

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.

February/March 2009 Issue

A Word From the President

2009 promises to be a very different year. Financial disaster, rapidly growing unemployment, government expenditures that will significantly increase the national debt have created a perfect storm not seen in decades. Just as globalization has spread growth and jobs and accelerated the pace of change, now we are seeing it accelerate the breadth and depth of economic contraction.

For the National Foreign Trade Council, this means much more than business as usual. Global economic integration is coming under attack as never before, and it falls to us to defend it more aggressively than ever before. While economists everywhere will say that closing markets and erecting protectionist barriers is the worst thing nations could do, political pressures to do precisely that are growing daily, not only in the United States but throughout the world. For 95 years the NFTC has opposed those barriers and stood for an open, rules-based trading system, and we will continue to do so. The times, however, demand a redoubled effort and new tactics if we are to succeed. In particular, we will spend more time educating the Congress, the new Administration, and the public on what the stakes are, on how the wrong moves will dig the hole even deeper, and on what we must do to restore growth. We will be rolling out some new projects – for example, one on intellectual property rights protection – and enhancing our efforts on old ones – our trade negotiating authority legislation, our work in support of tax treaties and a tax system that permits our companies to compete, and our support for pending free trade agreements and new approaches to trade liberalization, such as the TransPacific Partnership. You will be hearing much more from us in the near future, both directly and through our redesigned Web site, which we hope to have available in April.

NFTC Applauds President Obama's Choice for Commerce Secretary

The National Foreign Trade Council (NFTC) praised President Obama's nomination of Senator Judd Gregg (R-NH) to serve as U.S. Commerce Secretary. NFTC President Bill Reinsch released the following statement: "We congratulate Senator Gregg on his nomination and applaud President Obama for selecting such a seasoned veteran to take the helm at Commerce.

"As a third-term senator and an appropriator, he has vast knowledge and insight into the inner workings of Congress, and how he could best work with his colleagues on the other side of Pennsylvania Avenue as Commerce Secretary.

"Sen. Gregg consistently received solid scores in the NFTC's annual Congressional rankings on support for liberalized U.S. trade and investment policies. While in Congress, he cast important trade votes, most recently voting in favor of free trade agreements with Peru and Oman, CAFTA-DR, and against imposing unilateral sanctions on Iran.

"There is much pressing work to do, including working with Congress and President Obama to stimulate the flow of commerce, manage the national transition to digital television and the 2010 Census.

"We look forward working with Commerce Secretary-designate Gregg to ensure future U.S. economic growth and prosperity for our workforce."

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News for Our Members

Why NFTC?

By Bob Ragan, NFTC Senior Vice President

For 14 years I headed the DC office of a major corporation and concurrently served on the Board of NFTC. I orchestrated our corporate participation in trade-related organizations. Working with corporate headquarters and geographic regional offices, we annually ranked them by “delivered value”. There will always be competition to retain membership amongst trade associations. In our case, year after year, NFTC was renewed.

So, why NFTC?

Although important, U.S. - (fill in the country) business councils tend to come and go and are always country specific. Likewise independent coalitions formed to pursue specific trade elements “du jour” come and go. Large organizations which have trade as a part of their portfolio also play an important role in advocating for trade policy. But, NFTC is the only business association dedicated solely to trade policy, export finance, international tax, and human resource issues on behalf of its members. And, over the years, NFTC has weathered major changes in the various Administrations and Congress. NFTC constancy of purpose helps us find a steady course through politically driven foreign relations and trade policy changes.

NFTC provides extensive access to key decision makers and expands a corporation’s reach in Washington. NFTC maintains relationships with local industry associations, government agencies, and corporate leaders and their customers and competitors. We can reach into national-level think tanks, policy makers and embassy officials and occasionally down to the State level for specific issues.

This allows members to keep abreast of the latest policy issues and, on a select basis, influence them during the earliest stages of policy formulation with the option of identifying corporate interests directly or under the umbrella provided by NFTC when a member firm wants to remain “anonymous.” Members also can access NFTC’s expertise for help in troubleshooting and strategizing best approaches to specific issues that arise by assisting in developing the most effective advocacy points.

I’m excited about being at NFTC. These are clearly dramatically changing times. Along with change comes an opportunity to have a voice in the new Administration and Congress. NFTC and its member companies are entering into a dynamic and challenging period.

We have been positioning ourselves for this new Administration and are ready. If you want to know more about our activities or how to get involved call or email me at ragan@nftc.org, 202-464-2021.

NFTC Commends Senate Amendment on Trade Adjustment Assistance

The National Foreign Trade Council (NFTC) lauded Members of the U.S. Senate Finance Committee and the U.S. House and Ways Committee for their movement on improving and expanding the Trade Adjustment Assistance (TAA) program in the American Recovery and Reinvestment Act of 2009. NFTC believes the Baucus-Grassley amendment modernizing the Trade Adjustment Assistance (TAA) program to assist American workers is vital to America’s continued competitiveness and economic recovery.

“NFTC welcomes today’s amendment as a positive step in promoting growth and jobs through trade,” said NFTC President Bill Reinsch. “Today’s action signals progress toward a national trade policy that promotes trade liberalization while addressing the concerns of American workers who worry about losing their jobs.”

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International Trade & Export Finance

NFTC Commends Senate Amendment on Trade Adjustment Assistance

(Continued from page 2)

Finance Chairman Max Baucus (D-MT), Ways and Means Chairman Charlie Rangel (D-NY), Finance Ranking Member Chuck Grassley (R-IA) and Ways and Means Ranking Member Dave Camp (R-MI) said they will seek to amend the economic recovery bill to help companies and workers impacted by global expansion of the American economy. The amendment, the Trade and Globalization Adjustment Act of 2009, will authorize Trade Adjustment Assistance through 2010 and redesign benefits to be more flexible and accessible.

“This amendment has been carefully crafted to target assistance in a cost effective manner where it is needed most, empowering American workers with the tools and training they need to succeed in the global economy,” said Chuck Dittrich, NFTC Vice President of Regional Trade Initiatives. “This amendment represents the input of Republicans and Democrats in both the House and the Senate to find common ground. We strongly support this milestone in moving back to a bipartisan consensus on trade and competitiveness and urge the full Congress to adopt the measure.”

In 2008 the NFTC and other leading U.S. business community organizations launched a new coalition – the Trade and American Competitiveness Coalition (TAA Competitiveness). The coalition focuses its efforts on urging Congress to act on legislation to enhance and expand the TAA program as well as advocating for various legislative measures that will ensure American workers are well-equipped to compete in the integrated 21st century global economy.

Beginning the Discussion on Trade and Climate Change

Over the past two years, the National Foreign Trade Council has been paying increasing attention to the debate that has emerged in the United States over climate change. NFTC has been paying particular attention to efforts to create a domestic, economy-wide carbon-pricing system such as a carbon tax or cap-and-trade scheme.

NFTC is not an environmental organization. The organization approaches climate change policy from the perspective of how it could affect the global trading system. Our goal is to make certain that any climate change effort is done in ways that encourage new trade flows and preserve the viability of the trading system. As such, the organization has not endorsed a particular approach to domestic climate change policy. Some of NFTC’s members have endorsed a domestic cap-and-trade system, others prefer a carbon tax, and still others have alternative ideas about how particular industries should be treated.

Efforts to institute a domestic carbon-pricing system are likely to intensify this year, as relevant committees in the Senate and House ready domestic legislation and as the Obama administration reengages in international climate change negotiations under the United Nations Framework Convention on Climate Change (UNFCCC). The latest phase of the UNFCCC process is supposed to result this December in Copenhagen in an agreement on global climate change action. Other domestic and cross-border efforts at the state and federal level are likely to continue as well, which may include attempts to encourage renewable energy consumption and discourage carbon consumption through measures like subsidies and fuel standards.

The NFTC is well positioned to make a positive contribution to the discussion on climate change and energy by highlighting the potential trade and competitiveness consequences of the policies being considered. There is broad recognition among environmental NGOs, businesses and Congress that paralyzing the international trading system or destroying American jobs are the surest ways to collapse a climate change regime. The key to successful climate change policy will be to ensure that they promote new jobs, new industries, and new trade.

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International Trade & Export Finance

Beginning the Discussion on Trade and Climate Change

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The NFTC has already made several contributions to the climate change discussion. In December 2007, the NFTC released a paper analyzing potential WTO compliance issues with proposed climate change legislation, which is available at www.nftc.org.

The paper concludes that subsidies for renewable energy are very likely to violate the WTO Agreement on Subsidies and Countervailing Measures, that government-administered eco-labeling schemes may violate the WTO Agreement on Technical Barriers to Trade, and that energy efficiency requirements and standards are likely to violate GATT Article III on national treatment. It also notes concerns over WTO compatibility of an international reserve allowance as part of a domestic cap-and-trade program, depending on how it is implemented. The paper suggests that other measures, including a cap-and-trade system, CAFE standards, and government procurement proposals, may be more likely to be found WTO compliant.

Congress and the administration are likely to debate climate change early and often this year, though a domestic carbon pricing system is sure to take years to finalize and implement.

At the same time, other pieces of climate change and energy legislation could move fairly quickly. The economic crisis, the administration argues, presents an opportunity for a green recovery, and there has already been some talk about new funding for R&D, as well as peeling off pieces of prior climate change bills – like subsidies and standards – to pass as part of the stimulus process.

Climate change will also be a hot topic internationally, and particularly at the World Trade Organization (WTO). WTO Director-General Pascal Lamy has called for a discussion of issues outside the scope of the Doha Round, which NFTC expects to include climate change. At the WTO there is also an opportunity to liberalize trade on environmentally friendly goods and services by building on the US-EU proposal for an Environmental Goods and Services Agreement.

At home and abroad, climate change is sure to be an increasingly popular topic of conversation, and one that inevitably will involve a host of trade issues that policymakers are only beginning to contemplate. The NFTC will continue to encourage Congress and the administration to fashion domestic policies that aim to comply with WTO rules and which do not adversely affect the competitiveness of U.S. industry.

Movement on the Trans Pacific Strategic Economic Partnership

On January 26, the office of the U.S. Trade Representative announced in the Federal Register its intention to initiate negotiations on the Trans Pacific Strategic Economic Partnership (TPP) Free Trade Agreement with Singapore, Chile, New Zealand, Brunei, Australia, Peru and Vietnam, set the inter-agency Trade Policy Staff Committee public hearing on the initiative for March 4, and requested public comments by February 25. The Federal Register Notice may be found at:

<http://www.nftc.org/default/trade/2009/TPP%20Fed%20Register%20E9-1515.pdf>

The first round of negotiations is scheduled in Singapore at the end of March or early April. It is anticipated that this will be an introductory and organizing round, without the beginning of substantive negotiations.

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International Trade & Export Finance

Movement on the Trans Pacific Strategic Economic Partnership

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On a separate note, Representatives Ellen Tauscher and Kevin Brady are circulating a Dear Colleague letter to supportive House Members with a draft letter in support of the TPP to be sent to the new USTR. They welcome any NFTC members weighing in with House offices with whom you have a relationship, encouraging them to sign on to the letter. If you would like to reach out, and want a copy of the Dear Colleague, or have any questions on the TPP, contact Chuck Dittrich at cdittrich@nftc.org.

NFTC/MEFTA Coalition Focuses on Standards Issues for U.S. Companies in the Middle East

On Tuesday, January 27, 2:00-3:00pm, the NFTC Trade Committee and the US-Middle East Free Trade Coalition met with Jeff Weiss, Senior Director for Technical Barriers to Trade Issues in the Office of WTO and Multilateral Affairs and Jason Buntin in the Office of Europe and the Middle East, both at USTR to discuss standards issues for U.S. companies in the Middle East. USTR is working with a USG inter-agency group to develop a USG strategy on standards for the region.

The U.S. government is polling public and private sector stakeholders to discuss how the U.S. and Middle East/North Africa (MENA) countries may work together on standards, conformance, and technical regulations so that they do not serve as non-tariff trade barriers. These measures may be voluntary, or may be related to mandatory technical regulations in each country.

To develop its response, the U.S. government is seeking feedback from U.S. companies in the following areas:

- 1) Technical Regulations: Problematic mandatory technical regulations companies are facing in the Middle East. Examples could be regulations that are not developed in an open and transparent process so that industry input can be taken into account, regulations that discriminate against U.S. suppliers and goods, regulations that incorporate EU regional standards that US suppliers cannot meet, confusing, costly or burdensome regulations that are not in line with relevant international standards, a bureaucracy that does not clearly understand how to implement standards policy.
- 2) Standards: Problematic voluntary standards that companies must meet in the Middle East, including whether the standards development process excludes U.S. interests.
- 3) Conformity Assessment: Problems with any of the conformity assessment programs that make getting U.S. goods into a market difficult. There have been complaints about various conformity assessment schemes in the Gulf and elsewhere in the region.
- 4) Key areas of standardization for new/emerging technologies: Gauging interest in growth sectors (such as green buildings) or other upcoming technologies in which U.S. companies see the possibility for cooperation between the U.S. and Middle East region.

USTR and the Commerce Department are especially urging NFTC member companies to reach out to their technical experts in the Middle East or headquarters to solicit more feedback on their company experiences. For further information or to provide feedback, contact Chuck Dittrich at cdittrich@nftc.org.

International Trade & Export Finance

Business Community Sends Letters to Administration and Senate Leadership Detailing Opposition to 'Buy American'

Business community leaders on February 5th, sent to the President and U.S. Senate leaders letters opposing the 'Buy American' provisions included in the Senate version of the economic stimulus bill (S. 336). The letters, which were signed by 100 companies and associations, including the NFTC, detailed why the provisions are harmful and will hinder economic recovery:

"As businesses and associations representing businesses with major U.S. operations and millions of U.S. employees across all major sectors of the economy, we very much share your strong interest in promoting economic recovery for the United States and its workers through an ambitious economic stimulus package that brings the maximum benefit to the U.S. economy, its companies and workers. To do so, we strongly urge the elimination of provisions in S. 336, the American Recovery and Reinvestment Act of 2009 that would expand already robust Buy American provisions in existing laws. If enacted, these provisions will backfire on the United States. They will harm American workers and companies across the entire U.S. economy, undermine U.S. global engagement and result in mirror-image trade restrictions abroad that would put at risk huge amounts of American exports," wrote business leaders.

The House of Representatives last week passed an \$819 billion stimulus package, and Democratic leaders hope to send the bill to the president for signing by mid-February.

To read both letters, please follow the URLs below:

- <http://www.nftc.org/default/trade/2009/BC%20Opposes%20Buy%20American%20Provisions%20in%20Stimulus%20Package.pdf>
- <http://www.nftc.org/default/trade/2009/Buy%20American%20Letter%20to%20the%20President.pdf>

NFTC Supports Civil Nuclear Agreement with the UAE

The NFTC is working with a coalition of companies and trade associations to support congressional approval of the civil nuclear agreement which the Bush Administration signed with the United Arab Emirates on December 16 of last year. The agreement, a so-called "123 Agreement," would permit the transfer of nuclear technology and expertise from the U.S. to the UAE and consequently would open significant commercial opportunities to US companies. The Agreement was signed in the context of important measures taken by the UAE to strengthen their export controls and prevent transshipment of dangerous materials to Iran. In addition the UAE's nuclear program is specifically designed not to have sensitive reprocessing or enriching technology. The NFTC in conjunction with the business coalition is meeting with congressional staff to brief them fully in advance of the anticipated submission of the Agreement by President Obama.

Global Innovation Forum

NFTC Launches Global Innovation Forum

On January 30th, the NFTC launched a major new initiative designed to better protect and promote American jobs and ingenuity in today's increasingly challenging economy. The Global Innovation Forum will seek to create new opportunities and enable solutions to global challenges through effective protection and enforcement of intellectual property rights (IPR) worldwide.

“The NFTC represents some 300 companies, many of which are global innovation leaders that rely on intellectual property protection and a predictable global trade system to employ tens of millions of workers,” said NFTC President Bill Reinsch. “There are few more cost effective ways to stimulate the economy than to ensure a predictable global IP system that protects jobs. The U.S. Department of Commerce estimates that intellectual property accounts for half of American exports and 40% of U.S. economic growth, so it is critical that we have the appropriate resources, rules and enforcement of those rules in place to support these workers.”

The Forum will initially focus on international policy issues related to fostering innovation and innovation job growth, intellectual property protection, technology transfer and efforts to address global challenges. The Forum will launch a website next month focused on these issues and intends to hold a series of meetings to advance a dialogue among company representatives and workers, consumer groups, international development organizations and policymakers.

“The global economic slowdown is creating new pressures on both innovators and consumers at a time when the world is confronting enormous challenges related to developing new energy solutions, improving public health, creating environmental sustainability, securing access to food and nutrition and raising global living standards,” said John Stubbs, Executive Director of the Global Innovation Forum. “These challenges will be met by the hard work of creative minds in the United States and around the world – our goal is to provide a forum to advance policies that support that creative effort and promote active ecosystems for innovation.”

To join the Global Innovation Forum or for more information, please contact Bill Reinsch at breinsch@nftc.org.

President Obama Invoked Pragmatism

President Obama invoked pragmatism, America's homegrown contribution to philosophy, in his inaugural: "The question we ask today is not whether our government is too big or too small, but whether it works....Where the answer is yes, we intend to move forward. Where the answer is no, programs will end." The president also evoked a diplomatic policy of engagement, including to those whom we have sought to isolate or contain in the past.

USA* Engage was founded and remains premised on the practical fact that unilateral sanctions don't work and on the diplomatic policy of engagement. The byzantine and ineffective sanctions programs that have hurt American competitiveness, stymied the progression of American values, and alienated our friends and allies are ripe for reform. Core activities of USA*Engage will include the following:

- At the least, until the Obama administration is fully staffed and its review of the policy and program status quo accomplished, the 111th Congress should exercise restraint and perhaps even reflection regarding perennial Congressional legislation of economic sanctions. USA*Engage will carry that message to the Hill, by working, for example, with the Campaign for a New American Policy in Iran.
- USA*Engage will continue to monitor the Sudan Accountability and Divestment Act regulations process carried over from the previous administration.
- USA*Engage will encourage the Obama administration to issue unambiguous directives so that global financing for licensed trade under OFAC, is unimpeded.
- USA*Engage will continue to monitor and work against state sanctions/divestment legislation that contravenes clear judicial precedent of federal preemption.

The entire creaking export control apparatus should be subjected to the same practical standard of what works and what doesn't to what end. That is certainly the conclusion of the National Research Council's Report, *Beyond "Fortress America": National Security Controls on Science and Technology in a Globalized World* co-chaired by Stanford University president John Hennessey and former National Security Council Director Brent Scowcroft. As part of NFTC, USA*Engage will actively promote the report's recommendations for reform and its broad conclusion that the culture of export controls must change to promote the U.S. national interest. In this regard, USA*Engage and the NFTC will continue to support the export control reform efforts of the Coalition for Security and Competitiveness.

On a related front, USA*Engage is soliciting company interest in addressing the paradox of the U.S. Patent Office's unexamined publication of patent applications for national security-related technologies. Various export control programs prohibit the inventor or technology owner from sharing any information about security-sensitive technology with foreign entities. Yet, the USPTO is publishing patent applications, including the best mode to duplicate the innovation, for example, on advanced encryption technology.

USA*Engage will continue to seek thoughtful, frank conversation about the creeping takeover by de facto special interests of the administration of the Foreign Corrupt Practices Act. Legitimate charitable contributions, for example, should not be chilled and clear guidelines regarding reasonable business gifts and entertainment should be promulgated. Monitoring regimes that self perpetuate should be subject to the discipline of transparency.

USA*Engage will also solicit best practice engagement narratives from companies to post on the Web site. The core principle of the coalition, after all, is that U.S. company investment and activity globally is one effective means to communicate the American creed to other cultures.

The advent of a new administration based on what works at home and abroad, not to mention the economic realities of the foreseeable future, may open space for real reform of the bureaucratic inertia and disarray that hobble U.S. trade when it comes to unilateral sanctions and export controls.

NFTC Welcomes Richard Sawaya as New Director of USA* Engage

In January the NFTC announced that Richard Sawaya joined the organization as the new Director of USA*Engage, effective January 19, 2009. In this role, he will oversee the advocacy efforts of the coalition, which was formed in 1997 to promote alternatives to the use of costly and ineffective unilateral U.S. sanctions. Sawaya will also work with the NFTC to press for reform of U.S. visa and entry policies and the export control system.



“We welcome Richard to the team, and look forward to working with him to continue the important work of USA*Engage,” said Del Renigar, Co-Chairman of USA*Engage and Corporate Counsel for International Policy & Trade Regulation for General Electric (GE) Company. “Richard brings with him many years of experience in international affairs and will be key to our efforts to press for a U.S. foreign policy that includes the right balance of diplomacy, engagement and multilateralism.”

Prior to joining USA*Engage, Sawaya served in a wide range of capacities, from leadership of key U.S. business organizations and associations to teaching and advocacy work in higher education. Sawaya joined Atlantic Richfield Company (ARCO) in 1979, where he remained until 2000, holding a number of positions, including Senior Speechwriter and Manager of Planning and Corporate Issues at the company’s Los Angeles headquarters. He also served as Director of Government & Tax Affairs and Director of International Affairs in ARCO’s Washington D.C. office. Sawaya led efforts to facilitate ARCO’s legal re-entry into Iran and successfully positioned the company to negotiate

exploration contracts with Azerbaijan’s state-owned oil company, as well as those of the Republic of Georgia and Turkey. He also worked on ARCO’s participation in the Baku-Tbilisi-Ceyhan pipeline and secured the pivotal endorsement of the Gore-Chernomyrdin Commission for ARCO’s partnership with LUKoil.

Sawaya then founded the U.S.-Venezuela Business Council, focusing on U.S. corporate investment in Venezuela and the promotion of other business community priorities, including the 2001 bilateral tax treaty. Sawaya also served as Special Adviser to the President at the Fund for Peace, Director of Government Relations at the American Turkish Council, and as Special Representative on the Middle East for the Chevron Corporation.

Following these posts, Sawaya became Special Adviser to the President of George Washington University, and then Vice President for Government, International and Community Relations. Concurrently, Sawaya was an Associate Professorial Lecturer at the university, teaching undergraduate and graduate courses at the Elliott School of International Affairs and the university Honors Program.

Sawaya succeeds Susan Frank, who recently left USA*Engage in light of family obligations. Frank has joined Lockheed Martin’s PAE subsidiary as in-house counsel.

“The NFTC and USA*Engage are sorry to announce Susan’s departure, and on behalf of our members we thank her for all of her contributions and wish her the very best in her next endeavor,” said NFTC President and USA*Engage Co-Chair Bill Reinsch.

International Tax Policy

NFTC Expresses Concern Over ‘Worldwide Debt Cap’ Rules in Proposed UK Tax Legislation

The National Foreign Trade Council (NFTC) on February 3rd expressed concern over draft tax legislation currently under consideration in the United Kingdom (UK), which [includes](#) “worldwide debt cap” rules that would create a web of complexity and uncertainty for foreign investors. In a letter sent by NFTC President Bill Reinsch to UK Chancellor of the Exchequer Alistair Darling, MP, the NFTC expressed deep concern over the draft legislation.

“The proposed legislation is very wide reaching and complex, and its introduction in its current form would cause great uncertainty both for existing and potential inbound investors,” wrote Reinsch. “These factors will have a negative impact on the UK’s attractiveness as a location for inward investors and could lead to the overall foreign profits package (including the dividend exemption) being seen as making the UK less competitive in the international arena. Particularly in a time of recession, that cannot be a constructive policy for the UK.”

The NFTC letter also pointed out that the proposed rules would be both difficult to apply and administer, as they would require investors to generate many separate calculations, including some that must be made on a gross basis and others on a net basis. Further, the NFTC noted that “the detailed calculations lead to unintended results and disallowances due to their complexity” and that “the time periods for making calculations and the associated additional returns are very restrictive and do not fit into the existing administrative framework, thus making all of the administration still more time-intensive (and prone to error).”

In addition, the NFTC questioned the rationale behind the rules, noting that the UK already has in place three other rules that restrict interest deductibility and add complexity for foreign investors – thin capitalization rules, the “unallowable purpose” rule, and the anti-arbitrage rules.

The NFTC suggested that the UK not adopt the worldwide debt cap rules now as proposed and instead continue to work with the private sector to make the proposed system less complex. “Given the current economic downturn, and significant losses being made by the banking and other sectors, we do not believe that a short delay in implementing the worldwide debt cap rules would adversely impact tax revenues,” wrote Reinsch.

“In short, we do hope that you will reconsider the introduction of the worldwide debt rules in their current form, except with the very broadest of safe harbors. There is much that is good in the foreign profits package, and that our members think is forward-looking. It would be unfortunate if the worldwide debt cap rules were to negate all of that, and, instead, discourage foreign investors,” Reinsch concluded.

To read a full copy of the [letter](#), please follow the URL below and for more information contact Catherine Schultz at cschultz@nftc.org. <http://www.nftc.org/default/tax/Tax%20Treaties/NFTC%20UK%20ltr%20.pdf>

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.

International Tax Policy

NFTC Tax Committee Sends Letter to Senate Foreign Relations

The NFTC Tax Committee has sent a letter to Senate Foreign Relations Committee Ranking Member Richard Lugar supporting his efforts to offer a Sense of the Senate Resolution encouraging the successful negotiation of a tax treaty between the U.S. and Brazil. Here is the text of that letter:

The Honorable Richard G. Lugar
United States Senate
306 Hart Senate Office Building
Washington, DC 20510

Dear Senator Lugar:

I am writing to thank you for your continued leadership in the tax treaty ratification process. We understand that you are considering offering a Sense of the Senate Resolution to encourage Brazil to make the necessary changes in its tax laws so that a successful tax treaty can be negotiated between the U.S. and Brazil.

On behalf of the member companies of the National Foreign Trade Council (NFTC), I am writing to support the effort by the Senate to encourage Brazil to conclude successfully a new tax treaty between the U.S. and Brazil. In surveys completed by NFTC members, Brazil has repeatedly been identified as the highest priority tax treaty negotiation desired by U.S. multi-national companies. We welcome your efforts to secure a tax treaty with Brazil, and respect your realistic outlook that in the face of the current Brazil tax policies, this may be a difficult effort in the short term. The NFTC stands ready to work with you to secure an income tax agreement with Brazil which will be mutually beneficial to both countries.

The National Foreign Trade Council, organized in 1914, is an association of some 300 U.S. business enterprises engaged in all aspects of international trade and investment. Its membership covers the full spectrum of industrial, commercial, financial, and service activities. The NFTC, therefore, seeks to foster an environment in which U.S. companies, like their foreign counterparts, can be dynamic and effective competitors in the international business arena.

Given that the NFTC's membership base includes global companies with significant investments in Brazil, our member companies seek a treaty with Brazil that relieves the double-taxation that arises from doing business in Brazil. Enhancing trade and investment with Brazil is of paramount importance to NFTC member companies. As cross-border trade and investment expand, tax treaties are playing an increasingly important role in preventing the imposition of excessive or inappropriate taxes on global businesses and in ensuring even-handed application of the tax laws. To continue to serve their intended purposes, treaties must keep pace with developments in today's global economy.

We have reviewed several of the tax treaties recently ratified between Brazil and other countries. Many of the provisions included in those treaties would not be helpful to U.S. companies if they were included in a U.S.-Brazil tax treaty.

On the other hand, if the precedents set in most recent U.S. tax treaties were adopted, it would enhance the free flow of capital between Brazil and the United States, while allowing taxpayers from both countries to work within a framework that is most conducive to resolving tax disputes. Provisions of greatest interest to NFTC members include:

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International Tax Policy

NFTC Tax Committee Sends Letter to Senate Foreign Relations

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- Reduction of the parent-subsidiary dividend withholding rate to zero.
- Reduction of the interest withholding rate from 15% to zero. This rate should also apply for loans by banks and financial institutions. Non-bank finance companies (as generally defined in section 954(h) of the Internal Revenue Code) should be explicitly included in the definition of “financial institutions.”
- Reduction of the royalty and services withholding rate from 25% to 0%.
- A strong arms-length standard for transfer pricing and a program for bilateral advance pricing agreements.
- A mutual agreement procedure that allows for the two countries’ competent authorities to negotiate settlements of tax disputes.
- Permanent establishment and business profits provisions reflecting the traditional position of the United States and other OECD member countries, which is that a foreign company may be taxed on its business profits only if they are attributable to a permanent establishment in that country, and this requires a specified level of physical presence. Apart from narrow cases where employees or other agents conduct certain significant activities in Brazil, a permanent establishment requires a fixed place of business through which the business of the foreign company is wholly or partly carried on, which must be a “fixed” geographical location and used by the foreign company for an adequate period of time. Erosion of this permanent establishment threshold for the provision of services, such as engineering, architectural, accounting and legal or other services, for activities performed elsewhere, or otherwise would not be a welcome development.
- A reduction in the capital gains tax on long-term investments.

We believe that an income tax agreement with Brazil could be of mutual benefit if it results in the elimination or reduction in the high rates of withholding taxes on cross-border payments of dividends, royalties, and interest. This would increase the flow of equity investment between the United States and Brazil. A treaty without reasonable accommodations similar to recent U.S. tax treaty practice on the points outlined above, however, could be a step backward. Such a conclusion would work to the detriment of U.S. business and we would regard that as an unsuccessful outcome.

While the focus of the NFTC and its member companies is primarily investment and trade into Brazil, we note that Brazil is rapidly developing world-class companies that compete outside of Brazil. Out-bound investment and trade from Brazil are growing. It is in the best interest of these Brazil-based multinationals to conclude a treaty with the U.S. that reflects balanced principles as reflected in U.S. tax treaties generally. We believe this is an opportune time to couple the interest and support of these Brazil-based multinationals with the interests of U.S.-based companies to finally achieve a tax treaty between the U.S. and Brazil that advances the interests of both countries.

The NFTC looks forward to working with you to achieve a successful and timely conclusion to these important negotiations with Brazil.

Sincerely,

William A. Reinsch
President

International Human Resources

Annual International Human Resources Management Conference: Houston, March 3-4, 2009

The National Foreign Trade Council will host its eighth annual international human resources conference in Houston on March 3-4. The primary focus will be on global workforce management. The continued expansion of Multinational Corporations into emerging markets in Africa, Asia, Brazil, China, the Middle East and Russia results in the on-going challenges of talent sourcing, recruitment, development and retention.

The co-hosts for the conference include: Aetna Global Benefits, AIRINC, Cartus, Ernst & Young, HR*Houston, and International SOS.

In addition to subject matter experts from the NFTC and the conference co-hosts, the program will include senior corporate colleagues from such companies as: Occidental Oil & Gas, Textron, Apache Corporation, Dell, Fluor, Exterran, BHP Billiton, Coca-Cola, Honeywell, Intel, Parsons, Anadarko Petroleum, and Washington Group International.

Cross-border immigration and tax compliance, cost effective mobility and reward programs, talent identification and development will also be covered through case studies and “lessons learned” session.

For information about the agenda and registration go to www.nftc.org or contact Sandra Rodriguez at srodriguez@nftc.org.

Seminars Managing the Challenges of Talent Identification, Development and Retention in the Asia Pacific Region in New York, Chicago and Santa Clara

The National Foreign Trade Council and Hewitt Associates will co-host a series of full day seminars on human capital strategies in the major countries of the Asia Pacific Region. The connections of business strategies and human capital strategies will be examined in detail.

The seminar schedule for New York March 25; Chicago March 31; and Santa Clara April 2, 2009 will cover: talent sourcing; rewards and training programs; employer branding; leadership development; and “lessons learned”.

The faculty will include senior international human resource management professionals from: Abbott Laboratories; AIG; Altera; CIGNA International; Cisco Systems; Fluor; Ford Motor Company (India); Nordson and Schering-Plough.

For information about the agenda and registration go to www.nftc.org or contact Sandra Rodriguez at srodriguez@nftc.org.

International Human Resources

Barriers to Global Mobility: Spousal/Partner Employment: The Need for Coordinated Action

During the last 15 years the NFTC has conducted annual global relocation trends surveys. During that time, and through our global mobility working committees, we have consistently heard from our membership that a barrier to getting the best candidates to accept cross-border job assignments has the challenge of getting Work Permits for accompanying spouses or life partners. The concern for the employee's perspective is both economic (lost income) and discontinuity of career growth for the spouse or partner. From the employer's perspective the current end-result often is the best candidate's declining the assignment. This issue affects expatriates of all nationalities virtually everywhere except for EU citizens working within the EU.

Several years ago the Permits Foundation was established to work on behalf of MNCs with host country immigration authorities in reducing barriers for Work permits. Ironically, very often the accompanying spouse or partner has professional or technical skills that actually are in demand in the host country, particularly in emerging markets. At the request of NFTC member companies active on our Expatriate Management Committee and International Assignment Management Committee we have endorsed support of the Permits Foundation.

Permits Foundation Global Survey Sharpens Focus on Spouse and Partner Employment Needs

Almost 100 representatives of international employers, government ministries, service providers and expatriate family organizations joined a global symposium, linked by video, to discuss Permits Foundation's advocacy of work authorization for accompanying spouses and partners. The meeting focused on the results of the foundation's global survey, together with plans of the new local networks in Malaysia, India, Japan, Indonesia and Russia.

Feedback from delegates was this was a very motivational way to share developments and that everyone was keen to make further progress in 2009.

Introduction

Stephanie Boyde, manager, executive remuneration at Shell and board member of Permits Foundation, welcomed the delegates in Shell's offices in The Hague and other locations, linked by video. Gill Gordon, director executive compensation for Schlumberger and chairperson of the board of Permits Foundation, summarized the foundation's aims, strategy and plans. She showed the growing number of countries that allowed spouses and partners to work freely. These countries saw this as an easy and effective way to enhance their attractiveness, within a policy of managed migration. <http://permitsfoundation.com/docs/2008%20Nov%20Permits%20web.pdf>

Keynote messages from patrons

Jeroen Van der Veer, CEO of Shell, emphasized the solid business case for the work of Permits Foundation in supporting international mobility. He was struck by the findings of the survey that only 35% of spouses were able to work in the host location and that three quarters of those who are not working would like to work. The foundation had made good progress but there were still a lot of countries where change was needed. Jeroen van der Veer also stressed the importance of remaining focused on the goals throughout the credit crunch and economic recession.

Sandy Ogg, chief HR officer and member of the Unilever Executive, expanded on the HR case for supporting change, adding several anecdotes on the importance of international staff mobility. His statement that the work of the Permits Foundation reduces the price an expat pays to take an assignment was well received.

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Global spouse and partner survey results

Katy van der Wilk-Carlton, board member of the foundation, summarized the findings of the global survey in which 3300 expatriate partners had taken part. The key findings were that a lack of spouse and partner employment opportunities adversely affects international mobility and that a few simple improvements, including work permits for spouses and partners, can create a "triple win" for employers, families and host countries. Moreover, spouses and partners are a highly educated, under-utilized talent pool that can contribute to the economy of the host country. http://permitsfoundation.com/docs/permits_survey_summary.pdf

Presentations by local network chairmen

The 5 network chairmen summarized the current local situation and plans for promoting change:

Indonesia

David Tournadre from Schlumberger introduced his fellow participants from USAID, CIFOR/ICRAF, Freeport, Dutch Embassy, Palyja and Ernst & Young. Network members who were not present included BP, the British and French Embassies, Shell, Total and Unilever.

Indonesia was the largest economy in S.E. Asia and politically stable. The number of expatriates was increasing. Companies need to have a quota to employ foreign staff and no concession was available for spouses. In addition to the general issue of spouse work permits, a specific concern was that husbands of female expats were not legally recognized. The plans are to lobby for change after the parliamentary and presidential elections in mid 2009. They need to make a thorough inventory of current regulations and find an Indonesian spokesperson and champion.

Malaysia

Jonathan Kohn from Shell introduced his colleagues from Shell and Schlumberger and other companies who were not able to attend.

Jonathan explained that there was currently no concession for spouses who want to work. If they succeed in getting a job offer, they have to leave Malaysia to apply for a permit. The local network was in the exploratory phase. They felt that data has to do the talking and to that end the results of the survey were extremely helpful. They were keen to receive more detailed data on Malaysia. It would also be important to show that the global initiative benefits Malaysians abroad. They would also like to show some human-interest stories. They are considering how to approach other stakeholders and broaden support. They have contacted Petronas, the national oil company, and the Malaysian Chamber of Commerce. They will build the case for change during first half of 2009, with a view to making formal proposals to the government in the second half of the year. One idea might be to seek a trial in the area of the "Multi Media Super Corridor", which already has a number of special incentives to encourage investment.

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India

Archana Bhaskar, HR director Shell India, introduced some of network members from BG Group, Schlumberger and Torque Communications.

Archana explained that whereas traditionally India had been a net exporter of talent, this was changing dramatically. The number of inbound expats had doubled in the last three years and the profile was changing towards more technical staff. The government had not consciously considered the issue of spouse work permits. Currently, if a spouse gets a job offer, they have to go back to the host country to apply for an employment visa. The network has contracted the services of Torque Communications to put a case together for spouse work permits, possibly linked to inter-company transferees, and expected to make initial approaches to the ministry early in 2009. The India network also emphasized the importance of being able to demonstrate that Indian spouses benefit in other countries.

Japan

Yujiro Otsubo, personnel manager, Schlumberger, introduced his colleagues in the Japan network from Bosch, British Embassy, Goldman Sachs and Shell Outpost. He emphasized the good diversity of active support and mentioned several other participants who were unable to attend – AstraZeneca, BMW, Dutch Embassy, Unilever and Shimoda Law Offices.

Yujiro described the current regulations under which spouses could apply for a special permission to work up to 28 hours per week and explained the significance of the family dependant visa in Japanese legislation. It implies that the main income comes from the primary visa holder. This meant that whereas they initially thought that it might be possible to get an extension of the concession for spouses to allow them to work full time; they now realized it might require a formal change of legislation.

Kayoko Sakamoto from Goldman Sachs added that she had had two meetings at the Ministry of Justice, first with the Minister's staff secretary and the second with the Deputy Director of Immigration. They now had a better understanding that the concept of dependence is based on traditional family values and that putting control on the main visa holder goes against the MOJ's principle of equal rights. To bring about change it will be important to influence from the top down and supporting data will be necessary.

The group was also considering taking advice from organizations experienced in government relations. Maximilian Poell from Bosch explained that they had contacted the European Business Council (EBC), which is the trade policy arm of 17 national chambers of commerce and has been working to improve the trade and investment environment since 1972. They will be able to provide advice on appropriate channels and contacts. There will be a consultancy fee.

Yujiro concluded that the group will continue to use this multi-channel approach, leading to key decision makers during the course of 2009.

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Russia

Nigel Kemp, HR VP of Shell introduced colleagues from Shell, Schlumberger, Unilever, PwC and the Dutch Embassy. He explained that the group had met once and that they had a shared recognition of the importance of attracting talent and encouraging mobility and the need to facilitate spouse and partner work permits. He explained that the work permit process in Russia can be complex, particularly for new and smaller companies. It was possible for the partner to work if they acquire a permit through the Federal process. Dual career couples within a single company were also possible as long as the correct procedure was followed. Compliance with the regulations is extremely important as was keeping abreast of frequent changes. The general visa procedure had been streamlined recently and was now a lot faster. The group felt that the key to moving forward would be to demonstrate the case as part of a global change and it would also be helpful to get specific Russia data from Permits global survey.

Open discussion

Board members Kees van der Waaij, CEO Unilever Nederland Holdings B.V and Julia Onslow-Cole, partner and Head of Global Immigration at PricewaterhouseCoopers, facilitated questions.

- One delegate suggested that Brazil should be a country of interest.
- Shell Outpost delegate asked how organizations such as theirs could help with career support services that the survey highlighted were necessary. (Permits Foundation hopes that companies will take note of the survey results with respect to support services. The prime mandate of the foundation is to bring about change in work permit regulations. If the local networks wish to cooperate further to facilitate spouse job search, they may do so and spouse organizations are most welcome to contribute to the discussions.)
- The delegate from the British Embassy emphasized the need for work permits to recognize partners who were self employed. The global survey had also highlighted this point.
- The Malaysian Embassy delegate emphasized the importance of being culturally sensitive to the recognition of unmarried partners. Also as 40,000 graduates in Malaysia are unemployed, it would be more helpful to emphasize the benefit of the extra skills, rather than spouse rights, and to focus on areas where there is a lack of skills e.g. medical and IT.
- The UN delegate asked for consideration of spouses within UN humanitarian organizations. (Permits Foundation advocates change for both private and public sector, though sometimes separate processes need to be followed.)
- A couple of delegates pointed out the value of voluntary work in developing a spouse's CV and felt that companies, when recruiting staff, should give more recognition of this.

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News for Our Members

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The way forward

Gill Gordon highlighted key points from the symposium, which she hoped showed the networks that they are not working in isolation but are part of a global initiative.

- Lack of employment opportunity for spouses affects employee mobility. This is a global issue, affecting both the private and public sectors. The survey confirms demographic signals that the problem will get worse if we do not do anything about it.
- We are all encouraged by the start of 5 new local networks in 2008. These will hopefully bear fruit and encourage other countries. A little competitive spirit was a good thing!
- Permits Foundation recognizes the need to adapt pace and message for each country. Change may not come overnight but if we stick to it, it will happen.
- Gill thanked all delegates and encouraged them to spread the message within their organizations.

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New Members

Doosan Infracore services a large network of Doosan dealers in North America from its headquarters in Suwanee, Georgia. Doosan Infracore America is responsible for all North American sales, service, and technical support for Doosan heavy construction equipment, compact equipment and lift trucks. The Suwanee facility features a state-of-the-art service, sales and parts training center, as well as a parts distribution center that services all of the U.S. and Canada. Doosan also has its own financing provider-Doosan Global Finance. Doosan Global Finance serves as a single global finance provider for Doosan Infracore's machine tool, forklift and construction equipment divisions. Doosan Global Finance is committed to offering Doosan dealers and their customers tailored attention and competitive finance programs with the same quality and level of service provided by Doosan Infracore. For more information, visit www.infracore.com The NFTC is proud to have Doosan Infracore as a member.

International SOS Assistance, Inc. operates in over 70 countries; International SOS helps organizations manage the health and safety risks facing their travelers and global workforce. Its services range from consultancy and planning services to 24-hour medical and security advice and assistance. It also provides emergency medical and security evacuations when there is a critical illness, accident or civil unrest. Last year, the company handled over 810,000 assistance cases, including more than 16,000 evacuations. The NFTC welcomes International SOS Assistance as an International Human Resources member. For more information, visit www.internationalsos.com

ITR LLC is the premier consulting firm in trade remedies proceedings (antidumping and subsidy) and World Trade Organization (WTO) dispute resolution. For over 25 years, they have provided litigation support to law firms and their clients in more than 100 trade remedy proceedings in more than 30 countries (including both market and non-market economies). These proceedings cover over 70 diverse products in manufacturing, consumer, and agricultural industries. ITR LLC's skilled accounting, financial and computer specialists also employ their expert analytical and technical skills to assist clients with matters in connection with export controls, forensic accounting and customs compliance. The NFTC welcomes ITR LLC into membership and looks forward to helping them meet the demands of an ever growing market. For more information, please visit the ITR LLC website at www.itr-llc.com.

Calendar of Events

Date	Event	Location
February 12, 2009	International Benefits Committee*	New York City
February 18, 2009	Tax Lunch Forum - Speaker TBA	Washington, DC
March 3-4, 2009	Annual International Human Resources Management Conference	Houston, TX
March 11, 2009	Tax Lunch Forum - Speaker TBA	Washington, DC
March 17-18, 2009	NFTC Board of Directors Meeting	Washington, DC
March 25, 2009	Managing the Challenges of Talent Identification, Development and Retention in the Asia Pacific Region Seminar	New York City
March 31, 2009	Managing the Challenges of Talent Identification, Development and Retention in the Asia Pacific Region Seminar	Chicago, IL
April 2, 2009	Managing the Challenges of Talent Identification, Development and Retention in the Asia Pacific Region Seminar	Santa Clara, CA
April 8, 2009	Tax Lunch Forum - Speaker TBA	Washington, DC
May 13, 2009	Tax Lunch Forum - Speaker TBA	Washington, DC
June 2, 2009	International Benefits Committee*	New York City
June 10, 2009	Tax Lunch Forum - Speaker TBA	Washington, DC
July 15, 2009	Tax Lunch Forum - Speaker TBA	Washington, DC
October 1-2, 2009	Fall Tax Meeting	Washington, DC
October 15, 2009	International Benefits Committee*	New York City
December 9, 2009	Tax Lunch Forum - Speaker TBA - Speaker TBA	Washington, DC
November 10, 2009	Tax Lunch Forum - Speaker TBA	Washington, DC
Fall 2009	Annual World Trade Dinner and Award Ceremony	TBD
Fall 2009	Annual Meeting	TBD
Fall 2009	Board of Directors Meeting	TBD

** 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.*

**This issue of Council Highlights brought
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