Sistema Económico
Latinoamericano y del Caribe

Latin American and Caribbean
Economic System

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Latino-Americano e do Caribe

Système Economique
Latinoaméricain et Caribéen

U.S. Economic Policy Under the Obama Administration and Its Implications for SELA Member Countries

Regional Seminar on the Economic Relations between the United States and Latin America and the Caribbean within the context of global crisis
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C O N T E N T S

Tables and Figures

Acronyms Used in this Comment

AGOA	African Growth and Opportunity Act
ATPA	Andean Trade Preferences Act
ATPDEA	Andean Trade Promotion and Drug Eradication Act
CAFTA-DR	U.S. FTA with Central America and the Dominican Republic
CBI	Caribbean Basin Initiative
CBTPA	Caribbean Basin Trade Partnership Act
FTA	Free Trade Agreement
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GPA	Government Procurement Agreement
GSP	Generalized System of Preferences
HOPE	Haitian Hemispheric Opportunity through Partnership Encouragement Act
LDC	Least Developed Country
MFN	Most Favored Nation[1]
NAFTA	North American Free Trade Agreement
OECD	Organization for Economic Cooperation and Development
OPEC	Organization of the Petroleum Exporting Countries
TPA	Trade Promotion Authority
TRIMs	Agreement on Trade-Related Investment Measures
TRIPs	Agreement on Trade-Related Intellectual Property Rights
USTR	Office of the U.S. Trade Representative
WTO	World Trade Organization

[1] Since 1998, MFN has been known in U.S. law and policy as Normal Trade Relations (NTR). In deference to the standard international usage, however, the term MFN is used throughout this report.

F O R E W O R D

This document, prepared by the Permanent Secretariat of SELA, summarizes the general aspects of the current economic policy and, above all, the trade policy of the United States, analyzing some of the foreseeable impacts of said policies on the Latin American and Caribbean economies.

The document comprises four chapters. The first chapter summarizes the current economic and political environment in the U.S., emphasizing the consequences of the current deep recession. The second chapter presents an overview of the U.S. economic policy. The third one analyzes the main pending issues in the U.S. trade policy with particular relevance for Latin American and Caribbean nations. The final chapter raises the most important issues that the governments in Latin America and the Caribbean should take into consideration in their economic agenda with the United States.

The Permanent Secretariat of SELA hopes that this analytical document turns out to be a useful input for the debates that will take place within the framework of the Regional Seminar on the Economic Relations between the United States and Latin America and the Caribbean within the context of global crisis, scheduled to be held in Caracas on 31 March 2009.

EXECUTIVE SUMMARY

The world has undergone two significant changes in recent months. Economically, it has entered what may prove to be the most severe downturn since the Great Depression of the 1930s. Politically, the United States has made what may be the most significant change in leadership since Franklin Delano Roosevelt replaced Herbert Hoover in the 1932 election. Taken together, these two switches imply that trade and other economic relationships between the United States and its partners may be greatly challenged in the coming months and years.

The purpose of this report is to offer a very preliminary assessment of where economic relations between the United States and the region may be headed in these times of economic decline and political change. The main message here, which is based upon a necessarily preliminary and incomplete set of evidence, can be reduced to three simple points. First, the current economic crisis has greater potential to damage ties between the United States and its partners in the region than any other development in recent decades. That is a function not of conscious choices but a simple consequence of impersonal and uncontrolled forces in the marketplace. Second, although trade is the main economic instrument by which the United States engages with its partners in the region, the early indications are that international economic policy in general, and trade policy in particular, rank lower in the Obama administration's priorities than do other, more immediate needs in the domestic economy. Third, it is uncertain to what extent the negative effects of the recession can be ameliorated through policy, or may even be worsened. The administration is committed to free trade, just like every other administration since Roosevelt's time, but that commitment may be more passive than active. It has already proven that it will take action to oppose protectionist initiatives in the U.S. Congress, but has yet to demonstrate whether its interest in open markets will translate into positive action in the negotiation, approval, and implementation of trade agreements.

The analysis proceeds in four Chapters. **Chapter I** reviews the impact that the recession has already had on U.S. politics and trade. It shows that the recession may have made the difference in the 2008 presidential election. While the full-year data for U.S. trade with Latin American and Caribbean countries show that it continued to increase during 2008, the data for the final two months of the year show a sharp decline.

Chapter II looks at the "big picture" of U.S. trade policy and politics, stressing that trade is often dealt with not as a purely commercial matter. Trade has instead been increasingly treated by U.S. policymakers as a tool of either foreign policy or social and environmental policy. Given the low priority that the Obama administration appears to have attached to trade policy, there is reason to expect that this trend will continue.

Chapter III examines more precisely the pending issues in U.S. trade policy today. Prominent among these are the legacy agreements and negotiations that the Obama administration has inherited from its predecessor, including the completed free trade agreements with Colombia and Panama, as well as the incomplete Doha Round of multilateral negotiations. Other key issues concern the renewal of preferential trade programs and the president's negotiating authority.

Chapter IV concludes with a series of questions for SELA Member countries to consider in their approach to trade relations with the United States.

I. THE CURRENT ECONOMIC AND POLITICAL ENVIRONMENT

1. The Consequences of the Recession

The one overwhelming fact that dominates the current economic and political environment in the United States is the recession. This downturn, which many believe may be deeper and longer lasting than any other in recent memory, has already affected the domestic politics of the United States as well as the magnitude and composition of that country's trade. The early consequences of this recession are reviewed below. This analysis shows that trade cannot be isolated from broader developments in the economy, and that there are equally tight links between the economic and political developments in the United States.

1.1. The Political Consequences of the Recession

It is not possible to know to what extent the results of the 2008 presidential election can be attributed to the outbreak of the financial crisis, and the recognition that the United States had entered into a recession, in the final weeks of the campaign. One can only speculate in a counter-factual conditional manner as to what may have been the outcome if these developments took place after Election Day. The historical record nevertheless indicates that while recessions are not a necessary condition for a change in government, they are certainly a sufficient condition.

The data in Table I.1 summarize the ten recessions that the United States has experienced since the end of the Second World War. They have tended to become shorter and less frequent over time. That trend has been underway for generations: The average recession fell from 22 months in 1854-1919 (16 business cycles) to 18 months in 1919-1945 (6 cycles), and then to 10 months in 1945-2001 (10 cycles). During those same periods, the average expansion rose from 27 to 35 to 57 months. That trend is even clearer within the post-war period. From 1948 to 1982 the average recession lasted 11 months, and the average expansion for 45 months; the two recessions since 1982 each lasted for just eight months, with average expansions of 106 months.2 Ironically, however, the fact that recessions have become shorter and less frequent may also have made them more politically consequential. What was once viewed as something like a recurring natural phenomenon, akin to the changing of the seasons, is now seen more as a damning failure of the political leadership.

The data in Table I.2 summarize the relationship between recessions and presidential elections. Prior to 2008, there was only one post-war case in which the recession was still underway on Election Day: The recession that ran from April, 1960 through February, 1961 included the November, 1960 election. Though the outcome of that election was close, it did see a change of party, when the Democrat (John F. Kennedy) was elected after two terms of a Republican presidency (under Dwight D. Eisenhower). The results were not nearly as close in another election that came some time after the recession had actually ended. The recession of January-July, 1980 was undoubtedly a contributing cause in the defeat of Jimmy Carter (Democrat) and the election of Ronald Reagan (Republican), but that outcome was also heavily influenced by the Iranian hostage crisis and a series of missteps by the Carter administration.

[2] National Bureau of Economic Research, data posted at http://www.nber.org/cycles.html .

Table I.1:
Summary of Post-War U.S. Recessions

Start	Finish	Duration of Recession (Months)	Duration of the Prior Expansion (Months)
November 1948	October 1949	11	37
July 1953	May 1954	10	45
August 1957	April 1958	8	39
April 1960	February 1961	10	24
December 1969	November 1970	11	106
November 1973	March 1975	16	36
January 1980	July 1980	6	58
July 1981	November 1982	16	12
July 1990	March 1991	8	92
March 2001	November 2001	8	120
	Average	10.4	56.9

Source for recession data: National Bureau of Economic Research (http://www.nber.org/cycles/).

Table I.2:
Outcomes of Post-War U.S. Presidential Elections with or without Proximate Recessions
Blue = Democratic Victory; Red = Republican Victory
"Recession" = The economy was in a recession either at the time of the election or within the preceding twelve months

	Recession		No Recession	
Produced a Change in Party Control	1960 2008	1980	1976 1992*	1952 1968 2000
Produced No Change in Party Control	—		1948 1964 1996	1956 1972 1984 1988 2004

** : The 1991 recession ended more than one year before the 1992 presidential election, but that election could arguably be listed in the "recession" column insofar as voters' long memories of that downturn were widely blamed for the defeat of President George H.W. Bush.*

Source for recession data: National Bureau of Economic Research (http://www.nber.org/cycles/) plus general knowledge (election outcomes).

Now that candidate Obama is President Obama, the key questions are how his administration will seek to restore the economy and whether it will succeed. The outbreak of the crisis will likely have the same effect for his administration as the attacks on 9/11 did for his predecessor: The general public has given Obama's administration a higher-than-normal degree of support, and hopes that it will prove successful, but will hold him to account for actual performance on this one issue. The early indications, as discussed in later sections of this report, are that the Obama administration will place greater emphasis on domestic initiatives than it will on trade and other international matters. This may be the result of its calculation that while open markets are an important aspect of an efficient and productive economy, the pay-offs are more immediate when it invests its political capital and economic resources in other areas. In the meantime, however, the recession will continue to force a downturn in trade between the United States and its partners in the region.

2. The Economic Consequences of the Recession

2.1. Is the Demand for Imports Declining?

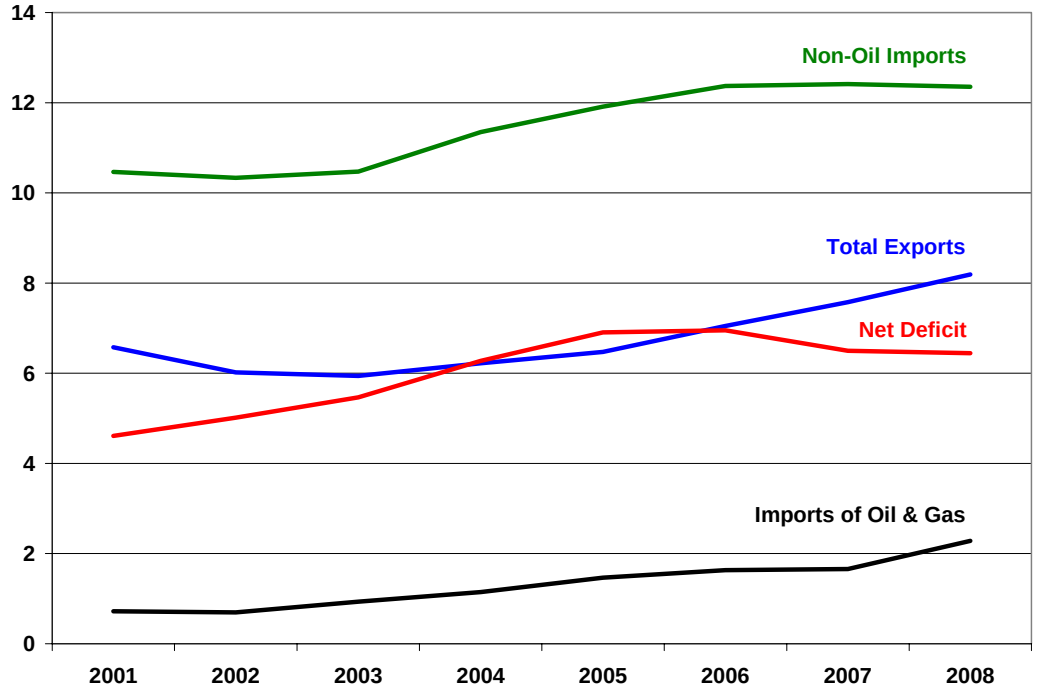
We can start with a simple question: Has this recession caused a decline in U.S. imports from the world as a whole, and from Latin American and Caribbean countries in particular? The preliminary data now available suggest that the answer is an emphatic "yes," but that is apparent only when one looks at the most recent and short-term figures.

The data illustrated in Figure I.1 show that U.S. trade has been gradually increasing in relative terms over the course of this decade. Imports of goods other than oil and gas rose as a share of GDP during 2003-2006; while growth in imports of these goods tapered off thereafter, the upward trend continued for oil and gas imports. Perhaps more significant was the fact that U.S. exports grew in relative terms throughout 2005-2008, with the twin consequences that (1) the relative size of the U.S. trade deficit was slightly reduced, and (2) the overall U.S. economy has become somewhat more trade-dependent. Those trends, if they were to continue uninterrupted, might have encouraged U.S. policymakers to be ever more receptive to market-opening measures (except perhaps with respect to their concerns over growing U.S. dependence on foreign sources of energy).

The annual data shown in Table I.3[3] likewise suggest that 2008 was a good year for U.S. imports from Latin America and the region. Growth in imports during the 2007-2008 period was, at 9.8%, nearly identical to the strong compound annual rate of growth of 9.6% in U.S. imports from the region during 2001-2007. The region's performance last year was also impressive by comparison with other U.S. partners. During 2007-2008, the growth rate for U.S. imports from the world as a whole was 7.6%, and was lower still for imports from Canada (7.1%), China (4.5%), and the European Union (3.3%). Reflecting the temporary rise in commodity prices, the highest rates of growth were achieved in imports from the member countries of the Organization of Petroleum Exporting Countries (36.7%), as well as the least-developed countries (38.9%). The data in Figure I.2 nevertheless show that, over the course of this decade, the share of U.S. imports coming from Latin America and the Caribbean has remained very steady. In other words, the rate of increase in imports from the region has approximately matched the rate of increase in imports from the world as a whole. The same cannot be said for other partners, however, some of whom have experienced above-average growth while others have underperformed. The net result for the United States has been an interesting diversification and equalization in its portfolio of partners, such that the major partners shown in the figure started the decade with very different shares, but today each contribute around 16-18% of the total.

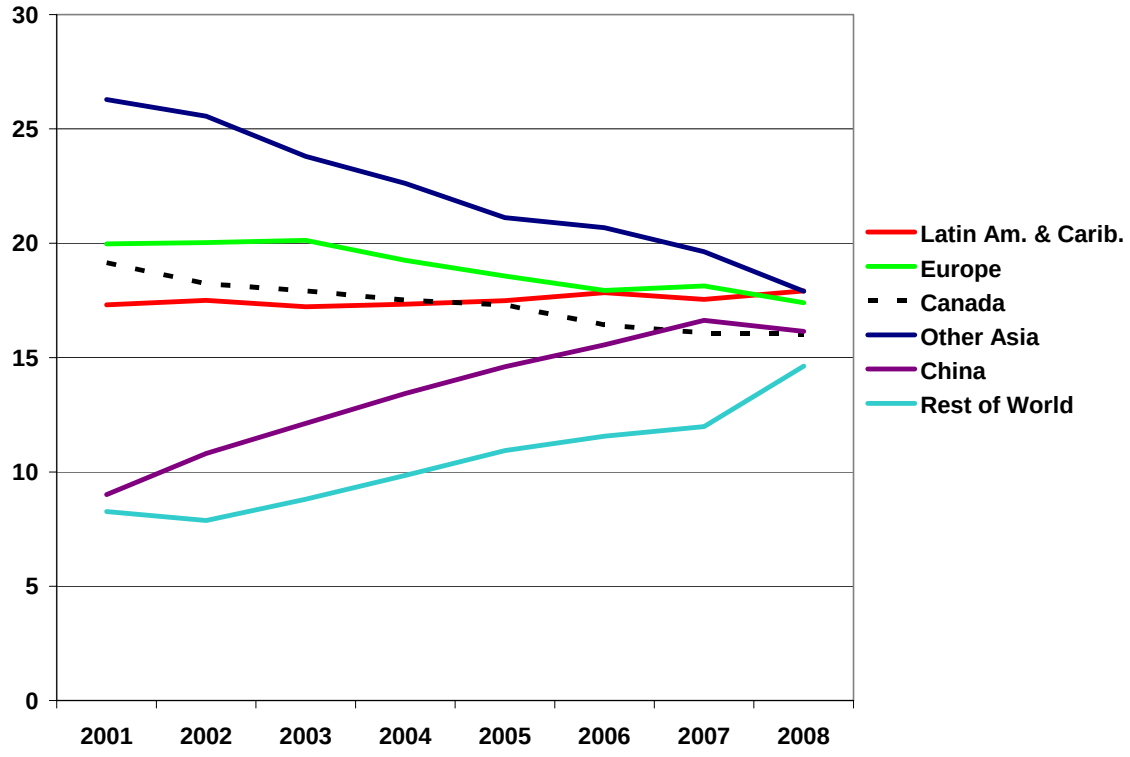
[3] Except where otherwise noted, all trade data used in this report are from the U.S. International Trade Commission's DataWeb.

Figure I.1: Merchandise Trade as a Share of U.S. GDP, 2001-2008



Source: Calculated from U.S. Council of Economic Advisors and U.S. International Trade Commission data. Note that 2008 GDP data are preliminary.

Figure I.2: Regional Shares of U.S. Imports, 2001-2008
Percentages of Total U.S. Imports for Consumption



Source: Calculated from U.S. International Trade Commission data.

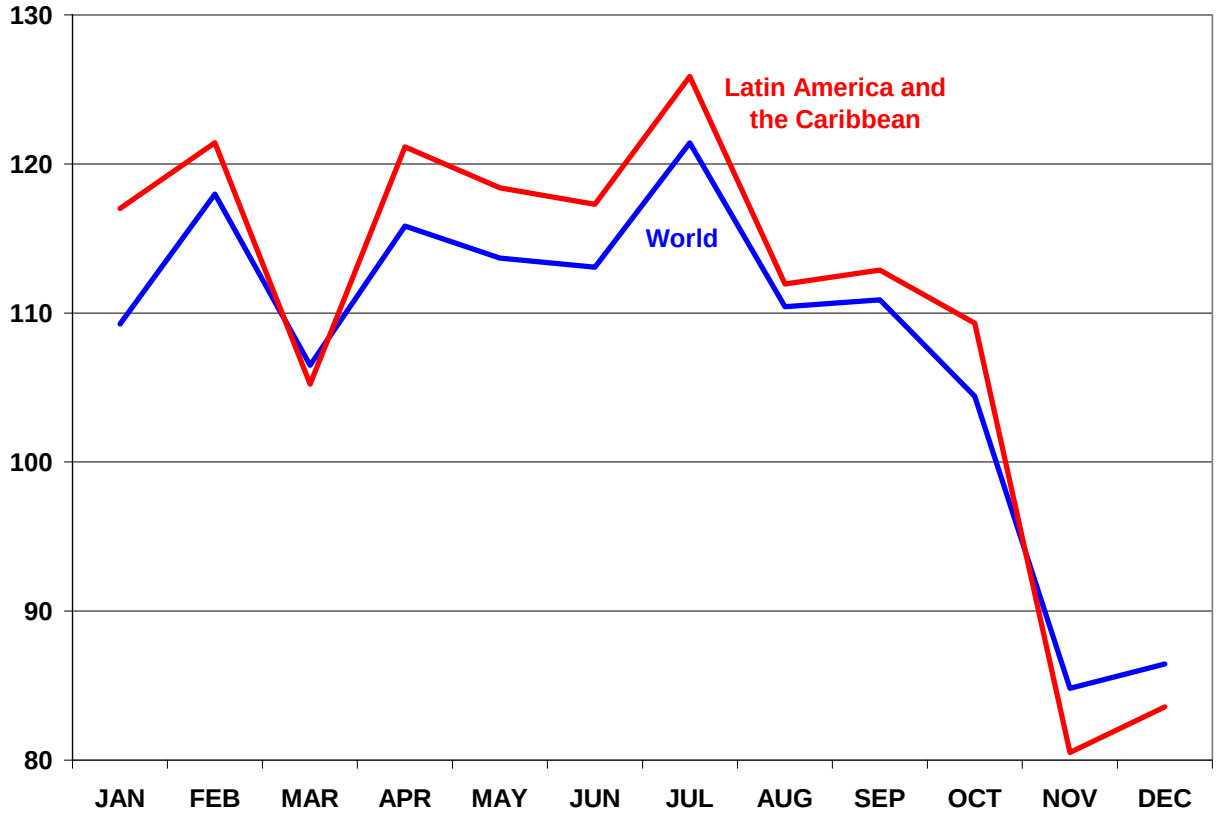
Table I.3: U.S. Imports from SELA Member Countries, 2001-2008
Imports for Consumption, Customs Value, Millions of Dollars

	2001	2002	2003	2004	2005	2006	2007	2008	2007-08 Change
Mexico	130,509	134,121	137,199	154,959	169,216	197,056	210,159	216,328	2.9
Venezuela	14,178	14,352	16,677	24,440	32,750	36,283	37,582	50,281	33.8
Brazil	14,415	15,609	17,717	21,098	24,346	26,169	25,018	30,061	20.2
Colombia	5,623	5,382	6,346	7,361	8,770	9,240	9,251	13,059	41.2
Ecuador	1,975	2,116	2,693	4,184	5,874	7,011	6,131	9,044	47.5
Trinidad & Tob.	2,351	2,419	4,298	5,842	7,793	8,398	8,764	8,996	2.6
Chile	3,279	3,557	3,979	5,007	6,745	9,551	8,969	8,182	-8.8
Peru	1,806	1,953	2,416	3,685	5,123	5,897	5,207	5,840	12.2
Argentina	2,963	3,211	3,095	3,772	4,648	3,925	4,258	5,680	33.4
Honduras	3,131	3,262	3,312	3,637	3,758	3,735	3,943	4,057	2.9
Dominican Rep	4,187	4,167	4,455	4,529	4,603	4,540	4,214	3,954	-6.2
Costa Rica	2,912	3,146	3,354	3,297	3,377	3,813	3,916	3,926	0.3
Guatemala	2,589	2,785	2,954	3,156	3,123	3,103	3,031	3,442	13.6
El Salvador	1,882	1,976	2,018	2,053	1,982	1,843	2,044	2,227	9.0
Nicaragua	603	677	769	990	1,182	1,526	1,608	1,707	6.2
Jamaica	442	373	412	308	341	471	685	704	2.8
Bahamas	312	459	473	633	698	436	394	596	51.3
Bolivia	165	160	185	261	293	362	334	540	61.7
Haiti	263	255	332	371	447	496	488	450	-7.8
Panama	285	295	290	298	320	338	361	374	3.6
Uruguay	225	191	253	580	728	512	492	244	-50.4
Belize	98	75	101	107	98	146	87	157	80.5
Guyana	125	104	106	120	120	125	123	146	18.7
Suriname	143	133	140	140	165	164	129	126	-2.3
Paraguay	33	42	50	52	59	51	66	81	22.7
Barbados	40	34	43	36	32	33	38	41	7.9
Grenada	22	8	7	5	6	4	8	7	-12.5
Cuba	0	0	0	0	0	0	0	0	—
Total	194,556	200,862	213,674	250,921	286,597	325,228	337,300	370,250	9.8

Source: Calculated from U.S. International Trade Commission data.

All of the foregoing observations are based on annual data, and thus tend to miss the major changes that took place at the end of 2008. The data illustrated in Figure I.3 look more precisely at the month-to-month changes in 2008 as compared to 2007. The numbers show a simple pattern for U.S. imports from both the world as a whole and for Latin America and the Caribbean: The values for every month from January through October were higher in 2008 than they had been in 2007, but imports tumbled quickly in the last two months of the year. That decline came too late to switch the annual total from an increase to a decline, but it seems likely that trade patterns in the foreseeable future will bear a closer resemblance to what happened during November-December than during January-October. That is certainly the implication from the January, 2009 data, which show global U.S. imports falling by 24.8% below the level achieved that same month in 2008, and 17.8% below the 2007 level. For imports from Latin America and the Caribbean, the decline was 29.6% below 2008, and 17.6% below 2007.

Figure I.3: Changes in Monthly U.S. Imports, 2007-2008
Monthly Imports in 2008 as a Percentage of Imports for the Same Month in 2007



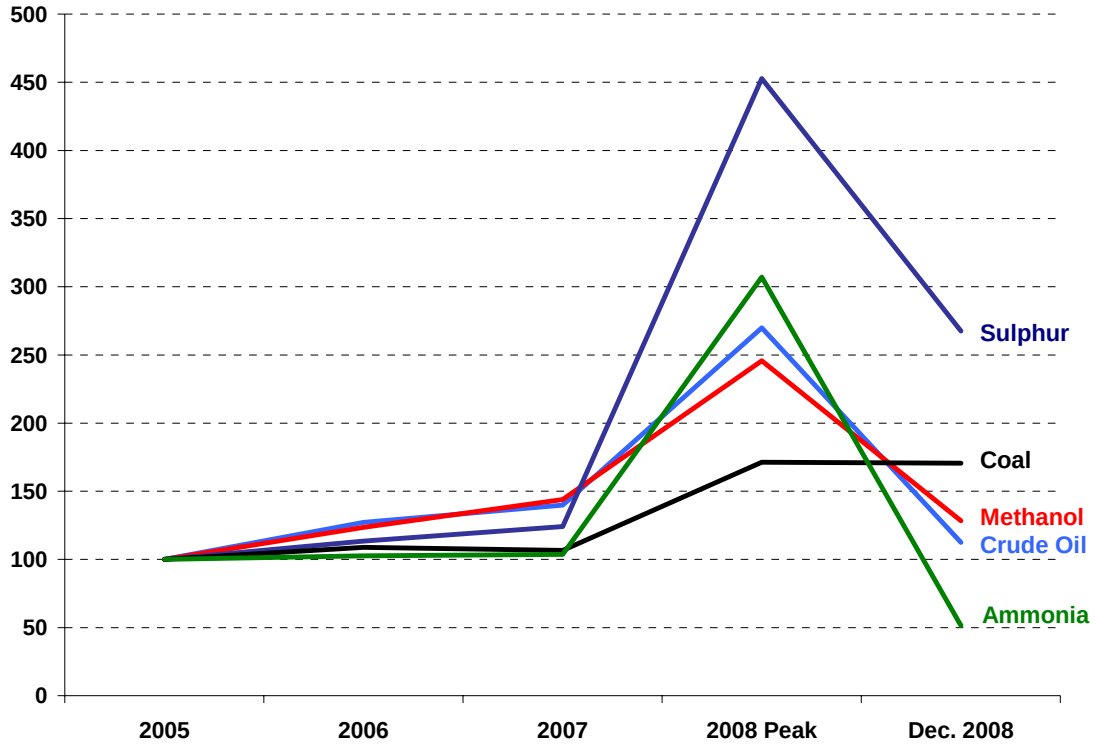
Source: Calculated from U.S. International Trade Commission data.

2.2. Falling Commodity Prices

The recession affects U.S. imports from Latin America and the Caribbean in several ways. One is simply a decline in the level of aggregate demand. Another, as discussed later in this section, is the uncertainty that it creates for traders and potential investors. Yet another effect is on the prices paid for commodities.

The data in figures I.4 and I.5 show the wide swings last year in the prices paid by U.S. importers for selected Latin American and Caribbean commodities. With some variation from product to product, the same general pattern can be perceived for most of these items. First, prices tended to rise more or less steadily from 2005 through 2007, sometimes doubling or tripling during that period. Second, prices rose even more rapidly during 2008, reaching peak levels (depending on the specific item in question) sometime between the Spring and Fall of that year. Third, prices for nearly all of these goods (pig iron and coal excepted) fell sharply from the time of that peak until December, 2008. For most of these goods the end-of-year prices were still higher than they had been in 2005, but the decline from the 2008 peaks was nevertheless quite large and rapid.

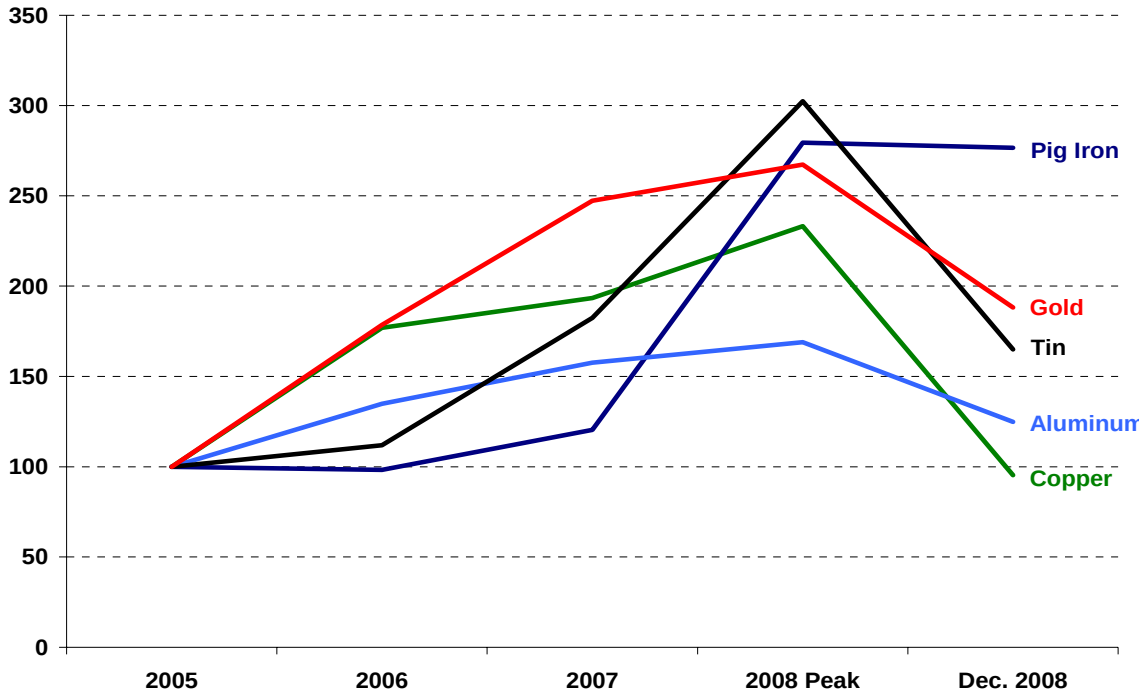
Figure I.4: Price Indices for Selected Commodities, 2005-2008
2005 = 100; Based on Average Prices for U.S. Imports from Latin America and the Caribbean



Source: Calculated from U.S. International Trade Commission data.

The impact of these declining commodity prices is multiplied by the fact that the region as a whole is, in a reversal of a longer-term trend, becoming more dependent upon exports of raw materials to the United States. The data in Table I.4 show that oil, gas, minerals, and ores accounted for just 10.3% of U.S. imports from the region in 2001, but by 2008 this share had risen to 26.9%. Food and agricultural products maintained a constant share from 2001 to 2008, but the manufactured goods shown in the table dropped from two-thirds of U.S. imports to just over half. Moreover, the types of manufactures imported from the region also shifted downwards. The higher rates of growth were achieved in intermediate goods such as petroleum derivatives, chemicals, and primary metals, while growth rates were much lower for advanced products such as transportation equipment and electronics. These trends may indicate the loss of market share to China and other competitors. In the process, the region's economic fortunes are becoming more tied to exports of raw materials and intermediate goods that are shipped to the U.S. market either directly (to U.S. producers) or indirectly (to Asian producers who ship much of their finished products to the United States).

Figure I.5: Price Indices for Selected Metals, 2005-2008
2005 = 100; Based on Average Prices for U.S. Imports from Latin America and the Caribbean



Source: Calculated from U.S. International Trade Commission data.

2.3. Falling U.S. Exports

One especially problematic aspect of this recession, as well as the resulting slowdown in trade, is that they came just at a time when U.S. exports to Latin America and the Caribbean were rising rapidly. Inter-American relations should benefit to the extent that the region is seen by U.S. policymakers as an attractive destination for the export of both goods and capital; conversely, declining exports may complicate relations.

The data in Table I.5 show that U.S. exports to the region grew by 17.9% during 2007-2008. With the exception of Grenada, where U.S. exports held steady, shipments to every country in the region rose last year. (Ironically, the highest rate of growth was achieved in exports to Cuba; the U.S. embargo does permit exports of some agricultural and medical goods to that country.) The growth rate for exports to the region as a whole was far higher than the compound annual rate of growth achieved during the period of 2001-2007 (6.9%). As in the case of imports, growth was much higher for U.S. exports to this region last year than it was to most others. Total U.S. exports rose by 11.8%, and at a slower pace for shipments to the European Union (11.0%), China (10.1%), and Canada (4.4%). Once again, however, export growth was especially robust for the OPEC countries (26.9%) and the LDCs (28.5%).

The very preliminary data indicate that U.S. exports to the region have indeed declined since the outbreak of the crisis. Exports to Latin America and the Caribbean in November, 2008 were almost identical to the level achieved in November, 2007, but the rate of decline for December was 9.5%. That is somewhat less severe than the rate of decline for total U.S. exports (12.8%). More recent data suggest that the decline may be accelerating, and that trade with the region may be catching up with the downward global trend. Total U.S. exports in January, 2009 were down by 21.7% compared to January, 2008, while U.S. exports to Latin America and the Caribbean fell by 17.3%.

Table I.4: U.S. Imports from Latin American and Caribbean Countries, 2001-2008

Imports for Consumption, Customs Value, Millions of Dollars

	2001	2002	2003	2004	2005	2006	2007	2008	Growth 2001-08	Share of Total 2001	Share of Total 2008
Oil, Gas, Minerals & Ores	**20,225**	**24,243**	**31,818**	**43,192**	**58,348**	**71,450**	**74,126**	**100,882**	**398.8**	**10.3**	**26.9**
Oil & Gas	18,708	22,761	30,214	40,987	55,139	67,620	70,141	95,753	411.8	9.5	25.6
Minerals & Ores	1,517	1,483	1,605	2,205	3,209	3,829	3,985	5,129	238.1	0.8	1.4
Food & Agriculture	**14,904**	**15,602**	**17,555**	**19,453**	**22,121**	**24,730**	**26,785**	**28,367**	**90.3**	**7.6**	**7.6**
Agricultural Prods.	6,865	7,211	7,964	8,835	10,014	11,108	12,548	13,561	97.5	3.5	3.6
Food & Kindred Prods.	3,293	3,575	4,233	5,065	6,128	6,889	7,251	8,053	144.5	1.7	2.2
Beverages & Tobacco Prods.	1,911	2,200	2,359	2,494	2,804	3,273	3,451	3,499	83.1	1.0	0.9
Fish & Other Marine Prods.	2,063	1,924	2,053	2,090	2,143	2,290	2,338	2,238	8.5	1.1	0.6
Livestock & Livestock Prods.	772	692	946	969	1,032	1,170	1,197	1,016	31.6	0.4	0.3
Selected Manufactures	**131,115**	**129,952**	**132,277**	**151,958**	**168,223**	**187,995**	**194,480**	**200,667**	**53.0**	**66.9**	**53.6**
Transportation Equipment	38,534	39,830	39,106	41,449	42,408	48,431	50,549	47,804	24.1	19.7	12.8
Computer & Electronic Prods.	35,465	33,062	31,881	34,516	35,726	41,352	47,292	46,743	31.8	18.1	12.5
Petroleum & Coal Prods.	10,459	9,045	10,137	14,020	21,404	20,870	20,379	25,062	139.6	5.3	6.7
Primary Metal Manufacturing	6,538	7,094	7,878	13,110	15,624	20,357	19,118	21,760	232.8	3.3	5.8
Elect. Equip., Appliances, etc.	10,495	10,868	11,673	12,974	14,491	16,980	18,168	17,166	63.6	5.4	4.6
Chemicals	5,904	5,960	6,469	8,449	10,417	11,806	11,799	15,362	160.2	3.0	4.1
Apparel & Accessories	18,636	18,220	18,150	18,517	17,618	16,101	14,536	13,545	-27.3	9.5	3.6
Machinery, Except Electrical	5,084	5,873	6,983	8,923	10,535	12,098	12,639	13,225	160.1	2.6	3.5
All Other	**29,852**	**32,352**	**33,648**	**38,551**	**42,028**	**44,978**	**45,592**	**44,622**	**49.5**	**15.2**	**11.9**
Total	**196,096**	**202,149**	**215,298**	**253,154**	**290,720**	**329,153**	**340,983**	**374,538**	**91.0**	**100.0**	**100.0**

Note: The differences between the totals shown in this table and those in Table I.3 are due to the fact that the countries included in this table comprise a somewhat larger number than the SELA Member Countries shown in the other table.

Table I.5: U.S. Exports to SELA Member Countries, 2001-2008
Domestic Exports, FAS Value, Millions of Dollars

	2001	2002	2003	2004	2005	2006	2007	2008	2007-08 Change
Mexico	90,537	86,076	83,108	93,018	101,667	114,562	119,381	131,507	10.2
Brazil	14,663	11,208	9,948	12,462	13,554	16,977	21,684	29,027	33.9
Venezuela	5,383	4,139	2,636	4,482	6,035	8,476	9,762	11,829	21.2
Chile	2,823	2,344	2,443	3,236	4,668	6,221	7,610	11,367	49.4
Colombia	3,392	3,345	3,496	4,145	4,962	6,236	7,884	10,568	34.0
Argentina	3,599	1,496	2,232	3,022	3,626	4,271	5,115	6,720	31.4
Dominican Rep.	4,290	4,109	4,024	4,116	4,351	5,033	5,793	6,294	8.6
Peru	1,450	1,441	1,552	1,858	2,038	2,655	3,764	5,687	51.1
Costa Rica	2,411	2,891	3,134	3,029	3,297	3,877	4,224	5,048	19.5
Honduras	2,405	2,524	2,793	3,019	3,155	3,571	4,328	4,700	8.6
Panama	1,223	1,299	1,700	1,643	1,982	2,524	3,492	4,615	32.2
Guatemala	1,801	1,976	2,175	2,437	2,666	3,299	3,872	4,494	16.1
Ecuador	1,319	1,496	1,306	1,484	1,733	2,548	2,709	3,150	16.3
Bahamas	913	937	1,029	1,121	1,703	2,224	2,423	2,697	11.3
Jamaica	1,352	1,358	1,397	1,321	1,596	1,944	2,237	2,557	14.3
El Salvador	1,690	1,608	1,763	1,811	1,778	2,083	2,210	2,357	6.7
Trinidad & Tob.	1,054	984	998	1,151	1,366	1,512	1,679	2,146	27.8
Paraguay	368	411	454	564	828	861	1,168	1,497	28.2
Nicaragua	428	423	482	567	590	705	847	1,030	21.6
Haiti	542	571	627	650	675	773	696	922	32.5
Uruguay	358	189	287	271	272	399	542	773	42.6
Cuba	7	144	259	399	361	347	447	718	60.6
Barbados	266	248	275	303	355	402	418	455	8.9
Suriname	156	121	188	173	238	248	296	384	29.7
Bolivia	202	182	172	177	186	197	263	358	36.1
Belize	166	130	189	144	210	230	228	343	50.4
Guyana	138	126	113	130	167	172	179	281	57.0
Grenada	57	54	63	66	79	72	81	81	0.0
Total	142,993	131,830	128,843	146,799	164,138	192,419	213,332	251,605	17.9

2.4. Rising Volatility in Exchange Rates

Yet another challenge arises from the greater level volatility in exchange rates. When exchange rate risk is perceived to be high, potential traders and investors may be more reluctant to commit their capital. The more that currency levels fluctuate, the less certain we can be that the contracts signed last year will, *ceteris paribus*, prove to be profitable next year.

Volatility is a measure of the fluctuations in the underlying exchange rate over a given time period. One means of measuring volatility, as used in Table I.6, is to calculate the annualized standard deviation of percentage change in the daily price of one currency *vis-à-vis* another. By this metric, the U.S. dollar has lately undergone a notable leap in its volatility and, therefore, the firms that engage in foreign trade and investment have had an increasingly difficult time making rational plans.

Table I.6:
Volatility of the U.S. Dollar Compared to Selected Currencies

	Value in U.S. Dollars		One-Year	Volatility of Currency to U.S. Dollar			
Currency	**26 Feb. 08**	**23 Feb. 09**	**Devaluation**	**3 Years**	**1 Year**	**3 Mos.**	**1 Month**
Brazilian real	0.5901	0.4192	29.0%	18.2	26.9	26.7	16.2
Chilean peso	0.0021	0.0016	23.5%	9.1	13.8	12.4	15.5
Mexican peso	0.0930	0.0674	27.5%	11.9	18.5	16.3	14.2
British pound	1.9752	1.4554	26.3%	10.2	15.2	20.9	18.8
Canadian dollar	1.0139	0.7996	21.1%	11.1	15.8	17.2	13.5
Euro	1.4884	1.2778	14.2%	9.5	14.0	19.8	14.1
Swiss franc	0.9221	0.8583	6.9%	10.1	14.3	20.2	10.8

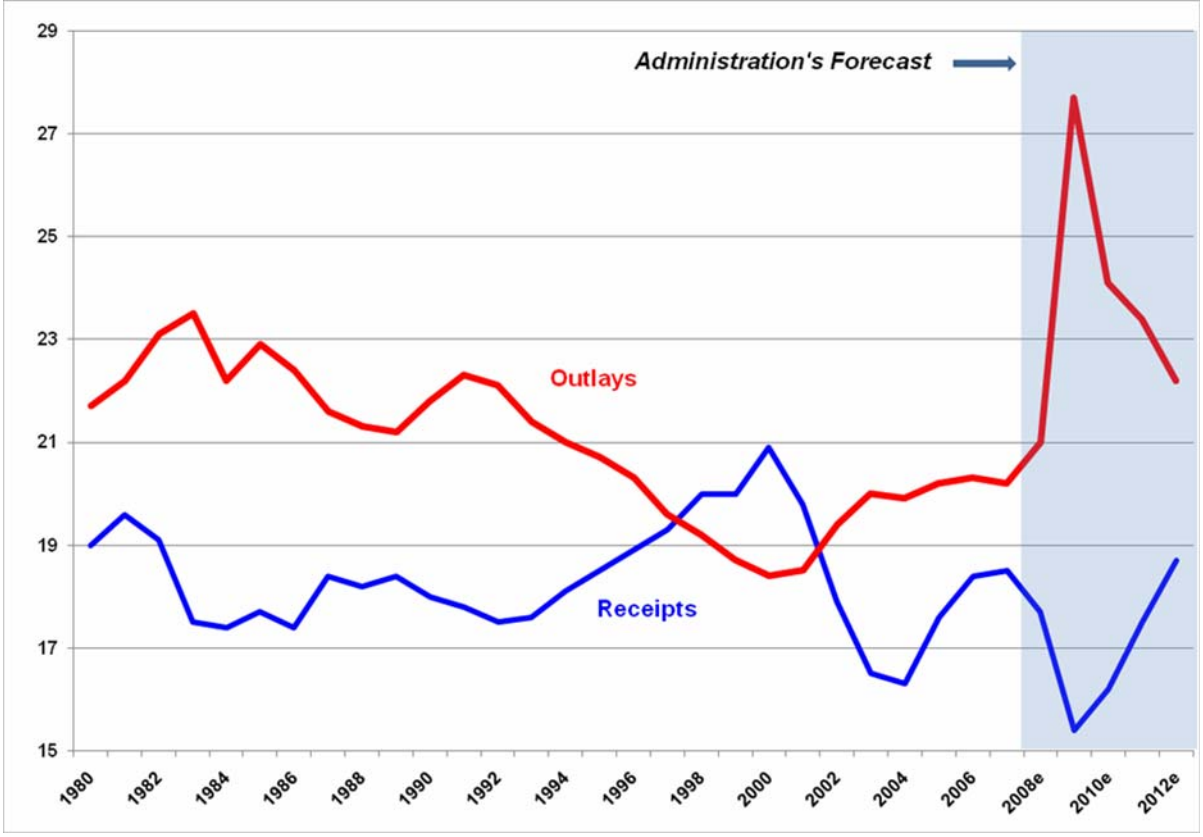
Source: Calculated from data at www.ratesfx.com.
Note: "Volatility" is the annualized standard deviation of percentage change in the daily price of one currency vis-à-vis *another. The higher the value of volatility yielded by this calculation, the higher the uncertainty and the risks.*

All of the currencies shown in Table I.6 have declined in value against the U.S. dollar over the past year. That decline has not been even, however, with many currencies having instead gone through a series of unusually rapid changes in value since the middle of 2008. The increasing volatility can be seen by comparing the numbers for the one-year *versus* the three-year period: In each case, volatility during the last year was higher than it had been in the three-year period. The prospect for further volatility in exchange markets may only rise with the growing fears over government deficits and inflation, all of which could – when combined with changes in commodity prices and major declines in stock indices – cause further uncertainty, fear, and reluctance to buy and invest.

2.5. The Administration's Fiscal Policies

The Obama administration has responded to the economic crisis by bringing two fiscal tools to bear. On the one hand, the administration's stimulus package has greatly increased government spending in an effort to "jumpstart" the economy. On the other hand, that very same package has also provided for tax relief. While from one perspective this pair of actions may be seen as a comprehensive set of policies designed to encourage renewed economic activity, the combination of reduced government revenues and increased government expenditure will inevitably mean a sharp rise in the budget deficit. Depending on the magnitude and duration of that increased deficit, it may do indirect but real harm to the economic interests of Latin American and Caribbean countries.

Figure I.6: Budget of the U.S. Federal Government, Fiscal Years 1980-2012
Outlays and Receipts as Percentages of Gross Domestic Product



Source: Historical data from Council of Economic Advisors; projections from the Office of Management and Budget.

There are two ways in which the U.S. government deficit could affect the region's interests. The first is through the crowding-out of private investment capital, as the government will need to borrow in order to make up any fiscal shortfalls. To the extent that the government's borrowing causes a rise in interest rates, that will make it more costly for borrowers in Latin America and the Caribbean, be they public or private, to obtain credit on international markets. Second, it can be anticipated that higher interest rates in the United States will increase the demand for dollars, and hence drive up the value of that currency *vis-à-vis* those of countries that may have money to lend in the U.S. market. The resulting devaluation of foreign currencies, from the euro to the yuan, will likely mean increased U.S. imports and a rising trade deficit. That, in turn, could produce ever more pressure for trade restrictions from all sources, including Latin America and the Caribbean. If this scenario sounds familiar, it should: This all happened before in the early 1980s, when we saw the outbreak of the debt crisis come just at a time when protectionism was on the rise.

So how likely is it that we will see similar developments in the years to come? The answer depends in large part on two unknowns. One is whether and when the stimulus package will actually work. In the event that it and other measures do manage to revive the U.S. economy, the resulting increase in economic activity should result in a commensurate rise in tax revenue and hence a reduced budget deficit. If the recession proves to be as deep and intractable as some economists fear, however, we are led to the second

question: Will the administration feel compelled to spend even more to stimulate the economy, and thus to dig an even deeper fiscal hole?

Thus far the "deficit hawks" within the administration have managed to convince President Obama that the immediate needs for fiscal stimulus have to be measured against the longer-term need to keep the deficit within bounds. Led by Secretary of the Treasury Timothy Geithner and economic advisor Larry Summers, they have prevented the plans for a stimulus from reaching the multi-trillion dollar levels that some have advocated. Even with their restraint, however, the deficit is clearly going to rise sharply in the near term.

The extent of the increase is suggested by the data illustrated in Figure I.6. The stimulus package will produce a very sharp increase in expenditure over the next year, which will then taper off a bit over the following two years, while tax relief and the recession will both act to reduce revenue. The result will be an increase in the relative size of the government deficit from just a few percentage points of GDP to double-digit levels in Fiscal Year 2010. The administration's forecasts suggest that the deficit will then shrink rapidly thereafter, but that is a forecast that assumes economic recovery in the near term and no need for a new stimulus. It is far too early to know whether those assumptions will prove correct, and thus whether the region can avoid feeling the negative effects of a large and sustained U.S. budget deficit.

II. OVERVIEW OF U.S. TRADE POLICY AND POLITICS

1. Introduction: Trade Policy *versus* Trade-Related Policy

Before speculating on the key features of trade policy in the Obama administration, it is first appropriate to examine the broader political profile of trade in the United States. That profile demonstrates how trade policy is a lower-priority issue in the United States than in many other countries, and why the Obama administration's approach may be seen as a variation on an existing theme rather than a radical break from the past. Trade politics in the United States are fundamentally different from those in most other countries. The differences relate to the relative strengths of domestic policymaking institutions, the role of trade in the national economy, and the linkages that are drawn between this and other fields of public policy.

The first mistake that outside observers often make in assessing U.S. trade politics is to assume that it's all about trade. Like the WTO agreements on Trade-Related Investment Measures and Trade Related Aspects of Intellectual Property Rights, it may be more appropriate to think of U.S. trade politics as a whole being a "trade-related" matter, but not exclusively about trade and the economy. There are three reasons why trade politics in the United States are different from the politics of trade in most other countries:

1. Trade accounts for a relatively small share of the U.S. economy, and hence U.S. politicians are under less pressure than their foreign counterparts to treat this issue as the determining factor in their economy's success or failure;

2. The constitutional arrangements and political traditions of the United States militate against strong central authority in this field, such that the legislative and executive branches are co-equal partners or rivals, and weak political parties cannot exercise control over the positions adopted by individual legislators; and

3. The preceding two factors have made it possible for policymakers in both branches of government to treat trade policy as an adjunct to either foreign policy (as is commonly done by presidents, and was especially notable in the Bush administration) or domestic and social policy (as is increasingly done by Democratic legislators).

This is not to say that trade politics are unrelated to trade, or that policymakers are uninterested in the economic consequences of their actions in this field. The many economic interest groups in the United States that represent farmers, manufacturers, labor unions, and so forth are clearly motivated by economic concerns, and they make certain that their allies in Congress are acutely aware of these interests. The point instead is that there are other issues at play, and that one must ordinarily assume when examining the U.S. debate over any given trade initiative that narrow economic concerns are a part of it, but are by no means the only part.

1.1. Trade Policy as Foreign Policy: Sanctions and Preferences

One of the principal questions facing the Obama administration is whether it will follow the Bush administration's practice of forging tight links between trade policy and foreign policy. While these two areas of public policy have always been related, especially whenever questions arise over negative discrimination (sanctions) or positive discrimination (preferences), the Bush administration went much farther than its immediate predecessors in subordinating commercial policy to diplomatic ends. That reversed a trend that began in the early 1960s, when Congress created the predecessor to the Office of the U.S. Trade Representative (USTR). The aim was to transfer this topic out of the portfolio of the State Department, and thus to make trade policy respond more to economic needs rather than to considerations of international politics or security. Under the tenure of former USTR Robert Zoellick (2001-2005), however, the USTR was largely reincorporated into the foreign policy establishment.

Trade policy had always been intimately linked with U.S. foreign policy. That was true at the time of the Revolutionary War (1775-1782), when one of the main reasons why the colonists sought independence was to be free from British restrictions on their trade; in the run-up to the Civil War (1861-1865), when the tariff was as important as slavery in defining the struggles between the North and the South; in the years immediately preceding the Second World War (1941-1945), when the United States used trade agreements as a means of cementing relationships with anti-Axis countries; and in the Cold War (1946-1991), when trade was used both to support economic recovery and development among allies as well as a means of containing some adversaries and sanctioning others. The only real difference between the linkages in recent years and in past decades is that they have become much more explicit.

The Bush administration subordinated many aspects of U.S. public policy to its war on terror, and trade policy was no exception to that general trend. That is a connection that yielded a series of free trade agreements (FTAs), but may also have reduced the perceived importance of global negotiations for an administration that is not instinctively drawn to multilateral undertakings. Whereas Mexico was the only FTA partner in the region when President Bush took office in 2001, there are now eight more Latin American countries that have FTAs in effect with the United States (Chile, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, and Peru), plus two others that have concluded FTAs that still await approval by the U.S. Congress (Colombia and Panama). Nearly all of the FTA negotiations initiated since 9/11 can be traced to a narrow

set of foreign policy goals.[4] Many of the post-2001 partners play a supporting role in U.S. policy in the Middle East, having been either a member of the "Coalition of the Willing" in Iraq (i.e., countries that contributed troops or other material support)[5] or being majority Arab or Muslim countries that cooperate with the United States.[6] Other foreign policy objectives are served by negotiating with countries that supply oil, cooperate in anti-narcotics efforts, or agreed in the Doha Round to leave the Group of 21.[7] The only post-9/11 FTA negotiations that cannot be attributed to one or more of these foreign policy goals were the talks started with the Southern African Customs Union; those negotiations never went very far.

Like the bilateral trade agreements that the Roosevelt administration negotiated during the 1930s, when having such an agreement with the United States was generally a sign that a country aligned itself with the Anglo-American cause and not with the Axis powers, there is a growing sense that agreements mark a dividing line between the countries that are aligned with the United States and those that take a more skeptical view of the northern neighbor. That is not a perfect distinction, as the FTA with Central American countries includes one partner that has since moved in the other direction (Nicaragua), and the absence of FTA agreements with MERCOSUR countries has more to do with economic policies than with strategic alignments. As a general rule, however, the linkages between trade and foreign policy in U.S. relations with Latin America are stronger now than at any time since the end of the Second World War.

At the same time, there has been a growing political estrangement between the United States and some countries in the region. The embargo imposed on Cuba has not been significantly relaxed over the past eight years, despite demands from the U.S. business and agricultural communities, and trade ties to a few other countries in the region have grown more strained. While commercial issues are not the principal source of friction in U.S. relations with Venezuela, Ecuador, and Bolivia, the extension or denial of trade preferences — both in the form of FTAs and unilateral programs such as the Andean Trade Promotion and Drug Eradication Act of 2002 (ATPDEA) — has become one of the means by which the United States distinguishes its close partners from the rest of the region.

There are some early signs that while the Obama administration differs from its predecessor on many important points, it too sees relatively tight linkages between economic and political aspects of U.S. foreign policy. This is seen in the fact that the Central Intelligence Agency has now begun offering a daily briefing to the president on the impact of international economic developments on U.S. national security.[8] Similarly, the National Security Council will include advisors on international economic issues in its

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[4] This description does not apply to the FTAs that the Bush administration inherited from its predecessor (i.e., the completed negotiation with Jordan and the ongoing talks with Chile and Singapore).

[5] The original members of this coalition, which has declined somewhat in size over time, included several countries that now have FTAs in effect (i.e., Australia and every CAFTA-DR country other than Guatemala), all three of the countries whose FTAs are now pending (i.e., Colombia, Korea, and Panama), and one with which negotiations have been suspended but may resume (Thailand).

[6] These include three countries with which FTAs are now in effect (i.e., Bahrain, Morocco, and Oman) and two with which negotiations have not been completed (i.e., Malaysia and the United Arab Emirates).

[7] This group dates from the WTO Cancún Ministerial (2003), and opposed a U.S. agricultural deal with the European Union.

[8] Joby Warrick, "CIA Adds Economy To Threat Updates" Washington *Post* (February 26, 2009), page A4.

meetings when the topic is on the agenda.[9] These developments raise the question of how successful the USTR Ron Kirk will be in advancing trade policy as a matter of commercial interest. A relative newcomer to this field, Kirk might be at a disadvantage when dealing with other cabinet members who have more "clout" and experience. It is notable that Secretary of State Hillary Clinton has indicated that she wants the State Department to play a more active role in international economic policy, a fact that may tend to diminish the relative significance of the USTR.

1.2. Trade Policy as Social and Environmental Policy

If some Democrats in Congress are made uneasy with the ties between trade and foreign policy, they show no reluctance to link trade with environmental and labor goals. This is a connection that was first made in the 1980s, when Democrats insisted that labor rights be included among the "designation requirements" (i.e., conditions) imposed on preferential programs such as the Generalized System of Preferences. That precedent was then picked up when the North American FTA (NAFTA) was negotiated in 1991-1992 and supplemented with labor and environmental "side agreements" in 1993. In every FTA since then, Democrats have sought progressively stricter provisions that require a partner to enforce standards in these areas.

This has led to a series of confrontations between presidents and congressional leaders of the opposition party. During the Clinton administration, the Democratic president's insistence that trade agreements include labor and environmental provisions led the Republican majority in Congress to block his request for a new grant of negotiating authority. The Bush administration had little trouble managing Congress prior to the 2006 congressional elections. With the change in party control after those elections, however, Democrats had enough votes to defeat any FTAs that did not meet their standards. They could either refuse to cooperate in the process of translating those agreements into implementing legislation or, if that does not deliver the message, cast enough "no" votes to defeat the bills that the president introduces. The Bush administration thus felt compelled to renegotiate aspects of the FTAs with Colombia, Panama, Peru, and Korea, and even then the Democrats agreed to approve only the Peruvian agreement during the final two years of the Bush presidency.

The question now is how these issues will be handled under a unified government in which Democrats hold both the White House and majorities in Congress. It is anticipated that, at some point, the Obama administration will develop its own proposal for a new grant of negotiating authority that includes its preferred provisions on labor and environmental matters. That issue is taken up in Part III of this report. For the time being, however, it appears that winning a new grant of negotiating authority is a relatively low priority for this administration.

1.3. How These Trade-Related Issues Affect Votes in Congress

How important is party control of Congress in determining what type of trade initiatives are approved in the United States? There are two different aspects to that issue. One is the general question of unified government. All other things being equal, the policymaking process will be more efficient, and the role of Congress will be diminished, whenever both chambers in the legislative branch are controlled by the same party that holds the White House.

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[9] Karen DeYoung, "National Security Structure is Set" Washington *Post* (February 27, 2009), page A3.

The second aspect concerns the policy preferences of the two parties. It is *not* accurate to summarize this with the simple statement that Democrats are protectionists and Republicans are free-traders. This general statement is subject to numerous qualifications and nuances. First, there is almost no party discipline in the United States, where individual legislators are free to decide how they will vote. Moreover, few trade-related issues come down to stark choices between opening or closing the market. Decisions depend not only on party, but also on how the issue affects industries in the individual legislator's constituency, the implications for other areas of public policy, and the balance of power between the executive and legislative branches. Republicans do favor market-opening initiatives more often than Democrats, but the degree of difference varies both by issue and by legislator.

This point is clear from the data in Table II.1, which summarize the main trade policy votes that have been cast in the House of Representatives since 1979.[10] A simple average of these 26 votes shows that Republicans have indeed taken a pro-trade position much more often (87.1%) than Democrats (48.8%), but a more complex pattern emerges when one breaks those votes down into specific categories. Republicans almost always provide around 85-95% support for the pro-trade position, no matter what form it might take, but the level of Democratic support varies widely according to the nature of the proposal. As a general rule, Democrats tend to be more skeptical of proposals that concern trade with developing (or "low-wage") countries, or when environmental issues are at stake, or when the initiative implies a transfer of authority to the executive branch.

Democrats' support tends to be lowest, and hence partisanship tends to be highest, in votes involving grants of negotiating authority to the president. The reasons for this relate both to a higher predilection for trade liberalization among Republicans as well as a greater interest on the Democrats' part in preserving the prerogatives of the legislative branch (where they have historically had an advantage).[11] Democratic legislators have a much better record of voting for multilateral trade agreements than for FTAs with developing countries.

The 2008 vote on suspending Trade Promotion Authority (TPA) for the Colombian FTA needs to be seen in this light. This was in fact the single most partisan vote on trade policy in the past generation, with an even smaller share of Democrats favoring TPA for Colombia than voted for the TPA grant in 2001. It is unsurprising, however, that this most partisan of votes came in the most partisan of categories.

[10] Note that voting patterns are roughly similar in the Senate, but the data for the House can be considered more statistically valid because there are more legislators in that chamber (435) than there are in the Senate (100).

[11] Democrats had majorities in one or both houses of Congress for 46 out of the 60 years between 1947 and 2007, whereas Republicans held the presidency for 38 of those years.

Table II.1: Selected Votes on Trade in the House of Representatives, 1979-2008

Percentages Taking the Pro-Trade Position (i.e., Voting for Market-Opening Initiatives or Against Market-Closing Initiatives); Categories Listed in Order of Partisanship

Year	Issue	Dems. (A)	Reps. (B)	(B) – (A)
Average for Multilateral & Industrialized Country Agreements		***79.2***	***86.2***	***7.0***
2005	Reject withdrawal of the United States from the WTO	76.9	82.6	5.7
2004	Approve U.S.-Australia FTA implementing bill	58.0	89.2	31.2
2000	Reject withdrawal of the United States from the WTO	89.2	84.7	-4.5
1994	Approve Uruguay Round agreements implementing bill	65.2	68.4	3.2
1988	Approve U.S.-Canada FTA implementing bill	87.8	93.8	6.0
1979	Approve Tokyo Round agreements implementing bill	98.0	98.7	0.7
Average for Developing Country FTAs in the Middle East		***57.5***	***93.5***	***36.0***
2006	Approve U.S.-Oman FTA implementing bill	11.1	87.7	76.6
2005	Approve U.S.-Bahrain FTA implementing bill	58.7	94.2	35.5
2004	Approve U.S.-Morocco FTA implementing bill	60.0	91.9	31.9
1985	Approve U.S.-Israel FTA implementing bill	100.0	100.0	0.0
Average for Developing Country Preferences		***47.3***	***86.0***	***38.7***
2007	Approve Andean Trade Preferences Act renewal bill	82.5	90.3	7.8
2001	Recommit Andean Trade Preferences Act renewal	27.2	91.1	63.9
2000	Approve preferences for Africa and Caribbean Basin	61.8	85.9	24.1
1997	Expand preferences under the Caribbean Basin Initiative	23.5	62.1	38.6
1984	Remove Asian newly industrialized economies from GSP	36.3	91.0	54.7
1983	Approve Caribbean Basin Economic Recovery Act	56.0	90.1	34.1
1982	Approve Caribbean Basin Economic Recovery Act	43.6	91.5	47.9
Average for Developing Country FTAs Outside the Middle East		***33.9***	***86.2***	***52.3***
2007	Approve U.S.-Peru FTA implementing bill	48.4	91.7	43.2
2005	Approve CAFTA-DR implementing bill	7.4	88.2	80.8
2003	Approve U.S.-Chile FTA implementing bill	36.9	87.8	50.9
2003	Approve U.S.-Singapore FTA implementing bill	37.1	87.9	50.8
1993	Approve NAFTA implementing bill	39.5	75.4	35.9
Average for Grants of Negotiating Authority		***16.0***	***85.3***	***69.3***
2008	Suspend trade promotion authority for Colombia FTA	4.4	92.5	88.1
2001	Approve bill to grant trade promotion authority	10.0	89.4	79.4
1998	Approve extension of fast-track authority	14.5	68.0	53.5
1991	Deny extension of fast-track authority	34.9	87.0	52.1
Average for All 26 Votes		***48.8***	***87.1***	***38.3***
Average for 7 Votes During Democratic Administrations		***56.0***	***77.6***	***21.6***
Average for 19 Votes During Republican Administrations		***46.2***	***90.6***	***44.4***

Three types of votes are excluded from the table. First, it does not include votes dealing with single products or sectors (e.g., sugar or steel). Votes on those measures tend to be determined more by the economic composition of a legislator's constituency than by party. Second, it leaves out bills that deal with trade sanctions or related matters (e.g., MFN treatment for China). Third, it does not include votes on omnibus trade bills from 1974, 1984, and 1988 that contained so wide a range of issues that one cannot be certain how the package was seen by a legislator. While the 2001 vote to approve a bill granting TPA was also an omnibus bill that included other measures, the other items in it attracted far less attention than was the case for the three other bills. The chosen timeframe begins in 1979 because that was the first use of the fast-track procedure for the approval of a major trade agreement.

Source: Calculated from data in the Congressional Quarterly Almanac *(various) and the House of Representatives website.*

2. The Obama Administration's Priorities

The 2008 presidential and congressional elections have restored unified government under the Democrats. This makes it possible for the new administration to take a very active approach to policymaking in trade and other areas, with a reasonable expectation that the legislative branch will support its initiatives. Even so, the new government is unlikely to devote much energy and political capital to trade at a time when other issues are more pressing. Even if the new administration had planned major initiatives in this field, the financial crisis has crowded out most other issues for the foreseeable future.

Simply stated, the Obama administration places a relatively low priority on trade policy. The following evidence from 2008 and the early weeks of the administration may be cited in support of that contention:

- The issue played almost no role in President Obama's 2008 campaign (as discussed below).

- The very last nominees for Cabinet-level positions in the new administration to receive confirmation hearings in the Senate were the Secretary of Commerce and the U.S. Trade Representative. The first person to be offered the USTR position declined it; at least a dozen people reportedly turned down the offer to be Secretary of Commerce.

- President Obama laid out his priorities in a February 24 speech to a joint session of Congress, but the only mention he made of trade was a general declaration that "we are working with the nations of the G-20 to … spur demand for American goods in markets across the globe." He did not even use the word "trade" in the speech. (By way of comparison, he used the words "deficit" nine times, "bank" twelve times, "school" and "budget" thirteen times, "energy" fourteen times, and "job" and "health" nineteen times.)[12]

- The only mentions made of trade policy in the 146-page overview of the proposed Fiscal Year 2010 budget that the administration released on February 26 concerned improvements to port infrastructure (including security measures) and an expanded export-promotion budget for the Department of Commerce.[13]

These general trends were then confirmed by the two most significant statements of administration trade policy so far. One was the release on March 2 of the annual Trade Policy Agenda, the message of which was reiterated in the statements made by Ron Kirk at his Senate confirmation hearing to serve as U.S. Trade Representative (USTR).

Excerpts from the statutorily required *2009 Trade Agenda and 2008 Annual Report* are reproduced in Box II.1. The first aim of trade policy, according to the agenda, is to "[a]dvance the social accountability and political transparency." The second goal listed for trade policy is to be a "tool for achieving progress on national energy and environmental goals." Only third on this list is a traditionally trade-related matter, "make sure that trade agreements are addressing the major unresolved issues that are responsible for trade friction."

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[12] Text available at http://www.whitehouse.gov/the_press_office/Remarks-of-President-Barack-Obama-Address-to-Joint-Session-of-Congress/ .

[13] The budget document is available at http://www.gpoaccess.gov/usbudget/fy10/pdf/fy10-newera.pdf .

The document implies that this administration may break with its predecessors in several ways. First, it has not made seeking a priority of seeking new trade negotiating authority, stating instead that it first must engage in "extensive consultations" over the matter with Congress. With regard to the pending FTAs with Colombia, Panama, and South Korea, the administration may move forward on the Panama FTA, but indicates that the other two will be reopened for further negotiations. The renegotiation of FTAs will extend to implemented agreements as will, including NAFTA and Bilateral Investment Treaties.

A large portion of the agenda is devoted to the administration's goal of using trade policy for labor and "social accountability" goals, and energy and environmental rules. Nothing in the document appears to contradict the general impression that this administration's approach to trade policy is one of passive free trade, in which it generally supports open markets but is not yet prepared to invest much of its political capital in securing the approval of legacy agreements or the completion of the negotiations that it has inherited.

Ron Kirk struck a similar tone in his Senate confirmation hearing on March 12. Kirk placed greater emphasis upon enforcing existing agreements then he did on approving the pending ones or negotiating new agreements, and in his answers to senators' questions he did not go beyond what has already been stated in the administration's trade agenda.

Even before these statements, the Buy American controversy (see Box II.2) offered evidence that the overall approach taken by the Obama administration – at least at this very early juncture – might be described as "passive free-trade." There is no evidence to suggest that the administration will adopt a protectionist stance, nor that it will be inactive when members of Congress seek opportunistically to enact protectionist measures of their own. It will try at least to ensure that the United States abides by its obligations under the existing trade agreements. At the same time, however, the administration has not yet given us any reason to expect that it will make trade liberalization an important part of its economic recovery plans.

Those forecasts are based on limited evidence, and could shift in response to new developments. There are two ways that trade policy could acquire a higher profile in the coming months. First, a significant breakthrough in the Doha Round of World Trade Organization (WTO) negotiations could force the new administration to deal directly with trade. Second, as has already been illustrated by the debate over the "Buy American" provisions of the stimulus package, trade-related measures may be adopted in order to address other areas of public policy that are higher priorities for the new chief executive. President Obama's approach to trade policy at this very early point in his term might best be characterized as passive free trade. The administration has shown that it will take action to avoid being labeled protectionist, but has yet to demonstrate any eagerness to make trade liberalization an important part of its economic recovery strategy. Other important trade-related initiatives include measures taken to respond to the financial crisis, tax reform, support for specific industries (e.g., the automotive sector), or new measures affecting health, safety, and national security. To the extent that trade-related issues arise in the debates over these topics, it is more likely to lean towards greater government involvement in the economy (regulations and subsidies) than it is towards trade liberalization.

Box II.1:
Excerpts from the U.S Trade Representative's 2009 Trade Agenda

Negotiating authority: We will only ask for renewed trade negotiating authority after engaging in extensive consultation with Congress to establish the proper constraints on that authority and after we have assessed our priorities and made clear to this body and the American people what we intend to do with it …
Pending free trade agreements: We are in the process of developing a plan of action to address the pending trade agreements in consultation with Congress. We hope to move on the Panama Free Trade Agreement (FTA) relatively quickly. And we plan to establish benchmarks for progress on the Colombian and South Korean FTAs …
NAFTA: We will also work with Canada and Mexico to identify ways in which NAFTA could be improved without having an adverse effect on trade. We will do this in a collaborative spirit and emphasize ways in which this process can benefit the citizens of all three countries.
Doha Round: A strong, market-opening agreement for both goods and services in the WTO's Doha Round negotiations would be an important contribution to addressing the global economic crisis, as part of the effort to restore trade's role in leading economic growth and development. The Administration is committed to working with our trading partners for such an outcome. However, 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 workers, farmers, ranchers, and businesses.
Trade and Labor: To make support for global markets sustainable, our consideration of the effects of trade can not stop at the edge of our borders. Trade is more beneficial for the world, and fairer for everyone, if it respects the basic rights of workers. Our trade policies should build on the successful examples of labor provisions in some of our existing agreements…
As the scope of trade policy expands to address non-tariff and other barriers to trade, we need trade policy to meet strong standards of social accountability and political transparency. Social accountability includes tackling adjustment issues for the work force that are created by changes in global trade.…Social accountability also means working with our trading partners to improve the status, conditions, and protections of workers. We need to ensure that expanded trade is not at the expense of workers' welfare and that competitiveness is not based on the exploitation of workers. Building on the provisions concerning labor in some of our FTAs is a way forward in this regard.
Trade and Environment: Also, as we tackle the issues of equity, we need to ask how trade policy can respond to mounting global environmental challenges. These range from climate change to dangerously depleted resources such as fisheries. We should aim to make trade a part of the tool kit of solutions for addressing international environmental challenges … We should assure that the frameworks for trade policy and for tackling global climate complement each other so as to reinforce sustainable economic growth. We should ensure that climate policies are consistent with our trade obligations, but we also should be creative and firm in assuring that trade rules do not block us from tackling this critical environmental task.
Trade Preferences: Trade preference programs help entrepreneurs in developing countries compete effectively in the world trading system. Many of our nation's trade preference programs are coming due for legislative review. We will work with the Congress and public stakeholders on their renewal and reform. We will give careful consideration to proposals to concentrate benefits more effectively on the poorest countries and those that need the margin of preference to compete.

Box II.2:
What We Can Learn from the "Buy American" Dispute

The $787 billion stimulus bill that the U.S. Congress approved in February requires, with certain important exceptions, that all of the iron, steel, and other manufactured goods used in the program (including $48 billion for transportation projects) be made in the United States. After the House of Representatives attached this amendment it set off a heated domestic and international debate. In response to the administration's concerns over sending a protectionist message, the Senate amended the bill to specify that these provisions "shall be applied in a manner consistent with United States obligations under international agreements." That language remained in the final bill that President Obama signed into law on February 17.

The case demonstrates several important aspects of current U.S. trade politics. One is the fact that the so-called BRICs (i.e., Brazil, Russia, India, and China) were the real targets of the amendment. These countries, and especially China, are seen as major contributors to the U.S. trade deficit. Because of the way the amendment is written, it may have a much greater effect on these countries than on other U.S. partners.

The case also illustrates one of the holes that remain in the existing system of trade rules. One of the peculiarities of the WTO's Government Procurement Agreement (GPA) is that it falls outside the scope of the "single undertaking" that covers almost all other WTO agreement, being instead a plurilateral agreement. Only those countries that signed it are subject to its disciplines and entitled to its benefits. The current signatories to the GPA consist primarily of industrialized countries in Europe, North America, and East Asia. It is U.S. law and practice to grant exceptions to the Buy American rules to four categories of trading partners: signatories to the GPA, countries that have government-procurement rights under their free trade agreements (FTAs) with the United States, beneficiaries of the Caribbean Basin Initiative (CBI), and the least-developed countries (LDCs). The Obama administration clearly intends to implement the stimulus bill in compliance with GPA and FTA obligations; whether CBI and LDC partners receive the same treatment is less certain (but Trinidad and Tobago may be the only country falling under one of these categories to be a significant producer of steel). Brazil and the other BRICs, however, as well as many other countries, will likely be closed out of this segment of the U.S. market.

The case also shows that many members of Congress are prepared to take advantage of any opportunities that the administration may hand them. The Congressional Steel Caucus is a bipartisan, in-house lobby for its constituency, and its chairman won widespread support when he submitted this amendment. The same pattern could well be repeated on other trade-related initiatives in the coming months. The administration managed this time to ensure that the final bill remained within legal bounds, but that is no guarantee that other favored initiatives will emerge from Congress in WTO-compliant form.

Perhaps the most important point demonstrated by this episode is that the position of the Obama administration might prove to be one of "passive free trade." This means that the administration wants to comply with U.S. legal obligations, and to avoid being labeled protectionist, but it may not be eager to invest much of its political capital in negotiating new trade agreements. That is only a preliminary observation, based on the evidence of the first several weeks in office, but if it is to be proven wrong the administration will need to begin addressing the issue of trade policy soon.

2.1. Trade Policy and the 2008 Presidential Election

Trade policy was almost a non-issue in the 2008 election, at least as far as the Obama campaign was concerned. While he faced two opponents who were unusually eager to make trade issues an important part of their campaigns, Obama devoted only minimal attention to the issue in his own appeal to the voters. That was first apparent during the fight for the Democratic nomination, when Senator Hillary Clinton hoped to win votes in the industrial Midwest by repudiating the North American FTA (NAFTA). Republican nominee John McCain repeatedly challenged Obama on the pending U.S.-Colombia FTA. It is notable that both candidates viewed this agreement more in political than in economic terms, with McCain stressing the importance of supporting an ally in the fight against narcoterrorism, and Obama raising concerns over labor rights in Colombia. In both instances, Obama was obliged by the declarations of his opponents to state his own position, but clearly preferred to focus his main message on other issues that, he apparently believed, had greater resonance with the public.

What little Obama did say about trade during the campaign was a balance between pro-trade sentiments and the now-standard Democratic caveats about labor and the environment. The closest that he came to laying out a detailed trade agenda came in a speech that he delivered in Michigan on June 16, 2008. It is notable that in the heart of a protectionist state, Obama declared that he "believe[d] in free trade" because it "can save money for our consumers, generate business for U.S. exporters, and expand global wealth." He nevertheless went on to qualify this position on two points. In addition to calling for stricter labor or environmental agreements, he also took a pro-export stance in declaring that the United States "need[s] tougher negotiators on our side of the table."

Another bit of evidence comes from what Obama did *not* say on the campaign trail: At no point did he call for the imposition of new, protectionist measures. There he departed from a pattern set by three of the last four men to be elected president, each of whom were ostensibly free-trading, Republican candidates who nevertheless hoped to win votes in economically troubled and politically marginal states. That is why Ronald Reagan promised to protect the textile and apparel industry in 1980 (thus appealing to voters in the south), and why Reagan, George H.W. Bush, and George W. Bush promised to protect the steel industry in their respective 1984, 1988, and 2000 campaigns (thus appealing to voters in the "rust belt"). While those same rust-belt states were once again a critical battleground in 2008, Obama did not offer to protect the steel or automotive industries from imports. Obama's reluctance to make protectionist vows was further demonstrated in an October 24, 2008 letter[14] that he sent to the National Council of Textile Organizations. He promised to take several steps to promote the industry, including the monitoring of imports from China and the possible use of trade-remedy laws to restrict those imports, but pointedly did not make any blanket promises of protection.

Obama made only one major, specific commitment on trade during the campaign, but it is not likely to result in real action. During the phase of the nomination race in which senators Obama and Clinton were wooing voters in the industrial Midwest, Clinton strongly urged that NAFTA be renegotiated in order to strengthen its labor and environmental provisions. Obama responded with a "me-too" position, but the seriousness of his commitment is undercut by two facts. One is that a close advisor to the candidate was quoted as assuring Canadian officials that they need not take this position too seriously, as it was intended for political show rather than substance. Another is that NAFTA could not be renegotiated without the consent of Canada and Mexico, and there is no reason

[14] Text available at http://www.ncto.org/newsroom/pr20081029.pdf .

to expect that anytime soon. The proposed renegotiation of NAFTA was largely sidestepped on February 19, when President Obama visited Canada on his first trip abroad. The issue of NAFTA revision nevertheless remained an item in the administration's *2009 Trade Agenda*.

3. Relations between the Obama Administration and Congress

The Obama administration could be in a better position than some of its predecessors to handle the relationship with Congress. For one thing, it will enjoy the advantages of party unity. Over the course of the past four decades, only one-third of the time have both houses of Congress been controlled by the same party as the presidency. Obama will have that advantage for at least the first two years of his presidency, and probably beyond; the Democrats control Congress by a wide enough margin that they may be in little danger of losing their majority in the 2010 congressional elections.

3.1. The New Cabinet

This cabinet bears a closer resemblance to a parliamentary model than some of its predecessors, in which key members have legislative experience – and networks of allies – of their own. Even so, the key trade policymaking positions are held by relative newcomers who appear to have less "clout" than other members of this body.

It is quite notable that several members of the new cabinet have previously served in the House of Representatives or the Senate, including both the president and vice president as well as the secretary of state. The members of the Obama cabinet have a combined experience of 75 years in Congress. (The figure would have been 120 years if Obama's original nominees for the departments of Commerce and of Health and Human Services had not later withdrawn.) This is quite high by comparison with the final composition of the Bush cabinet, in which only three members were in Congress for a collective length of service that was less than half as long (32 years). The president himself represents a return to an earlier pattern in which the American electorate used to select presidents with legislative experience. Each of the four presidents who served during 1961-1977 had prior careers in Congress; they included one former Senate Majority Leader (Lyndon B. Johnson, 1963-1969) and one former House Minority Leader (Gerald R. Ford, 1974-1977). Among the five presidents who served from 1977 through 2008, however, the only one with any congressional experience was George H.W. Bush, a one-term president (1989-1993) who had also served two terms in the House of Representatives.

One early sign that political professionals doubted the importance of this issue came last December, when it was widely rumored that Representative Xavier Becerra (Democrat-California) was the president-elect's choice to head the Office of the U.S. Trade Representative. Becerra was approached for the job, but he reportedly turned it down because he had concluded that trade policy would be a low priority for this administration. Another indication of trade's slipping role is the difficulty President Obama had in finding a nominee for Commerce Secretary. Both Governor Bill Richardson (Democrat-New Mexico) and Senator Judd Gregg (Republican-New Hampshire) bowed out after being formally nominated. Obama was reportedly been turned down for the post by two members of Congress, four current or former state governors, one leading businessman, and even the former secretary under the Bush administration, before finally settling on former Governor Gary Locke (Democrat-Washington).

3.2. The 111th Congress

The U.S. Congress has more power to affect the trading system than any other legislature in the world. The terms of the Constitution ensure that this body is preeminent in trade, and presidents are able to act effectively in this field only to the extent that they enjoy comity with the legislative branch. All other things being equal, the policymaking process will be more efficient, and the role of Congress will be diminished, whenever both chambers in the legislative branch are controlled by the same party that holds the White House. One need look no further than the last two administrations for proof of this point. The Clinton administration achieved far more on trade during the two years that Democrats controlled Congress (1993-1994) than it did in the subsequent six years of Republican control, just as the Bush administration had a far easier time managing the relationship during six years of Republican majorities (2001-2006) than during the last two years of Democratic control.

The 2008 congressional elections restored unified government and increased the majorities held by Democrats in both chambers of Congress. Their margin of control in the House of Representatives rose from 236-199 (with four vacancies) in the 110th Congress to 255-178 (with two vacancies) in the 111th Congress. The size of the Democrats' majority in the Senate remains uncertain several months after the election, with a seat from the state of Minnesota still being contested in the courts, but Democrats will ultimately have a majority of either 58-42 or 59-41.

Some believe that these gains will be translated into the enactment of protectionist legislation, or at least produce more resistance to new trade agreements. According to an analysis released by Public Citizen, a leader in the anti-trade movement, the 2008 elections saw a net change of 26 new "fair-traders" winning seats in the House of Representatives, together with four new fair-trading senators.[15] "The 2008 election was a veritable tipping point for fair-trade issues," according to the head of the group's Global Trade Watch, claiming that, "The public has had it with the current race-to-the-bottom trade and globalization model, and they voted against those who support it and for those who say they will replace it."

The expectations for major changes in trade legislation are overblown. There is remarkably little demand in Washington for new initiatives in trade policy *per se*, apart from dealing with rising import competition from China (especially by addressing allegations of currency manipulation) and expanding the scope of trade adjustment assistance programs for workers and firms that are injured by import competition. This can be contrasted to the trade policy environments that presidents Reagan and Clinton encountered when they took office in 1981 and 1993, respectively. In both instances sustained deficits had elevated trade to a high-profile issue, and there were many bills pending in Congress that would, if enacted, force the executive to take harsh action; some of those bills attracted hundreds of sponsors. By contrast, the main protectionist vehicle in Congress last year (the Trade Reform, Accountability, Development, and Employment Act [TRADE] of 2008) had just 75 sponsors in the House of Representatives, and only seven in the Senate. As of this writing there is an effort underway to develop comparable legislation, but the number of co-sponsors may not be much higher than it was in 2008 — if indeed it rises at all. If the number of signatories to the letter discussed below is any indication, the strength of the trade-skeptical wing of the Democratic Party may actually have diminished a little since last year.

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[15] Public Citizen, *Election 2008: Fair Trade Gets an Upgrade* (2008), available on-line at http://www.citizen.org/documents/ElectionReportFINAL.pdf .

A group of 54 House members, only one of them a Republican), sent a letter to President Obama on February 25 recommending a "new American trade and globalization agenda."16 Led by House Trade Working Group co-directors Mike Michaud (Democrat-Maine) and Linda Sanchez (Democrat-California), the legislators argue that the last two elections demonstrate that the electorate demands new trade policies. They declare that:

> The dramatic economic downturn – caused in part by the lack of prudent global regulation of commerce and massive trade and financial imbalances – has fueled the relentless demand from the American public for trade reform. Across the country, successful candidates in 2008 ran against the failed trade policy status quo and pledged a new approach. In the 2006 and 2008 elections, Americans elected a total of 72 new fair-trade reformers to the House and Senate to replace supporters of the North American Free Trade Agreement (NAFTA), the Central America Free Trade Agreement (CAFTA), the World Trade Organization (WTO), and our current China trade policies. The unprecedented U.S. election focus on trade and globalization reform reflects the public opinion that America's trade and globalization model needs a major overhaul.

The lengthy letter offers the details of the preferred trade policy of the signatories. It includes recommendations on the following topics:

- **Renegotiate NAFTA and CAFTA** to eliminate "excessive foreign-investor privileges and private enforcement systems," limit domestic procurement policy provisions, and toughen food-safety protections;
- **Oppose Free Trade Agreements (FTA)** with Colombia, Panama, and South Korea;
- **Abandon negotiations for a Trans-Pacific Strategic Economic Partnership** with Australia, Brunei, Chile, New Zealand, Singapore, and Vietnam;
- **Institute a new FTA model**, especially with regard to the investment chapters, import inspection and standards, procurement rules, agriculture trade rules, include right to medicines;
- **Transform World Trade Organization Doha Round Agenda** to establish "economic fairness" including the addition of labor rights, strengthening U.S. trade-remedy laws, include policies to "counter global climate change."
- **Create new import-safety policies** for imported food and goods.

Pro-trade members of the House of Representatives are, as of this writing, still circulating a letter of their own for circulation. It will be interesting to note the number and composition of the signatories that they attract, as this will give — together with the signatories to the Michaud-Sanchez letter — a very early indication of the size of the contending factions in Congress. Even if this pro-trade letter were to receive as many signatories as the trade-skeptical letter, however, that would still leave over 300 members of the House who left themselves in the persuadable middle.

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[16] Available at http://www.michaud.house.gov/index.php?option=com_content&task=view&id=575&Itemid=76 .

III. PENDING ISSUES IN U.S. TRADE POLICY

1. Introduction

If the early weeks are a good indication, the 111th Congress (2009-2010) may take action on both trade policy *per se* and on trade-related policy. As was already demonstrated by the dispute over the Buy American dispute, issues that are related to trade but are fundamentally about something else – the financial crisis, economic stimulus, port security, food safety, etc. – nonetheless hold out the prospect to cause major friction between the United States and its trading partners. It can be anticipated that trade-related issues will arise in several of the upcoming policy debates over how to make ports more secure, food and consumer products more safe, the environment cleaner, and the financial system more stable. These and other initiatives will create opportunities for protectionist interests in the United States to manipulate legislative initiatives in ways that discriminate against foreign providers of goods and services. In each instance, it will be incumbent upon the Obama administration to ensure that, at a minimum, the United States remains in compliance with its obligations under the WTO and other trade agreements.

Beyond simply keeping up with the existing agreements, there is the question of whether and to what degree the United States will provide leadership in the trading system. That would mean not only approving and implementing those agreements that the Obama administration has inherited from its predecessor, but also concluding the negotiations that are still underway and, perhaps, initiating others as well. This implies going beyond the posture of passive free trade that has thus far characterized this administration's policies.

The most significant trade proposal that may come from the Obama administration will depend in the first instance upon progress in the Doha Round. If and when there is significant, new progress in those negotiations, it can be anticipated that the administration will request a new grant of Trade Promotion Authority (TPA) from Congress in order to facilitate the conclusion of those negotiations and approval of their results. TPA is a special authority that provides for the expedited consideration of trade agreements in Congress. It is reasonable to expect that the Obama administration would be in a better position that its predecessor to win approval for such a grant from Congress, and to secure approval of the Doha Round results, provided that the agreements do not contain any concessions that are unacceptable to large blocs in Congress. As is discussed below, however, there is no certainty if or when there will be such progress in the Doha Round.

Trade relations with Andean countries may receive more attention than trade policy in general during the Obama administration's first year in office. In addition to the fact that the U.S.-Colombia FTA is still pending, there are also decisions to be made with respect to two other countries that have received preferential access under the Andean Trade Preferences Act (ATPA). Bolivia has already been removed from the program, and ATPA benefits for Ecuador will expire at mid-year unless the Obama administration decides to renew them, and even then they will last for only six more months unless Congress takes action.

2. Renewal of Trade Promotion Authority

The single most important trade issue pending in the United States, at least from the perspective of the participants in the Doha Round, is whether and on what terms Congress will make a new grant of TPA to the president. Also known as the "fast track," TPA is an indispensable tool of trade policymaking. The last grant of TPA was made in

2002, and expired in mid-2007. Unless and until such a grant is made, any new trade agreements that might be submitted to Congress — including the results of the Doha Round — will be vulnerable to dilatory maneuvers and amendments. President Bush asked Congress to renew the authority but got nowhere; President Obama has yet to make his wishes known.

TPA is sometimes called "negotiating authority," but that term is misleading. What is at issue is not the authority to *negotiate*, but instead the procedures by which the results of a negotiation will be *approved by Congress*. The Constitution specifies that the regulation of commerce is a congressional prerogative, and any trade agreements that require changes in U.S. law must therefore be approved by Congress. The two traditional means for approving agreements are to submit them formally to the Senate as treaties, or to ask that both chambers of Congress approve them through the enactment of ordinary bills and resolutions. Both of these traditional methods have their drawbacks. Prior to the creation of the TPA and its predecessors, nearly all trade agreements that the executive negotiated were either killed outright or, more often, were subjected to the slow death of delay and amendment.

TPA is intended to facilitate the approval of agreements while also protecting the constitutional prerogatives of Congress. It provides for the development of implementing legislation that makes all of the changes necessary to bring U.S. laws into conformity with an agreement. That bill must then be voted upon in both the House and the Senate within strict time limits and cannot be amended. Fast-track authority has been considered an indispensable tool of U.S. trade policy since it was first extended in 1974. None of the implementing bills that have been submitted under this authority have ever been amended or rejected, and these procedures have been used to approve nearly all trade agreements reached in the past four decades.

The politics of TPA were greatly complicated by a confrontation between the Bush administration and Congress over the approval of the Colombian FTA. President Bush sent up the United States-Colombia Trade Promotion Agreement Implementation Act (H.R.5724) to Congress on April 8, 2008. Unlike all previous uses of TPA, when the implementing legislation for an agreement was developed in close consultation between the USTR and the congressional trade committees, this bill had been drafted solely by the executive branch. Under the rules of TPA, the introduction of the bill triggers a 90-legislative-day clock by which time the House of Representatives (at the 60-legislative-day mark) and the Senate (30 legislative days later) must vote on passage. Two days later, the House responded by a resolution simply stating that the special TPA procedures "shall not apply in the case of the bill (H.R. 5724) to implement the United States-Colombia Trade Promotion Agreement." This meant that the implementing bill for the FTA would not receive the TPA protections regarding the time limit on the vote and the prohibition on amendments. Speaker Pelosi said during floor debate that she had introduced the rule change in response to the president's precipitate introduction of the trade bill without holding consultations with House leaders. She said that she does not oppose the FTA, and that her purpose in sponsoring the resolution was to reclaim for the House its right to set its own agenda and timetable for considering legislation.

That incident called into question the validity of the compromise between the two branches by which Congress delegates authority to the executive. In order to achieve a new grant of TPA, or something like it, it will be necessary for the two branched to reach a new understanding not only over the direction of U.S. trade policy, but over the authorities of the two branches and the terms of their relationship with one another. The initiative lies in the first instance with the executive, which has yet to indicate when or on what terms it will seek a new grant of authority, Once that happens, the executive and legislative

branches will need to negotiate over the scope and terms of the grant. Congress may also use this opportunity to influence the end-game of the Doha Round, while also demanding that the executive make concessions in exchange for the grant.

The Obama administration has made renewal of TPA a relatively low priority. It stated in its *2009 Trade Agenda* that it "will only ask for renewed trade negotiating authority after engaging in extensive consultation with Congress to establish the proper constraints on that authority and after we have assessed our priorities and made clear to this body and the American people what we intend to do with it."

Legislators may also want to propose procedural tweaks in how the TPA rules work. Congress has made numerous changes in the operation of fast track ever since 1974, both formally (through amendments to the law) and informally (in the actual use of the mechanism), usually with an eye towards strengthening the requirements that the executive consult more closely with Congress. Among the changes in the principles and procedures of TPA that might be considered are: requiring a vote by both houses of Congress before initiating any new negotiations; requiring closer consultations with Congress during negotiations; strengthening the role of Congress in the period between notification and the signing of an agreement; allowing the amendment of implementing legislation on some issues; and making the negotiating objectives mandatory.

It may actually be easier for this administration than for its predecessor to win such a grant from the Democratic Congress, especially if it makes clear that it wants the authority for the sole purpose of concluding and approving the results of the Doha Development Agenda (i.e., is not seeking to negotiate new FTAs). Key legislators such as Chairman Charles Rangel (Democrat-New York) of the Ways and Means Committee (the House committee with jurisdiction over trade) have long said that they would be willing to make such a grant for the WTO agreements. It is not yet clear, however, whether the new administration would devote much capital to TPA renewal without first seeing substantial progress in Geneva.

3. The Doha Development Agenda

The most important trade initiative that the Obama administration inherits is the Doha Development Agenda. There has now been a long series of failed efforts to produce a breakthrough in these negotiations, from the disastrous Cancún ministerial meeting in 2003 through the attempt to produce a ministerial meeting in December, 2008. While there is plenty of blame to go around among all WTO members, Washington can be criticized on two seemingly contradictory points. One is that Congress permitted the president's TPA to expire in mid-2007. Unless there is a new grant of this authority, under which the results of trade negotiations receive expedited consideration in Congress, other participants in the WTO negotiations may have little confidence that any agreements that they might reach would be treated fairly in the United States. At the same time, leaders in Congress insist that any results from the Doha Development Agenda must be ambitious, especially with respect to the market-opening commitments of "emerging economies" such as Brazil, China, and India. These mixed messages of caution and ambition have not helped to overcome the impasses in this round.

The Obama administration made the following statement about these negotiations in its 2009 Trade Agenda:

> A strong, market-opening agreement for both goods and services in the WTO's Doha Round negotiations would be an important contribution to

> addressing the global economic crisis, as part of the effort to restore trade's role in leading economic growth and development. The Administration is committed to working with our trading partners for such an outcome. However, 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 workers, farmers, ranchers, and businesses.

There is no guarantee that the Doha Round will eventually produce an agreement, nor that its results will be concluded and approved. History offers mixed examples. On the one hand, some long-running negotiations have been picked up fairly smoothly; each of the three multilateral GATT rounds conducted during the early 1960s through the early 1990s took place over multiple U.S. administrations. On the other hand, there have been several negotiations over the past few decades that have either been suspended or failed altogether. These include two major, regional initiatives that the Clinton administration helped to launch in the mid-1990s (the Free Trade Area of the Americas and the grand design of the Asia Pacific Economic Cooperation talks) but then floundered under the Bush administration, as well as several bilateral and subregional FTAs that the Bush administration launched but was unable to conclude (with Ecuador, Malaysia, the Southern African Customs Union, Thailand, and the United Arab Emirates).

The many reasons behind the stalled Doha negotiations go well beyond the scope of this report, and cannot be solved solely by the United States. The talks surely cannot be revived without active leadership from the United States, however, and the Obama administration has yet to indicate whether or how it will try to make the conclusion of these negotiations a priority.

4. The FTAs with Colombia, Panama, and Korea

It has come to be traditional for an outgoing administration to leave some important legacy items in trade policy for its successor. Just as the first President Bush left it to President Clinton in 1993 to complete the Uruguay Round negotiations and win congressional approval for NAFTA, and President Clinton left it to the second President Bush in 2001 to approve one finished FTA (with Jordan) and to complete two others (with Chile and Singapore), the Obama administration will inherit legacy agreements and negotiations from the Bush administration. These include one significant and unfinished negotiation (the Doha Development Agenda in the WTO), three FTAs that are still pending approval in Congress (with Colombia, Panama, and Korea), and one FTA that has been approved but has not yet entered into force (with Peru).

The Obama administration must decide how it will deal with three legacy agreements: the pending FTAs with Colombia, Korea, and Panama. Each of these negotiations was concluded before the expiration of the last grant of TPA, and can thus be considered under the special rules of that mechanism. The more serious problem is that each of these agreements has faced opposition in Congress on separate grounds. For our present purposes we may skip past the agreements with Panama (which related to a temporary political dispute that has since been solved) and Korea (which is outside our geographic scope), and focus on the most controversial of these agreements.

The administration's *2009 Trade Agenda* was not very specific on how it intends to deal with these agreements, noting only that it "will conduct extensive outreach and discourse with the public on whether these agreements appropriately advance the interests of the

United States and our trading partners" and also "plan[s] to establish benchmarks for progress on the Colombian and South Korean FTAs."

Two of these agreements could prove relatively easy to handle. A diplomatic dispute has thus far led the administration to hold back the Panama agreement. The State Department is trying to put pressure on Panama's government to dismiss the president of Panama's National Assembly, a man who was under indictment in the United States for the alleged murder of a U.S. Army sergeant in 1992. The individual in question no longer holds that position, a fact that may well ease the way for consideration of the FTA implementing legislation in Congress. The Korea FTA also remains in a kind of limbo. There are controversies surrounding its provisions on the automotive and beef sectors. One could imagine ways in which those differences might be bridged through a compromise, but for the time being that agreement is languishing.

The solution for the U.S.-Colombia FTA could be for the Obama administration to negotiate some additional language with that country to strengthen the labor and environmental provisions of the agreement. If that is done, the FTA will have gone through three sets of negotiations: the original ones conducted before Republicans lost their congressional majorities in 2006, revisions intended to meet Democrats' demands in 2007, and still further changes made by the new administration to put its own stamp on trade. Failing that, another alternative would be to let the FTA wither away, and simply maintain Colombia's preferential access to the U.S. market under the ATPA/ATPDEA preferences. Either way, the new administration and Congress must also decide whether those regional preferences will also be renewed for Ecuador. These are issues that the incoming administration has not yet addressed, but will need to take up before the Ecuadorian preferences expire on 30 June 2009.

5. Trade Preferences for Developing Countries

The United States currently extends preferential treatment to imports from developing countries under the Generalized System of Preferences (GSP), as well as special programs for sub-Saharan Africa, the Andean countries (not including Chile or Venezuela), and the Caribbean Basin. The authorizations for the GSP and the Andean program expire at the end of this year.

Preferential trade programs are important for several SELA Member Countries, but their importance should not be exaggerated. The nature of the trade relationships between the United States and SELA Member Countries is further elaborated in Table III.1. One point made clear by the data is that a very large share of U.S. imports from these countries is duty-free on a most favored nation (MFN) basis, meaning that the same items would enter freely from nearly any country. There are only three countries for which more than half of the shipments to the United States are subject to MFN duties. Because most imports from most countries in the region do not face MFN duties, the average tariffs are quite low. Uruguay is the only SELA Member Country that faces average tariff barriers of more than 10 percent, and only four other countries in the region paying average tariffs of more than 1 percent (ironically, they are all U.S. FTA partners).

Trade with Colombia and other Andean countries poses the most immediate problem to the Obama administration. In addition to the aforementioned U.S.-Colombia FTA, there are also pending decisions to be made with respect to each of the other three countries that have received preferential access under the Andean Trade Preferences Act (ATPA): The continued extension of ATPA benefits to Ecuador is in doubt. Some legislators would prefer that the ATPA preferences for these last two countries expire altogether, and thus

place them in the same category of restricted GSP preferences that are extended to Venezuela and the MERCOSUR countries. Congress enacted legislation in September, 2008, that *inter alia* renewed both the GSP and the Andean preferences, but only for limited periods. Under the terms of Public Law 110-436, the continuation of preferences for Ecuador during the second half of 2009 is conditional upon certification from the president to Congress that those countries are meeting the eligibility requirements for the ATPA (e.g., with respect to the protection of investment, intellectual property rights, etc.). Similarly, the authorization for the GSP will expire at the end of 2009 if Congress does not act to renew it.

The Obama administration noted in its *2009 Trade Agenda* that it "will work with the Congress and public stakeholders on [the] renewal and reform" of the expiring preferences. It also stated rather broadly that, "We will give careful consideration to proposals to concentrate benefits more effectively on the poorest countries and those that need the margin of preference to compete."

6. The Cuban Trade Embargo

While the trade initiatives with some SELA Member Countries concern the improvement of their preferential access to the U.S. market, in one case what is at issue is access in the first place. There is a possibility that the Obama administration may make changes in the sanctions on Cuba. The president stated during the campaign that he would consider holding talks with Cuba, but conditioned his support for lifting the nearly 50-year embargo on the Cuban government's release of all Cubans who are considered by the United States to be political prisoners. Among the first sanctions that may be lifted, Obama has indicated, are restrictions on family travel and financial remittances to Cuba, restrictions that were strengthened by regulatory authority of the Bush administration. Some members of the business community are strongly urging the president-elect to begin the process of ending the embargo. A dozen trade groups[17] co-signed a December 3 letter to Obama stating their strong support for an end to restrictions, and there have also been calls made for changes in U.S. policy in a recent Brookings Institution report and a Task Force report issued by the Council on Foreign Relations.

There are nevertheless doubts over whether there will be major changes in the immediate future. In its forecast for U. S. policy towards Cuba in 2009, the National Foreign Trade Council predicted that "Congress is unlikely to alter Cuba sanctions in any significant way next year, at least not without a clear signal from the President." This forecast is based on the fact that the Democratic leaders in Congress "are aware of divisions in the caucus on Cuba policy and … appea[r] to have little appetite for a dramatic policy change." The group nevertheless says that its "prediction could change were certain changes to occur in Cuba."

Congress enacted a law (Public Law 111-8) in March that provides for some loosening of the restrictions. One provision would ease travel restrictions. Currently individuals may travel to Cuba no more than once every three years. It would block the Treasury Department from using its funds to enforce that law, effectively removing limits on travel to the island. A second provision would roll back the requirement that Cuba pay (in cash) for any shipment of agricultural commodities prior to that ship leaving the U.S. port.

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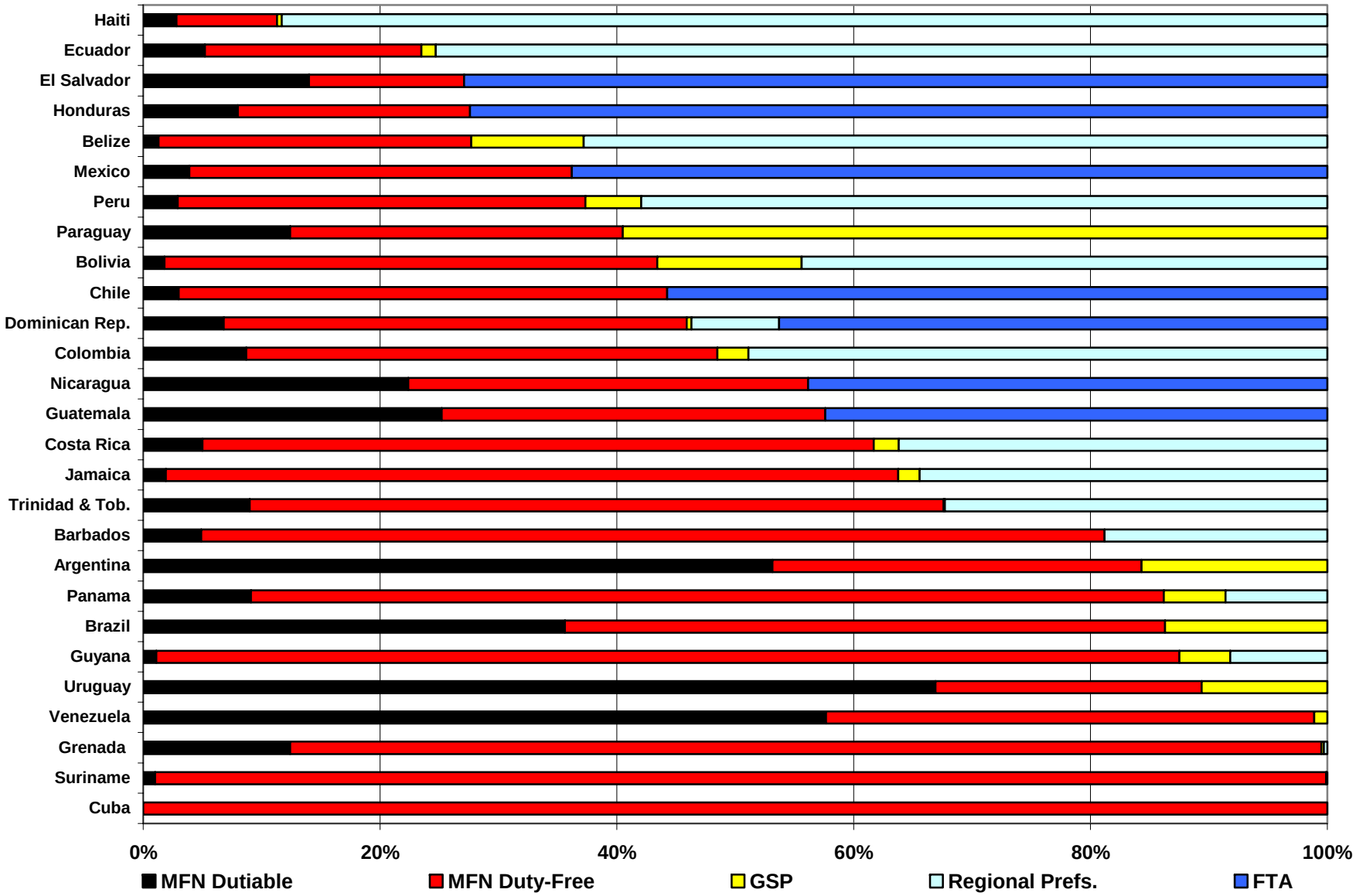
[17] American Farm Bureau Federation; American Society of Travel Agents; Business Roundtable; Coalition for Employment through Exports; Emergency Committee for American Trade; Grocery Manufacturers Association; National Foreign Trade Council; National Retail Federation; Organization for International Investment; U.S. Chamber of Commerce; U.S. Council for International Business; USA Engage.

Figure III.1: Tariff Treatment of U.S. Imports from SELA Member Countries, 2007



Source: Calculated from U.S. International Trade Commission data.

IV. ISSUES FOR CONSIDERATION BY SELA MEMBER COUNTRIES

The preceding analysis has stressed the points that trade is the principal mechanism through which Latin American and Caribbean countries engage economically with the United States, but that U.S. trade policy has increasingly become subordinated to non-commercial considerations, trade is suffering from the consequences of the recession, and this field of policy appears to have been accorded a relatively low priority by the Obama administration. As things now stand, there is a serious danger that the level of trade between the United States and the region will continue to dwindle, that many of the other initiatives that the Obama administration undertakes could be subject to protectionist manipulation in Congress, and that action will be taken slowly, if at all, to move forward on the legacy programs, agreements, and negotiations that this administration has inherited.

The question thus arises, what can and should the countries of Latin America and the Caribbean do in response to these challenges? How might they best engage productively with the United States in order to confront these problems?

While it is beyond the scope of this report to propose a program of action, the preceding discussion does carry two implications. The first is that the trade policy of the Obama administration in general, and its initiatives with respect to Latin American and Caribbean countries in particular, is a work in progress that will merit close observation. Among the issues and initiatives that should be followed closely are the following:

- Any further changes in the magnitude, direction, and composition of trade between the United States and the region.
- Any signs of an economic turnaround in the United States, including trends in the demand for and prices of commodities exported by the region.
- The plans of the Obama administration regarding the renewal of trade promotion authority.
- The progress of the implementing legislation for the FTAs with Colombia and Panama (including any plans to seek further adjustments to these agreements).
- The decision on whether or not to renew ATPA preferences for Bolivia and Ecuador for the second half of 2009, and whether or not to ask that Congress renew the program thereafter.
- New U.S. initiatives in the Doha Round negotiations.
- Any new legislative initiatives in the United States that could lend themselves to protectionist manipulation.

The preceding discussion also implies that, beyond monitoring what happens in the United States, the SELA Member Countries should also consider what actions they might take in engaging with the United States. The issues and options can be reduced to the following series of questions:

- How should countries respond to the linkages drawn between the United States and foreign policy? Are these links more in the nature of an opportunity or a threat?

- How should regional trade initiatives be pursued now that the Free Trade Area of the Americas is no longer a live option? Would it be advisable, for example, devise ways to tie together the existing FTAs through common rules such as shared rules of origin?
- Would it be to the advantage of other Latin American and Caribbean countries to propose the negotiation of new FTAs with the United States, or their accession to existing agreements?

- Should countries propose any joint initiatives with the United States to revive the Doha Round negotiations?

- Would it be advantageous for the region, or groups of countries within the region, to undertake joint efforts to convey to U.S. policymakers the arguments in favor of approving the legacy agreements and renewing the preferential programs that are due to expire?

- Is there a more effective means for countries to monitor developments in U.S. legislation that might result in WTO-illegal measures, and to convey their concerns to U.S. policymakers at an earlier juncture?