

INTERNATIONAL TRADE POLICY: MISSING FROM THE RECOVERY

This article first appeared in *North American Free Trade & Investment Report,* January 15, 2010.

by Christopher R. Wall



Christopher R. Wall International Trade +1.202.663.9250 cwall@pillsburylaw.com

Christopher R. Wall is a senior international trade partner based in Washington, DC. He rejoined the firm in 2009 after serving as Assistant Secretary for Export Administration in the U.S. Department of Commerce's Bureau of Industry and Security (BIS) and counsels clients on matters including export controls, foreign investment, international trade proceedings and policy.

After the "jobs summit" in early December, President Obama announced the Administration's latest economic recovery program. Despite widespread concern over the federal deficit, he outlined new plans for spending on top of the \$787 billion stimulus package signed last February. But with the unemployment rate stubbornly hovering around 10%, the greater concern is that all of this money has not generated more jobs.

Completely neglected in the President's announcement was an idea that would not cost a dollar and could potentially foster real growth in high paying jobs: a vigorous international trade policy. Such a policy has been conspicuously missing during the Administration's first year in office and the weak economy shows it.

In the first months after the inauguration, many trade policy observers (including me) were willing to give the Administration the benefit of doubt as it wrestled with the global financial crisis. There were some disturbing campaign speeches about renegotiating NAFTA, but therewere also signals that the new Administration would continue to promote international trade and investment. What has happened over the last year has been very different.

High sounding rhetoric about "avoiding protectionism" has not been matched with concrete actions affirming U.S. commitment to international trade.

The Buy America language in the Recovery Act, which the Administration ultimately softened superficially, continues to inhibit trade with Canada, the United State's largest trading partner. This is particularly an issue in state and local government procurement, where stimulus projects face delays while state officials exhaustively document why construction workers might have to use Canadian nails or lumber.

The President signed an omnibus spending bill reneging on a commitment to Mexico to conduct a demonstration program on the safety of Mexican trucks. This was merely a first step to implement a NAFTA provision dating from the early 1990's but the Administration did not confront Congress on the measure. Mexico retaliated with \$2.4 billion in tariffs on U.S. goods. The Administration has said it would fix the problem but nothing has been done so far.

Supporting General Motors with billions in government aid came at the steep price of reversing the United States' consistent opposition to other countries' use of industrial policy to support "national champions," as the European Union and China have done with their flagship companies.

Now the shoe is on the other foot. China has initiated an unfair trade case against imports of subsidized American cars, and the increasingly confrontational atmosphere between the U.S. and China risks getting worse. The U.S. has imposed duties on imports of cheap tires from China (which the U.S. industry does not even make), as well as steel, wire and other products, threatening a trade war with both our second largest trading partner and the largest holder of U.S. government debt. Absent a more coherent view of the U.S.-China economic relationship, one can expect increasing tension and continuing reciprocal standoffs over random goods.

Perhaps the clearest evidence of the disconnect between trade policy and the economic recovery is the failure to enact three free trade agreements (FTA's) signed with Colombia, Panama and South Korea. The Administration has said it wants to pursue new trade agreements but has only raised obstacles to concluding the agreements already at hand. At the same time, the Doha Round of negotiations in the World Trade Organization is essentially dead. There has been no meaningful progress in the last year.

When United States Trade
Representative Ron Kirk said last
summer that the Administration
would move forward with the
Panama treaty, he was "corrected."
He then touted a Presidential speech
on trade policy, which still has not

happened and, at this point, would not make much difference. More words cannot disguise the record and the limbo status of these treaties is becoming costly and damaging to U.S. credibility.

If the Administration wants to see lower unemployment numbers, it needs to get serious about international trade policy.

Even Senator Max Baucus, who chairs the Senate Finance Committee, has said that the Obama Administration lacks a comprehensive trade agenda and the absence of U.S. leadership was "palpable." Yet Congress is as much to blame, as committees have held the pending FTA's hostage to domestic interest groups' insisting on labor and environmental provisions that have nothing to do with exports or imports. In the case of Panama, Congress has effectively frozen the agreement by linking it to suspicions the country is an offshore tax haven. Tax and law enforcement issues can be addressed in other more effective ways. Allowing this topic to block meaningful progress on an agreement with the fastest growing economy in Central America-one that still imports more from than it exports to the U.S.-serves no strategic purpose.

The unfortunate consequence of this neglect and delay is that U.S. jobs are being lost and not enough new jobs are being created. Ignoring the role of trade in the economic recovery is one reason, among others, why

efforts to stimulate the economy so far have failed to translate into better employment numbers.

International trade must be a key part of the U.S. economic recovery. Exports comprise about 13 percent of GDP according to the U.S. Commerce Department's International Trade Administration, and U.S. exports of manufactured goods in 2008 totaled about \$1.2 trillion. In 2006, the latest year for which figures are available, Census Bureau statistics showed that manufactured exports supported roughly 6 million jobs, including over 2.5 million in manufacturing industries alone. It should be obvious that expanding overseas markets, where the Commerce Department notes 95% of the world's consumers are located, creates more opportunities for sales, production and employment in the U.S.

Last September, the U.S. Chamber of Commerce released a study estimating nearly 600,000 jobs lost as a result of the failure to enact the pending FTA's, the Buy American provisions in the stimulus legislation and other countries' retaliatory measures, and the Mexican trucking ban. One can dispute the precise numbers, but the link is clear. When asked at the jobs summit what he would do to create jobs, Fred Smith, CEO of FedEx, urged the President to move forward with the pending free trade agreements, noting that trade-related jobs now account for approximately one in five American jobs and tend to be higher paying than other positions.

Belatedly, the Administration is finally starting to make the connection between trade policy and jobs. and recently agreed to take part in the TransPacific Partnership (TPP) initiative with seven countries, including Australia, New Zealand, Singapore and Chile. The President noted that increasing exports to Asia by 1% would produce about 250,000 jobs. Although a positive step, these negotiations will take years to complete. The TPP will not have any effect on today's employment numbers, and the future impact may be modest depending on how watered down the agreement turns out to be.

The Administration has also begun to recognize the link between exports and job creation by small and medium- sized enterprises (SME's), which are the majority of U.S. exporters.

However, instead of addressing the heart of the problems SME's chronically face—tariffs and non-tariff barriers—the Administration proposed more government studies, interagency working groups, and better coordination among government agencies with trade promotion responsibilities.

While the U.S. may have abdicated its leadership role in trade liberalization, other countries are not standing on the sidelines.

Canada and Colombia, for example, have just signed a free trade agreement, and Colombia is finalizing an agreement with the European Union.

Mexico and Argentina are systematically reducing tariffs covering 60% of their bilateral trade under a 2007 agreement.

According to the Asia Development Bank, 109 FTA's that include one or more Asian countries have been signed or implemented as of June 2009 and another 107 are in process, proposed or under negotiation.

Since the U.S.-Colombia
Free Trade Agreement was signed in 1996, Colombia has collected more than \$2 billion in duties from U.S. exporters while the agreement sits before Congress. This is money U.S. exporters could have spent hiring more workers or expanding production in the U.S.

These global developments are placing U.S. manufacturers at a competitive disadvantage. Goods shipped between countries with FTA's will be cheaper than those coming from the U.S. by at least the amount of the tariffs that would otherwise have been imposed.

Since the U.S.-Colombia Free Trade Agreement was signed in 1996, Colombia has collected more than \$2 billion in duties from U.S. exporters while the agreement sits before Congress. This is money U.S. exporters could have spent hiring more workers or expanding production in the U.S.

In short, if the Administration wants to see lower unemployment numbers, it needs to get serious about international trade policy.

Pillsbury Winthrop Shaw Pittman LLP | 1540 Broadway | New York, NY 10036 | 1.877.323.4171 © 2010 Pillsbury Winthrop Shaw Pittman LLP. All rights reserved.