

# Council Highlights



December 2003 NATIONAL FOREIGN TRADE COUNCIL

## A Word from the President

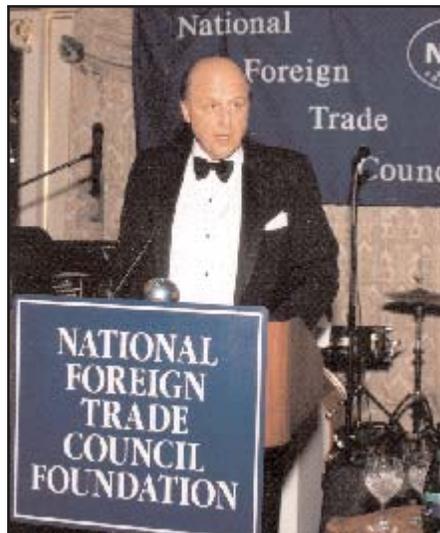
As I write this, Congress is rushing to wrap up its work for the year and adjourn. Those of us who worked on the Hill have learned from experience to dread this week. It is a time when some things mysteriously disappear from the legislative process, and, often worse, when other things equally mysteriously appear and are adopted with little or no debate or thought. This week is not the democracy students read about in their political science textbooks; it's the sausage in that cliché about the things you never want to watch people make. Some examples:

In the temporarily-disappeared category is legislation to repeal the FSC/ETI tax provision in order to conform to the WTO decision the U.S. lost. Both House and Senate have approved bills, and, with an adverse WTO ruling and EU retaliation threatened for next March 1, many people expected some further action this year. Instead, both bills have disappeared from view. The Senate has deferred to the House's constitutional prerogative to initiate revenue bills (which conveniently allows them to avoid the political pressures that will fall on whoever moves first), and the House leadership is not sufficiently certain of its vote count to move forward. The good news is that most parties appear to agree that repeal is necessary in order to comply with the WTO. The bad news is that the debate will be messy because of disagreements over who will win and who will lose in the new tax provisions that are adopted in place of FSC/ETI. The result is postponement.

In the gone and hopefully forgotten category is a failed attempt to address another.  
*(Continued on Page 10)*

## NFTC 2003 World Trade Dinner Continues Successful Tradition

On November 10 at the St. Regis Hotel in Manhattan, the NFTC held its annual World Trade Dinner and Awards Ceremony, bestowing the NFTC World Trade Award for leadership in advancing open trade and investment. The keynote speaker for the evening was U.S. Ambassador to the United Nations John D. Negroponte, who outlined U.S. priorities in the UN and the role of the American private sector in advancing those priorities in the world. Ambassador Negroponte's remarks can be found on the NFTC website ([www.nftc.org](http://www.nftc.org)) under the heading "News and Events."



U.S. Ambassador to the United Nations, John Negroponte, Keynote Speaker

*(Continued on Page 3)*

## TOP COUNCIL NEWS

### Chairman's Note

"Many stories have been written, and you will no doubt see more of them in the coming months, about the 'rising tide of protectionism' in the United States. This tends to happen during every election cycle, but history suggests it also correlates directly with changes in the unemployment rate..."

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### U.S. Business Concerns Growing Over Investor Protection Agenda

"The U.S. is currently considering the revision of its position on investment provisions in FTA agreements and in future Bilateral Investment Treaties..."

*(Page 4)*

### USA\*Engage Moves Closer to Ending the Travel Ban on Cuba

"As the legislative session winds to an end, USA\*Engage can point to many successes this past year with regard to Cuba. Thanks to the active support of members of our Cuba Coalition and the extensive lobbying efforts of USA\*Engage, we had two major victories..."

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# NFTC World Trade Dinner



Lee Raymond, CEO ExxonMobil; Michael Jordan, Chairman NFTC; Rick Fuest, Active International

"The National Foreign Trade Council itself has much to be proud of. For nearly 90 years the NFTC has been a strong proponent of more open trade, and the fundamental wisdom of that advocacy is reflected in the enormous expansion of the world's prosperity."

- Lee R. Raymond, Chairman & CEO, ExxonMobil, Winner of the NFTC 2003 World Trade Award, November 10, 2003



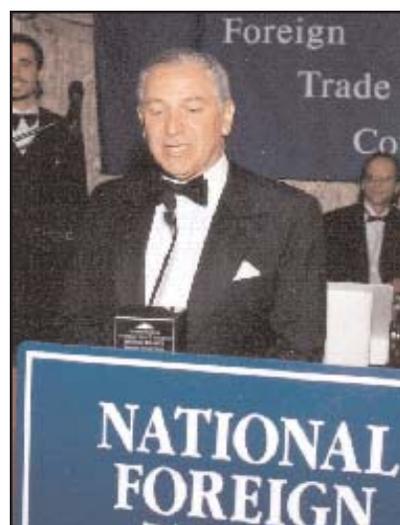
Mr. & Mrs. Don Deline, Halliburton; Mr. & Mrs. Bruce Talley, ABB; Catherine Bennett, Pfizer; Bill Sweeney, EDS



Alan Elkin, Active International; Anne Alonzo, NFTC; Ambassador John Negroponte; Michael Jordan; Rick Fuest, Active International; Bill Sweeney, EDS

"I want to recognize the substantial contributions U.S. business and the National Foreign Trade Council make to America's standing in the world every day of the week and every week of the year."

- U.S. Ambassador to the United Nations John D. Negroponte at the 2003 NFTC World Trade Dinner



Morocco Ambassador to U.S. Aziz Mekouar



Lee Raymond; Ambassador John Negroponte; Michael Jordan



# NFTC World Trade Dinner

## 2003 World Trade Dinner Gifts & Prizes

Among the things that made the evening special were the gifts provided to all guests by Pernod Ricard USA and Mars Inc. Additionally, guests were eligible to win the following prizes, which were awarded by drawing at the end of the dinner.

Prize One - A trip for two to Morocco, including round trip business class airfare on Royal Air Maroc and a week's stay at the world renowned Moroccan resort, La Mamounia, courtesy of the Embassy of Morocco, the Moroccan National Tourism Office and Royal Air Maroc.

Prize Two - A \$15,000 certificate good on any Seabourn Cruise Lines Cruise, courtesy of Active International.

Prize Three - Two round-trip airline tickets from New York to Rome or Milan courtesy of Alitalia Airlines.

Prize Four - Two-night weekend stay at the St. Regis Hotel Washington, DC, courtesy of The St. Regis Hotel Washington.

Prize Five - Two-night weekend stay at the St. Regis Hotel New York, courtesy of the St. Regis Hotel New York.

## 2003 World Trade Dinner Sponsors

The annual World Trade Dinner remains an integral part of funding the work of the NFTC and we gratefully acknowledge and thank our sponsors for this year's event:

- Active International
- Archer Daniels Midland
- American International Group
- Bechtel
- Caterpillar
- Citigroup
- Eastman Kodak
- EDS
- Ernst & Young
- ExxonMobil
- Halliburton
- Ingersoll Rand
- JP Morgan Chase
- Johnson & Johnson
- KPMG
- Mars
- Occidental International
- Oracle
- Pepsico
- Pernod Ricard USA
- Pfizer
- PriceWaterhouseCoopers
- Procter & Gamble
- Siemens

*Continued from Page 1, "NFTC 2003 World Trade Dinner..."*

Continuing a proud tradition, the NFTC presented its "World Trade Award" to Lee R. Raymond, Chairman and CEO of Exxon Mobil Corporation. "With more than 40 years as a top business executive for a global commercial leader, ExxonMobil's Lee Raymond exemplifies the spirit of the NFTC World Trade Award. The NFTC is proud of it's over 60-year association with the Exxon Mobil Corporation, and we are honored to give our World Trade Award to the company's renowned leader," said Michael Jordan, Chairman of the NFTC and Chairman & CEO of EDS, as he presented the award. Lee Raymond's remarks in accepting the award can be found on the NFTC website ([www.nftc.org](http://www.nftc.org)) under the heading "News and Events."

This year's NFTC World Trade Award Committee, chaired by Rick Fuest of Active International, chose Mr. Raymond for the award based on his leadership in advancing global commerce. In addition, all nominees for the award must be respected in the community for building consensus and promoting the benefits of open trade and investment. Dating from 1937, NFTC's World Trade Award was established by the Dollar Family of San Francisco in memory of Captain Robert Dollar, pioneer in American shipping and world trade and a charter member of the National Foreign Trade Council.

Lee Raymond continues the tradition of esteemed World Trade Award nominees with a distinguished career in global business. Before the merger of Exxon and Mobil on November 30, 1999, Mr. Raymond was chairman and chief executive officer of Exxon Corporation. A Ph.D. in chemical engineering, Mr. Raymond joined Exxon in 1963 and has served in various capacities for the corporation in his four decades there.

## 2003 NFTC World Trade Dinner & Award Committee

- Rick Fuest, Active International, Chair
- Geoff Gamble, E.I. duPont de Nemours & Company
- Gardiner Hempel, Deloitte & Touche LLP
- Virginia Hollis, CIGNA International
- Lionel Johnson, Citigroup
- Joe LaSorte, Hewitt Associates LLC
- Louis Mezzo, Ernst & Young LLP
- Mark Orr, Pernod Ricard USA
- Robert H. Ragan, Bechtel Group



# Trade and Export Finance



## U.S. Business Concerns Growing Over Investor Protection Agenda

The U.S. is currently considering the revision of its position on investment provisions in FTA agreements and in future Bilateral Investment Treaties. Due to an increasingly defensive posture on the part of certain U.S. agencies, consideration is being given to removing investor-state arbitration in key FTAs, excluding the coverage of procurement agreements, and providing broad exceptions for prudential reasons. The NFTC is working with its members to devise a strategy for reversing the trend toward weaker standards and for communicating more broadly the vital importance to U.S. business of a strong U.S. investor protection agenda by the U.S. government. If you have major concerns in this area, please contact Mary Irace at 202-887-0278.

## NFTC Provides Comments on OECD Draft Environmental Guidelines for Export Credit Agencies

After a year-long effort, the U.S. appears to be working toward accepting a revised OECD set of environmental guidelines for export credit agencies. Prior to the last negotiating session, the NFTC and CEE sent a letter to the Chairman of Ex-Im Bank, Phil Merrill, and other Administration officials, laying out U.S. exporter concerns over the draft guidelines and recommendations for addressing them. At this time, it appears that many of our concerns were addressed and that the U.S. government is prepared to accept the final draft.

## End of Session Anti-Trade Legislation Opposed by NFTC

With heated political debates underway on U.S.-China trade and high-tech outsourcing of U.S. jobs, the NFTC and other business groups have been busy fighting legislative amendments harmful to U.S. business. Two bills have received the greatest attention - a bill by Senator Schumer to impose a 27.5 percent tariff on all of China's exports to the United States and an amendment by Senator Feinstein included in the Commerce, Justice, State appropriations bill which would prohibit the use of any USTR funding for the negotiation of a trade agreement that contains immigration or temporary entry provisions. The NFTC has signed letter urging Members of Congress to strongly oppose both measures. For further details, please contact Mary Irace at 202-887-0278.

## NFTC Urges U.S. to Comply with WTO Decision on Steel Tariffs

With the release of the final WTO dispute settlement decision on the U.S. steel safeguard action, Bill Reinsch reiterated the NFTC's call to remove the steel tariffs imposed under Section 201 of the U.S. trade remedy law. On November 10, the WTO Appellate Body had ruled that the U.S. action was inconsistent with the WTO Safeguards Agreement.

In an NFTC press release Bill Reinsch stated that the "time is now for the U.S. to step up and show that leadership means not only negotiating rules, but also following the rules that are set . . . Prompt compliance with the steel decision will help re-energize efforts to get the Round back on track by demonstrating continued U.S. leadership and commitment to the WTO."

## Doha Round Working Group Meets on 2004 Work Plan

Members of the NFTC special project on the Doha Round held a meeting on November 14 to begin mapping out a strategy for continued American business support for an ambitious outcome to the Doha Agenda negotiations under the WTO. The near term effort will focus on re-energizing the talks so that a framework agreement can be reached by no later than early next year. Absent a framework agreement in early 2004, it will be increasingly difficult for the negotiations to conclude successfully by the anticipated new deadline of 2006. Expert Geneva observers believe that continued technical work will need to be fully underway next year to meet a 2006 deadline.

Among the activities being considered next year for the NFTC Doha Round Working Group is an increased focus on building developing-country allies for key business positions, a renewed emphasis on the high level of ambition called for in the 2002 NFTC position paper, and developing stronger working relationships with key European business groups. Additionally, working group members are interested in encouraging China to exert stronger leadership in supporting a meaningful outcome.

The NFTC would also like to welcome Wal-Mart as the newest member of the Doha Round special project!



# Trade and Export Finance



## **NFTC Urges Negotiation of U.S.-Bahrain Free Trade Agreement; Participates in Formation of FTA Coalition**

In testimony before the U.S. Trade Policy Staff Committee, NFTC President Bill Reinsch urged the United States to begin negotiations on a U.S.-Bahrain Free Trade Agreement. Bahrain is a dependable and longstanding U.S. business partner in an unstable region, has worked hard to diversify its economy, invested substantially in transportation and communications infrastructure, and already serves as an important hub for U.S. business in the Gulf region. As home to the U.S. Navy's 5th Fleet, there is a strong foundation of U.S.-Bahraini relationships and familiarity with U.S. products, services and technology, as well as the U.S. educational and healthcare system.

In the last two years, Bahrain has embarked on an historic program of democratic reform, instituting a constitutional monarchy with an elected lower chamber of parliament, undertaking the creation of an independent judiciary, and granting women the right to vote and stand for office. A free trade agreement with the United States will serve to increase economic opportunity in Bahrain which will in turn encourage further reform. Bahrain's commercial and economic reforms and market opening measures as reflected in a high quality FTA are likely to encourage neighboring countries to pursue the same path.

Reinsch testified on behalf of the NFTC, the Business Council for International Understanding, and the National U.S. - Arab Chamber of Commerce, organizers and co-secretariat of the U.S.-Bahrain FTA Coalition, a diverse group of U.S. corporations and associations supporting a free trade agreement between the two nations. The Coalition, now being formed, is chaired by Lionel Johnson of Citigroup and William Rice of Alcoa. To join the coalition, e-mail Chuck Dittrich of NFTC at [cdittrich@nftc.org](mailto:cdittrich@nftc.org).

## **OPIC Reauthorization Legislation on Cusp of Final Action, Awaits Presidential Signature**

On November 14, the Senate approved by voice vote legislation (S.1824) to reauthorize the Overseas Private Investment Corporation for four years, and the House soon followed, voting unanimously on a similar measure (H.R. 3145) November 19. Both measures would provide two important reforms for US investors. One would allow OPIC to provide local currency guarantees. The other would clarify OPIC's coverage to allow coverage for government controlled entities. The NFTC strongly supports both. The final bill awaits President Bush's signature into law

## **Free Trade Agreement Negotiations with Morocco, Central America and Australia Move Closer to Conclusion with New FTAs Being Launched for Next Year**

The Bush Administration has launched an unprecedented number of FTAs this year. While Congress was approving FTAs with Chile and Singapore, three more - with Morocco, Central America and Australia - are in the process of intense negotiation for completion this year or early next year. Scheduled final rounds will be held in December on all three negotiations. It looks as if the Morocco FTA is both the least controversial of the three and the one most likely to be completed in December.

The NFTC, as secretariat for the U.S.-Morocco FTA Coalition, recently arranged meetings with Moroccan Ambassador Mekouar and the lead U.S. negotiator, Assistant USTR Cathy Novelli. The major issues still to be resolved include the non-conforming measures (e.g., reservations) relating to investment and services, agriculture, and textiles and apparel. Sensitive issues remain to be decided in the other FTA talks, particularly on agriculture. The Central America FTA is shaping up to be potentially the biggest trade battle in the Congress next year, with organized labor mounting a major campaign to oppose it.

Next year, new negotiations are expected with Bahrain, Thailand, Colombia, and the Andean nations, with others waiting in the wings.

## **NFTC Joins With Other Business Groups in Urging Comprehensive FTAA Agreement**

On the eve of the November 17-20 ministerial meeting in Miami, several U.S. business groups joined to support a comprehensive, high standard FTAA agreement. This effort is a response to Brazil's efforts to conclude an "FTAA-lite" which would exclude meaningful provisions on intellectual property rights, services, government procurement and investment. Since business sees this as a serious step backwards, 70 companies and associations, including the NFTC, sent a letter on September 23 to Ambassador Zoellick and Secretary of Commerce Evans urging them to "stay the course and continue to fight for a comprehensive and commercially meaningful FTAA that incorporates high standards, similar to those the United States has achieved in its free trade agreements (FTAs) with Canada, Mexico, Chile and Singapore." A November 14 press release reaffirmed this position.



## U.S. and Japan Tax Treaty Is Signed

A proposed tax treaty between the U.S. and Japan was signed by Treasury Secretary John Snow and Japanese Ambassador Ryozo Kato on November 6th. The new agreement will replace the 30 year old tax treaty currently in force between the two countries. Barbara Angus, International Tax Counsel, U.S. Treasury, announced the signing at the NFTC Fall Tax Committee Meeting and invited NFTC members to attend.

Japan has long been a country of significant importance to NFTC member companies. In the annual tax treaty survey conducted by the NFTC, Japan ranked in the top three of tax treaty priority countries for the last several years (Canada and Brazil round out the top three).

The next significant step in the tax treaty process is a Senate Foreign Relations Committee review of treaty reports prepared by the Joint Committee on Taxation and the Treasury Department and a ratification hearing. Following the hearing, the Committee makes a recommendation regarding the treaty and reports it to the Senate floor where it must be passed by two-thirds of the members present. Japan also must conclude its ratification process before formal ratification is completed and instruments of ratification are exchanged. If ratification is completed before April 1st, the U.S. Japan Tax Treaty will become effective as of July 1st. If ratification is completed after April 1st, the treaty will become effective as of January 1st of the following year.

Committee staff has assured NFTC staff and NFTC member representatives that an early ratification of the U.S. Japan Tax Treaty is planned. Committee action is slated for early 2004 and is aimed at meeting the March 31st deadline.

## Chairman's Note

In our last issue in October, I began with a comment about the political silly season having arrived, with the Presidential election then only 13 months away, and the campaign for the Democratic nomination already in full swing. Now, only two months later, we can see that politics has, among other things, turned to trade policy to find easy answers to complicated problems.

Many stories have been written, and you will no doubt see more of them in the coming months, about the "rising tide of protectionism" in the United States. This tends to happen during every election cycle, but history suggests it also correlates directly with changes in the unemployment rate. While the current 6% is not exceptionally high by historical standards, it is nearly twice what our economy enjoyed at the height of the 90's boom, and it is that rapid change, not the absolute level, that influences public perceptions.

When the public is alarmed, the easiest thing to do is blame somebody else, and foreigners are easy targets for the politicians - after all, they don't vote here. The current target is China; since our annual bilateral trade deficit with them is over \$100 billion and growing, and their enormous productive capacity suggests that the situation could well get worse rather than better. For old trade hands, this is familiar rhetoric - we heard it all with respect to Japan in the 1980's.

The problem for the critics, however, is that China is more difficult to attack on economic grounds than Japan. Its economy is much more open - it welcomes foreign investment and is becoming a major importer as it becomes an assembler of parts and components produced elsewhere. Indeed, while its surplus with us is enormous, its overall trade account is roughly in balance and will likely end the year with a relatively small overall surplus. In other words, China is not buying much from us, but it is buying a lot from others. That means, while our continued demands for full and timely compliance with its WTO accession obligations makes eminent good sense and will have a significant impact in the long term, it will do relatively little to address our short term imbalance. Likewise, demanding floating of the yuan, while the right policy in theory, is also a longer term policy - not to mention the fact that the Chinese are unlikely to do it, given the present sorry state of their banking sector.

Among other things, this suggests that the more realistic step than new protectionist moves at this point is to take a much closer look at our own domestic policies. We have been losing manufacturing jobs in the United States for some 40 years - China is only the latest beneficiary in a long string. Successive administrations have generally responded not with protectionism to try to stem the tide but with pro-growth policies to create new jobs in lieu of those being lost. As a result, we continue to have the most agile economy in the developed world - the one that is best able to move ideas from the laboratory to the assembly line quickly and efficiently.

What we have been less good at is creatively addressing the dislocation that open trade causes. The new jobs we create are usually not taken by the people that lost the old ones. They are, by and large, not trained for them, not located  
*(Continued on Page 8)*



# Tax Policy

## NFTC Tax Committee Fall Meeting is a Big Success

For the first time, the annual Fall Tax Committee Meeting expanded to two days and included a full day session with tax officials from the Organization for Economic Cooperation and Development who informed NFTC members about the organization's many current tax projects. The NFTC's Chairman of the Board, Michael H. Jordan, who is also Chairman and CEO of EDS, opened the meeting with Richard Hecklinger, OECD Deputy Secretary-General. The subject of the meeting and the topic of Mr. Jordan's and Mr. Hecklinger's remarks was "Creating a Global Business Environment." The NFTC was joined by the United States Council for International Business in hosting the first day of the meeting, which was held at the Ronald Regan Building in Washington. The traditional legislative and Treasury update was on the program for the second day of the meeting.

Representative Nancy Johnson was the keynote dinner speaker. She focused her comments on the importance of creating competitive U.S. companies and how the U.S. tax code could be modified to assist in achieving that result. She encouraged U.S. company representatives to continue to educate Congress about the importance of international tax reform. Bill Archer, former Chairman of the Ways & Means Committee, joined NFTC and USCIB members for dinner and introduced Representative Johnson.

Attendees had the opportunity to get a first-hand update on the OECD's varied tax activities. OECD officials were joined by representatives from U.S. business and the

Administration on each panel. Tax issues and the digital economy were the focus of three panel discussions, including direct and indirect tax issues and the use of technology to improve taxpayer service. Other current international tax issues, including clarification of the permanent establishment concept and the application of the arm's length principle to permanent establishment, followed. Tax Officials from the OECD's Center for Tax Policy and Administration who participated in the meeting were David Holmes, the Head of the Consumption Taxes Unit, and Jacques Sassesville and John Neighbour who represent the Tax Treaty, Transfer Pricing & Financial Transactions Division. Jacques and John are the Head of that Unit, and Head of that Division, respectively.

The second day of the meeting was kicked off by Barbara Angus, International Tax Counsel, U.S. Treasury, who provided a tax treaty and Treasury update including news that the U.S. Japan Tax Treaty would be signed later that day. A lively discussion about international tax reform by a panel of legislative tax staff, and a budget update by a visiting scholar from the Congressional Budget Office followed. Pam Olson, Assistant Secretary for Tax Policy, U.S. Treasury, was the keynote luncheon speaker.

Thanks to all who participated to make this year's Fall Tax Meeting a success, especially, Joe Luby, NFTC's Tax Committee Chairman. For more information, contact Judy Scarabello, Vice President for Tax Policy at [jscarabello@nftc.org](mailto:jscarabello@nftc.org).

### 2003 Fall Tax Meeting Photos



(L-R) Richard Hecklinger, Deputy Secretary General, Organization for Economic Co-operation & Development; Michael H. Jordan, Chairman and CEO, EDS



(L-R) John Buckley, Chief Tax Counsel, Democratic Staff, House Committee on Ways and Means; Mark Prater, Chief Tax Counsel, Republican Staff, Senate Committee on Finance; Russ Sullivan, Chief Tax Counsel, Democratic Staff, Senate Committee on Finance; Greg Nickerson, Tax Counsel, Republican Staff, House Committee on Ways and Means; and Nick Giordano, Washington Council Ernst & Young LLP



# U.S.-South Africa Business Council

## U.S.-South Africa Business Council Covers New York Federal Court Hearing on Motion to Dismiss "Apartheid Lawsuits," Holds Briefing for Member Companies

On November 6, staff of the U.S.-South Africa Business Council attended a hearing in New York on a motion to dismiss the lawsuits filed against U.S. and EU companies that conducted business in South Africa during apartheid. On November 14, the Business Council held a briefing for member companies by Owen Pell of White and Case, a lead attorney for the defendants. It is expected that Judge Sprizzo, the presiding judge in Federal District Court for the Southern District of New York, will hand down his opinion in January or February. If he dismisses the cases, the plaintiffs are likely to appeal to the Second Circuit next spring and arguments would then be heard in the summer of 2004. The principle question to be decided under appeal would be whether aiding and abetting is a tort under international law. It is also possible that the court will rule on whether corporations can be sued under the Alien Tort Provision or the Torture Victims Protection Act.

Meanwhile, three new complaints have been filed in the Eastern District of New York and additional complaints are expected against EU and U.S. banks that did business with large South African companies during apartheid. For more information about the lawsuits, contact Dan O'Flaherty at 202-887-0278 or [doflaherty@nftc.org](mailto:doflaherty@nftc.org) or Emily Solomon at the same telephone number or [ussabc@nftc.org](mailto:ussabc@nftc.org).

*(Continued from Page 6, "Chairman's Note")*

in the right places, and not equipped to move or get the necessary training. As part of last year's renewal of Trade Promotion Authority, Congress significantly expanded the Trade Adjustment Assistance program, an expansion NFTC strongly supported. Some of the changes enacted are being implemented; others, like the wage insurance pilot program, are moving too slowly. We need more resources and more focus on education and training if these programs are to succeed and if we are to equip our workers who have lost their jobs because of trade with the skills they need to compete and survive in our 21st century economy.

That's a less dramatic action than cutting off imports of Chinese apparel or continuing the steel tariffs, but it is one way we can preserve a trade policy that has helped make our economy as strong as it is while at the same time providing hope and assistance to the inevitable victims of the changes that trade produces.

## Events Scheduled for U.S. Ambassador Hume and South African Ambassador Masekela.

On November 24, the Business Council met in Washington with Cameron Hume, U.S. ambassador to South Africa. Ambassador Hume discussed new developments in South Africa's black economic empowerment requirements, a matter of high importance to U.S. companies doing business there. Business Council staff have met on this subject with Charles Snyder, acting Assistant Secretary of State for Africa, and Jendayi Frazier, NSC Senior Advisor on Africa.

On December 2, the Business Council will host a small dinner for Barbara Masekela, the new South African ambassador to the U.S. The event will provide an opportunity for her to get to know our member companies and to convey her priorities for her tenure as ambassador. The Business Council has also invited Minister of Trade and Industry Alec Erwin to meet with our members if he is in Washington for the AGOA Forum meetings in Washington, December 9-10, to discuss his government's black economic empowerment program, as well as to give an update on commercial developments in the region. Members interested should contact Dan O'Flaherty at 202-887-0278, or [doflaherty@nftc.org](mailto:doflaherty@nftc.org) or Emily Solomon at [ussabc@nftc.org](mailto:ussabc@nftc.org).

## U.S.-South Africa Business Council's Coalition on the SACU FTA Talks Meets with Negotiators, Holds Reception for SACU Delegation

The U.S.-South Africa Business Council held two events in connection with the third round of free trade negotiations between the U.S. and the Southern African Customs Union in Washington on October 15. The first was a round-table discussion with the heads of delegation, including the Assistant USTR for Africa, Flori Lizer, of issues under negotiation and on the prospect of a conference to publicize the benefits of the FTA when it is completed in late 2004. The second was a reception in the U.S. Capitol for all the SACU and U.S. negotiators with Members of Congress and their staffs, as well as the business community. Among others, Senator Lugar and Congressmen Jefferson and Royce attended. The next round is to be held in Namibia in December. Matthew Mullin, the U.S.-SACU FTA coalition manager, has organized individual meetings with the ambassadors of the five SACU countries. Those interested in the SACU talks can contact Matt at 202-887-0278 or [mmullin@nftc.org](mailto:mmullin@nftc.org).



## USA\*Engage Moves Closer to Ending the Travel Ban on Cuba

As the legislative session winds to an end, USA\*Engage can point to many successes this past year with regard to Cuba. Thanks to the active support of members of our Cuba Coalition and the extensive lobbying efforts of USA\*Engage, we had two major victories on Cuba this month alone. On October 23, the Senate passed by a vote of 59-36 an amendment to an appropriations measure identical to language the House had passed by 227-188 on September 9, to eliminate funding for the enforcement of the travel ban. Although the House has voted four years in a row to ease restrictions on travel to Cuba, this year was the first time the measure was adopted by both houses. This reflected a clear statement of intent by Congress. Since the language was identical, it would not ordinarily have been subject to action by a conference committee. However, in what would have been the first veto of his presidency, President Bush threatened to veto the entire appropriations bill if the final version contained any language on Cuba.

In a move that defied the will of both chambers of Congress, the congressional leadership of the conference committee stripped out the amendment - before the conferees formally met and without allowing a vote by members of the conference. This is not the first time this has happened, however, as the New York Times reported: "Republican leaders have removed Cuba-related language at the same juncture in previous years, though never against such an overwhelming mandate from their colleagues."

In a separate action that further demonstrated this trend, on November 6 the Senate Foreign Relations Committee passed by 13-5 "The Freedom to Travel to Cuba Act of 2003" (S.950), which would repeal the travel ban entirely. This bill is now on the legislative calendar for next year. The bill's sponsors have written to the Majority Leader informing him that they will hold up consideration of the Treasury-Transportation appropriations bill unless they are given a guarantee that S.950 will be scheduled for floor consideration before the end of February 2004. USA\*Engage made tremendous strides this year. Clearly the battle to reform U.S. policy towards Cuba is far from over, and we will continue to work with the Congress next year on passage of this landmark bill.

## Senate Passes Syria Sanctions with Lugar-Biden Amendment; Final Passage Expected

On November 11, the Senate passed by 89 to 4 the "Syria Accountability and Lebanese Restoration Act of 2003" with an amendment to the House-passed bill by Senators Lugar and Biden that significantly broadens the President's waiver authority. The bill mandates enforcement of a ban on dual-use item exports to Syria and two of several additional sanctions from a menu, further limiting diplomatic and economic engagement. On November 20, the House passed the bill 408 to 8. USA\*Engage opposed the bill this year and its predecessor in the last Congress, advocating flexibility for the President and stressing the poor track record that unilateral sanctions have had in influencing the behavior of foreign regimes. For additional information, contact Haynes Roberts at [hroberts@nftc.org](mailto:hroberts@nftc.org) or 202-887-0278.

## USA\*Engage Files Amicus Brief with the Supreme Court in Alien Tort Case

On October 6, the NFTC and USA\*Engage, along with other business associations, filed an amicus brief with the U.S. Supreme Court asking the court to grant a writ of certiorari in Jose Francisco Sosa v. Humberto Alvarez-Machain, a case based on the Alien Tort Provision of the Judiciary Act of 1789. The brief argues that the Supreme Court should take the opportunity presented by this case to declare once and for all that the ATS does not provide a private cause of action, stating that "the willingness of some courts to read a private cause of action into the ATS and to define expansively actionable violations of the law of nations raises significant foreign policy concerns. This is true for cases involving parties as well as governments." The brief can be read in its entirety on [www.usaengage.org](http://www.usaengage.org).



# Human Resources



## Global Business Leader Development

On November 4, the NFTC hosted its second roundtable on the critical issue of identifying, developing, and retaining global business leaders. This effort is an outcome of recommendations of the NFTC's Global Human Resources Advisory Board.

Participants included representatives from Alcoa, American Express, Becton Dickinson, Dow Corning, Dow Jones & Company, the Ford Foundation, ITOCHU International, New York Life International, the NFTC, Prudential Financial, Standard & Poor, and Towers Perrin.

As international business opportunities and competition grow, the need for talent escalates. A major challenge is gaining senior management's support of resources, attention, and time to effectively develop and retain human capital talent. The purpose of these roundtable meetings is to identify companies that are successful in these efforts so others can learn from their experiences.

The roundtable will convene again within the next few months. For further information contact Bill Sheridan at 212-399-7128 or wsheridan@nftc.org.

## Annual International Human Resource Management Conference, February 10-11, 2004 - Houston

The NFTC will host its third annual international human resource management conference in Houston this February. The program will include updates on Homeland Security's impact on business-sponsored immigration, corporate governance, developing global business leaders, applying Six Sigma and ISO 9000 to global mobility programs, updates on international tax issues, doing business in China, and other topics. For information contact Denise Schulman at 212-399-7128 or dschulman@nftc.org. Alternately, please visit the NFTC's website at [www.nftc.org](http://www.nftc.org).

## International Benefits Committee

The International Benefits Committee (IBC) met in New York City on October 16. The agenda included an update on corporate benefit plans in Spain by Arturo Fisher of Hewitt Associates, updates on compensation and benefits in India by Monica Nawal of Towers Perrin, on the retirement benefits in France by Erwin Janush of Aon Consulting, and a review of risk management facilities for globally mobile employees by Anthony Alberico and Ed Pazicky of XN Holdings.

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*(Continued from Page 1, "A Word from the President")*

-er WTO problem in an entirely unsatisfactory way that would leave thousands of U.S. trademarks vulnerable to Cuban poaching. The NFTC and USA\*Engage have been actively supporting efforts to repeal a provision known as section 211, which was itself a "midnight amendment" to an appropriations bill at the end of the 1998 session that was adopted without committee consideration or serious floor debate. That provision, which was an effort to take a particular trademark dispute out of the courts and settle it via a political judgment of the Congress, also was struck down by the WTO. In addition it violates other treaties that obligate the U.S. to protect trademark rights. The obvious solution is repeal, which we support. Recently, there was an attempt to pass an alternate solution, which would solve the WTO problem but not the violations of the other treaties and would leave the effect of section 211 intact, thus effectively allowing the Cuban government to retaliate by reassigning some of the 5,000 U.S. trademarks registered there. That attempt was a classic end-of-session tactic - place the provision in a conference report (in this case the defense authorization) even though it does not appear in either bill, was not considered by either committee or either house of Congress, and has nothing to do with the contents of the bill. The conferees wisely rejected that effort, but, just like the game of whack-a-mole you see at the beach, having bludgeoned it into submission there, we fully expect it to pop up again somewhere else - over and over again.

In the unjustly disappeared category is the provision prohibiting enforcement of the ban on Americans traveling to Cuba. Passed by both House and Senate by strong bipartisan margins, the provision was nonetheless dropped in conference. It too will be back later next year - a good thing, since, in the view of USA\*Engage, the best way to get rid of Castro is to smother him with Americans and American products. For forty years we have tried to do the opposite, and we have accomplished nothing except strengthening his regime and helping him impoverish his people.

In the "it slipped through when no one was watching category," the House and Senate have both passed an astonishingly ill-

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# Calendar of Events



<u>Date</u>	<u>Topic</u>	<u>Location</u>
<u>December 2</u>	Dinner with Ambassador Barbara Masekela, South African Ambassador to U.S	Washington
December 8-10	African Growth and Opportunity Act (AGOA) Forum	Washington
January 21	Global Mobility Management Seminar	Long Beach
January 22	Global Mobility Management Seminar	Santa Clara
February 10-11	Annual International Human Resources Management Conference	Houston
February 18	Global Mobility Management Seminar	Charlotte
February 23-24	NFTC Board of Directors Meeting	Washington
February 25	International Benefits Committee	New York
February 26	Global Mobility Management Roundtable	New York
March 10-12	Expatriate Management Committee	Scottsdale
April 29 - May 1	Spring Tax Meeting	Scottsdale
May 5	Global Mobility Management Roundtable	Chicago
May 6	International Human Resources Seminar	Minneapolis
June 16	Executive Human Resource Strategy Forum	New York
July 14-15	Annual Int'l Human Resource Management Conference	New York

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considered bill imposing sanctions on Syria. The Administration is largely to blame for this, since they dropped their opposition to the bill, which had killed it last year. This is surprising since at least the last five Administrations have taken the position that the President needs flexibility with respect to Syria in order to facilitate peace negotiations. Fortunately, thanks to the good work of Sen. Lugar, the Senate version contains expanded waiver provisions which leave the President with sufficient flexibility - should he choose to use it.

In the lurking backstage category is a collection of amendments attempting to force a change in the dollar-yuan exchange rate. Some require an analysis of the presumed undervaluation and then impose an offsetting tariff in that amount; others simply pick a number and go for the tariff up front. All of these amendments are based on the large bilateral trade deficit we have with China, and all of them ignore the fact that on a global basis, China's trade balance is roughly even. They also ignore the fact that the many American companies now manufacturing China will have to pay significantly higher prices for their imported inputs if the currency were substantially revalued. As of this writing, none of the amendments has been offered, but even if they are not this year, they will likely be back next year. One of the lessons USA\*Engage has learned over the years on sanctions legislation is that, unlike old soldiers, bad ideas rarely fade away. They come back again and again and again.

There are no doubt many more of these examples lying around. Indeed, I've ignored some of the best ones because they don't concern trade issues. There is also no doubt that Congress never learns its lesson about these things, and they will be back again at the end of next year to plague us all over again.



# National Foreign Trade Council



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## NFTC Area of Interest (check all that apply):

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