these areas. After a regional treaty was in place, the U.S. could adopt a more robust treaty with specific countries.
- Respondents also recommended updating some of the oldest U.S. treaties, e.g. Philippines and Egypt, as part of this process..
- Respondents outlined problems with Mexico and its characterization of income. Mexico also changed its characterization of payments for software to expand the types of payments subject to withholding tax. Mexico was also cited for having very high withholding rates.

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- Binding arbitration and more efficient mutual agreement procedures were also referred to in several responses (to this question and question #2); respondents noted that significant delays were encountered in resolving examinations and that settlements were often held hostage unless taxpayers waived access to mutual agreement. procedures. Many respondents would like to see binding arbitration provisions added to all future treaties. A mandatory arbitration provision with the U.K. was requested.
- There was recognition that the ratification of the recently signed protocol with Canada could alleviate many of the problems the companies are currently facing there.

Question #2 focused on tax treaty implementation issues, asking respondents to provide details about examinations, settlement problems, and procedural issues encountered in obtaining tax treaty benefits.

- Onerous procedures encountered to receive reduced tax treaty withholding rates were cited, particularly in Italy, Singapore, Portugal, China and the U.K.
- The expansion by certain countries of what constitutes a permanent establishment and the attribution of profits to that permanent establishment (sometime attributable to misinterpretation by tax authorities) is another issue of significant concern to respondents.

The inability of the MAP and Competent Authority to resolve issues of double taxation was cited frequently with reference to India, Mexico, and Japan.

Thank you again to those that took the time to respond to the *2009 NFTC Tax Treaty Survey*, your responses provided valuable information. The cleansed information has been provided to the U.S. Treasury and the Internal Revenue Service officials with responsibilities in the tax treaty area.

For more information on the *2009 NFTC Tax Treaty Survey* contact Catherine Schultz at cschultz@nftc.org.

Save the Date: 2009 NFTC Fall Tax Committee Meeting Set for October 1st and 2nd

The 2009 NFTC Fall Tax Meeting will be held on October 1st and 2nd at the Washington Hilton, Washington, DC. Be "in the know" detailed roundtable discussions with key congressional, EU, Treasury and IRS Officials will be featured at the Fall Meeting. A draft agenda and registration form are available at www.nftc.org. The NFTC Fall Tax Committee Meeting will begin with an afternoon panel followed by a reception and dinner on Thursday, October 1st, and will continue with panels and a luncheon speaker on Friday, October 2nd. Please join us for the NFTC Fall Tax Meeting. For more information, please contact Catherine Schultz at cschultz@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.

Fifteenth Annual International Human Resources Forum - New York City-July 15-16, 2009

The NFTC's annual international human resource management forum was held at the University Club in New York City. There were 150 participants at the forum. The keynote speaker was Jose-Angel Gallegos, Senior Vice President-Human Resources at Wal-Mart International. He shared the experiences of Wal-Mart International which currently is nearly a $100 billion per annum business with approximately 700,000 associates. The key to their success has been the development of business leaders in the many markets in which they operate.

Lisa Durborow,Tyco Electronics and Bob Church, BNP Paribas

The forum also included case studies on talent development at such diverse companies as American Express, BNP Paribas, Bunge, PepsiCo and Tyco Electronics. The common themes in these companies included: the identification of the best candidates; assignment preparation which included expectation setting; on-going communication with assignees; and effective next assignment or repatriation planning.

Additionally, there were sessions on how companies are responding to the current global economic environment. The findings of 2009 surveys conducted separately by Brookfield Global Relocation Services and KPMG LLP were reported upon, with senior corporate international human resource colleagues from New York Life and Thomson Reuters sharing their perspectives.

Bill Reinsch, President of the NFTC, and Austin Fragomen, Managing Partner of Fragomen LLP provided the audience with updates on in-bound business immigration issues and gave their insights on what is, and is not, happening in Congress at this time. There were additional sessions on outbound immigration and work permit issues being faced by MNCs. Also, as reported over the years in the NFTC's annual global relocation trends surveys, the United States remains in the top five as a destination. A panel led by Fragomen LLP and KPMG LLP went over key issues facing companies when they bring colleagues here.

Sunita Singh McLaren, President, World Wise & Mark Feurer, Director, Global Human Resources Planning and Development

Global healthcare issues were covered by Cigna International Expatriate Benefits colleagues which included a session led by Dr. Lorna Friedman and Sergio DelBarco of the Inter-American Development Bank on wellness issues (obesity, diabetes, smoking abatement).

Not to be forgotten was a session on China. In this case, it was a presentation by Eric Drummond, Vice President-Human Resources at the National Basketball Association. The popularity of basketball in China is tremendous, therefore, the NBA is working with local partners in China to develop not only the NBA brand but to expand the sport throughout the country.

Amongst the lessons learned and "tripwires" to be aware of, was the final presentation at the forum by Don Dowling, International Employment Counsel at White & Case LLP. Dowling provided numerous examples of what international human resource and corporate counsels must understand so as to be compliant with host country employment laws and protocols, especially if a reduction in force is contemplated or occurring.

The next international human resources forum will be in Houston on March 10-11, 2010. For more information contact Claire Keogh at ckeogh@nftc.org.

2009 Cross-Border Mobility Trends and Issues

The NFTC continued to track cross-border mobility trends and issues through its support of surveys conducted in late 2008 and early 2009 by KPMG LLP and Brookfield Global Relocation Services, as well as through the NFTC Expatriate Management and International Assignment Management committees.

Despite the global economic downturn, most NFTC member companies are maintaining levels of cross-border assignments comparable to 2007 and 2008 levels. In discussions with our working committee representatives, our survey co-sponsors and various international human resource service providers, it appears that the number of cross-border assignments are holding steady as our member companies' business growth is still robust globally and because these companies are: (1) already well aware of total assignment costs; (2) have been careful in justifying the need for an assignee; (3) have been careful in the selection of assignee; and (4) are conscious of the hidden costs of suddenly cutting an assignment short.

Assignment cost management is certainly of current concern. To better manage the total costs one major financial service member has examined the flow people between London and New York and where possible has "localized" the assignee at the commencement of their move. This approach works because base and incentive compensation levels are comparable in New York and London. What is saved are many of the support overheads (housing, cost of living differentials, etc). This is an excellent example of sustaining business needs while reducing costs.

The results of the KPMG and Brookfield Global Relocation Services surveys were discussed at the recent IHR forum held by the NFTC in New York City. Colleagues from American Express, Computer Associates, BNP Paribas, Thomson Reuters, Tyco Electronics, Dell and New York Life International described how their respective companies are reacting to global mobility management in the current environment.

We will continue to share the survey findings and corporate learnings at future seminars and conferences. For a copy of the 2009 NFTC Global Relocation Trends Survey Report send your request to Claire Keogh at ckeogh@nftc.org.

World Intellectual Property Organization's (WIPO) Conference Addresses Intellectual Property and Public Policy Issues

Global Innovation Forum Executive Director John Stubbs attended the World Intellectual Property Organization's (WIPO) Conference on Intellectual Property and Public Policy Issues in Geneva, Switzerland July 13 and 14. The conference was designed to address the intersection of intellectual property policy and global challenges including climate change, public health and food security. The conference presented a mix of corporate and NGO representatives and included presentations by heads of other interested international organizations, including Margaret Chan from the World Health Organization and Pascal Lamy of the World Trade Organization.

WTO Director General Lamy called for "coherence" among overlapping portfolios and stated that the existence of the conference itself demonstrated that "IP has moved to the centre of cross-cutting debates that defy traditional boundaries between separate policy domains, and between distinct areas of technical expertise." He then denied that he, WHO Director General Chan and WIPO Director General Francis Gurry were attempting through this conference to establish themselves as the "Three Tenors" and spotlighted the need for member states to drive policy.

Tony Wood, Head of Worldwide Medicinal Chemistry for Pfizer Global Research and Development, and an author or inventor of more than 50 scientific publications and patents, including Maraviroc, a discovery for which he was awarded the RSC Malcolm Campbell Prize in 2005 and the ACS Heroes of Chemistry Prize in 2008, gave an interesting overview on the development of pharmaceuticals and the role companies such as Pfizer play in an innovation ecosystem that includes governments, academics and researchers from across a broad range of platforms. One interesting point made by Dr. Wood is that the intellectual property system itself enables and encourages competition. Through patent applications, Pfizer's chemical portfolio is known to Merck, GSK, Novartis and others, as theirs are known to Pfizer, and this competition compels companies to invest heavily in the development of new competitive products. He admitted that some collaboration between competitors would be useful, and understanding the transition between pre-competitive and competitive activities was a critical focal points for both companies and policymakers.

Presentations from all speakers at the conference are available online here:
http://www.wipo.int/meetings/en/2009/ip_gc_ge/program.html

A number of speakers, including Lee Feldman from the National Peace Foundation in Washington, DC and Professor Daniel K.N. Johnson from Colorado College, focused on the need for improved data and rigor in discussions regarding intellectual property protection. Three white papers currently in development by this pair aim to contribute to higher fidelity policymaking:

1. Innovating for an uncertain market: A literature review of the constraints on environmental innovation:
2. Challenges to technology transfer: A literature review of the constraints on environmental technology dissemination:
3. Financing environmental improvements: A literature review of the constraints on financing environmental innovation.

While these papers are focused specifically on areas of concern for companies engaged in the development and deployment of so-called "environmentally sound technologies," the papers will provide a review of interest for similarly aligned internal working groups for the Global Innovation Forum. These internal working groups will focus on four areas of interest for innovators: development (the creation of technology), deployment (the trade, transfer and use of technology), financing (access to capital) and poverty (specific issues confronting the world's poor). Stay tuned for more information on these new GIF working groups.

For more information contact John Stubbs at jstubbs@nftc.org.

Calendar of Events

Date	Event	Location
September 14, 2009	USA*ENGAGE Annual Award Luncheon	Washington, DC
October 1-2, 2009	Fall Tax Meeting	Washington, DC
October 6-8, 2009	Expatriate Management Committee Meeting*	Atlanta, GA
October 14, 2009	Annual Meeting	Washington, DC
October 14, 2009	Board of Directors Meeting	Washington, DC
October 14, 2009	Annual World Trade Dinner and Award Ceremony	Washington, DC
October 20, 2009	International Benefits Committee*	New York City
October 20-22, 2009	International Assignment Management Committee*	Seattle, WA
November 10, 2009	Tax Lunch Forum - Speaker TBA	Washington, DC
December 9, 2009	Tax Lunch Forum - Speaker TBA	Washington, DC
March 10-11, 2010	International Human Resource Forum	Houston, TX

** Note: The WTO 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.*

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