COUNCIL HIGHLIGHTS

NATIONAL FOREIGN TRADE COUNCIL

"ADVANCING GLOBAL COMMERCE FOR NEARLY A CENTURY "

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

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View from the NFTC Chair

An extraordinary thing happened recently. The United States and the European Union supported one candidate for World Trade Organization (WTO) Director General and another won. There was a time, about an eon ago, when the United States and the European Commission would simply agree on who would be DG, and we (in one case "I") would give that person a call and tell him (the woman I proposed was vetoed by the EC) that he had the job. In fact, this process did not differ all that much from the two Bretton Woods institutions – the World Bank and the International Monetary Fund, each of which had weighted voting. Here, the United States and Europe simply shared the two top jobs. Money was involved – our money – and we were not going to let control slip away (part of my work for Paul Volcker at Treasury back in the day was drawing charts showing how sharing contribution levels more evenly among Fund members could be accomplished while not losing the ability to block decisions the U.S. opposed).

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A Word From the President

At the end of May I had the good fortune to participate in a Google "Big Tent" event in Ottawa. A bit to my surprise, it actually was in a big tent. Unfortunately, that also meant no AC, and it was an unusually hot day for Ottawa, but that didn't dim the audience's enthusiasm. The topic was digital trade, privacy and cybersecurity, which could not have been more timely. Of course, it is not a new issue, and the National Foreign Trade Council (NFTC) itself addressed it in 2011 when it led an effort with nine other associations and as many companies to produce a detailed set of principles on digital trade.

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NFTC Foundation Holds 18th Annual Strategic Global Workforce Management Forum

NFTC Foundation held its 18th Annual International Human Resource forum on June 19-20, 2013, at the New York Athletic Club. Over 125 delegates from around the world participated.

The opening speakers were Dale A. Laidlaw, Vice President-Human Resources, ArcelorMittal; Victor Montalvo, Global Mobility Manager-Americas, ABB; Gena Smith, Senior Vice President-Human Resource Sourcing, LVMH; and Alain Verstandig, Founder And President, NetExpat. They discussed the critical role of global talent development and international mobility from the perspectives of non-U.S. – based multinational corporations. The talent needs were similar though the corporations represented on the panel were from the diverse sectors and home countries. Other sessions during the conference included:

- Lessons Learned in the Post-Merger Integration of Merck and Schering Plough
- Using Technology to Manage International Business Traveler and Assignee Immigration Administration
- The Journey Undertaken in American Express' Global Mobility Function
- Assessing Candidates for Cross-Border Assignments

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A Word From the President

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As time has gone by, though, its significance has become even more obvious due to the rapid changes in the global trading system. The development of global supply chains and the new capabilities provided by the Internet have made digital trade and the free flow of information essential for not just Internet service providers but manufacturers and other service providers generally. NFTC manufacturers and service companies use the Internet for marketing and servicing their products, and for moving R&D around the world to take advantage of their research centers in multiple time zones. NFTC member eBay has facilitated the explosion of micro-exporters – individuals or very small companies serving local markets who now, thanks to the Internet can sell to the world.

Succeeding with the new linkages, however, demands maintaining the free flow of information, which is increasingly imperiled by governments getting in the way, sometimes for legitimate reasons like national security or law enforcement, but sometimes for less legitimate reasons like protectionism or their desire to access citizens' private information for their own purposes. For example, forced localization – a requirement that data be stored on servers within the country where it originated – can be demanded in the name of national security, when, in fact, the government simply wants to make sure it canacess the data for its own purposes.

Increasingly, these actions are being taken in the name of privacy, a value nearly everyone shares. It is becoming a very large rock in the middle of the river that is the Internet. There is inevitably a legitimate and healthy tension between individuals' desire to protect their private information and their equally strong desire to be able to engage in transactions on the Internet. Different countries have dealt with this tension in different ways, though most do so with the same objectives and good intentions. Resolving those differences will be a big issue between the United States and the EU because of the divergent approaches the two large entities have taken. The EU approach is more coherent and prescriptive, the inevitable consequence of having to balance the interests and divergent points of view of 27 member states. The U.S. approach is more a patchwork of different laws, regulations and best practices, reflecting our First Amendment and our people's historic skepticism about government control of our access to information. Reconciling them as part of the TTIP negotiations will not be easy, particularly since the EU has thus far refused to recognize our system as "adequate" under theirs, but it is a necessity if we are to truly transform the bilateral trading relationship.

Complicating our collective efforts to navigate the river further is the question of security. Hacker attacks and cyber intrusions are rapidly becoming endemic and are not only a national security problem for governments, but a serious economic problem for companies trying to protect their intellectual property, and for individuals simply trying to do business without their credit card data ending up in the hands of thieves. This problem is going to get worse before it gets better, and dealing with it will require a level of public-private cooperation heretofore unseen. Governments must learn the limits of what they can responsibly do in the name of security without killing the goose that is laying the golden eggs, and the private sector, which has for the most part created and now operates the system that is under fire, must step up and acknowledge its own responsibility for maintaining security. That's a tall order, but the stakes are very high, and there is a lot of work to be done if we are to maintain both the efficiency and integrity of the Internet.

"A Word From the President" is written by NFTC President Bill Reinsch; if you have questions or comments please forward them to breinsch@nftc.org.

View from the NFTC Chair

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The post-WWII International Trade Organization under the Havana Charter (1947 – and, no, I was not there) provided for decisions by majority vote. (It never came into being since as Congress failed to act to approve it.) The GATT and the WTO decide matters by consensus usually, by majority vote otherwise (except for dispute settlement panel approvals which are designed to be automatic under the WTO).

Why present all this background? Because in the trade arena, although the United States is the world's largest trader, its influence on shaping the rules must depend not on its single vote (even the EU with its 27 votes is not in a position to control events), and often not on economic leverage, but on the persuasiveness of the case that we make. Famously, the United States and the EU together have failed to make the case to the emerging and pre-emergent Members of the WTO that concluding the DDA was in their best interests. We are now embarked upon five major negotiations – TTP, TTIP, TISA and ITA expansion, as well as TFA (Trade Facilitation) and need more than just some allies (which we for most matters have) but broad international support.

While many TPP texts are "closing" with substantial agreement said to have been reached, there are areas of these and other negotiations where there remains some very heavy lifting to be done – such as making real progress on product standards in TTIP and creating meaningful disciplines on state-owned enterprises in TPP. There are also some elements of cross-border data flow that can be complicated. Services coverage in TISA will need to be both broad by sector and geography and deep. And there are the traditional areas in agriculture and textiles and apparel that will not be a slam dunk either.

In some of these cases, providing and receiving reciprocal trade concessions will be a motivating factor, a necessary but not sufficient guarantor of a successful outcome. We need to sell our vision, our economic model. Maximizing trade and investment liberalization depends very largely on self-confidence – that the United States and those who share our vision have found the best economic formula and that it must be supported by international rules that will provide mutual benefit.

Of course there is a long list of factors that contributed to the success of the American economy to date – including rule of law, leading research institutions, high levels of R&D and the like. And there is an even longer list of areas that underwrote the innovation that created what we have today and in which improvements are desperately needed, including basic education, tax and immigration reform, and updating the nation's infrastructure.

Many of the key elements both at home and in international negotiations are central parts of the NFTC's agenda. The opportunities for us as a group to make a positive contribution to the policy decisions that can shape the domestic economy as it relates to the international trading system, and the shape of that system, have not been this extensive for many decades. For the NFTC, this is a target rich environment.

Ambassador Alan Wm. Wolff is a Senior Counsel of the International Trade Practice at McKenna Long & Aldridge LLP and is the Chairman of the NFTC Board of Directors.

NFTC and USA*Engage Oppose State Buy America Legislation

The NFTC and USA*Engage are monitoring legislation in state legislatures that would confine procurement by state agencies to goods, especially manufactured goods and iron and steel, made in the United States. Thirty-seven states are signatories to the WTO's plurilateral Government Procurement Agreement (GPA) which mandates nondiscrimination in all government procurement. U.S. compliance with our obligations under the GPA is especially important since sub-federal and provincial procurement are important issues for the United States with countries such as China and Canada and will be a major issue in free trade negotiations with the European community. Buy America laws could lead to trade sanctions against the United States as a whole, since the United States, and not individual states, is the WTO signatory. The USTR would have to defend any foreign claims against these measures.

So far this year Buy America bills have been introduced in 20 state legislatures, all but three of which are signatories to the WTO GPA. A "Buy Nebraska" bill was introduced in that state's legislature, but did not pass. The NFTC and USA*Engage have consistently written these bills' sponsors, the legislative leadership and the state's governor to alert them to the conflict with their international treaty obligation. The NFTC and USA*Engage have also reached out to states' attorneys general to enlist their support for their states' honoring their treaty obligations.

At this point only Maryland has enacted a Buy America bill into law, but there is every prospect that the trend will continue in the states whose legislatures are still in session and into next year. State Buy America legislation is supported by the Alliance for American Manufacturing, a lobbying group founded by the United Steel Workers. Their message, which emphasizes the perceived threat to manufacturing from China, has special resonance during the weak U.S. economic recovery.

The issue of state Buy America legislation was a prominent agenda item at the June NFTC Board meeting since many member companies have concerns about retaliatory measures by our major trading partners.

For more information, contact Dan O'Flaherty at doflaherty@nftc.org.

U.S. - New Zealand Pacific Partnership Forum 2013

On Monday May 20, Bill Reinsch, President of the NFTC, moderated a remarkable panel of six former U.S. Trade Representatives engaging in dialogue on the developing TPP with regards to its goals and the United States' current and future role in maintaining strong momentum in its ongoing negotiations.

The featured former USTRs included Ambassadors Charlene Barshefsky, William Brock, Carla Hills, Mickey Kantor, Susan Schwab, and Clayton Yeutter.

L-R: Bill Reinsch NFTC ..Ambassadors: Carla Hills, Clayton Yeutter, William Brock., .Charlene Barshefsky, Mickey Kantor,and Susan Schwab,

NFTC Hosts Press Roundtable on National Export Initiative

On June 14, the NFTC hosted Undersecretary of Commerce for International Trade, Francisco Sánchez, at a lunch to discuss the current state of U.S. export growth. Also in attendance as featured guest speakers were Michael Masserman, Executive Director for Export Policy at the Department of Commerce, and Noel Cherowbrier, Senior Vice President for Global Sales & Marketing at Bode Technology.

The subject of growth in exports was discussed at length, and although Undersecretary Sanchez could not predict whether or not the stated National Export Initiative goal of doubling exports by the end of 2014 would be met, he was extremely optimistic about the next year and a half, given the remarkable rise in exports in the past year. Exports have been reportedly setting records across numerous states and, in particular, agriculture and also in metropolitan areas where the Administration's Metropolitan Export Initiative has been extremely successful in fostering growth. Mr. Masserman further elaborated on the rapid growth of American manufacturing, increasing at a rate of over 50 percent this past year, as well as the services industries, which have become the primary source of employment for Americans today.

NFTC Provides Input Into Transatlantic Trade Negotiations, Participates In Business Community Working Groups

In May, the NFTC submitted extensive comments on the Transatlantic Trade and Investment Partnership (TTIP) agreement with the European Union, welcoming announcement by USTR of the Administration's intention to enter into negotiations and commenting on several specific areas of negotiation. The comments outlined the Council's position on the TTIP, noting that it backs an ambitious agreement that addresses tariff and non-tariff barriers and regulatory issues as appropriate. NFTC honed in on several priority areas that it believes are essential to address in the negotiations.

The TTIP should build on a growing number of efforts and frameworks to improve the ability of individuals and businesses to participate in the global digital marketplace, for example, by building on the United States-European Union Trade Principles for Information and Communication Technology Services to achieve commitments on a range of issues important to the ability of businesses and individuals to access the global digital marketplace. NFTC also encouraged the Administration to build upon efforts to secure commitments on information flows in the TPP to create new binding obligations in the TTIP, noting that negotiating these types of commitments will require the United States and European Union to achieve understandings with respect to addressing important, shared privacy and security issues. The Council noted that it is critical for the two partner to address privacy and security concerns in a flexible manner, rather than via country-specific mandates or standards, that minimally impedes trade and innovation, and must recognize that differing approaches to these issues can achieve compatible outcomes.

NFTC highlighted the importance of including commitments sufficient to maximize the benefits of the digital marketplace to economic development, business and entrepreneurs. For example, commitments must permit the kinds of innovative services and emerging technologies that enable food trucks to accept credit cards, online merchants to utilize electronic payments, e-commerce platforms to facilitate transactions between international buyers and sellers, and organizations and individuals to accept gifts, remittances and donations from abroad. Ensuring that financial services – in particular services that facilitate cross border remittances, electronic payments and online commerce – are covered by a cross-border data commitment would help support this goal. Supporting innovation in these types of international business transactions

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NFTC Provides Input Into Transatlantic Trade Negotiations, Participates In Business Community Working Groups

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In addition, the Council recommended enhancing the transatlantic intellectual property rights framework, recognizing the unique nature of the relationship will require negotiators to engage on a discrete set of issues to improve the framework for protecting and promoting innovation. NFTC noted that TTIP should include strong provisions to improve the bilateral IPR framework and protections where necessary, for example to ensure that confidential commercial information submitted to government regulatory agencies in marketing applications is protected from disclosure and to strengthen and better harmonize protections for trade secrets, which are increasingly critical as knowledge and information become more valuable and are targeted for theft in the digital age.

The two partners should also seek to build upon past U.S.-EU collaboration vis-à-vis third countries by improving U.S.-EU alignment in the context of dialogues in multilateral forums and with respect to third countries on IPRs to ensure that commitments taken elsewhere do not undermine international IP norms and international commitments. The countries should also strive to improve the efficiency and effectiveness of the IP system at the global level.

NFTC also noted that the long term competitiveness of the United States will depend in part on the ability of public policy to accommodate the growing importance of global mobility, and that the United States and EU have an opportunity to improve the ability of business professionals to travel and work temporarily for business purposes, which will enhance transatlantic economic growth and integration. To improve the competitiveness of the United States, NFTC supports action on “Mode 4” services in TTIP that would clarify, harmonize and broaden the definition of business visitor across TTIP participants; permit, facilitate and remove obstacles to the temporary entry and assignment of intra-company transferees; professionals with specialized knowledge or advanced degrees; and traders and investors; and create pathways to facilitate visa processing and entry for business professionals and frequent travelers, including by facilitating the creation and harmonization of electronic document submission options for TTIP countries; and developing a transatlantic trusted-traveler and border-processing program.

The TTIP also provides an opportunity to establish enforceable rules governing SOEs and level the playing field between government-backed enterprises and other commercial actors. Obligations should cover national and sub-national SOEs which engage in commercial competition with other private enterprises. The TTIP should commit SOEs to a code of conduct that emphasizes non-discrimination, national treatment obligations, and other standards and practices that ensure fair competition and that SOEs act in accordance with commercial considerations.

NFTC is also playing an active role in the Business Coalition for Transatlantic Trade, the umbrella grouping of businesses and associations supportive of a TTIP agreement, co-chairing several subgroups on topics including competition, regulatory cooperation, intellectual property and digital trade.

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

Save the Date: World Trade Dinner Scheduled for October 9, 2013

The NFTC Foundation’s Annual World Trade Dinner and Award Ceremony will take place on Wednesday, October 9, 2013. The dinner is a black tie event and the venue is the elegant and historic Organization of American States, 17th Street & Constitution Avenue, NW, Washington, DC. Please save the date and plan to attend!

The 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. Company sponsorship opportunities for the dinner are still available, as are a limited number of individual reservations. Contact the NFTC at 202-887-0278 or nftcinformation@nftc.org for details.

Iran Sanctions Update

Like the return of swallows to Capistrano, members of Congress are once again mulling yet more draconian and comprehensive extraterritorial sanctions on Iran, contemplating reducing Iran's crude sales to zero or a comprehensive embargo across all economic sectors. Not to be outflanked, the Administration has expanded the current sanctions regime by executive order, targeting Iran's foreign exchange and domestic automobile manufacturing.

With the exception of licensed humanitarian trade – food, agricultural products, medicine and medical devices – U.S. companies and U.S. subsidiaries of foreign companies have long been excluded from any commerce with Iran. And collateral damage to supply chains and global commodity consortia resulting from Iran sanctions have been either avoided or absorbed.

The Iran sanctions regime, however, carries unforeseeable strategic exposure for U.S. commerce. First and foremost, the alienation of ordinary Iranians. Recall it was Ayatollah Khomeini who labeled the United States as "the Great Satan" – precisely because of Iranian affection for American culture and commerce. As sanctions take their toll on ordinary Iranians and paradoxically increase the power of the ruling regime, Iran may be lost for generations to U.S. goods and services.

Furthermore, by targeting Iran's crude oil sales at a moment when the United States could become a global fossil energy price setter, the United States effectively puts a firm floor under global crude oil prices, to the detriment of world economic growth and the world's poor.

Finally, the use of the global financial system – currently anchored in the primacy of U.S. banking – to implement sanctions in turn fosters extra-legal finance channels as an alternative to the conduct of rule-bound commerce.

Nevertheless, the political popularity of economic sanctions – despite the complete lack of any empirical evidence as to their success – is inarguable.

USA*Engage continues to focus, therefore, on maintaining the efficacy of the exemption for duly licensed humanitarian trade by U.S. businesses with Iran. This is consistent with official U.S. policy and should be maintained in practice. Unfortunately, the byzantine and conflicting nature of Treasury's implementation of sanctions has put the necessary third country financing of such trade in peril, as spelled out in the May 21, 2013 USA*Engage sent a letter to members of the Senate Foreign Relations, Senate Banking and House Foreign Affairs Committees regarding Undersecretary of Treasury David Cohen's Senate Foreign Relations Committee testimony on U.S. sanctions on humanitarian trade.

USA*Engage wrote:

*"USA*Engage applauds Undersecretary of Treasury David Cohen's recognition of the difficulties facing ordinary Iranians as a result of the U.S. financial sanctions regime in his written testimony to the Senate Foreign Relations Committee. We are heartened by Treasury's stated effort to redress this state of affairs. That said, USA*Engage differs with Undersecretary Cohen about the actual effects of the implementation of U.S. sanctions on humanitarian trade…"*

To read the full letter, follow the URL . http://www.nftc.org/default/USA%20Engage/23360169_USA%20ENGAGE%20response%20to%20Cohen.pdf

For more information, contact Richard Sawaya at rsawaya@nftc.org.

NFTC Comments to the International Tax Working Group

The House Ways and Means Committee set up 11 working groups on the various aspects of tax reform, and asked the public to comment. The NFTC sent comments to the International Tax Working Group. The following are the comments submitted by the NFTC:

Mr. Chairman, Ranking Member Levin, and Reps. Nunes and Blumenauer

The NFTC appreciates the commitment of Chairman Camp and the Ways and Means Committee and the working groups to comprehensive tax reform. We commend the Committee for engaging stakeholders and for conducting an open and transparent process.

The NFTC, organized in 1914, is an association of some 250 U.S. business enterprises engaged in all aspects of international trade and investment. Our membership covers the full spectrum of industrial, commercial, financial, and service activities, and we seek to foster an environment in which worldwide American companies can be dynamic and effective competitors in the international business arena.

The NFTC comments provide some background on comprehensive tax reform, a discussion of the current U.S. tax structure, and recommendations to enhance the ability of worldwide American companies to compete in the global market as well as their ability to invest and create jobs in the United States.

Comprehensive Tax Reform

As discussed in more detail below, comprehensive tax reform is necessary to address the changing global landscape, making the U.S. economy more attractive for investment and job creation. It has been over a quarter century since Congress has reformed the tax code. During this time, global commerce has changed dramatically and many foreign countries have responded to this change by updating their international tax regimes. The United States however, continues to lag in its response to the new global landscape. For example, in 1960 nearly all of the largest global companies were American companies, with 17 of the 20 largest companies headquartered in the U.S. In 1985, only 13 of the 20 largest companies were American companies, and as of 2010, only six of the 20 largest companies in the world were American. This represents a decrease of 55% since 1960. Since 1985, Brazil, China, India Russia and Eastern Europe moved from essentially non-market economies to fast growth developing countries whose markets have opened to global companies from the United States, Europe, Japan, China, Korea, and India. This very competitive marketplace is wide open.

To keep pace with this ever-changing global landscape, Congress should enact comprehensive tax reform legislation that:

1. Lowers the U.S. corporate income tax rate in line with the rates of our trading partners to attract and retain investment in the U.S;
2. Adopts a competitive territorial tax system that imposes minimal residual home country taxation on foreign earnings without expense allocation much like those in most of the rest of the world which would allow American companies to compete on equal footing with their foreign competitors in the global marketplace;
3. Permits American companies to invest foreign earnings in the U.S. without a tax penalty, and
4. Does not disadvantage any particular industry or type of income vis-a-vis other industries or types of income.

Until such time as comprehensive tax reform can be enacted, piecemeal changes should be avoided. In particular, a robust, fully-functioning foreign tax system that prevents double taxation of U.S. companies under the existing worldwide system needs to stay in place.

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NFTC Comments to the International Tax Working Group

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The U.S. Should Reduce the Corporate Income Tax Rate

The current combined U.S. federal corporate income tax rate of 39.1% (35% federal rate plus state income tax rate) is the highest combined corporate income tax rate among the member countries of the Organisation for Economic Co-operation and Development ("OECD"). Indeed, in the world, only the Democratic Republic of the Congo and Guyana have a higher rate. The U.S.'s combined rate is nearly 15 percentage points higher than the 25% average corporate tax rate among OECD member countries.

The U.S. high statutory corporate income tax rate presents a number of problems for global American companies and the U.S. economy more generally. First and foremost, the high U.S. statutory rate makes the U.S. economy has a whole less attractive as a place to do business. By lowering the corporate income tax rate, the United States economy will experience a number benefits. Recent research indicates that because the economic burden of corporate income taxes generally falls most heavily on labor, a lower rate will effectively lead to higher wages and living standards among U.S. workers. A lower corporate tax rate will also boost investment, entrepreneurship, and productivity in the United States. Companies will have an incentive to locate their headquarters and create more offices in the United States, which will in turn create new job opportunities and improve the U.S.'s economic outlook. A reduction in the corporate income tax rate also will help attract and retain more U.S. investment, including foreign direct investment, also resulting in additional jobs and tax revenue. The statutory rate is the rate that is the measure of the net after-tax rate of return on a given investment project.

According to a recent OECD report investigating how tax structures can best be designed to support GDP per capita growth: "The analysis suggests a tax and economic growth ranking order according to which corporate taxes are the most harmful type of tax for economic growth . . . ." As such, the NFTC is encouraged by the fact that there appears to be a growing consensus among policymakers in both Congress and the Administration that a reduction in the corporate income tax rate is a necessary policy prescription for a higher U.S. standard of living.

Furthermore, it very difficult for global American companies to compete with foreign companies that have the benefit of a lower corporate income rate within their respective countries. Other countries have recognized the competitive advantages of a lower corporate income tax rate and responded accordingly. Over the past four years, 75 countries have cut their corporate income tax rates in order to promote investment and create jobs. For example, Canada lowered its federal rate from 18% to 16.5% and has plans to further reduce the rate to 15%. Similarly, the United Kingdom lowered its rate from 28% to 23% and has plans to reduce the rate to 21% by 2014, and 20% by 2015. These examples demonstrate the continued lack of competitiveness of the U.S. corporate tax system, which ultimately results in slower economic growth and impedes the creation of jobs in the United States.

The high U.S. corporate income tax rate also provides a barrier to American companies seeking to expand through foreign acquisitions. Foreign-based companies that benefit from lower tax rates can typically outbid American companies for foreign targets. This makes it more difficult for worldwide American companies to enter new markets and prevents these companies from reaping the benefits of increased market share, access to key customers, cost synergies, and efficiency gains. In this regard, the United States should adopt a corporate tax system that places worldwide American companies on an equal footing with their competitors.

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NFTC Comments to the International Tax Working Group

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The U.S. Should Implement a Competitive Territorial Tax System

In addition to its high statutory corporate income tax rate, the United States also taxes American companies on their worldwide earnings whether earned in the United States or abroad. The U.S. tax system provides temporary relief to companies through deferral of tax on the active business earnings for foreign subsidiaries until those earnings are repatriated. In other words, American companies can decide either to reinvest foreign profits in their foreign operations or to bring those profits back to the United States with the consequence of having to pay residual U.S. tax on those profits. Non-American companies, on the other hand, may freely bring their non-U.S. earnings into the U.S. without a tax penalty. In contrast, a competitive territorial tax system consistent with that of most of our major trading partners would impose little or no additional home country tax on active business profits earned abroad and eliminate the current tax disincentive to repatriation. The U.S. worldwide tax system creates artificial barriers to investment within the United States. Conversely, most other countries operate under territorial systems that allow foreign-based companies to deploy capital around the world without additional home country taxation.

There are numerous examples of how the current U.S. worldwide tax system puts American companies with global operations at a competitive disadvantage against foreign competitors. For example in Canada, the corporate tax rate is 15%, and that rate is sometimes reduced through tax incentives. (We do not take the various provincial rates into consideration for this example). If an American company earns $1,000 Canada, it pays $150 in corporate tax to Canada. If that company distributes the remaining income ($850) to the U.S. parent, the U.S. parent must pay another $200 to the U.S. Treasury, bringing the total tax to the 35 percent U.S. corporate rate. However, if a competitor from Germany earns $1,000 Canada, it pays only the $150 Canadian tax. Germany, with its territorial system, taxes only the corporate income earned inside its borders. Thus, the German company has $200 more net income to be used to invest and grow, and that benefit will be even greater if the Canadian subsidiary benefits from local tax incentives. In each case, the Canadian subsidiary of an American company and the Canadian subsidiary of a German company can compete equally within Canada – but the overall tax burden on the American company is substantially greater.

The current U.S. worldwide tax system also impairs the ability of American companies to move capital around the world to meet business needs, particularly back into the U.S. economy with the tax penalty on repatriated foreign earnings. There are also instances where moving cash between overseas subsidiaries could lead to a U.S. tax penalty. For example, moving cash from a German subsidiary to a French subsidiary, or back to the United States, could cause a U.S. tax. While the so-called “look-through” rule and the foreign tax credit rules can mitigate that additional U.S. tax, they require American companies to implement complicated and costly monitoring and planning. Conversely, our competitors from countries with territorial systems can deploy capital around the world as needed without the added costs of taxes, or complicated and costly monitoring and planning.

Of the 34 OECD member countries, 26 use a territorial system, with only the remaining eight, including the U.S., using a worldwide system. Importantly, 18 of the 26 countries using a territorial system provide for a 100% exemption of foreign subsidiary earnings from home country taxation, and none require home country expense allocation. By switching to a competitive territorial system, the United States would encourage businesses both at home and abroad to invest in the United States. The switch would also align the United States with its global trading partners, including Canada, the United Kingdom, Germany, France, and Japan. In this regard, a move to a territorial system would place the American economy and American companies on a level playing field with competitors throughout the world. Further, a competitive territorial system would make the United States a more attractive place to locate company headquarters, new plants and service locations, which would ultimately lead to additional job opportunities in the United States.

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NFTC Comments to the International Tax Working Group

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It is also important to note that, in adopting a territorial system, the U.S. should not deny deductions for interest or other expenses allocated to foreign income. Such a limitation would be inconsistent with the tax systems of every major industrialized country and would put American companies at a competitive disadvantage in both the U.S. and foreign markets. Rather than allocating expenses, many countries have implemented a 95% dividend exemption system, instead of a 100% dividend exemption system. Denying deductions for business expenses may also put the U.S. at a competitive disadvantage when global businesses are making investment and location decisions. Further, disallowing interest expense allocable to foreign income (as proposed in the U.S. Department of the Treasury FY2012 revenue proposals) would devastate U.S. banks and financial services companies for whom interest expense effectively represents the cost of raw materials. No major industrialized country has taken the approach of denying deductions for expenses allocable to deferred or exempt income, and we recommend that the U.S. system be consistent with this norm.

Neutrality Among Industries and Type of Income

Finally, comprehensive tax reform legislation should promote neutrality among industries, types of income, and taxpayers, i.e. it should avoid policies favoring one industry or type of income over another or discriminate against one taxpayer versus another engaged in the same or similar activities.

For more information, contact Catherine Schultz, cschultz@nftc.org.

NFTC Foundation Holds 18th Annual Strategic Global Workforce Management Forum

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- Global Mobility Performance Improvement
- The Global Human Resources Benefits Management Checklist
- Current International Tax Issues-A View From Washington
- The Impact of Technology on Mobility
- Off The Grid and On Alert: Pushing the Limits in Remote Locations
- Immigration Regulation Update: What Is (or Is Not) Happening in Washington
- Workforce Management in a Privately-Held European MNC
- Global Payroll Management: Compliance and Analytics
- Developing a Savvy and Safe Global Workforce via Training and Communications
- Frontier Markets: Opportunities and Tripwires

The faculty included international human resource management colleagues from ABB, AIG, ArcelorMittal, American Express, Boehringer- Ingelheim, Coca-Cola, LVMH and Merck, as well as subject matter experts from Cigna Global Health Benefits, Ernst & Young, Fragomen Worldwide, NetExpat and the NFTC.

The next strategic global workforce management forum will be in Houston on March 4-5, 2014.

For information, contact Bill Sheridan at wsheridan@nftc.org.

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NATIONAL FOREIGN TRADE COUNCIL

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