

NATIONAL FOREIGN TRADE COUNCIL, INC.

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December 17, 2004

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

The National Foreign Trade Council (NFTC) congratulates you on your re-election, and we look forward to continuing to work with you and your Administration to advance the cause of an open, rules-based trading system in 2005, which is critical to U.S. job and export growth. A number one priority for the NFTC is extension of Trade Promotion Authority in order to facilitate Congressional implementation of Doha Round and FTA agreements.

The NFTC calls on your continued leadership in forging a trade policy that opens markets through greater trade liberalization and rules-based trade. We support the strategy of competitive liberalization through bilateral, regional and multilateral trade negotiations, which has produced one of the most active periods of U.S. trade policy in recent history and has led to important market-opening commitments and governance standards in key markets for the United States. Particularly important has been your leadership for the Doha Development Agenda and Middle East Free Trade Area (MEFTA) initiatives.

In addition, a robust tax treaty network and international tax regime that allow U.S. enterprises to compete with their foreign counterparts are also essential to our competitiveness. Building on the progress your administration has already made in this area will ensure that U.S. companies can participate fully in the international marketplace.

The economic world is integrating rapidly, and we have no real choice but to compete vigorously beyond our borders if we are to continue to grow and create jobs here at home. That requires a national commitment to global economic engagement. Implementing that commitment requires the United States to tackle a number of important specific issues, including global mobility – movement of workers from country to country, trade barriers masquerading as standards and regulations, the protection of U.S. intellectual property rights and investment, and inefficient tax policies.

Specifically, we recommend inclusion of the following objectives in your international trade and tax policy agenda during your second term:

- ***Achieving an ambitious outcome of the Doha Round.*** Multilateral trade liberalization through a successful conclusion of the Doha Round represents the most important trade negotiation underway in terms of its potential benefit and significance to the United States and the world economy. The NFTC believes a timely and ambitious outcome to the Doha Round is essential to ensuring the ongoing relevance and credibility of the WTO, particularly in an era of proliferating regional free trade agreements, and we urge solid progress toward this goal by the December Hong Kong Ministerial. This should include agreement on the modalities necessary to complete the final negotiations and the prospect of bold outcomes across the board, including meaningful trade liberalization commitments from middle income developing countries. We continue to endorse completing the unfinished business of the GATT by eliminating industrial tariffs as a chief outcome of the Doha Round, concomitant with the reduction and elimination of non-tariff measures.

- ***Negotiating comprehensive and commercially meaningful bilateral and regional free trade agreements.*** We strongly endorse the negotiation of comprehensive and commercially meaningful free trade agreements regionally and bilaterally as key building blocks for greater multilateral trade liberalization and to open specific markets for U.S. workers and firms as long as they do not lead to harmful fragmentation of the global trading system. We look forward to supporting the early approval of recently-concluded FTAs with Bahrain and Central America, as well as the early conclusion of other FTAs underway or about to be underway with Thailand, the Southern African Customs Union, the UAE, Oman and other countries. Additionally, we urge that future FTAs not exclude any sector and be comprehensive and commercially relevant and provide investor protection. It is also important that future FTAs achieve the greatest possible commitment to transparency of regulatory and government procurement practices as one way to guard against corruption.

With respect to the Middle East, we congratulate you on the MEFTA vision. It is a unique opportunity to build closer economic and trade relations between the United States and Middle East nations, as well as to generate economic reform, growth and opportunity in a vital region of the world. The National Foreign Trade Council has worked closely with Ambassador Zoellick to establish an umbrella U.S. business coalition to support MEFTA based on its strategic importance and looks forward to supporting the implementing legislation for the bilateral agreements that will be its foundation.

- ***Providing effective export finance and advocacy support to U.S. exporters.*** The U.S. Export-Import Bank, Overseas Private Investment Corporation (OPIC), Trade and Development Agency (TDA), and U.S. Advocacy Center are critical to the success of U.S. exporters and workers in the global marketplace, especially in competing with the financing practices of foreign governments. Foreign governments provide substantial export finance and other support to their exporters, who are often in direct competition with U.S. firms. The financing and advocacy tools provided by these U.S. agencies are often the lynchpin to winning sizable U.S. export sales or infrastructure investment projects. In that regard, we urge you to undertake the necessary steps to ensure they are

adequately funded, fully competitive, and open for business and proactively supporting U.S. exporters in important new markets such as Libya.

- ***Establishing strong investor and intellectual property rights protection.*** As traditional trade barriers are eliminated and global integration accelerates, the protection of U.S. investment and intellectual property rights overseas are of growing significance to NFTC members. We urge your Administration to ensure that the new U.S. Model Bilateral Investment Treaty (BIT) is the floor for investor protection in future FTAs and that you seek strong investor protection provisions with non-BIT countries, which include longstanding provisions that assure U.S. investor access to international arbitration to resolve disputes arising from actions by foreign governments. We also commend your Administration's new initiative to combat the piracy of intellectual property rights in China, Russia and other markets overseas. The protection of U.S. intellectual property rights is essential to America's ability to innovate and develop leading-edge technologies, which in turn are so critical to the our competitiveness and job creation.
- ***Addressing effectively the growing use of non-science based regulatory trade barriers.*** One of the most pernicious and rapidly developing trade barriers is the use of regulatory standards not developed on the basis of sound science. These are becoming significant barriers to market access under the guise of protecting health, safety, and other societal concerns, when, in fact, their true purpose is protectionism. We recommend combating these practices as a top policy priority going forward to ensure markets do not become unfairly closed to the United States. In particular, we strongly urge a special focus on the European Union's policies and practices in this area, especially its efforts to create new global mechanisms for trade protection under the cloak of societal "collective preferences."
- ***Upholding U.S. trade commitments and forging strong economic partnerships with major non-FTA trading partners.*** Ensuring full implementation and compliance with negotiated trade agreements, particularly with China, is critical to NFTC members. However, we must not only ensure other countries are upholding their obligations to the United States, but the United States, too, must set the example by meeting its obligations. This is particularly relevant when the WTO dispute settlement process finds certain U.S. practices to be in non-compliance with its obligations. We commend the progress made this year to ensure U.S. compliance with the WTO decisions on the Foreign Sales Corporation tax law and the 1916 Antidumping Act. We also urge prompt compliance with WTO rulings involving U.S. practices, particularly the Byrd Amendment and the so-called Section 211 case, where we are now moving into our third year of non-compliance. In that case, we endorse simple repeal of Section 211 as the only action that will bring the United States into full compliance with *all* its multinational obligations.
- ***Preventing the use of ineffective unilateral economic sanctions.*** The United States has often opted to adopt unilateral economic sanctions in addressing foreign policy and other non-trade concerns. Countless studies have shown that such sanctions do not achieve their foreign policy objectives and often result in unintended negative consequences, such as branding U.S. exporters as unreliable suppliers and causing our companies to forfeit numerous export opportunities. We urge you to support legislation introduced in past Congresses that would establish common sense criteria for the analysis

of proposed unilateral sanctions without limiting your authority to take such actions. We also urge the Administration to review the effectiveness of our sanctions policy toward Iran in light of the foreign availability of denied U.S. exports under the Executive Orders.

The clearest case of failure of unilateral sanctions is Cuba. After forty four years of economic embargo, Castro still reigns, and a generation of Cubans has suffered isolation and economic deprivation. The only winner of the embargo has been Castro himself. It allows him to avoid responsibility for Cuba's failures, blame his country's problems on the United States, and solidify his control. The best way to end his tyranny and promote a peaceful transition to freedom, democracy, and the rule of law is to end the embargo and the travel ban and allow the flow of American ideals, values, goods and services into Cuba.

- ***Promoting increased efficiency and transparency in the visa issuance process.*** The Administration's tightened visa policies in the wake of 9/11 are having serious adverse short and long term impacts on our companies and our economy. Overzealous enforcement of an increasingly arbitrary and opaque system has prevented legitimate customers from visiting U.S. manufacturing plants and from receiving training in the United States for products they have already purchased, and it has prevented foreign employees of U.S. companies from coming here for meetings and conferences on joint projects. The result has been lost sales, foreign buyers refusing even to consider U.S. purchases, and U.S. companies in response moving more manufacturing and research activities overseas in order to avoid these problems – costs that we estimate to be over \$30 billion since July 2002. Ironically, the response of U.S. companies to move work offshore probably results in more critical technology transfer than the tightened visa policy succeeds in blocking, not to mention the loss of a significant number of high technology jobs.

Increased transparency and due process, including an expanded dialogue with U.S. companies who can vouch for many of these applicants, a renewed commitment to efficient processing, and greater understanding by our policy makers of the long term consequences of our policy would enhance the lasting competitiveness of American companies by helping them to maintain market share and long term business relationships abroad.

- ***Negotiating further international tax treaties.*** U.S. bi-lateral Income Tax Treaties promote international business and encourage global investment. The NFTC praises the remarkable success of the U.S. Treasury and the Senate in their completion of seven important tax agreements in the 108th Congress reflecting their commitment to the international competitiveness of U.S. business. We encourage their continued efforts with respect to additional treaties that will open markets and expand trade.

- ***Implementing further international tax reform.*** Passage of the American Jobs Creation Act of 2004 was a significant step forward for international tax reform. The NFTC commends Congress and the Administration for that Act's progress in improving the ability of U.S. businesses to compete in the rapidly expanding global economy and recommends continued efforts to reform international tax rules by substantially

narrowing the over forty year-old U.S. Subpart F rules that accelerate taxation of active business income of a foreign subsidiary.

The challenges the United States faces as a result of global economic integration are significant and growing. We applaud the work you and your Administration have done thus far to confront them, and we look forward to working with you on them over the next four years.

Sincerely,

A handwritten signature in black ink, appearing to read "W. A. Reinsch". The signature is fluid and cursive, with a prominent initial "W" and a long, sweeping underline.

William A. Reinsch
President