

## CONTENTS

Foreword	2
Acknowledgments	4
Task Force Report	5
Findings and Recommendations	11
Conclusion	17
Members and Observer of the Task Force	18

## FOREWORD

Lifting trade barriers between the United States and other nations has become one of the more polarizing issues of our time. For every labor or environmental leader opposed to free-trade agreements on the basis of social justice, an economist or policy practitioner holds that the expansion of free trade has helped to fuel one of the strongest and most demographically inclusive booms in U.S. history.

This Independent Task Force on Trade Expansion, sponsored by the Council on Foreign Relations, was deftly co-chaired by Robert E. Rubin, Secretary of the Treasury in the Clinton Administration, and Kenneth M. Duberstein, Chief of Staff in the Reagan White House. It forges a bipartisan consensus to get America out of the political stalemate.

The Task Force clearly endorses trade expansion. Its members, including Carla Hills, U.S. Trade Representative in the first Bush Administration, and Charlene Barshefsky, U.S. Trade Representative in the Clinton Administration, say trade expansion is not only vital to economic growth in the U.S. and abroad, but when combined with complementary policies, can actually help address the problems cited by labor, environmentalists, and others concerned with social equality.

Given the increase in employment, wages, and wage equality in the 1990s, when the United States expanded free trade, the Task Force holds it would be economically and socially irresponsible for the U.S. not to pursue further trade expansion. Specifically, the Task Force recommends that the Congress give Trade Promotion Authority (TPA), formerly known as “fast-track,” to the President.

The task force observes that opponents of TPA often argue that the expansion of trade “increases inequality within and among nations.” But the actual record is much more positive, the Task Force responds. Over the course of the 1990s, as the United States became significantly more open to trade, U.S. employment and wages also increased. In fact, “since 1990, payroll employment has grown by more than 22.5 million jobs, and real average household incomes have grown by at least 10 percent for every quintile of the income distribution.... Since the beginning of the current expansion, family incomes in the lowest quintile have risen at a slightly higher rate than those in the top quintile.”

The task force also points out a recent study documenting the acceleration of growth rates by nations that expanded free trade, from 1.8% per year in the 1970s to 2.5% in the 1980s, and 5.1% in the 1990s. Developing countries that chose not to globalize, on the other hand, have delivered much worse economic outcomes for their citizens. “Trade,” the task force concludes, “has narrowed, rather than widened, the gap between developing and developed countries.”

The report makes a number of concrete recommendations for resolving America’s free-trade standoff, starting with the notion that Congress and the President must adopt a

confidence-building approach – aiming for a series of very discrete agreements over time on individual trade pacts and programs – to win a broader base of support for strong and open trade policies more generally.

Among the most divisive issues in the present debate has been the treatment of labor and environmental concerns. Here, the Task Force recommends an approach that combines new multilateral initiatives to strengthen labor and environmental standards in parallel to the trade context with carefully designed, but enforceable provisions in trade agreements, to address concerns that trade forces a “race to the bottom” by forcing governments to relax domestic standards in these areas in order to compete globally.

The task force also recommends that the U.S. government make the process of trade negotiations more transparent, reassuring labor, consumer, and environmental groups that new agreements will be subject to the same public notice and review processes that now exist domestically.

Other steps recommended by the task force include the need to engage the Congress more directly throughout the trade negotiating process, while balancing the necessary role of the legislative branch in trade policy with the need of the President to deal effectively and efficiently with other governments.

The problems of social equity and pressure on environmental resources that have come to be associated with economic change today raise legitimate and important questions for policy makers in the United States. Expanded trade is not a significant cause of those problems, nor does it provide the solution to those problems. But more open trade policies are a critical element in the broader set of economic policies that have been critical to American prosperity in the past, and will be equally important to our success in the future.

In addition to the very able leadership of Bob Rubin and Ken Duberstein, the task force relied most heavily on the expertise and considerable skills of Tim Geithner, former Undersecretary of the Treasury and Senior Fellow at the Council on Foreign Relations, and Dan Lucich, Senior Advisor, Hampshire Partners, LLC. I thank them very much.

*Leslie H. Gelb*  
President  
Council on Foreign Relations

## ACKNOWLEDGMENTS

We are grateful for the hard work and dedication put forth by all of the Task Force members under the leadership of the Chairmen, Kenneth M. Duberstein and Robert E. Rubin. The individual contributions of our distinguished Task Force members provided a wide range of knowledge and experience that enriched our discussions as well as the substance of this report. Their ability to work toward and find consensus was admirable.

We are also grateful for the information given by representatives from environmental and labor groups, Capitol Hill, and private industry in off-the-record discussions with the Task Force.

We counted on the initiative, advice, and encouragement of Council President Leslie H. Gelb. Holly Waeger played an integral role from the beginning of the project with her excellent research and editorial contributions. Others at the Council deserve our thanks, including Mike Peters, the Council's chief operating officer, and Marie Strauss, special assistant to the president, as well as the Council's Publications and Communications offices. The Council's support staff was, as always, quietly effective behind the scenes, making our working sessions comfortable—especially the events and video-conferencing staff in New York and Washington, D.C. Special thanks are due to Captain Pat Nash (USN) for the coordination of the project and program associate Sandra A. Enimil who oversaw all administrative arrangements for the Task Force meetings in New York and Washington, D.C.. Last, but certainly not least, we are grateful for the Arthur Ross Foundation's financial support of Task Forces.

*Timothy F. Geithner*  
Project Director

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Deputy Project Director

## TASK FORCE REPORT

In April 2001, the Council on Foreign Relations convened, under the chairmanship of Robert E. Rubin and Kenneth M. Duberstein, a small bipartisan group of former officials and experts to explore ways of building a more durable political coalition in the United States in favor of trade expanding policies. The members of the group included: Charlene Barshefsky, I.M. Destler, Carla A. Hills, Lewis Kaden, and Andrew Kohut. Timothy F. Geithner and Daniel R. Lucich were project director and deputy project director, respectively.

This group met several times, and benefited from presentations by experts and representatives of various interest groups. We have been impressed by the difficulty of the problem. The substantive issues at stake are complicated and consequential. Yet, we believe there is a basis for moving forward that can further strengthen U.S. leadership in trade expansion. At the same time, it can address the other important concerns caught up in this debate, including those involving labor and the environment. This paper outlines the conclusions of the group.

The members of the Task Force believe that it is critically important for the interests of the United States to strengthen support for more open trade policies, both in this country and in the rest of the world. Open trade policies, when combined with strong macroeconomic policies, effective support for education, and other complementary policies, are critical to generating broad-based economic growth. External trade in goods and commercial services (imports plus exports) totaled \$2.6 trillion in 2000 or 26 percent of U.S. gross domestic product (GDP), more than double the share it did in 1970. This means that the United States has a much more substantial stake today in maintaining the health of the global trading system and in sustaining the momentum for economic integration than it did in the past, and much more to lose if trade growth slows.

Open trade policies played a key role in the latest economic expansion in the United States, as they did throughout the post-World War II period. Supporting trade expansion contributes to economic growth by promoting investment, encouraging competition and technological innovation, and reducing inflation:

- Expanded markets overseas for U.S. goods and services supported record growth in U.S. exports, contributing to record gains in employment.
- Imports played an equally important role, contributing to higher real incomes for Americans, dampening inflation, increasing consumer choice, and spurring productivity improvements to companies in every industry.
- The open investment climate contributed to record levels of foreign capital investment into the United States that helped finance extraordinary growth in private investment.

Continuing the process of economic integration is critically important to the prospects for growth among our trading partners—the other major economies, the emerging market economies, and developing countries. Expanded trade is the most powerful force available to promote growth in the developing countries.

The United States must be able to continue to exercise effective leadership in the promotion of trade expansion. But absent a domestic political consensus, we face the prospect of a broader erosion of support for policies that are fundamental to economic success and rising standards of living in all countries.

The present political stalemate on fast-track authority (now called Trade Promotion Authority or simply TPA) is one indicator of the lack of domestic political consensus on trade more generally, and undermines important U.S. interests. The broader stalemate thus has significant negative consequences for U.S. interests:

- An aggressive trade policy is vital to the U.S. economy and the economies of our trading partners. The benefits of further openness are clear in terms of expanding export opportunities, encouraging innovation and investment, promoting competition, and reducing inflation.
- Protectionist pressures generally increase during periods of economic slowdowns, and the world economy is more vulnerable to pressures to slow or reverse the extent of economic integration when the world is not already engaged in negotiating the next round of multilateral negotiations. Unimpeded U.S. leadership is critical.
- To the extent countries perceive a lack of consensus in the United States, the United States may miss trade opportunities, and those missed opportunities carry real economic costs. The United States must be in a position to respond readily to initiatives by other economies that exclude us or that threaten to erode the gains to the U.S. economy of previously negotiated trade agreements.
- The United States must be able to speak with one voice in multilateral forums. The absence of consensus dilutes the effectiveness of the United States as it pursues an ambitious multilateral agenda.

## THE CURRENT POLITICAL CONTEXT

The political challenge in building and sustaining support for trade expansion is complicated today by a number of factors:

- The accelerating pace of economic change has contributed to a general increase in economic insecurity in the United States, despite the overall gains in growth, employment, and incomes, all of which accelerated during the

latest expansion. In this context, trade is popularly perceived to threaten job security and increase downward pressure on wages, particularly for the less skilled, although technological changes, immigration, and other factors seem to account for the bulk of those pressures. With greater economic dislocation in general, there are greater pockets of resistance.

- The various public assistance programs available in the United States to mitigate the effects of unemployment—trade adjustment assistance, unemployment insurance, subsidies for education and job training—are more limited than those available in many major economies. The greater flexibility and mobility that characterize U.S. labor markets have been widely credited as key reasons for the stronger relative performance of the U.S. economy, but the greater pace of turnover contributes to greater employment insecurity and greater opposition to trade.
- Among labor, environmental, and consumer advocacy groups in the United States, there is a widely-shared view that trade expansion hurts workers, damages the environment, and threatens health and safety at home and abroad, unless accompanied by adequate regulation. .
- The traditional advocates of trade expansion in the United States have not been successful in counteracting the increased effectiveness of the critics. One legacy of the success of previous trade rounds is that the perceived gains of future multilateral trade rounds may seem more limited and the potential concessions remaining are harder to deliver politically. In addition, efforts to broaden the constituency in favor of trade, by broadening the negotiating agenda to encompass intellectual property rights, services, and other regulatory issues, leaves the United States in a position of making more international demands with less to offer in return.

Public attitudes reflect ambivalence about trade. According to a March 2000 poll by Pew, 78 percent of Americans rank “protecting American jobs” as the top trade priority, closely followed by 74 percent who rank maintaining economic growth as a top priority. Additionally, 64 percent of Americans (and 65 percent of households that include union members) believe that free trade is good for the country.<sup>1</sup> Other polls indicate a large majority of Americans recognize that trade provides a larger selection of products (84 percent), lowers prices (61 percent), and induces innovation (73 percent). However, Americans remain ambivalent about the benefits of free trade, with people evenly split between whether they believe trade destroys or creates American jobs (44 percent and 45 percent, respectively). Thus, although they seem to recognize the value of trade and believe that globalization has benefits, Americans also want to protect their jobs and are worried that trade might hurt job security.

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<sup>1</sup> The Pew Research Center for the People and the Press, ‘Post–Seattle Support for WTO,’ (March 2000).

## CONGRESS

American ambivalence toward trade is reflected in the evolution in congressional voting patterns on this issue over the past twenty-five years.

- Since 1974, there has been substantial erosion in support of granting the president fast-track trade authority. The Trade Act of 1974, which originated this authority, passed by an overwhelming margin: 72–4 in the Senate and 323–36 in the House. In 1988, the Omnibus Trade and Competitiveness Act, which extended fast-track authority for the Uruguay Round, passed the Senate 85–11 and the House 376–45. The votes for fast-track extension were closer in 1991 (59–36 and 231–192) and 1993 (76–16 and 295–126). By 1997, support had eroded to the point that the House could not pass a bill renewing fast-track authority.
- Opposition within the Republican Party has increased, in significant measure due to discomfort with the treatment of labor and environmental provisions. The number of Republicans in the House voting against fast-track rose from 11 in 1974 to 21 in 1991, and 71 in 1998. Fifty-six House Republicans voted against the legislation approving the General Agreement on Trade and Tariffs/World Trade Organization (GATT/WTO) agreement in 1994.
- The Democrats have moved from substantial majorities in favor of fast-track in 1974 and 1988, to substantial majorities against it. The Trade Act of 1974 received votes of 41–3 from Senate Democrats and 176–25 from House Democrats. By 1991, Democrats were split 23–31 in the Senate and 91–170 in the House for a two-year extension of fast-track. In 1997, the most credible estimates of support in the House showed only 42 to 46 Democrats in favor. (In 1998, House Democrats voted against fast-track by a margin of 29–171, although many voted against it for reasons of procedure rather than substance.) The 1994 GATT/WTO agreement, however, was backed by three-fourths of Senate Democrats and won a 167–89 Democratic plurality in the House.

The recent pattern suggests that agreements to expand trade can win substantial majorities, but that Democrats and Republicans are more willing to support actual bilateral and unilateral preferential agreements than they are willing to grant the president authority to negotiate them. This may imply a broader concern about a new multilateral agreement and the proposed Free Trade Area of the Americas, which today are the principal objects of TPA, rather than about agreements with individual countries or groups of countries. It may suggest that Congress is generally more reluctant to vote down agreements that have been negotiated. Or it may mean that Congress is more comfortable supporting trade agreements when it can evaluate them in full detail, as

opposed to having a broad grant of authority to negotiate future agreements, which may lead to uncertain results.<sup>2</sup>

## INEQUALITY AND WAGES

Across the political spectrum in the United States, there is broad recognition of the overall benefits to the economy from expanding trade, including higher investment, greater productivity, higher incomes, and lower inflation. The political debate is less a challenge to the general view about the overall economic benefits of trade than it is a debate over the distribution of those benefits and of the adjustment costs that accompany economic change.

Many of those who oppose Trade Promotion Authority, or who assert that new trade agreements should only be negotiated if they contain safeguards for the interests of workers and the environment, argue that trade expansion increases inequality within and among nations. They also argue that it exerts downward pressure on wages of low-skilled workers in the more developed economies and encourages a “race to the bottom” in both labor and environmental standards.

The evidence to support this view, however, is limited. In fact, most recent efforts to examine these concerns have concluded that the gains from trade are broadly shared, both across and within nations.

- Throughout the last decade, as the United States has become significantly more open, U.S. employment and wages have also increased. Since 1990, payroll employment has grown by more than 22.5 million jobs, and real average household incomes have grown by at least 10 percent for every quintile of the income distribution. The trend of rising wage inequality in the 1970s and 1980s, which many economists attributed at least partially to trade, abated in the 1990s. Since the beginning of the current expansion, family incomes in the lowest quintile have risen at a slightly higher rate than those in the top quintile.<sup>3</sup>
- Globally, trade has been a force for reduced inequality across nations. According to recent work by David Dollar, nations that chose to “globalize” experienced an acceleration of their growth rates, from 1.8 percent per year in

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<sup>2</sup> Additional view of Ambassador Barshefsky: I particularly support the observations made in this paragraph. While the TPA may be desirable, it is not necessary to the negotiation and congressional approval of substantial trade agreements. Rather, I believe that negotiation, in close consultation with the Congress, of concrete agreements whose benefits are measurable, provides a sound, step-by-step basis for the rebuilding of the consensus on trade with strong bipartisan congressional approval in individual votes. To the extent the current administration has launched an effort to gain TPA, however, I agree with the recommendations made in this report, and with the limited conditions envisioned by the Independent Task Force for its enactment.

<sup>3</sup> Bureau of the Census, *Current Population Survey: Historical Income Tables*, ([www.census.gov/hhes/income/histinc.fo3.html](http://www.census.gov/hhes/income/histinc.fo3.html), cited September 25, 2001); Council of Economic Advisers, *Economic Report of the President*, (Washington, D.C.: 2000).

the 1970s to 2.5 percent in the 1980s, and 5.1 percent in the 1990s. On the other hand, developing countries that chose not to “globalize” have experienced negative growth.<sup>4</sup> Thus, trade has narrowed, rather than widened, the gap between developing and developed countries. (There are a number of factors and policies that may have contributed to this result, and it may be that the countries that chose to globalize were also the countries that were better equipped in other respects—with stronger institutions, more stable macroeconomic policies, etc.—to grow economically.) Dollar also notes that across all countries there is a one-to-one relationship between the growth rate of per capita income and growth rate of income of the poorest quintile. In general, the higher growth rates in the globalizing developing countries translate into higher incomes for the poorest segments of those countries.

The most comprehensive studies of the “race to the bottom” concerns show no correlation between the weakness of a country’s labor and environmental standards or the selective relaxation of such standards in special export zones, and success in attracting investment and promoting exports. For example, a 1996 Organization for Economic Cooperation and Development (OECD) study shows that core labor standards and their enforcement are not significant factors in the majority of investment decisions of OECD countries.<sup>5</sup> Additional empirical work by Dani Rodrik revealed a negative correlation between violations of basic labor rights and U.S. foreign direct investment, suggesting that nations with weak standards deterred, rather than attracted, foreign investment.<sup>6</sup> (Of course, there are likely to be a variety of factors at work in this context that might account for reduced foreign investment.)

In general, as countries become more open and achieve stronger growth rates, experience suggests the quality of labor safeguards and environmental standards generally improves. There are legitimate concerns about the extent to which workers in industries that lose protection are disadvantaged by liberalization, and the extent to which openness to trade may put downward pressure on wages. And the credibility of efforts to deal with those concerns is likely to always be an important element in the ability of governments to sustain political support for more open trade policies. But trade is likely to be a relatively small source of those pressures. The overall magnitude of these limited trade-related negative effects will be overwhelmed by substantial gains for all economies and all income groups in those economies.

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<sup>4</sup> Dollar, David, *World Bank Policy Research Report on Globalization*, (Washington, World Bank: Forthcoming), Chapters 1-2.

<sup>5</sup> OECD. *Trade, Employment, and Labour Standards: A Study of Core Workers’ Rights and International Trade* (Paris, OECD Press: 1996), p. 100.

<sup>6</sup> Morici, Peter, and Schultz, Evan., *Labor Standards in the Global Trading System* (Washington: Economic Strategy Institute, 2001), p.8.

## FINDINGS AND RECOMMENDATIONS

- It would be a mistake to delay TPA and the range of international trade initiatives now in progress in the hopes that a majority in Congress might ultimately be found for a much more limited or a more ambitious approach to the concerns associated with economic change and increased trade.
- The greater reluctance in Congress to support trade-negotiating authority has developed gradually over an extended period of time. A successful strategy to build a stronger political coalition in support of further trade expansion will require a major effort over a sustained period of time. Even if the president is able to win some form of Trade Promotion Authority from Congress in the near future, the durability of any majority is not assured. Thus, there will be a need for an extensive, ongoing program of education on the positive effects of trade, as well as work to mitigate the adjustment costs that come with trade.
- The popular concerns associated with the actual and potential negative effects of economic change today—concerns about job security and environmental degradation—are a serious obstacle to further trade expansion. Even though the majority of the U.S. population and a substantial majority of members of Congress understand the broad economic benefits of trade expansion, concerns about the negative effects now dominate the debate.
- Designing effective policies to address these concerns, to build confidence that trade expansion can help improve the capacity of countries to achieve broad-based growth and improve environmental protections, will play an important role in the capacity of this and future administrations to build and sustain political support for trade expansion.
- The trade agenda, however, cannot carry the principal responsibility for addressing these concerns. Trade, and economic integration more generally, plays a very limited role in contributing to the social and environmental pressures that are the focus of so much of the political debate on trade policy. As a result, limiting further trade expansion will have little effect in mitigating those pressures. Its principal effect would be in denying an important avenue for all countries, and for all income groups within countries, to benefit from further opportunities for growth.
- The principal burden for mitigating the social pressures associated with economic adjustment will fall to domestic policies, including the areas of education, health care, and other elements of the transitional safety net available to workers who lose their jobs. And yet, the political prospects for movement on the trade front cannot be easily separated from the politics of the domestic debate on these issues.

- Nevertheless, there are specific measures that can be incorporated into the framework of trade policy that can help minimize the principal concerns of the present opposition. These include concerns that trade with countries that selectively exempt foreign investors or export-oriented business from labor and environmental regulations can hurt U.S. workers.

More active presidential leadership and an aggressive education effort by the pro-trade business community are generally regarded as a necessary condition for success, but they are unlikely to be sufficient to win significant pro-trade majorities without a more comprehensive approach.

### **1. Confidence Building**

Building a more durable base of political support will require a sustained effort designed to build confidence across the political spectrum. One approach, which has already begun in negotiations between Congress and the president, would be to adopt a “building block” strategy. The executive branch could ask the Congress for separate votes, spread out over time, on a series of individual agreements and trade programs, each of which could comfortably enjoy significant bipartisan majorities of support. Cumulative votes in support of trade, without long gaps between, might reduce some of the political and partisan heat around the issue. An additional advantage of this sequenced strategy is that by passing a number of agreements that contain different approaches to labor and environmental concerns, Congress and the executive branch would build a stronger case for maintaining flexibility on these issues. Such flexibility is key, particularly since labor and environmental provisions that might be acceptable in one context could prove unworkable in others. The risk that damaging or constraining precedents may be set in individual agreements is more limited if a variety of approaches are pursued and adopted, and no particular model is deemed the dominant precedent.

There are several such opportunities illustrating this strategy that are already in various stages of consideration in Congress, including:

- The Jordan Free Trade Agreement.
- The bilateral agreement that makes it possible to apply most-favored nation status to Vietnam.
- The renewal of the Generalized System of Preferences for the poorest developing countries.
- The renewal and possible expansion of the benefits in the Andean preference agreement.

Looking ahead, potential free-trade agreements with Chile and Singapore provide additional opportunities for building pro-trade coalitions.

## **2. Increased Congressional Involvement in the Trade Policy Process**

Congress has a necessary role to play in national trade policy. At the same time, the national interest is well served when the president has sufficient capacity to deal effectively and efficiently with other governments, including the reasonable expectation that the agreements negotiated by the executive branch will be promptly considered and approved. In this spirit, the executive branch could agree to support a variety of steps that would give Congress a greater voice in trade negotiations, including:

- Increased consultation with key congressional committees in addition to the Senate Finance Committee and House Ways and Means Committee before the executive branch initiates new negotiations.
- More frequent interim reports on progress during the negotiations.
- Formal mid-term reviews.
- Consult and brief relevant committees as negotiations proceed.

## **3. Reforms to Programs for Displaced Workers**

Our nation should find ways to deal more effectively with the plight of displaced workers. According to the Department of Labor, one in sixteen working Americans (eight million workers) were displaced between January 1995 and December 1997, years of historically low U.S. unemployment. Of those, 3.6 million workers had been with their employers three or more years. These numbers provide some indication of the scale of labor mobility in the United States, but it is important to note that most of these job changes had little to do with trade. Technological change and other factors are likely to play a much larger role in explaining job loss than increased imports. The United States should take a careful look at whether and how sensible programs could be designed to help deal with the adjustment costs faced by workers displaced by trade.

Among the issues worth considering are the following:

- The appropriate level and duration of any financial benefit;
- Whether and how to provide temporary health care benefits; and
- How best to provide support for education and training to help move people up the skill ladder so that the U.S. work force can obtain the higher pay, better benefits, and greater job security available in our increasingly knowledge-based economy.<sup>7</sup>

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<sup>7</sup> In this connection, Mr. Destler and Ambassador Hills believe that policymakers should explore the concept of “wage insurance” to supplement the incomes of displaced workers who take a job in a different, more promising sector and lower pay. Wage insurance could directly ameliorate workers’ anxiety over near-term wage loss. It could encourage them to stay productive in the work force and thus reduce outlays for unemployment insurance. Most importantly, it could provide the training that has proven most

#### **4. Enforcing U.S. Trade Remedy Laws**

The laws now on the books to protect U.S. industries against unfair practices by our trading partners are important to the credibility of the system. Indeed, more effective and timely enforcement of current laws in a manner consistent with our WTO obligations could bolster domestic support for more open trade.

There are some who argue that the United States should make it easier for industries to obtain protection from imported products by relaxing the requirements in antidumping, countervailing duty, and Section 201 “safeguards” laws.

Whatever the political appeal of such a strategy, it would cause substantial economic damage. The prospect of increased protection in the United States would invite a race to protection by other countries around the world, with all the attendant economic costs. We would lose the capacity to deter other countries from resorting (as U.S. industries have done) to greater use of countervailing duty and antidumping laws. We would be less able to make a credible case that emerging and developing economies would benefit from greater openness. This would be a terribly negative signal, particularly in the context of the present global slowdown.

There may be small changes—such as conforming the Section 201 injury standard to the WTO Safeguards Agreement standard—that may make sense as part of the implementing legislation for a multilateral trade agreement down the road. However, even limited changes that may be consistent with our international obligations would need to be considered carefully. In addition to the economic costs that necessarily accompany an increase in protection, an effort to modify Section 201, for example, might be hard to contain. It could possibly lead to changes in Congress going well beyond the WTO standard, increasing pressure to introduce a broader scope for trade protection in other areas of U.S. trade law.<sup>8</sup>

#### **5. Addressing Labor and Environmental Concerns**

Labor and environmental objectives already have an established place in U.S. trade law. Labor rights were part of the 1988 Trade Act that authorized fast-track for the Uruguay Round of GATT and the North American Free Trade Agreement (NAFTA). The Generalized System of Preferences, African Growth and Opportunity Act, and Caribbean Basin Initiative all include provisions for denying benefits to countries that fail to make progress enforcing laws against child or forced labor, as well as internationally recognized worker rights or domestic environmental laws. The original GATT agreement also includes provisions that countries cannot be forced to import products made with slave labor, and that they can restrict imports for health and safety reasons if domestic products are similarly restricted.

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effective, which is training on the job. They should also explore means to provide health care benefits to displaced workers.

<sup>8</sup> Additional view of Mr. Kaden: The Section 201 injury standard should be amended to match the WTO test. The president should have access to this remedy on the same basis as our trading partners.

Labor and environmental issues have become at once too important to be excluded and too controversial for legislation to dictate specific outcomes in advance of difficult international negotiations. Recognizing these issues is necessary for any effort to build a majority in favor of trade negotiating authority in Congress. But a U.S. effort to accommodate these concerns by conditioning future trade agreements on commitments by other countries to change their domestic laws to raise labor and environmental standards is only likely to end in a further international stalemate. Similarly, an approach that mandates sanctions to enforce labor and environmental provisions is likely to be viewed by many countries, especially in the developing world, as simply a new form of protectionism, and would simply ensure lesser U.S. ability to negotiate any new trade agreements. Sanctions are problematic for other reasons as well. Most importantly, because of the way in which trade sanctions are levied in the WTO, the companies or industries that violate labor or environmental standards would not be the ones punished. Rather, because sanctions would fall on exports, they would almost inevitably be levied against companies that actually meet international standards. There would thus be little deterrent effect on poor labor or environmental practices.

Elements of a reasonable compromise on labor and environmental issues might include:

- Support U.S. and international efforts to strengthen the capacity of our developing country trading partners to enforce protections against slave labor and exploitative child labor, and to strengthen environmental safeguards.
- Support efforts to strengthen the International Labor Organization's (ILO) capacity to promote adherence to its conventions, highlight substantial enforcement problems in the application of domestic laws, and other appropriate actions within its scope of authority.
- Explore ways to expand multilateral cooperation on environmental issues and to establish new multilateral environmental agreements where there is a compelling case for collective action.
- Establish general negotiating objectives in TPA that recognize the importance of promoting broader international adherence to internationally recognized labor rights and stronger safeguards for the environment.
- Establish as priority negotiating objectives in TPA commitments to enforce domestic laws relating to labor and the environment. There should be no deviation from those laws to attract investment and gain trade advantage.
- Require that trade-related labor and environmental commitments be subject to an effective dispute settlement and enforcement mechanism that could comprise a range of possible instruments to increase compliance, but that neither mandates nor forecloses the possibility of trade sanctions. Of course, for this to be a viable solution to the proponents of a more forceful

enforcement regime there has to be a realistic prospect that the executive branch would be willing to invoke sanctions in some circumstances.

- Enter into cooperative agreements (not subject to enforcement or sanctions) aimed at helping countries strengthen their labor and environmental standards.
- Avoid agreements that limit the capacity of a country to preserve existing labor and environmental standards or strengthen them over time.
- Explore the possibility of clarifying the relationship between WTO rules and ILO and multilateral environmental agreements, so that the former would not impede enforcement of the latter.
- Explore an appropriate forum for addressing concerns arising out of the complicated area of investor-state dispute resolution, including direct and indirect expropriation and alternatives to the “fair and equitable” standard used in many trade agreements.

## **6. Improving Transparency**

Measures should be taken to help improve confidence, particularly among consumer and environmental groups, that U.S. consumer and environmental protection would not be undermined by trade negotiations. To that end, Congress and the administration could agree to procedural reforms that, for example, would ensure that trade agreements affecting domestic regulations would be subject to the same public notice, comment, and review process that now exist domestically.

The perceived lack of transparency of WTO procedures has helped fuel opposition to further trade expansion. The United States should continue to urge:

- Opening up WTO dispute settlement hearings to the public.
- Allowing amicus briefs from nongovernmental organizations.
- Making public any government submissions before dispute resolution panels.
- Substantially reducing the number of restricted WTO documents and shortening the length of time it takes to remove documents from restricted status.

## **7. Broadening the Constituency for Trade**

A successful strategy to support passage of Trade Promotion Authority will require a broader constituency than the traditional core supporters among globally-oriented American businesses. The apparent increase in congressional interest in the development problems of the poorest countries may offer the prospect of support from new sources. But before this support can be mobilized, TPA supporters will need to do a better job of publicizing the pro-development impact of open markets. In particular, there will need to

be a concerted effort to explain how TPA would work to further the broader pro-development initiative. In addition, consideration should be given to combining TPA with other legislative initiatives that might be responsive to some of the concerns about trade.

## CONCLUSION

We believe that these steps provide a reasonable framework for moving forward with Trade Promotion Authority and beginning a longer-term program for strengthening support for trade expansion in the United States. They will not satisfy those who are opposed to trade expansion, nor could they. They will be opposed by others who believe that there is no legitimate place in trade agreements for measures designed to alleviate social and environmental concerns. And the balance outlined in this report is unlikely to be fully satisfactory to those who believe stronger protections for labor and environmental concerns must accompany further expansion. Those concerns cannot be fully resolved in the trade context, and there are limits to which they can be addressed in the general context of Trade Promotion Authority. Ultimately, the specific issues at stake that are related to trade can only be considered in the context of individual trade agreements.

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