



## In Search of an Obama Trade Policy

By Claude Barfield and Philip I. Levy

*President Obama's trade policy is an elusive beast. There will be claims of a sighting—as when U.S. Trade Representative (USTR) Ron Kirk emerged for a speech in May<sup>1</sup>—only to have the authenticity of the sighting called into question—as when the White House quickly disowned Kirk's remarks. Analysts in search of the true Obama trade policy are left sifting through spoor, trying to follow a trail. Of course, the very difficulty of the task conveys important information: trade policy is not a high priority for the Obama administration. Awkwardly, though, this disinterest comes at a time when the rest of the world has repeatedly indicated its eagerness for action to bolster the global trading system, when the warmer diplomatic relations that the Obama administration seeks often depend upon tighter trade ties, and when Congress has been particularly emboldened in its protectionist passions.*

The lack of a clear vision for U.S. trade policy, combined with the reality that congressional Democrats—particularly in the House of Representatives—are deeply conflicted on trade and globalization, has produced a series of embarrassing, contradictory signals and gaffes by newly appointed Obama administration officials (not least USTR Kirk). The Obama administration's approach has led one perceptive observer, Craig VanGrasstek of Harvard's Kennedy School of Government, to label Obama a “passive free trade[r].” VanGrasstek concludes that the administration “has shown that it will take action to avoid being labeled protectionist, but it has yet to demonstrate any eagerness to make trade liberalization an important part of its economic recovery program.”<sup>2</sup>

This *Outlook* will review the trade policy actions of the first six months of the Obama administration and look for thematic implications. It will also discuss the particularly difficult constraints the administration faces in its trade dealings with Congress. Finally, it will consider what this portends for trade policy in the near future.

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### Events, Dear Boy, Events

In last year's presidential election, Barack Obama took perhaps the most skeptical stance toward

#### Key points in this *Outlook*:

- In its first six months in office, the Obama administration has offered contradictory signals on trade.
- The administration went along with the “Buy America” provisions of the stimulus, angered Mexican authorities over the issue of truck traffic to the United States, flip-flopped on China's currency, and put free trade agreements on hold.
- Significant constraints limit administration actions on trade. The election of Democratic majorities in both houses of Congress in 2006 deepened antitrade sentiment and emboldened members in their efforts to wrest trade negotiating authority from the president.
- Trade policy is not a high priority for the administration at a time when the rest of the world needs the United States to stand up. The administration's new protectionism invites retaliation.

trade of any major candidate since Ross Perot. In Ohio, in March 2008, he proclaimed that the North American Free Trade Agreement (NAFTA) had cost the United States 1 million jobs.<sup>3</sup> He later vowed to withdraw from the agreement if Mexico and Canada refused to renegotiate its terms. He criticized U.S. multinational corporations for investment abroad and promised to address the practice through tax policy. Obama seemed all too ready to bow to the strong protectionist, or economic nationalist, elements of the Democratic Party.

As the general election approached, however, then-senator Obama tried to moderate his position. Without explicitly reversing himself, he spoke of his earlier rhetoric as “amplified and overheated.”<sup>4</sup> This allowed for some useful ambiguity going into the fall campaign. Those who were opposed to globalization could point to Obama’s speeches and pledges to take action against trade. Those who favored a more internationalist approach could point to the tempering of his rhetoric and his basic devotion to warm multilateral relations.

This ambiguity was no less useful once Obama took office. The president had a range of ambitious economic proposals he wished to pursue, from a stimulus package to health care to reining in greenhouse gas emissions. Any action on trade threatened to dissolve the ambiguity and split key coalitions. Thus, the administration might well have liked to ignore trade for quite a while.

**“Buy America.”** While it might have wanted to downplay trade, the Obama administration was not afforded that luxury. In January—even before the administration formally took office—the House of Representatives, as part of a broad stimulus package, included language that would have limited stimulus spending on certain products—notably steel—to goods made in America. The theory, initially endorsed by Vice President Joseph Biden, was that the purpose of the stimulus was to create American jobs, so why allow imports? The plan, which soon expanded to include manufactures more generally, generated strong opposition abroad. In short order, the European Union, Canada, Australia, and Japan all threatened to launch World Trade Organization (WTO) cases against the United States.<sup>5</sup> This was hardly the warming of global relations the new administration had envisioned.

The Obama administration waffled. Rather than endorse an amendment by Senator John McCain (R-Ariz.) that would have removed the “Buy America” language altogether, it opted for a tempered (and ultimately

ineffectual) amendment that stated that the “Buy America” policy should not violate existing U.S. trade commitments. Thus, in line with VanGrasstek’s point, the administration avoided the protectionist label under a narrow definition; it did not intentionally violate existing U.S. trade commitments. Those setting trade policy were comfortable, however, with raising barriers in procurement cases in which the United States was unconstrained (as against China or Brazil). In practice, uncertain implementation of the “Buy America” measures has caused significant discontent even among trading partners who were supposed to be sheltered, such as Canada and the United Kingdom.

**Mexican Trucks.** In a prominent case that followed in March, the administration chose not to honor a commitment to Mexico. NAFTA had called for a transborder trucking program by the year 2000.<sup>6</sup> Despite the formal commitment, the program was highly controversial in Congress, and the Bush administration had to negotiate compromises, such as trial efforts that would demonstrate the safety of Mexican trucking. In mid-March, as part of an omnibus spending bill, Congress included a provision to halt this Bush-era demonstration program.<sup>7</sup> President Obama signed the bill.

This infuriated Mexican authorities, who implemented plans to retaliate with new tariffs against up to \$2.4 billion of U.S. goods. The Obama administration promised to try to fix the problem by creating a new program that would satisfy the alleged safety fears of Congress as well as comply with U.S. NAFTA obligations for Mexican cross-border trucking.<sup>8</sup> To date, no such program has come to life.

**China’s Currency.** The Obama administration was also forced, by law, to take an early public stance on trade with China. The unbalanced nature of U.S.-Chinese trade has long been a principal focus of trade policy critics. They argue that the large and persistent bilateral trade deficit during the Bush years demonstrated the unfair nature of Chinese trade practices—particularly a misaligned currency—and the unwillingness of that administration to get tough on enforcing U.S. interests.

One means by which Congress forces the hand of the executive on currency policy is a regular reporting requirement under which the Treasury must publicly declare which countries are manipulating their currencies. In the campaign, then-senator Obama was very explicit that China was a currency manipulator.<sup>9</sup> This

stance was reiterated by Treasury Secretary Timothy Geithner at his confirmation hearings in January.<sup>10</sup>

Yet, in April, when the report was due, Geithner's Treasury declined to name China a currency manipulator.<sup>11</sup> Setting aside the intricacies of international financial diplomacy, this reversal of an explicit pledge by the president seemed to demonstrate the potential power of a less confrontational, more trade-friendly group within the administration.<sup>12</sup> This stands out as one of the bolder protrade moves of the Obama administration.

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**General Motors.** Some of the most significant trade policy moves of the last six months have emerged as byproducts of the drastic policy measures directed at other parts of the economy. One such move was the government involvement in the prearranged bankruptcy of General Motors (GM). This has potentially important trade policy implications in at least two dimensions.

First, by pouring roughly \$50 billion in subsidies into a national champion that was too politically significant to fail, the Obama administration implicitly embraced the reasoning of those around the world who argue that their favored industries cannot be allowed to perish simply because they cannot handle international competition. This runs counter to decades of U.S. argument against undertakings like the European Union's support for Airbus.

Second, the political bargaining on the eve of GM's bankruptcy involved at least one major agreement to impede trade. GM had previously announced its intention to build a new batch of subcompact cars in China. After negotiating with the administration, the United Auto Workers announced that GM had agreed to produce these cars in the United States instead.<sup>13</sup> Given the power of the U.S. government to dictate terms, this looked like an official policy to tie a massive subsidy to a decision to produce domestically rather than abroad.

## The Legacy

Though the mantra of his presidential campaign was "change" and a new beginning for national policies and

practices, Obama did not come to office with a tabula rasa on trade. His decisions and options have been shaped by realities and forces that have been developing for years. In the trade arena, two such realities leap out: first, the deepening division within the Democratic Party over trade policy and larger issues surrounding globalization, and second, the increasing restiveness in Congress over the delegation to the executive of constitutional authority over trade.

**Democrats and Trade Policy.** The fissures over international trade within the Democratic coalition became clear in the eight years of the Clinton administration. President Bill Clinton inherited a raging debate over NAFTA that saw two of the most powerful elements of the Democratic Party—labor unions and nongovernmental organizations associated with environmental and consumer movements—take the lead in opposing the agreement and, by extension, the furthering of trade liberalization.<sup>14</sup> Though Clinton had criticized NAFTA during the 1992 campaign, as president he attempted to finesse the issues by putting forth "side agreements" on labor and the environment while not demanding a wholesale renegotiation with Mexico. Labor and environmental organizations opposed the compromise, and, significantly, a majority of House Democrats (156–102) voted against the agreement. NAFTA passed because of overwhelming Republican support.

Labor and environmental leaders emerged from the NAFTA experience feeling betrayed and determined to push their trade-related agenda even more vigorously in the future. After NAFTA and the subsequent passage of legislation ratifying the Uruguay round agreement, a stalemate ensued. Republicans took control of Congress, and the Clinton administration never again mounted a strong challenge to the antitrade elements of the Democratic coalition, with the notable exception of paving the way for China's entry into the WTO.

During the Bush presidency, partisan divisions over trade disguised intraparty Democratic divisions. In the House of Representatives, the Democratic minority (spurred by the rank partisanship on trade of the Republican majority) adamantly opposed granting new trade negotiating authority to the president, and, with varying degrees of vigor, the Democrats also opposed the free trade agreements (FTAs) completed with fourteen countries under Bush. In 2002, the House version of negotiating authority passed by one vote (215–214) with only twenty-one Democrats voting in favor.<sup>15</sup> The high point

of Democratic opposition to the Bush FTAs came with the Central America Free Trade Agreement (CAFTA). House Democratic leaders, hoping to embarrass the president by combining with a small group of Republicans from textile and sugar districts, pressured all but fifteen Democrats to vote against the agreement.

**The New Democratic Era.** In the arena of trade policy, the new Democratic era began not with the election of Obama in 2008 but with the election of Democratic majorities in both houses of Congress in 2006.<sup>16</sup> Of the forty-two newly elected Democratic members of the House of Representatives, a sizeable majority had run on explicitly antiglobal platforms. They would exercise disproportionate influence, as they often represented formerly Republican districts that House Democratic leaders wanted desperately to retain. During this two-year interim before the presidential election, Democratic majorities—particularly in the House—took steps to place a Democratic stamp on U.S. trade policy.

In the spring of 2007, after some months of sparring with congressional Democratic leaders, the Bush administration—in the so-called May 10 agreement—capitulated to the major demands of the House Democratic leadership and agreed to new obligations for FTA partners. First, each FTA partner was required to adopt and enforce five so-called core labor standards as listed in the 1998 International Labour Organization (ILO) *Declaration of Fundamental Principles and Rights of Work*. These standards include collective bargaining, child labor, and discrimination. Beyond this, there was the new environmental requirement that each partner must ratify seven multilateral United Nations environmental agreements, including agreements on endangered species, marine pollution, whaling, and tropical tuna. The result was to raise the bar for nations signing FTAs with the United States.

This was the culmination of a steady expansion of Democratic trade demands since the early 1990s. In the nexus of trade, labor, and the environment, those demands have gone from side agreements under NAFTA, to a demand that U.S. FTA partners be held accountable for enforcing their own laws by the late 1990s, to the 2007 demand that U.S. FTA partners adhere to five ILO standards (even to the point of taking resources from other programs if there are resource constraints) and ratify the seven multilateral environmental agreements noted above.

**Congress versus the Executive on Trade.** When the May 10 agreement was concluded in 2007, House

Speaker Nancy Pelosi (D-Calif.) bluntly asserted: “It’s all a question of who has the leverage. We have taken leverage from the executive office.”<sup>17</sup> Though couched in partisan terms, Pelosi’s statement betokened a heightened sense of empowerment by the House in the trade policy area. It also signaled a broader restiveness in the legislative branch over the large delegation of authority to the executive branch in trade that had characterized the previous decades. This pushback has continued even with the arrival of a Democratic president.

Congress is currently considering a number of bills that would restrict the power of the president over trade policy and execution. First, there is substantial momentum, carried over from the Bush administration, to tighten rules on enforcement.<sup>18</sup> At the opening of the 111th Congress this year, Representative Sander Levin (D-Mich.), chairman of the Ways and Means Committee’s Subcommittee on Trade, reintroduced a trade enforcement bill (HR 496) that would create an independent Congressional Trade Enforcer with the power to investigate foreign trade barriers and submit “indictments” to the Ways and Means Committee and the USTR. While the USTR would not be required to act upon these “indictments,” failure to act could result in a vote of reprimand from the committee.<sup>19</sup>

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Second, on a broader scale, there are a number of proposals for a “new trade policy” that are being advanced by the strong antiglobal wing of the House majority. On June 24, 104 House Democrats signed onto a bill—the Trade Reform, Accountability, Development, and Employment (TRADE) Act of 2009 (HR 3012)—that would substantially overhaul U.S. trade policy if enacted. Among other things, the bill mandates a review of all existing trade agreements before Congress agrees to new agreements, potentially requiring renegotiation of existing accords if they do not live up to new congressional rules on labor rights, standards of employment, the environment, human rights, currency manipulation, and food and product safety.<sup>20</sup>

Following similar proposals from Democratic members of the Ways and Means Committee, the TRADE bill includes “sense of Congress” provisions for future trade promotion authority legislation that

would mandate much closer supervision of the process by Congress, including the selection of FTA partners, the enforcement of mandatory negotiation objectives, and a potential midpoint congressional veto after FTA negotiations have begun.

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Finally, the House recently passed climate change legislation that includes a provision for future punitive border tariffs against imports from nations that have not put in place adequate climate change rules (determined by unilateral U.S. standards). The bill strikes directly at presidential authority and discretion by severely limiting the president's ability to mitigate the draconian measure through invocation of the national interest. In this case, Congress would have to agree before changes were made. Obama spoke out against the provision just after the bill passed the House. He can work with allies in the Senate to restore some executive leeway, but there is strong pressure in Congress to retain some form of border retaliation in the final bill, both as a means of encouraging other nations to adopt emissions limits and as a way of "leveling the playing field" with those who do not.<sup>21</sup>

## Pledges and Realities

Like most incoming administrations, in order to give itself breathing room, the Obama administration announced in January that it would undertake a full-scale review of U.S. trade policy before moving ahead with new initiatives or continuing or abandoning existing ones. In speeches and congressional hearings, administration officials stressed three initial priorities for early resolution: dealing with pending FTAs; a new, stronger enforcement policy for U.S. trade rules; and progress on the Doha round.<sup>22</sup> To date, the record in each area has been spotty and replete with contradictions. Meanwhile, the much-vaunted trade policy review was finished in early June without any public announcement or major policy statement. The White House now promises that the president will deliver

an important trade policy speech before he hosts the G20 Summit in Pittsburgh in September.

**FTAs.** Prior to his appointment as USTR this year, Kirk's only notable involvement in trade debates had been his support for NAFTA when he was mayor of Dallas and a candidate for the U.S. Senate. At his confirmation hearings to become USTR in March, Kirk said he hoped to move relatively quickly on the Panama FTA. In late April, he stated that Obama wanted both the Panama and Colombia FTAs to move "sooner rather than later." Throughout the spring, however, the administration faced adamant opposition to passing the FTAs from a vocal, and potent, minority of House Democrats. In late February, a group of fifty-four House Democrats, including six committee chairs and seventeen subcommittee chairs, wrote to Obama demanding drastic changes in U.S. trade policy, including rejection of all pending FTAs, tightening of the May 10 agreement on labor and the environment, renegotiation of NAFTA and CAFTA, and punitive action against China.<sup>23</sup> On top of this, Obama found that obstacles were growing to the passage of key domestic legislative measures, such as health care and climate change reform—two areas in which united Democratic congressional support was indispensable. Nevertheless, on May 18, Kirk gave a comprehensive speech at the U.S. Chamber of Commerce in which he suggested that progress on the Panama, Colombia, and Korea FTAs was within reach.<sup>24</sup>

Within days, however, Assistant USTR for the Americas Everett Eissenstat told the Senate Finance Committee that Panama needed to be "considered in the context of a broader domestic agenda."<sup>25</sup> By implication, Colombia and Korea would be delayed as well. Whereas Kirk had drawn a connection between support of trade and health care reform, Eissenstat's testimony seemed to indicate that the trade agenda was on hold until the other domestic priorities had moved through Congress. The unexpected decision to delay even the Panama agreement drew criticism from both Senate Finance Committee Chairman Max Baucus (D-Mont.) and Ranking Member Charles Grassley (R-Iowa).<sup>26</sup> The White House clarified its stance with an announcement in early June that all activity on pending FTAs would be suspended until the administration's health care legislation had passed Congress—in effect putting off FTAs until late 2009 at the earliest.<sup>27</sup>

Aside from the high hurdle of requiring that health care reform pass before trade is addressed, it is not clear

that the new domestic measures will suffice to turn Democratic trade skeptics into enthusiasts. Unless there is some explicit link between a health care vote and a trade vote—highly unlikely—there will be a great temptation for the trade skeptics to pocket health reform and forsake trade agreements. The decision to postpone any trade initiatives until the end of 2009—if the Obama administration maintains this position—will have important consequences for the administration’s economic diplomacy around the world.

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**Enforcement.** Whereas new trade agreements are unpopular with important segments of Obama’s base, there is widespread enthusiasm for taking a tougher stance on enforcement. At least in part, this stems from a perception that U.S. trade deficits and manufacturing job losses can be attributed to a failure to enforce existing trade agreements.<sup>28</sup> In mid-July, Kirk promised heightened enforcement measures, particularly on sanitary and phytosanitary measures (SPS), such as restrictions on U.S. beef exports, and technical barriers to trade (TBT), such as labeling requirements on products.<sup>29</sup>

Such an approach will pose a number of challenges. Kirk said the administration’s preference would be to highlight other countries’ barriers so as to shame the countries into lifting them. That will work only if the countries believe the United States is blameless and in a position to pass judgment. That has hardly been the general reaction to measures from early in the Obama administration, even in the particular areas of SPS (U.S. restrictions on imports of Chinese chicken) and TBT (country of origin labeling requirements on Canada and Mexico).<sup>30</sup>

In addition, enforcement actions may be interpreted as new protectionism and invite retaliation. One prominent looming case concerns the import of inexpensive car tires from China.<sup>31</sup> The United Steel Workers—not any American producer—filed a “Section 421 safeguard” complaint against China and, in May, won an affirmative ruling from the U.S. International Trade Commission. This means that, under China’s accession agreement joining the WTO, Obama has the discretion to impose substantial trade restrictions on imports of Chinese tires. He must reach a decision by September. As a candidate, Obama criticized the Bush administration’s failure to do so, alleging that the decision was made on ideological

grounds. In fact, these safeguards suffer from a fatal flaw: they are bilateral measures in a multilateral world. One tire producer was quoted as saying that import restrictions on cheap Chinese tires would simply lead to new imports from Poland or Venezuela. Meanwhile, Chinese leaders have made very clear that they would take great offense at new trade barriers imposed upon them.<sup>32</sup>

It was not clear from Kirk’s speech the extent to which the Obama administration might pursue its enforcement agenda through new dispute settlement cases. Without pursuing enforcement, the agenda lacks teeth, but dispute settlement poses its own risks. Just because the United States objects to a foreign practice does not mean it necessarily violates an existing agreement. Existing accords are imperfect in their language and their coverage; that is one reason that advocates push for new agreements. Perhaps more important, though, is the danger that an overreliance on dispute settlement can pose to the entire trading system. It is entirely proper to turn to dispute settlement when one party to a trade agreement has transparently violated the agreement. But overreliance upon litigation rather than negotiation can put difficult political questions before panels of third-party trade experts who are ill-equipped to handle such broad policy matters. The U.S. government has objected vociferously in recent years when it perceived panels to be moving beyond the narrow interpretations of agreements. Since the WTO dispute system relies upon voluntary compliance by losing parties to avoid trade retaliation, new strains on the system can pose a serious threat to the trade regime.

**Global Expectations on Doha.** Since January, Obama has joined other global leaders—in the G20 and G8—in calling for a successful conclusion of the WTO’s Doha talks, but, in carrying out that pledge, he faces increased domestic obstacles among interest groups and the lack of any trade negotiating authority. In order to understand the Obama administration’s position on the Doha negotiations, one must go back to changes in the political situation regarding the round during the latter days of the Bush administration. From the breakdown of talks in July 2008 to early 2009, the position of major U.S. private interest groups shifted quite dramatically in a negative direction. In a February 24 letter to Obama, the leading trade associations in the manufacturing, services, and agriculture sectors stated that the current proposals on the table were inadequate and the United States must reassess its negotiating demands: “The

negotiations cannot simply be picked up where they left off [last year].”<sup>33</sup>

The Obama administration is supporting the position of major U.S. interest groups and thus has made it clear that if and when negotiations start again, the existing texts cannot be the basis for moving forward.<sup>34</sup> In his oral and written statements to Congress, Kirk criticized the “imbalance” in the current Doha round negotiations and stated: “[It] will be necessary to correct the imbalance in the current negotiations in which the value of what the United States would be expected to give is well-known and easily calculable, whereas the broad flexibilities available to others leaves unclear the value of new opportunities for our farmers, ranchers, and businesses.”<sup>35</sup> More concretely, the United States is now demanding greater tariff reductions by developing nations (and less flexibility for special safeguards against import surges), commitment to negotiate on specific manufacturing sectors, and a similar commitment regarding a minimum number of services sectors.

The United States is encountering strong resistance to its hardened stance from other leading WTO member states, especially from large developing countries. WTO director general Pascal Lamy has warned that attempts to make big changes in the package on the table could destroy the talks for this year, putting off a breakthrough on agriculture and industrial tariffs until 2010.<sup>36</sup> For several months, administration officials presented optimistic views on near-term breakthroughs on Doha. But in June 2009, the administration reversed course, and Kirk confirmed at a meeting of the WTO Cairns Group that the United States had come to believe the round would not conclude until the end of 2010.<sup>37</sup> That timetable would require substantial negotiating progress over the next year and would schedule the conclusion of a major trade round concurrently with U.S. midterm congressional elections. Election years, particularly those plagued by festering jobless recoveries, are not generally seen as propitious for trade progress.

## Concluding Observations

In fairness to Obama, only six months have elapsed since his inauguration, and his record on trade policy, as in many other areas, is far from complete. That said, there are several observations and conclusions that can tentatively be drawn from the experiences and events of the first months.

First, for decades, parochial protectionist concerns in Congress have been balanced against free-trade presidents advocating the national interest. To date, Obama’s style of leadership has hampered his ability to pursue this balancing role. In key incidents—“Buy America,” the Mexican trucking mess, and climate change legislation—the White House’s decision to hang back and first let Congress have its way resulted in protectionist outcomes. Further, the president’s reticence has emboldened the already strong antiglobal Democratic faction in the House of Representatives. While this group does not control congressional trade policy, it showed its strength by enlisting over one hundred House Democrats to sign on to the protectionist TRADE Act of 2009 (double the number of Democrats who supported the bill in the last Congress).

Second, behind Congress’s antiglobalization votes lies a formidable array of interest groups that Obama will have to face down or buy off with other measures, if he truly wants to advance a more competitive, open-market agenda, either through the WTO and the Doha round or through trade-liberalizing bilateral and regional agreements. The AFL-CIO and other powerful independent unions remain unrelenting in their opposition to further trade and investment liberalization, unless accompanied by trade and investment-destroying social and economic regulations and restrictions.

Third, Secretary of State Hillary Clinton has argued that economic diplomacy is a central element in advancing U.S. political and security interests. Obama must act soon to resolve the tensions between global leadership aspirations and rising economic nationalism at home. Whatever the economic impacts of the Korea and Colombia FTAs, they pale beside the political and security consequences of a U.S. rebuff and slapdown of these key regional democratic allies. “Yes we can” must take on an international economic dimension if the president wants the United States to retain its role as a leader of the free world.

## Notes

1. Ron Kirk, “Next Steps on the Trade Agenda” (speech, U.S. Chamber of Commerce, Washington, DC, May 18, 2009), available at [www.ustr.gov/about-us/press-office/speeches/transcripts/2009/may/remarks-ambassador-ron-kirk-us-chamber-commerce](http://www.ustr.gov/about-us/press-office/speeches/transcripts/2009/may/remarks-ambassador-ron-kirk-us-chamber-commerce) (accessed July 28, 2009).

2. Craig VanGrasstek, “Building without BRICs: Lessons from the ‘Buy American’ Debate,” *Bridges* 13, no. 1 (February/March

2009), available at <http://ictsd.net/i/news/bridges/44271> (accessed July 28, 2009). Nina Easton develops a similar theme in a recent article. See Nina Easton, "Obama's Messy Free Trade Message," *Fortune*, March 18, 2009.

3. "Clinton, Obama Go at It over Trade," CNN.com, February 25, 2008.

4. Nina Easton, "Obama: NAFTA Not So Bad After All," *Fortune*, June 18, 2008.

5. The "Buy America" language likely violated U.S. commitments under NAFTA and the WTO Agreement on Government Procurement.

6. Jose de Cordoba, "Mexican Truckers File \$6 Billion Claim against U.S. in NAFTA Spat," *Wall Street Journal*, June 2, 2009.

7. Jerome R. Corsi, "Congress Halts Mexican Trucks in U.S.," *Mint Dollar*, March 11, 2009, available at [www.mintdollar.com/2009/03/congress-halts-mexican-trucks-in-us-2](http://www.mintdollar.com/2009/03/congress-halts-mexican-trucks-in-us-2) (accessed July 28, 2009).

8. Both of these incidents have been widely reported and commented on. Among the best sources are Craig VanGrasstek, "Building without BRICs: Lessons from the 'Buy American' Debate"; Gary Clyde Hufbauer and Jeffrey J. Schott, "Buy American: Bad for Jobs, Worse for Reputation" (Policy Brief 09-02, Peterson Institute for International Economics, Washington, DC, February 2009), available at [www.iie.com/publications/interstitial.cfm?ResearchID=1114](http://www.iie.com/publications/interstitial.cfm?ResearchID=1114) (accessed July 29, 2009); International Centre for Trade and Sustainable Development, "'Buy American' Provision in Stimulus Bill Rankles US Trading Partners," *Bridges Weekly Trade News Digest* 13, no. 4 (February 4, 2009), available at <http://ictsd.net/i/news/bridgesweekly/39776> (accessed July 31, 2009); "House Democrats' Omnibus Spending Bill Includes Mexican Truck Ban, Sales to Cuba," *International Trade Reporter*, February 26, 2009; and "U.S. Wants to Have Mexican Truck Proposal Ready by Mid-April," *International Trade Reporter*, March 26, 2009. See also the statement of Mexico's ambassador in the *Wall Street Journal*: Arturo Sarukhan, "Congress Doesn't Respect NAFTA," *Wall Street Journal*, March 18, 2009.

9. *Visit of Vice Premier Wu Yi*, 110th Cong., 1st sess., *Congressional Record—Senate* (May 23, 2007): S 6545.

10. "China Currency Manipulation a Big Concern—Geithner," Reuters, January 21, 2009.

11. Deborah Solomon, "Obama Administration Softens Its Stance on China Currency," *Wall Street Journal*, April 16, 2009.

12. Other noted advocates of open markets in the administration include Larry Summers, head of the National Economic Council; Austan Goolsbee, a member of the Council of Economic Advisers; USTR Kirk; and Secretary of Commerce Gary Locke.

13. Tom Krisher, "UAW Chief Says GM Will Make Subcompacts in US," Associated Press, May 28, 2009.

14. For a careful analysis of trade policy in the Clinton administration, see R. Z. Lawrence, "International Trade Policy in the 1990s," in *American Economic Policy in the 1990s*, ed. Jeffrey Frankel and Peter Orszag (Cambridge, MA: MIT Press, 2002), 277–327; Richard Feinberg, "The Political Economy of United States' Free Trade Arrangements," *The World Economy* 26, no. 7 (2003): 1019–40; and I. M. Destler, *American Trade Politics*, 4th ed. (Washington, DC: Peterson Institute for International Economics, 2005).

15. See "Bush Discusses TPA with Democrats, GOP; Baucus Urges Changes in Bill," *International Trade Reporter*, October 18, 2001; "USTR Calls for Date Certain on TPA Bill but Arney Says Timing Is Still in the Air," *International Trade Reporter*, October 25, 2001; "House Speaker Says TPA Bill Will Be Considered within Two Weeks," *International Trade Reporter*, November 8, 2001; "TPA House Vote Likely Delayed until after Thanksgiving, Aide Says," *International Trade Reporter*, November 15, 2001; and "House Passes TPA by One Vote after GOP Leaders Make Textile Promise," *International Trade Reporter*, December 13, 2001. For an account of the negotiations sympathetic to the House Democrats, see I. M. Destler, *American Trade Politics*. TPA authority finally passed Congress months later in August 2002. In the Senate, almost half of the Democrats supported TPA as written by the Republicans.

16. This section was taken largely from Claude Barfield, "U.S. Trade Policy: The Emergence of Regional and Bilateral Alternatives to Multilateralism," *Intereconomics* 42, no. 5 (September/October 2007), available at [www.aei.org/article/27225](http://www.aei.org/article/27225). See also "Pelosi Rules Out Only Moving Trade Bills Backed by Majority of Democrats," *Inside U.S. Trade*, May 25, 2007; "Congress and Administration Reach Agreement on FTAs," *International Trade Reporter*, May 17, 2007; and Steve R. Weisman, "G.O.P. Shift Seen on Trade," *New York Times*, March 7, 2007.

17. Quoted in Claude Barfield, "The Fast-Track Trade War," *The American*, May 7, 2008, available at [www.aei.org/publication27948](http://www.aei.org/publication27948).

18. See "Kirk: Administration Wants to Improve May 10 Deal, but within Limits," *Inside U.S. Trade*, March 13, 2009; "New Democrats Pledge to Work with Obama on Trade Policy," *Inside U.S. Trade*, March 13, 2009; and "Kirk Unveils New TBT, SPS Initiatives in Broad Enforcement Speech," *Inside U.S. Trade*, July 17, 2009. See also Senate Finance Committee, *Hearing to Consider the Nomination of Ronald Kirk to Be United States Trade Representative*, 111th Cong., 1st Sess., March 9, 2009.

19. See *Trade Enforcement Act of 2009*, HR 496, 111th Cong., 1st Sess., January 14, 2009; and "Rangel, Levin Introduce Trade Enforcement Bill; Includes Zeroing, Bratsk, China Provisions," *Inside U.S. Trade*, January 15, 2009.

20. See *TRADE Act of 2009*, HR 3012, 111th Cong., 1st Sess., June 24, 2009; and "Michaud Unveils Bill to Overhaul Trade Policy with 106 Supporters," *Inside U.S. Trade*, June 26, 2009.

21. "Senators Stake Out Positions on Climate Change Border Provisions," *Inside U.S. Trade*, July 10, 2009.

22. See "Kirk: Administration Wants to Improve May 10 Deal, but within Limits"; and "USTR Says U.S. Plans to Play a Key Role in Shaping 'Robust' Global Trade Agenda," *International Trade Reporter*, March 26, 2009. See also Sander Levin, "A New Trade Policy That Meets the Challenges of the Global Economic Crisis" (speech, Washington International Trade Association, Washington, DC, March 11, 2009).

23. "Eight Freshmen Join House Group Opposed to Current Trade Model," *Inside U.S. Trade*, March 5, 2009.

24. Ron Kirk, "Next Steps on the Trade Agenda."

25. "Administration Sees Panama FTA as Part of Wider Domestic Agenda," *Inside U.S. Trade*, May 22, 2009.

26. "Grassley: Colombia FTA Slipping to Next Congress, Panama Next Year," *Inside U.S. Trade*, June 19, 2009.

27. For details of the various turnabouts on pending FTAs, see "Eight Freshmen Join House Group Opposed to Current Trade Model"; "Kirk: Administration Wants to Improve May 10 Deal, but within Limits"; "USTR Nominee Tells Senate Finance Enforcement Is First Priority," *International Trade Reporter*, March 12, 2009; "Rep. Levin Says Outstanding Issues in FTAs Need Resolution, Cites Panama Labor Laws," *International Trade Reporter*, March 19, 2009; "USTR Pursues Talks to Attain Market Access Pending Obama's Trade Framework, Kirk Says," *International Trade Reporter*, June 4, 2009; and "Baucus Scolds Administration for Not Adequately Consulting on Trade," *International Trade Reporter*, June 12, 2009.

28. The dramatic drop in the U.S. trade deficit over the past year does not seem to have persuaded U.S. critics that foreign practices are improving.

29. "Kirk Unveils New TBT, SPS Initiatives in Broad Enforcement Speech."

30. Ontario Pork, "Country of Origin Labeling Update," available at [www.ontariopork.on.ca/cms/en/Producers/COOL/COOL.aspx](http://www.ontariopork.on.ca/cms/en/Producers/COOL/COOL.aspx) (accessed July 29, 2009); and Office of the USTR, "Deadline for Federal Register Notice on Certain Country of Origin Labeling Requirements," USTR Blog, June 30, 2009, available at [www.ustr.gov/](http://www.ustr.gov/)

[about-us/press-office/blog/deadline-federal-register-notice-certain-country-origin-labeling-requirement](http://about-us/press-office/blog/deadline-federal-register-notice-certain-country-origin-labeling-requirement) (accessed July 29, 2009).

31. Ian Swanson, "Tough China Trade Decision for Obama," *The Hill*, June 18, 2009.

32. See Chen Deming, "Strengthen U.S.-China Trade Ties," *Wall Street Journal Asia*, April 27, 2009; and Daniel Ikenson, "High Noon for U.S. Trade Policy," *Cato@Liberty*, June 18, 2009, available at [www.cato-at-liberty.org/2009/06/18/high-noon-for-us-trade-policy](http://www.cato-at-liberty.org/2009/06/18/high-noon-for-us-trade-policy) (accessed July 29, 2009).

33. "U.S. Cautions Lamy against Pushing for Early Restart of WTO Trade Talks," *International Trade Reporter*, March 26, 2009.

34. "U.S. Not Ready for High-Level Engagement on Doha before the Fall," *Inside U.S. Trade*, April 3, 2009.

35. See "Kirk, Levin Want to Fix 'Imbalance' in Doha Talks," *Inside U.S. Trade*, March 13, 2009. Kirk also opposed proposals from some U.S. business organizations for an "early harvest" of Doha issues such as trade facilitation and capacity-building for developing countries, arguing that it would diminish pressure for an all-inclusive agreement ("USTR Nominee Rejects 'Early Harvest' of Agreements in WTO Doha Round," *International Trade Reporter*, March 19, 2009).

36. See "Lamy Sees Limited Room for U.S. to Alter Course of Doha Round Talks," *Inside U.S. Trade*, March 27, 2009; and "U.S. Not Ready for High-Level Engagement on Doha before the Fall." This puts the United States at odds with Lamy, who continues to push for an agreement based on the broad outlines of existing compromises by the WTO's August recess ("U.S. Not Prepared for High-Level Doha Engagement before Fall: U.S. Official," *Bridges Weekly*, April 1, 2009). However, in meetings with key members of Congress (Representative Sander and Senator Grassley) in late March, Lamy was warned not to push for an early restart of the trade talks ("U.S. Cautions Lamy against Pushing for Early Restart of WTO Trade Talks").

37. For interim statements, as well as the final pronouncement, see "Lamy Sees Limited Room for U.S. to Alter Course of Doha Round Talks"; "U.S. Not Ready for High-Level Engagement on Doha before the Fall"; and "Kirk Calls for Doha Conclusion Next Year, Path Forward by August," *Inside U.S. Trade*, June 12, 2009.