

A New Trade Policy that Meets the Challenges of the Global Economic Crisis

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The cascade of economic events both at home and abroad make it clear we are facing an unprecedented crisis and reminds us the globe is smaller and more interconnected than we ever imagined. All of the world should know that the United States will continue to lead in the era of international economics and globalization. This is not the time to turn inward, and we will not.

When it comes to America's domestic policy, President Obama has signaled a "new day" and has emphasized the need to reject "worn-out dogmas" and "bad habits." As he tackles massive job loss, the financial crisis, the housing crisis, and our fundamentally flawed energy, health care and tax policies, he has rightly chosen to use these challenges to forge a new path for the nation.

When it comes to international economic policy, and more specifically, U.S. trade policy, it is also time for a "new day." The urgency of the situation demands it. If we are to meet the unique challenge of closely linked domestic and global crises, it is more important than ever that we not fall back on the old fault lines that have plagued trade policy for decades. Few fields have been gripped by such deep polarization.

This polarization was illustrated in the recent debate around the Buy America provisions in the recovery legislation. Proponents called the provisions "patriotic." Opponents called them "protectionist." We heard exhortations against "economic nationalism" and the specter of Smoot Hawley was raised.

In the present economic struggle, the dangers of economic nationalism are real. But if you set aside all of the labels, the Buy America provisions basically incorporated a law that had been in place and in practice since 1979.

Buy America authorizes U.S. government agencies to procure certain goods from other nations which, like the U.S., have signed onto the WTO Agreement on Government Procurement. Likewise, the provisions prohibit these agencies from procuring goods from countries that have failed to sign on to the Agreement and can close their procurement market to U.S. suppliers. The policy underlying Buy America – "reciprocity" – gives our trading partners an incentive to open their markets to U.S. suppliers.

During this unprecedented domestic and global economic crisis, the challenge is to find policy options that give nations the ability to respond to the economic dislocation attributable to massive job loss and to promote expanded trade.

In this time of crisis, countries also need the temporary flexibility to help rescue their own industries – through loans, incentives and regulations – without charges of “protectionism.” Protectionism means throwing up barriers, like tariffs, quotas, and non-tariff barriers to the importation of goods and services from other countries and relying on export subsidies. It does not mean handcuffing nations from helping their own industries – banks, autos, small businesses, utilities and so forth, which can be vital for macroeconomic and financial stability, or from working cooperatively with other nations where institutions cuts across national boundaries. In fact, affirmative support for threatened industries can raise global aggregate demand and therefore reduce the downward collapse and speed the recovery.

Mischaracterizing responsible actions as extreme only plays to the advantage of either advocates of a hands-off, pure laissez faire approach, or advocates of economic nationalism, or both. When thoughtful policies are glibly dismissed, all that is left are extreme options. We must do much better as we tackle issues beyond the narrow confines of the Buy America provision and develop a comprehensive new trade policy for our nation.

In considering some of the issues we will face, let me suggest the key characteristics of a new trade policy.

- The new trade policy will be active, not passive;
- It will expand trade and shape its terms to spread its benefits more broadly;
- It will be more transparent, and less opaque;
- It will involve the public, not dismiss their views;
- It will stand up for two-way trade, not accept closed markets; and
- It will see labor and environmental standards as fundamentally economic and required as part of responsible trade policy.

Enforcement

I start with the area of enforcement partly because it addresses an underlying basic difference in approaching trade policy. In the past, many in the trade community have taken the view that unfair trade practices and one-way trade will only hurt those countries that perpetuate them and that over time, the market will correct all problems.

Such thinking led to the Bush Administration to repeatedly reject International Trade Commission recommendations in Section 421 China safeguard cases. It led the Administration to give short shrift to non-tariff barrier issues during WTO and Korea FTA negotiations. It led the Administration to fail to aggressively pursue enforcement proceedings at the WTO against China and other nations and view the annual National Trade Estimate (NTE) Report on Foreign Barriers mainly as an opportunity to survey, rather than address, existing problems.

I expect the Obama Administration will move beyond the Bush-era approach and use the NTE report to set a course on a different path in terms of enforcement. This could include reinstating Super 301. It could also include the creation of an interagency team led by the Department of Commerce and USTR to investigate subsidies by leading trading partners.

Enforcing our trade rules is not “protectionism.” While we need to be on guard against actions that can legitimately be called protectionist, enforcement reflects the critical need to defend legitimate and fair market competition and thus, the integrity of the rules-based system.

Other important aspects of an enforcement agenda require legislative action. This includes some of the proposals in the bill that Chairman Rangel and I introduced earlier this year. The legislation would identify “priority foreign countries” that impose technical barriers to trade and unfair sanitary measure to restrict U.S. exports. This would be like the “Special 301” report we have now for safeguarding intellectual property. The legislation also provides new tools to combat counterfeiting and piracy and to ensure the safety of imports. It also strengthens U.S. trade remedy laws against unfairly traded imports, particularly from non-market economy countries.

I know that in this uniquely volatile period, an action in one nation can lead to an overreaction in another. But that cannot simply be an excuse for inaction on major issues affecting trade. A prime example is currency imbalances, which have substantially affected the terms of trade and competition. Our bilateral efforts have had little success and it is time for the Administration to take a more multilateral approach. The next step is for the Administration to raise the issue of imbalances at the April G-20 Summit in London.

Doha

Fresh new thinking and boldness are needed to move forward the important WTO “Doha Round” of trade negotiations. Much has changed with the very countries involved in the negotiations since they were launched more than seven years ago. For example, China and India have doubled their share of total world trade since negotiations were launched in 2001. And China’s trade surplus has exploded from \$23 billion in 2001 to almost \$300 billion last year.

The President’s Trade Policy Agenda recognizes the imbalance in the current negotiations, “in which the value of what the United States would be expected to give is well known and easily calculable, whereas the broad flexibilities available to others leaves unclear the value of new opportunities for our workers, farmers, ranchers, and businesses.”

At the launch of the Doha Round, I was assured by USTR that addressing NTBs would possess the same level of importance as tariff cuts. Unfortunately, NTBs have been neglected in the negotiations. It is time for that to change.

Regarding the dispute settlement mechanism, and in particular, the WTO Appellate Body, I have serious concerns. In a number of rulings, the Appellate Body has asserted the authority to resolve disagreements on issues that the WTO Members were unable to resolve through negotiation. In fact, there are times when the text of an agreement simply does not address an issue and in those cases, the Appellate Body must recognize that sovereign nations simply have not bound themselves. Reading new obligations into the text of existing agreements undermines confidence in the Appellate Body and the WTO. As we endeavor to complete the Doha Round, this should give everyone involved cause for concern.

Pending FTAs

President Obama's Trade Agenda states that "we need to ensure that expanded trade is not at the expense of workers' welfare and that competitiveness is not based on the exploitation of workers."

These principles reflect what has motivated efforts by House Democrats to include labor and environmental standards in trade agreements. As is true for domestic economic policy, there has been a basic issue relating to international trade. Shaped by the rapid increase in globalization, the issue has been whether to shape the path of market forces or basically let them occur along their own course.

A flashpoint on this issue has been incorporating in trade agreements the basic International Labor Organization (ILO) standards: prohibitions on child labor and forced labor, non-discrimination, and the rights to associate and to bargain collectively. For the first time, the Free Trade Agreement (FTA) that Congress approved with Peru included an enforceable obligation to adopt, maintain and enforce in its laws and practice these five basic international labor standards.

In Latin America especially, globalization has too often failed to spread its benefits broadly enough and is one source of national turmoil. Unless the basic imbalance of power changes in these countries, all of the market access in the world is not going to effectively alleviate poverty within these nations. For workers to be able to break the cycle of poverty for themselves and for their children's future, they need to have the ability to join together, to participate, and to improve their economic status.

The development of a middle class is a matter of mutual benefit for those nations and ours. It is critical for the stability and security of these countries; for their citizens, who are fighting to climb out of poverty; for our workers, who should not have to compete against workers lacking basic rights; and for our businesses, who need middle classes to buy their products.

The recent Trade Policy Agenda indicated the Obama Administration plans to "conduct extensive outreach and discourse ... on whether those agreements appropriately advance the interests of the United States and our trading partners." This review can take fully into account the work undertaken by Democrats in Congress since we were in the minority.

In each of the pending FTAs, there are economic and geopolitical benefits for the United States. There are also outstanding issues that must be resolved before passage can occur.

Panama is a small country, but it is an ally. Right now, 96% of its exports to the United States enter duty free, while U.S. exporters still face significant barriers in Panama. An agreement would change that.

It also provides an opportunity for Panama to take the steps necessary to make real the labor standards incorporated into the core of the agreement. Under existing Panamanian law, certain provisions are clearly in violation of ILO standards. For example, a workforce of less than 40 employees has no right to form a union, and a union in a company less than two years old has no right to collectively bargain or to call a strike. The laws and practices relating to subcontracted and temporary workers also interfere with the rights to freely associate and to

collective bargaining. Panama has expressed a willingness to address these issues and they should now follow through with necessary changes before Congressional consideration of the FTA. Discussions are also underway about issues relating to Panama's laws and practices regarding tax havens.

Colombia poses an expanded challenge. The FTA will give U.S. exporters better access to one of the fastest-growing economies, and the fifth-largest economy in Latin America. It will also affirm our strong relationship.

But House leadership has clearly articulated a widespread concern in the Congress about the level of violence in Colombia, the lack of sufficient investigations and prosecutions, and the role of the paramilitaries. These problems cannot be fully addressed simply by amending the labor code. Changes are needed, not only in law, but in practice to improve the administration of justice.

Union worker murders were up at least 25% in 2008. Threats against workers increased last year as well. The judges handling union violence cases are temporary, which inevitably impairs judicial independence. Efforts to prosecute the union violence cases have been lackluster overall. I am also very concerned about the Uribe Administration's rhetoric associating labor and human rights leaders who criticize the administration with the FARC.

We have been discussing with the Government of Colombia its labor laws for several years. They fail to comply with ILO standards in many respects, including the right to strike and the use of cooperatives to stymie the right to organize and to disguise employer – employee relationships.

Together, the ongoing violence against union workers, the Government of Colombia's failure to bring the vast majority of those responsible for the violence to justice and the flawed labor law regime create a climate that makes it impossible for union workers to exercise their basic labor rights.

I plan to take a fact-finding trip to Panama and Colombia, as a prelude to a delegation trip to the region later this year.

We look forward to working closely with all parties as benchmarks are developed and met to ensure workers' safety and the growth of their rights. These benchmarks must also be incorporated as enforceable commitments in such a way that prevents backsliding.

Korea is our seventh largest trading partner and the 14th largest economy in the world. The FTA helps to open that market in many respects, particularly in services and investment.

The problems with the Korea FTA are clear – in particular, a long history of erecting a series of non-tariff barriers to severely limit U.S. exports of automobiles and other key industrial goods. It remains to be seen whether Korea is willing to resolve these issues. In 2008, Korea exported more than 600,000 cars and light trucks to the United States; the United States exported just over 10,000 to Korea. And the U.S. auto industry is not alone in its concerns with the Korean automotive market. European automakers also vigorously oppose an unbalanced trade agreement with Korea.

In March 2007, 15 Democrats and Republicans offered a very specific proposal to address these issues. The proposal, which was sent to President Bush, would, among other things:

1. Phase out the 2.5% U.S. tariff on autos over 15 years, but give duty free entry to a specified number of Korean cars every year based on the number of cars above a baseline that the U.S. exports to South Korea; and
2. Establish a NTB dispute settlement mechanism, which would include a reverse burden of proof.

The Bush Administration never formally responded to the proposal, nor has the South Korean Government. I am hopeful that this proposal, as well as any others that, in fact, level the playing field and foster two-way trade, will be considered now.

Oversight

The Trade Subcommittee will have a healthy oversight and accountability agenda and will encourage a more informed and balanced discussion of the future of U.S. trade policy.

If anyone doubts how important oversight and accountability are to the public, I invite you to come to a town hall meeting. I am convinced that if we are going to address the deep skepticism and schisms in our country, we must inject greater oversight, accountability and transparency into every public policy debate and everything we do as public officials.

This year, the Trade Subcommittee will continue to play an active role in WTO negotiations and we will oversee the Administration's work under our existing agreements, such as NAFTA, CAFTA and the agreement that recently entered into force with Peru. We will insist that Customs and Border Protection renew its commitment to securing and facilitating the flow of goods across the border. We will also ensure that the trade advisory committee system achieves its purpose of fully informing our trade policies and we will explore issues like investment and currency.

Our subcommittee will also address critical climate change legislation, including the carbon leakage and competitiveness issues. The Obama Administration put it best in the Trade Policy Agenda: "We should ensure that climate policies are consistent with our trade obligations, but we also should be creative and firm in assuring that trade rules do not block us from tackling this critical environmental task."

Conclusion

When I came to Congress in 1983, it was in the midst of a major recession back home, with a dangerous combination of skyrocketing unemployment and inflation.

The assumption was that our economy would bounce back with a structure more similar than different from before. And in fact, that is what happened.

This time is different. Today, the economic challenges we face are transformational, not just cyclical. In order to land on our feet, we have to confront the inescapable linkages between domestic and international economic forces, including trade.

To address the unprecedented dimensions of the challenge, when it comes to trade, we need to do much better than we have in the past. We need to escape the grip of polarization. Expanding trade is not an end in and of itself, but one of the important means to ends, and we need to discuss fully and openly what are those ends. Trade is too often described as a “win-win” proposition, when we know that there are winners and losers. More trade will not automatically spread its benefits effectively; we need to shape trade’s terms to maximize its benefits.

All of this does not diminish the need for, and the value of, international trade. We certainly cannot turn our back on globalization, which is here to stay. Our task is to work together to make globalization work for the benefit of increasing numbers of people, who otherwise will turn against it and against those who have failed to make it work for them.