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U.S. Trade Policy -- 2009 Forward

Recognizing that the key determinants of the level and direction of trade will be macroeconomic factors –primarily the level of demand (growth rates) in the U.S. and abroad and exchange rates, and that the competitiveness of the U.S. economy will be determined to a large extent by domestic policies – such as education, training, R&D (government and private), the burdens of health care and pensions in tradable goods and services sector, and improvements in the nation's physical infrastructure, there is nevertheless a vitally important trade agenda for the incoming Administration.

- **First there should be no backsliding** – there should be an effort to resist protectionism here and abroad (being careful to distinguish this from the use of trade remedies where they are warranted under international rules, domestic law and, in the public interest).
- **Second, the cornerstone of the new Administration's trade policy should be preserving and improving the multilateral trading system.** New regional arrangements (particularly those that exclude the United States) should be resisted where harm to nonparticipants may be substantial.
- **Third, in an era of increasing pressures for government intervention in trade abroad, trade agreement and trade law enforcement is imperative.**

Some specifics

The Doha Round should be re-shaped and driven to a successful conclusion. As this is billed as a development round, fresh consideration should be given to what changes in the WTO system would benefit economic development (whether or not the developing countries would currently welcome these initiatives), as well as fundamentally what would serve U.S. commercial interests directly through enhanced market access for exports and indirectly by enhancing global growth. Part of the new approach would be to recognize global commons issues as a central part of the re-thinking of the U.S. global trade agenda. The new approach should utilize the OECD or an ad hoc small group setting allowing for coordination among a few key countries, developed and emerging to shape the 21st Century agenda.

Key new elements for negotiation should include:

- Duty-free and barrier free trade in information technology and communications products and services;



- Duty-free and barrier-free trade in green (anti-climate change, energy saving) products and services;
- Re-consideration of IPRs to enhance provision of health related products and services;
- Improved rules governing export controls in times of scarcity (limiting beggar-thy-neighbor policies in both agricultural commodities and industrial inputs);
- Rules governing the regulation of non-compliant products that will be subject to restriction under national climate change legislation;
- Rules to enhance food and product safety without increasing unnecessary barriers to trade;
- Rules to prevent the abuse of standards for protectionist purposes by strengthening the WTO's Agreement on Technical Barriers to Trade;
- Rules for access for cross-border financial services that complement new arrangements on financial regulation in other fora;
- Enhanced rules to regulate the restrictive effects on the trade of nonparticipants of bilateral and regional trade agreements; and
- Improvements in WTO dispute settlement to avoid WTO panels' legislating new requirements beyond what was negotiated by the WTO's membership.

The new Administration should consider initiatives in the following very contentious areas:

- Strengthening international rules against restrictions on inward foreign direct investment;
- How to achieve the maximum agricultural trade liberalization consistent with a range of national objectives; and
- Rules providing for the liberalization of movement of persons across borders (Mode 4 to some extent); and
- Rules requiring the free flow of information via the internet and other means.



Bilateral and regional initiatives

- **More thought needs to be given to launching additional initiatives.** They are necessary as a backstop should multilateral progress prove impossible to achieve and may be a necessary counter to others' agreements, and may be a useful tactic to drive the potential multilateral agenda, but they are a distinctly second best alternative, and can be a major diversion of resources from the central task outlined above.
- **Improvements in NAFTA.** This is already on the agenda with respect to labor and the environment. To this should be added adjustment of the NAFTA dispute settlement system to make it comply with U.S. constitutional requirements.
- **Review existing bilateral trade agreements to determine how they fit into the overall trade strategy.**
- **Consider the utility of bilateral investment treaties and their consistency with overall policy to enhance investment by U.S. firms in the United States.**

U.S. domestic law

- **Obtain renewal of a revised Trade Promotion Authority with enhanced consultation with Congress and the private sector.** Hammering out the appropriate guidance from Congress may be time-consuming but it is a necessary effort. Quiet consultations and consensus-building should begin immediately.
- **Improve the safety net** (although if affordable this is best achieved as part of broader reforms).
- **Improve dramatically the open-source intelligence gathering capability of the Administration to detect and analyze the potential impact on U.S. interests of protectionist developments abroad.**
- **Create a U.S. domestic process for review of potentially nonconforming WTO and NAFTA decisions** where the United States is found in alleged noncompliance with the WTO rules.