programs. The 44th president should signal early on that he will reverse these developments and put in place sensible competitive sourcing principles.

Office of the United States Trade Representative

Responding to the Changing Global Challenge

IRA SHAPIRO AND RICHARD SAMANS

Against a backdrop of deep public and congressional skepticism about the benefits of global trade and the collapse of the Doha Round, the Office of the United States Trade Representative must formulate a new and different trade policy—one that takes a strategic approach to making globalization more inclusive and sustainable. This new approach must be developed in league with Congress through a major review of our trade policies and the challenges and economic strategies of other nations. This new approach must build on the recent bipartisan agreement to include enforceable labor and environmental standards in new trade pacts and include a new focus on ensuring that trade rules help combat climate change and do not impede the essential global energy transformation.

The new U.S. trade strategy should increase opportunities for cutting-edge U.S. industries in large markets around the world, and it should consider new trade arrangements, including World Trade Organization agreements in key sectors and wide-ranging agreements with those developed countries that share our commitment to open markets, intellectual property protection, labor rights, and environmental and consumer-protection standards. USTR and the new administration should focus intently on our country's slipping trade position in Asia, as well as be part of an overall effort by the new administration to engage vigorously with China to redress the global economic imbalances exacerbated by China's export-led growth and currency arrangements. The United States should take a leadership role in working to ensure that the least developed countries have the increased trade opportunities that the Doha Round has failed to deliver.

The Office of the United States Trade Representative has the responsibility for leadership in the executive branch for the formulation of U.S. trade policy and the negotiation of U.S. trade agreements.[1] USTR, with just over 200 professionals, is led by the cabinet-level trade representative and is part of the Executive Office of the President. For the incoming administration, the good news is that USTR remains well respected within the U.S. government, by congressional trade committees, by foreign governments, and by the U.S. business community. Some of USTR's most accomplished negotiators have recently retired, but the challenge of international negotiation ensures that talented public servants continue to be attracted to the agency. The USTR continues to operate effectively because the interagency process is well established by statute and practice, as is the extensive network of advisory committees that informs the office.[2]

The fundamental challenge for the new administration, however, is the trade policy that USTR has pursued lacks support among the American people and Congress. Americans generally recognize that globalization is inexorable, but they have growing doubts that it is beneficial to the majority of American workers. They are increasingly hostile to trade agreements, which they view as the U.S. government taking action to serve multinational corporations and their executives amid rising inequality, massive manufacturing job losses, and recession.

To illustrate the erosion of congressional and public support: the North American Free Trade Agreement was approved by the House of Representatives in 1993 with the votes of 102 House Democrats, but in 2005 the Central American Free Trade Agreement passed the House of Representatives with the votes of only 15 Democrats. In 2000, 64 percent of the public questioned said that "free trade with other countries is good" for the United States, with 27 percent saying it was "bad."[3] In 2008, when asked whether "free international trade has helped or hurt the economy," 26 percent said "helped," while 50 percent said "hurt."[4]

The time is right for a new U.S. trade policy, and not just because the public mood demands it, the new president promised it, and the Doha Development Round has collapsed.[5] In fact, U.S. trade policy is increasingly disconnected from the realities of a swiftly changing global economy. Enormous time and energy have been dedicated to negotiating trade objectives, yet the negotiations have proven outdated, commercially insignificant, or just plain futile. Meanwhile, the real challenges to U.S. trade policy are unaddressed, particularly those posed by China, Asia, and more generally, areas where an increasing number of important economic players pursue their own strategies and trade agreements—either disregarding the United States or consciously seeking to disadvantage our economy.

The arrival of a new president with comprehensive domestic economic strategies will reduce some of the acrimony over trade that exists between the White House, Congress, and the American people. Trade will loom less large when the new president and Congress focus on financial market regulation, health care reform, retirement income security, and job creation through increased investments in infrastructure, research and development, and new technologies to transition to a more efficient, low-carbon economy.

But ultimately, USTR will have to formulate, articulate, and pursue a U.S. trade policy that is different from the policy of previous USTRs, Republican and Democratic alike. The United States today shows clear signs of "trade fatigue," but it is a luxury that we cannot afford. A retreat from trade is not the answer. A new and comprehensive trade strategy that supports U.S. economic interests by helping our cutting-edge industries and creating expanded middle classes around the world, lifting tens of millions more people out of poverty, is absolutely essential.

The First 100 Days

The fundamental goal of USTR's first 100 days should be to begin building a consensus for a new U.S. trade policy that will have real and sustained support from Congress. Inevitably, the new trade representative will find this early period dominated by consultations with Congress, as well as meetings with trade ministers from other leading nations, to determine the challenges and opportunities that are available globally in the aftermath of the Doha failure.

USTR is required by Congress to issue three annual reports that will frame the agency's priorities for the reduction of unfair trade barriers around the world. On March 1, USTR must release the USTR Trade Agenda, which becomes an early signal from the new administration of its approach to trade. President Bush's Trade Representative, Robert Zoellick, used this report effectively to present in detail Bush's "competitive liberalization" agenda. This report is an opportunity for the new president to lay out the parameters of his review of U.S. trade policy.

Then, on March 31, USTR must issue the National Trade Estimate Report, which is a comprehensive analysis of the "acts, policies or practices of each foreign country which constitute significant barriers to, and distortions of U.S. exports of good or services."[6] One month later, USTR is required to "identify those foreign countries that deny adequate and effective protection of intellectual property rights." This report, known as "Special 301," also requires USTR to identify "priority foreign countries" that have the "most onerous or egregious acts, policies or practices."[7]

The professional staff at USTR excels at turning out these massive reports, with major input from the affected industries. The reports present early opportunities for the new trade representative to highlight some priorities by focusing on the trade barriers or unfair trade practices, and the offending countries that are of most concern to the United States. These reports will frame the changes required to place U.S. trade policy on more sound policy and political footing. These changes will be numerous, fundamental, and interrelated with changes required in other areas of foreign economic policy.

A New Partnership with Congress

The constitutional authority of Congress to set trade policy requires for all practical purposes that any major, new strategy will have to be developed in close consultation with the leadership of the House Ways and Means Committee, Senate Finance Committee, and other relevant committees and congressional leaders. This is a process that is likely to take at least the better part of the first year in office, yet the groundwork with Congress must begin immediately.

To this end, the trade representative should help the president prepare an announcement during this period that spells out three basic objectives. First, the announcement should direct USTR and other relevant agencies, such as the Departments of Treasury, State, Commerce, Labor, and the Environmental Protection Agency, to develop recommendations for a new, more integrated approach to trade and globalization within his first year in office—based on an evaluation of the historical performance of U.S. trade and foreign economic policy and the strategies of other nations. Particular focus should be given to the interrelationship between trade and the necessary steps to combat climate change around the globe.

Second, the announcement should direct USTR to lead an unprecedented process of consultation with Congress to develop this new strategy. As part of such consultation, USTR should state that it welcomes any initiative by congressional leaders to involve the public and wider House and Senate membership in this process through a coordinated set of hearings in relevant committees. Third, the announcement should articulate a set of fundamental principles on which these recommendations should be based. By articulating a set of "first principles" through this series of consultations, the president and his trade representative could set the direction for the changes in policy they seek, without preempting the robust debate within the administration and Congress that will be necessary to build confidence and buy-in for a new trade policy.

These "first principles" should reflect the new administration's view that global economic integration, including regional integration, can be fundamentally a positive force for economic growth and poverty reduction around the world, but that trade agreements are a means to that end rather than ends in themselves. Like other instruments of economic policy, trade agreements should be evaluated based on whether they contribute to broad-based progress in living standards.

Our trade policy should seek to create economic opportunities by opening markets and establishing fair rules in the major overseas and industry sectors likely to be the fastest growing in the coming years. It should provide the public with confidence that agreements are being enforced and our competitors are playing by the rules. And it should reinforce, rather than clash with, U.S. policy goals in other major areas, in particular poverty reduction, worker rights, environmental protection, and climate change mitigation.[8]

This set of first principles should also reflect the view that trade liberalization often only realizes its full potential to contribute to win-win outcomes for living standards both here and abroad when it is integrated with steps to ease economic dislocation; strengthen labor, environmental, consumer, and other institutions; and ensure that exchange rates are driven by fundamental economic conditions. And the principles should reflect the idea that commensurately greater responsibility for sustaining global growth comes with higher levels of industrialization and global integration.

To be more effective in advancing a positive sum vision of global economic integration, U.S. international trade, aid, and monetary policies should be reformulated in line with these principles, bolstered by a major renovation of the multilateral institutions most relevant to this task: the International Monetary Fund, the World Bank and regional multilateral development banks, the International Labor Organization, and the World Trade Organization.

This new trade policy framework can be formulated successfully only if the partnership between the executive and Congress is rebuilt, the views of domestic constituencies are meaningfully considered, and the new administration's assessment of global prospects are grounded on careful analysis and serious discussions with key trading nations around the world.

The Multilateral Agenda

The United States has long been the leading champion of the multilateral General Agreement on Tariffs and Trade/WTO trading system, founded in the aftermath of World War II, and should continue to be a committed leader of the multilateral system. Multilateral trade liberalization has contributed to increased prosperity around the world. It remains a preferable alternative to bilateral or regional trade arrangements, which can easily result in discrimination against other trading nations, and the rise of regional trading blocks.

Despite an unwavering commitment to the multilateral WTO system, the new trade representative should resist the temptation to commit the president to rescuing the Doha Round—the multilateral trade negotiation initiated in 2001 with the stated objectives of continuing the broad-based liberalization of trade and removing trade barriers to agricultural and nonagricultural market access and services. The collapse of the Doha Round in mid-2008 was not unexpected. It was not a failure that can be remedied by new negotiators or an exercise of U.S. political will by a new president. The promised "development agenda" created high expectations; ambitious liberalization goals generated inadequate support; and the sensitive issues in the areas of agriculture and food proved simply insurmountable. The concept of a comprehensive round based on a "single undertaking" means that no agreement can be reached unless everything is agreed to. That has proved to be unworkable.

Nevertheless, it is possible that next year there will be the opportunity to reach a more modest Doha outcome that seeks to consolidate many of the concessions made in the run-up to the collapse of negotiations. The new trade representative should indicate that he or she maintains an open mind in this respect depending upon whether there is sufficient movement by other parties, since it would not be in the interests of the United States to be characterized as an obstacle to progress in the WTO. The United States still has a powerful interest in maintaining a workable multilateral trading system to avoid a world in which trade and investment increasingly gravitate toward regional blocks, probably to our disadvantage and to the benefit of China's growing power and influence.[9] But in the event the Doha talks are not salvaged, the best course for the United States would be to pursue its objectives by other multilateral and plurilateral means, such as through sectoral and free trade agreements and trade preference programs.

Sectoral and Free Trade Agreements

For example, the new trade representative could explore with Congress and other nations the desirability of plurilateral sectoral agreements in some of the fastest-growing sectors, such as energy and environmental industries, medical and health industries, or media and entertainment industries. These sectoral agreements could be modeled after the successful negotiations of the late 1990s on information technology, financial services, and basic telecommunications.[10] Based on the experience of the earlier agreements, a critical mass of nations with significant interests in the sector would join because they would not want to be excluded.

As part of the proposed interagency evaluation of how U.S. trade and foreign economic policy can be improved to strengthen progress in living standards at home and abroad, the new administration must reconsider the U.S. approach to negotiating free trade agreements. President John F. Kennedy once described himself as "an idealist without illusions." The current U.S. approach to FTAs is neither idealistic nor realistic, and is sorely in need of change.

During the Bush administration, under the flag of "competitive liberalization," USTR negotiated a dizzying series of bilateral free trade agreements, mainly with developing countries, among them Chile, Morocco, Jordan, Oman, Australia, Bahrain, Colombia, Peru, Panama, South Korea, and a regional FTA with Central America. A commercial argument, grounded in reciprocity, can be made for almost all of them—in virtually every case the U.S. market was more open to our trading partner than its market was to us.

That does not mean, however, that these agreements generated broad-based contributions to living standards in both trading partners commensurate with the political capital required to negotiate and gain political approval of them. A series of random bilateral trade agreements with countries all over the world, many of them small economies, is neither economically effective nor politically sustainable. There is simply no support in Congress for continuing to negotiate in this way.

Powerful international competitive pressures, however, are driving the pursuit of certain FTAs. Trading nations want to lower barriers, but they are opting for preferential arrangements with chosen trading partners rather than reaching multilateral or broad regional agreements that lower barriers to many trading partners.[11] Many trade experts contend this blizzard of FTA negotiations risks further complexity in doing business globally, trade diversion, and even growing mercantilist competition among trading blocks. But the drive toward preferential FTAs is likely to accelerate because of the failure of the Doha Round.[12] The United States cannot simply stand by and allow its competitive position to erode if our competitors prove more adept at negotiating and implementing FTAs than we are.

The Special Case of Asia

The United States faces an enormous challenge in regaining its economic position in Asia, the most dynamic region of the world. Over the past six years, the Asian countries, led by the Association of Southeast Asian Nations, have increasingly embraced the idea of free trade between themselves on a regional basis. The result has been a rapid series of bilateral and regional FTAs involving virtually every country in the region. Most of these agreements and proposed arrangements include East Asian economic integration, potentially leaving the

United States on the sidelines as Asian trading partners lower barriers among themselves.

GATT Article XXIV allows bilateral and regional trade agreements as an exception to multilateral rules, but only if they are comprehensive, covering virtually all trade. The current USTR position seems to be that U.S. FTAs meet that standard, those pursued by other countries do not, and the U.S. will neither challenge the other countries' FTAs nor adopt a more flexible approach to negotiating our own. This is not a tenable policy.

USTR should not let ideology prevent pursuit of potentially beneficial free trade agreements with Asian nations, particularly when these agreements are potentially more economically beneficial and will receive greater political support on Capitol Hill.

The new administration, for example, could reach out to the more advanced countries in Asia as potential partners in a vanguard, global club of advanced economies that agree to pursue deeper economic integration through both free trade and basic consistency of structural, regulatory, and exchange rate policies and institutions. It is possible to envision a group of countries including Australia, Singapore, South Korea, and Japan joining in such an agreement with the United States, featuring liberalization of services, high levels of intellectual property protection, and strong labor rights and environmental standards.[13] The U.S. desire to be more firmly anchored in Asia might coincide with the interest of Asian nations in having a counterweight to China's increasing economic and political clout.[14]

This vision of a plurilateral inner core of countries within the world trading system where trade and investments flow freely, raising median incomes synergistically without undue distortion from disparate institutional environments or deliberate currency management policies, may ultimately represent a sounder organizing principle for FTAs than geographical proximity or bilateral ties. As part of the negotiations to establish such a plurilateral arrangement, the founding countries should also seek to harmonize and upgrade their trade preference rules with low-income countries as well as other features of their often overlapping free trade agreements that serve to complicate business and divert trade around the world.

More than an FTA in a conventional sense, this new arrangement would commit a pioneer group of countries to providing long-term leadership to the multilateral system by deepening their economic integration on a sustainable basis through open product and services markets; comparable labor, environmental, consumer, and investor protections and regulatory capacity; and market-determined exchange rates. By welcoming other countries to join as they develop, this pioneering group would expand over time, unconstrained by regional proximity, thereby providing a more natural bridge to deeper economic integration on a multilateral basis.

Developing Countries. USTR's efforts to negotiate free trade agreements with developing countries have generated enormous controversy on Capitol Hill. This is clearly an area where the new trade representative should be consulting extensively with Congress and assessing the results of existing FTAs. In general terms, the new trade representative should be pursuing only those FTAs with developing countries that can help increase living standards, purchasing power, and import demand among all countries. The idea would be to combine such trade liberalization with trade adjustment assistance and social safety net reform in the United States. Trade is but one tool, along with development and macroeconomic policy, to help broaden the benefits of globalization to more citizens in developing countries.

This is why the new president should require USTR to conduct a thorough economic assessment of whether any bilateral FTA with a developing country is likely to result in an agreement that would contribute significantly to a net (not just bilateral) expansion of trade before deciding whether to request congressional authority to enter into free trade agreement negotiations. In particular, USTR must determine whether improvements should be sought in the country's labor, environmental, consumer, or investor laws and institutions in order to strengthen the likely payoff to broadly rising living standards through expanded trade and investment links with the U.S. economy.

The first test would force a more rigorous discussion within the administration and with Congress about the economic (as opposed to foreign policy) justification for deviating from what should be a general preference for multilateral over bilateral trade liberalization. The second test would require an interagency process, including the Labor and Treasury departments, to take a hard look at the policy-instituting capabilities of the country in key arenas such as labor rights, environmental protection, and consumer and investor safeguards, in order to determine the extent to which capacity building assistance should be mobilized.

The more economically advanced the country, the higher should be our expectation of the quality of its laws and institutional capacity in these areas. Yet there should be no expectation or requirement that these arrangements must be exactly like our own—the only exception being labor law as it relates to the International Labor Organization's Declaration on Fundamental Principles and Rights at Work. These core labor standards are internationally recognized as universal human rights, which means they should be reflected as strongly in the laws of poorer countries as they are in wealthier ones.

Major weaknesses in legal or institutional capacities in any of these areas should become part of the scope of the negotiating mandate the new administration seeks from Congress and agrees to with the negotiating partner or partners. The purpose of such negotiations should be to develop a mutually agreed upon plan of development cooperation to narrow these gaps over time. In particular, if worker rights or certain other basic social, environmental, consumer, or investor protections covered by the negotiating mandate are found to exist in law but not in practice, then these concerns should become an element of the negotiations. A package of relevant multilateral or bilateral technical assistance should be agreed to and funded as part of the overall agreement.

This approach would have the virtue of building directly on the important steps that have already been taken—starting with the Jordan Free Trade Agreement negotiated in 2000—to include respect for enforceable labor and environmental standards in the body of trade pacts.[15] This approach would build on the recent leadership of Reps. Charles Rangel (D-NY) and Sander Levin (D-MI) and the long-standing advocacy of the AFL-CIO, which resulted in the incorporation of ILO core labor standards and related capacity-building assistance in the recent Peru Trade Promotion Agreement. It would ground free trade agreements in a wider, more coherent strategy to strengthen the positive-sum impact of integration on global living standards.

Trade with Least Developed Countries. In the United States and around the world, progressives identified strongly with the Doha objective of a "development round." The idea was to break down trade barriers and eliminate trade-distorting practices that disadvantaged the poorest nations—many of which are found in sub-Saharan Africa—in developing their export potential, particularly in agriculture. The failure of Doha is a setback for the poorest nations that can least afford it, and it must be offset by other imaginative and effective measures. The new administration will want to formulate and implement a coherent and compassionate approach to trade with the world's least developed countries. This is an economic opportunity for the United States over the long haul, but more importantly it is a moral imperative that USTR should make a top priority.

There is significant evidence that the U.S. Generalized System of Preferences trade program and other trade preference programs, such as the Africa Growth and Opportunity Act and the Andean Trade Preferences Act, are beneficial to developing countries. A study of U.S. preference programs from the 1980s shows that GSP-beneficiary countries increased exports of products eligible for GSP treatment by about 8 percent annually.[16] A more recent analysis showed that preferences generated significant positive effects on investment in Central America and export diversification, contributing to income growth in the region.[17]

Nevertheless, GSP programs do not appear to be reaching their full potential because the programs often fail to cover the products that poorer countries have a comparative advantage in producing. Nongovernmental organizations most familiar with the performance and shortcomings of GSP programs advocate for important reforms, including making GSP permanent—providing complete duty-free access for all exports from the least developed countries—because the present pattern of short-term extensions is a disincentive to investments.[18] Such a reform would be an important part of the new United States trade policy, and obviously a crucial piece of U.S. foreign policy toward the developing world. But the new trade representative should also explore whether the European Union, Japan, and other developed nations would coordinate their preference programs with ours so that a number of major trading nations were giving tariff-free access to imports from the least developed countries.

Colombia and South Korea FTAs

The end of the Bush administration is likely to leave for the next president and Congress the problem of what to do with the U.S.-Colombia FTA and the U.S.-South Korea FTA, agreements already negotiated with friendly nations and allies in vital regions of the world.[19] These agreements, if mishandled, could have a very detrimental effect on the U.S. position in Latin America and in Asia because of the expectations that have been raised there.

Rather than risk our relations with these two important countries through further delay, the new president and trade representative should seek to address the concerns that leave many uncomfortable with supporting their ratification. For Colombia, that would require evidence of sufficient progress in not only ending violence but also in investigating and prosecuting those who have engaged in such violence.

For South Korea, that would require addressing the impediments to U.S. beef and auto exports. Without progress on these fronts, Congress is unlikely to support the agreements. The job of the new president and his secretary of state will be to explain to the leaders and citizens of these two countries why these issues are so important to Congress and the American people, while at the same time explaining to Congress and the American people the importance of these trade agreements to U.S. economic and foreign policy and economic objectives.

North American Free Trade Agreement

The next president's framework for trade policy should become part of our dialogue with our Mexican and Canadian counterparts in NAFTA. In the spirit of cooperation among neighbors, USTR should indicate that the United States seeks a full discussion in which the three countries share their perspectives on how well NAFTA has operated, and place on the table their ideas, too, for enhancing the performance of the agreement.

NAFTA has been in effect nearly 15 years. During that time, world trade patterns have been dramatically affected by, among other things, the economic rise of China and the pervasive influence of the Internet. It is perfectly appropriate for the three countries to undertake a serious evaluation of the trade agreement at this juncture. It is entirely possible that Mexico and Canada would be willing to explore steps in a number of other areas that could improve the performance of the agreement without reopening the complicated and highly interdependent framework of tariff and quota concessions negotiated in the 1990s.

These talks could be framed as a strategy to strengthen the competitiveness of North America as a whole vis-à-vis Asia and Europe and to broaden the gains to living standards for Americans, Canadians, and Mexicans alike. It could include a group of topics chosen to be broadly palatable to all three parties, among them strengthening the labor secretariat's capacity to monitor, adjudicate, and provide technical assistance in respect of labor standards enforcement; undertaking a broad assessment of North American environmental challenges with a view toward developing a regional strategy of environmental cooperation; and providing a major increase in funding for border environmental infrastructure needs for which the North American Development Bank was originally envisioned, but never adequately funded to deliver.

Other areas that the three countries should consider might include: improving coordination between regulatory authorities to address food safety concerns; examining border clearance delays that hinder trade; increasing cross-border energy cooperation and investment in refineries, transmission systems, and oil production; strengthening adjustment assistance policies; and perhaps even strengthening guest worker arrangements to ensure they enjoy full legal protection in the United States. The United States, Canada, and Mexico are all major energy, food, and automobile producers; these sectors manifest some of the fundamental challenges facing the global community. Seeking common, mutually beneficial approaches in these areas would be a valuable objective of the discussions among them.

Climate Change

Other than the war in Iraq, nothing has diminished the international standing of the United States as much as the Bush administration's failure to provide leadership on the global challenge of climate change. There is no doubt that providing leadership on climate change will be one of the new president's highest priorities in his first 100 days. Yet it is increasingly clear that it will be impossible to reduce carbon emissions globally without coming to grips with the international trade implications of doing so.

It will be very difficult for the developed world to impose on its manufacturers the additional cost of controlling carbon emissions while allowing developing countries to avoid those costs. The European Union is already debating the application of a border tax adjustment to level the playing field for its industries that are being required to limit emissions. Rapidly developing nations, however, largely lack the institutional capacity to institute the emissions controls necessary to accurately reduce their carbon output; they believe it is unfair to require them to slow their emissions before they have experienced economic growth comparable to the developed world. Reducing energy intensity and the rate of emissions growth is the best outcome that may emerge from international negotiations.

This is a crucial issue, raising novel WTO legal questions, where both new thinking and international negotiation will be required. This is an urgent problem that must be addressed in the first year of the new administration; it cannot drag on for years. At the instruction of the president, the new trade representative should move immediately to engage with his or her counterparts in the European Commission, Japan, China, India, and Brazil in an effort to negotiate the international trade rules that will govern the efforts to reduce carbon emissions.

While the principal focus would be on seeking agreement on the permissible use of border tax adjustments and other similar devices, the discussion should include giving tariff-free treatment to environmental services and goods, a goal already pursued in the Doha Round. Equally important is the need to clarify that subsidies for the development of new technologies and products can be fairly characterized as combating climate change, and thus are permissible under WTO rules, which are hostile to most forms of subsidies. Emphasizing these new trade issues will make it clear that the new president intends to be internationally engaged, but that he has very different priorities from the previous administration and will deploy the resources of USTR and other government departments accordingly.

Trade Law Enforcement

After the WTO dispute settlement system was created in 1994, the Clinton administration made it a priority to launch as many WTO cases as it could identify. The WTO cases litigated by the United States rose dramatically in number. Moreover, to heighten the visibility of the enforcement function, USTR created a separate Office of Enforcement and Monitoring, separate from the Office of General Counsel, to spearhead the effort. And under the radar, USTR officials undertake significant enforcement efforts virtually every day, less visibly than formal WTO dispute resolution cases but still very important.

But more can and should be done. The new trade representative should ask Congress to assign responsibility for enforcement to a Senate-confirmed USTR official, with ambassadorial rank, who would be in charge of the Office of Enforcement and Monitoring. The general counsel would continue to be charged with providing legal counsel and policy advice to the trade representative,[20] but the new assistant trade representative for enforcement and monitoring would be responsible for identifying the areas where the practices of our trading partners are causing harm to U.S. trading interests and formulating a strategy for dealing with those areas—including the initiation and prosecution of WTO cases and building alliances with other countries to combat common problems.

Three areas that would benefit from heightened focus are intellectual property piracy and counterfeiting, the misuse of agricultural sanitary and phytosanitary regulations, and a range of "new mercantilist" practices—including tariffs, discriminatory taxes, and antitrust enforcement—designed to protect other nations' high technology industries and disadvantage ours.[21] This new senior USTR official should be put in charge of significant additional enforcement resources, including more lawyers in the Office of General Counsel. But USTR should ask Congress to appropriate additional funds for enforcement resources attached to our embassies in countries that present the thorniest trade issues, particularly China. This approach is probably the most effective step that could be taken to bolster enforcement, and would be very popular in Congress.[22]

China

The question of whether the United States' economic relationship with China and other rising nations is mutually beneficial will be determined by many policy decisions beyond the realm of trade policy. But a U.S. trade policy that does not more effectively address the challenges posed by China's astonishing rise will not receive or deserve the support of the American people.

The administration should engage with China, along with other leading economies, in a global effort to address the current economic imbalances, including the problem of misaligned currency exchange rates. For too long, China has maintained astronomical growth rates by means of exports and attracting inward foreign direct investment, rather than by domestic spending and consumption.[23] The United States' own savings and investment imbalance has fueled a dependence on Chinese capital to finance U.S. domestic consumption, often of Chinese goods. The resulting economic imbalances are unsustainable for the United States and the European Union, and not in China's long-term interests either.[24]

China's leadership recognizes the problem and is taking some initial steps to boost domestic consumer-driven economic growth. Beijing has also allowed its currency to appreciate 19 percent against the dollar since 2005—under U.S. pressure and due to its own domestic inflationary problems. This is a step in the right direction—and a welcome development for both countries—yet China's currency is still considerably undervalued. China's monetary policy is predicated on the slow appreciation of the yuan in order to manage inflationary pressures and the flow of "hot money" into China in the anticipation of rapid appreciation of the currency, but Beijing needs to move more rapidly to a market-determined exchange rate as part of its emergence as a global trading powerhouse.

The new administration, led by the secretary of treasury, should reduce the incentive for China to continue to undervalue its currency by improving the International Monetary Fund's currency surveillance and macroeconomic coordination functions, a program it initiated in 2006 and then refined in 2007 to focus on bilateral currency exchange rates that cause "external instability." The new president and his treasury secretary should make it clear that they prefer to deal with currency exchange rate issues in joint, cooperative action with China—through the U.S.-China Strategic Economic Dialogue and as part of China's growing leadership role in new global arrangements. But the United States also should work with other nations through the International Monetary Fund, which recently agreed to take on a larger role in global economic imbalances, to pressure China for significant changes in currency alignment and economic policy.

While currency and intellectual property issues often dominate the discussion of China trade issues, the United States should also move vigorously to hold China to all the trade commitments that it has undertaken. Cases in point: China's subsidies to its semiconductor industry; its use of technical standards to discriminate against U.S. companies; and its continued willingness to support state-owned enterprises all present particularly severe challenges to our high-technology industries, and raise serious questions about whether China is adhering to its WTO commitments.[25]

European Union

The United States has long had an enormous trade and investment relationship with the European Union, and many shared common interests like high-wage economies with strong labor and environmental protections. It is impossible to envision the multilateral trading system succeeding without close cooperation between the United States and the EU. Nevertheless, the U.S.-EU trade relationship is a competitive and sometimes prickly one. The largest economic block in the world—the EU-27 includes 490 million people—the EU understandably sees itself as the global trade leader and works actively to shape the global trade environment in a way that both benefits EU companies and reflects EU values.

Given the relatively low tariffs between the United States and the EU, "regulatory harmonization" has been the objective of the U.S. and European business communities for more than a decade. But those regulatory differences often reflect profound differences in approach between the United States and Europe. In comparison to the United States, the European Union takes a tough line on competition policy, is far more hostile to genetically modified foods, adheres to the precautionary principle for assessing risk, and generally regulates more stringently in the environmental area.

While it will be tempting for USTR to pursue the goal of regulatory harmonization with the EU, it should be recognized that progress can be very slow. Harmonizing regulation in the service sector is more promising, because it involves fewer considerations of environment, health, and safety, all of which are sensitive and ideological in Europe. The potential value of a U.S.-EU services agreement should be carefully assessed, as should the value of a U.S.-Japan services agreement.[26]

Certainly USTR should engage the EU in areas of common interest, such as combining efforts to combat China's violation of intellectual property rights, use of subsidies, and other trade practices that are inconsistent with its WTO obligations, and the effort to address the trade aspects of climate change. At times in the past, the EU has undercut a strong position taken by the United States, trying to derive benefits from China by taking a softer line. More recently, however, amid a soaring EU bilateral trade deficit with China, the EU has shown a willingness to take a firmer line.

Latin America

Starting during the Reagan administration with the original idea of adding Mexico to the U.S.-Canada FTA, USTR has devoted enormous time, energy, and resources to the hemispheric trade agenda. President Bush will leave office with the Panama and Colombia FTAs almost certainly unresolved by Congress, but even those trade experts most committed to Latin America agree that the U.S. trade agenda in this hemisphere has exhausted itself. At the same time, Latin American nations have benefited from the global economic demand for commodities; their economies are generally growing and are also receiving increasing investment from China and India. A number of Latin American nations, particularly Brazil, are feeling more confident about their prospects and their options and less committed to accepting the hemispheric leadership of the United States.

The new president and trade representative will have to define U.S. trade policy toward the hemisphere against a backdrop in which the negotiating models that have governed—the Doha Round, the Free Trade Area of the Americas, and the bilateral FTAs in the region—have either failed or are likely to have run their course. The ultimate trade-negotiating goal in the hemisphere would be an agreement between the NAFTA countries and the Mercosur countries (Brazil, Argentina, Uruguay, and Paraguay), led by Brazil, but that is not realistically foreseeable in the early part of the new administration. Dealing with Brazil, never easy, will be a crucial element to moving ahead. With Brazil, and throughout the hemisphere, a focus on key issues of shared interest—the environment, biofuels, and energy—rather than a trade-negotiating model, might provide a new start and the best way forward.

Trade Promotion Authority

Sometime during the first year, USTR will have to confront the issue of whether and how to obtain trade-negotiating authority from Congress, which expired on June 30, 2007. The dilemma can be simply stated. USTR will not be taken completely seriously by other nations unless and until Congress restores trade-negotiating authority. But many members of Congress are hostile to trade agreements, and many more dislike the idea of "fast track" negotiating authority, which they regard as an encroachment on legislative prerogatives. Congress will not restore trade-negotiating authority until it has much more confidence in U.S. trade policy, and that will not happen until a majority in Congress agrees on what the negotiating authority will be used for.

Consequently, USTR should not request trade-negotiating authority until it has completed its interagency review, developed overall recommendations for

U.S. trade and foreign economic policy, and had sufficient time to identify and discuss with Congress its specific trade-negotiating priorities. Moreover, when negotiating authority is requested, USTR should be willing to address long-standing congressional concerns by making significant changes from the past formulation.

For instance, the new administration should consider supporting the creation of a joint congressional committee on trade, which would include the chairmen and ranking members of all the key committees with jurisdiction over issues that appear in trade agreements. The negotiating authority could include the requirement that no trade agreement negotiation should be formally initiated unless this joint committee, or the joint committee and the trade committees, voted to give the negotiation the go-ahead. This mechanism would give Congress an expanded role in choosing U.S. trade negotiating partners, and it would give the president and USTR, as well as U.S. partners, the assurance that a broad cross-section of Congress had endorsed the concept of the negotiation.[27]

In sum, the new trade representative will assume responsibility at an absolutely pivotal moment for U.S. trade policy. A new trade policy is desperately needed, and if the new administration builds a real partnership with Congress, it is possible to envision a trade policy that would be simultaneously more strategic, more realistic, and more idealistic—and certainly more successful in contributing to U.S. economic growth and improved living standards around the world.

Department of Commerce

Proving Ground for Sustainable Economic Growth

JONATHAN SALLET[1]

The Department of Commerce should be the new administration's proving ground for sustainable economic growth. But meeting global economic challenges will require the new secretary to integrate the department's multifaceted expertise into a singular force. The department brings together trade, environment, telecommunications, domestic