



*Ideas into Action for
Peace, Justice, &
the Environment*

Director

John Cavanagh

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TO: Obama-Biden Transition Agency Review Team for USTR

FROM: Institute for Policy Studies

DATE: December 16, 2008

We very much welcome the opportunity to meet with you to share our views on the future direction of the U.S. Trade Representative's office during this exciting moment in U.S. political history.

Attached please find a sampling of articles and civil society statements that reflect our many years of experience working with a wide range of civil society groups in the United States and throughout the world to analyze existing policies and promote concrete alternatives that work for people and the planet. Here we would like to highlight four of our main recommendations:

1. Announce a moratorium on new trade and investment agreements.

As existing policies have become increasingly controversial, it is an opportune moment to take a pause in negotiations and carry out a thorough evaluation of these policies and possible alternative approaches.

2. Open a dialogue with North American civil society organizations and other governments to build consensus around a new approach to trade and investment policy.

President-elect Obama's statements on revising NAFTA, the basic blueprint for so many other agreements, were very welcome. We were particularly encouraged by his promise to begin a new North American dialogue: "*Starting my first year in office, I will convene annual meetings with Mr. Calderon and the prime minister of Canada. Unlike similar summits under President Bush, these will be conducted with a level of transparency that represents the close ties among our three countries. We will seek the active and open involvement of citizens, labor, the private sector and non-governmental organizations in setting the agenda and making progress.*" (*Dallas Morning News*, February 20, 2008)

As reflected by the attached statements, North American civil society organizations have already developed pragmatic recommendations for renegotiating NAFTA, many of which are in line with Obama's own statements.

We have been particularly impressed with statements regarding the less well-known investment provisions in trade agreements. For example, he wrote that "*With regards to provisions in several FTAs that give foreign investors the right to sue governments directly in foreign tribunals, I will ensure that foreign investor rights are strictly limited and will fully exempt any law or regulation written to protect public safety or promote the public interest.*" (Pennsylvania Fair Trade Coalition survey, April 2, 2008.)

This is an issue that has become all the more important in light of the current global financial crisis. Governments should not be prevented from using capital controls and other tools that may be effective in responding to the crisis.



3. Overhaul the Trade Advisory Structure

There is a high level of frustration among civil society representatives related to the current structure for dialogue and engagement with U.S. trade officials. Three primary problems:

- **Big business dominance:** The advisory bodies should be reconfigured to reflect the wide-ranging impacts of trade policies on diverse segments of society and to encourage the active engagement of affected groups that have been excluded from such dialogues. An over-arching committee (to replace the corporate-dominated Advisory Committee for Trade Policy and Negotiations-ACTPN) should be structured to balance the interests of corporations with those of the rest of society.

A proposed breakdown of representatives: 30% business (with half of these slots going to small businesses, which employ about 50% of the workforce); 30% labor unions (as a counter-balance to the employer representatives); 8-10% each for environmental and consumer groups that concern themselves with issues that affect everyone; 4-5% each for groups representing immigrants and family farmers, which have been particularly affected; and 4-5% for community, faith-based, and development organizations, which often help people here and abroad deal with the negative impacts of current policies. Sector-specific committees (e.g., automotive and chemicals) should also integrate representatives of diverse civil society organizations.

- **Secrecy:** Even when “cleared advisors” receive meaningful information from U.S. officials, they are not allowed to share this information, even within their own organizations. This serves as a disincentive for democratic dialogue. While it is understandable that some particularly sensitive information related to ongoing negotiations may need to be kept confidential, officials should seek to maximize transparency and provide as much information as possible without these restrictions.
- **Lack of accountability:** One lesson from the experience with the Free Trade Area of the Americas process is that mechanisms to encourage civil society input will lead only to frustration if government officials are not obligated to respond. The Committee of Government Representatives on the Participation of Civil Society was set up to receive input in a one-way process that was often dubbed the “mailbox to nowhere.” The administration should agree to prepare written responses to civil society concerns on a quarterly basis.

4. Use the Summit of the Americas as an opportunity to build bridges in the hemisphere.

This April 2009 meeting of the Western Hemisphere heads of state will be an important opportunity to build bridges in a region that has been sharply divided on trade and globalization policies. Particularly in light of the global economic crisis, this is a critical time to seek common ground and common solutions to the problems of rising poverty and insecurity that all countries in the hemisphere now face.

Thank you once again for expressing interest in our input as part of the USTR transition process. We would be very happy to answer any questions or provide more information at your request.

Best regards,

John Cavanaugh, Director



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About IPS

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