US Protectionist Impulses in the Wake of the Great Recession

Report to the International Chamber of Commerce Research Foundation

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EXECUTIVE SUMMARY

This report describes the history and current political and economic context for U.S. protectionism in the aftermath of the Great Recession. Section I describes how, despite the politics of a labor market crisis, protectionist impulses in the U.S. Congress have been constrained—in part by a rapidly improving U.S. external trade balance on the back of strong export performance. However, the section concludes that, with economic recovery unfolding more rapidly in America than in Europe or Japan, the U.S. external balance will likely deteriorate well before noteworthy improvement in the jobs picture. The risk of renewed protectionism may correspondingly escalate.

Section II provides a brief history of U.S. economic nationalism going back to the early Republic. Section III summarizes in some detail the recent instances of U.S. trade protection, with a focus on implemented trade distortive measures, such as "Buy American" and "Chinese tires," before listing potential (but not yet implemented) trade distortive measures.

Section IV gives an overview of the employment effects of the 2009 American Reconstruction and Recovery Act (ARRA) and updates earlier work by Hufbauer and Schott on the employment effects of the Buy American provision. The section concludes that the biggest job creating force between 2008 and 2009 was automatic contraction of the trade deficit, saving perhaps 2.7 million manufacturing jobs, compared to the 1.5-2 million jobs saved or created by the stimulus package (the American Recovery and Reinvestment Act, ARRA), of which around 200,000 may have been in the manufacturing sector. As a generous estimate, the Buy American amendment may have saved or created around 43,000 manufacturing jobs. This figure constitutes less than 3 percent of the total jobs saved or created by the ARRA. The U.S. steel industry gained at most about 13,000 jobs from the Buy American amendment. The political influence of the industry far exceeds its employment count.

Section V provides case study examples of foreign emulation and retaliation against the Buy American provision, and illustrates the real damage from this blowback on American firms, workers, Federal agencies, and municipalities. Some of the most important U.S. trade partners—Canada, Japan, and China—have demonstrated the potential adverse effects on the U.S. economy from protectionist measures.

Section VI describes the recent shift in the trade policy stance of the Obama Administration with a "National Export Initiative" and a presidential promise to double U.S. exports within five years. The section concludes that this welcome change is inspired by the Obama Administration's desire to generate U.S. jobs through an "export-led job creation strategy." Bradford, Grieco, and Hufbauer (2005) show that postwar globalization has contributed around $1 trillion to the U.S. economy annually, while Adler and Hufbauer (2009) estimate that a quarter of total U.S. trade growth between 1980 and 2004 can be attributed to lower tariff and non-tariff barriers in the United States and abroad. Based on this experience it seems clear that trade liberalization will play a crucial role in cementing the success of President Obama's strategy. Only far reaching new trade initiatives, significantly beyond what has been announced so far, can hope to reach the goal of doubling exports in five years.

Section VII presents our top policy recommendations for how the Obama Administration should implement a successful U.S. international trade agenda and how the G-20 should build on its earlier success at crisis management and adopt a long-term strategy to safe-guard the global trading system against renewed protectionism among its leading members. High on our priority list is the recommendation that the United States should lead the way to a successful conclusion of the Doha Development Round. With an ambitious outcome, the Round could deliver GDP gains for the world of over $280 billion annually (Hufbauer, Schott, and Wong, 2010).

I INTRODUCTION: THE BIG PICTURE

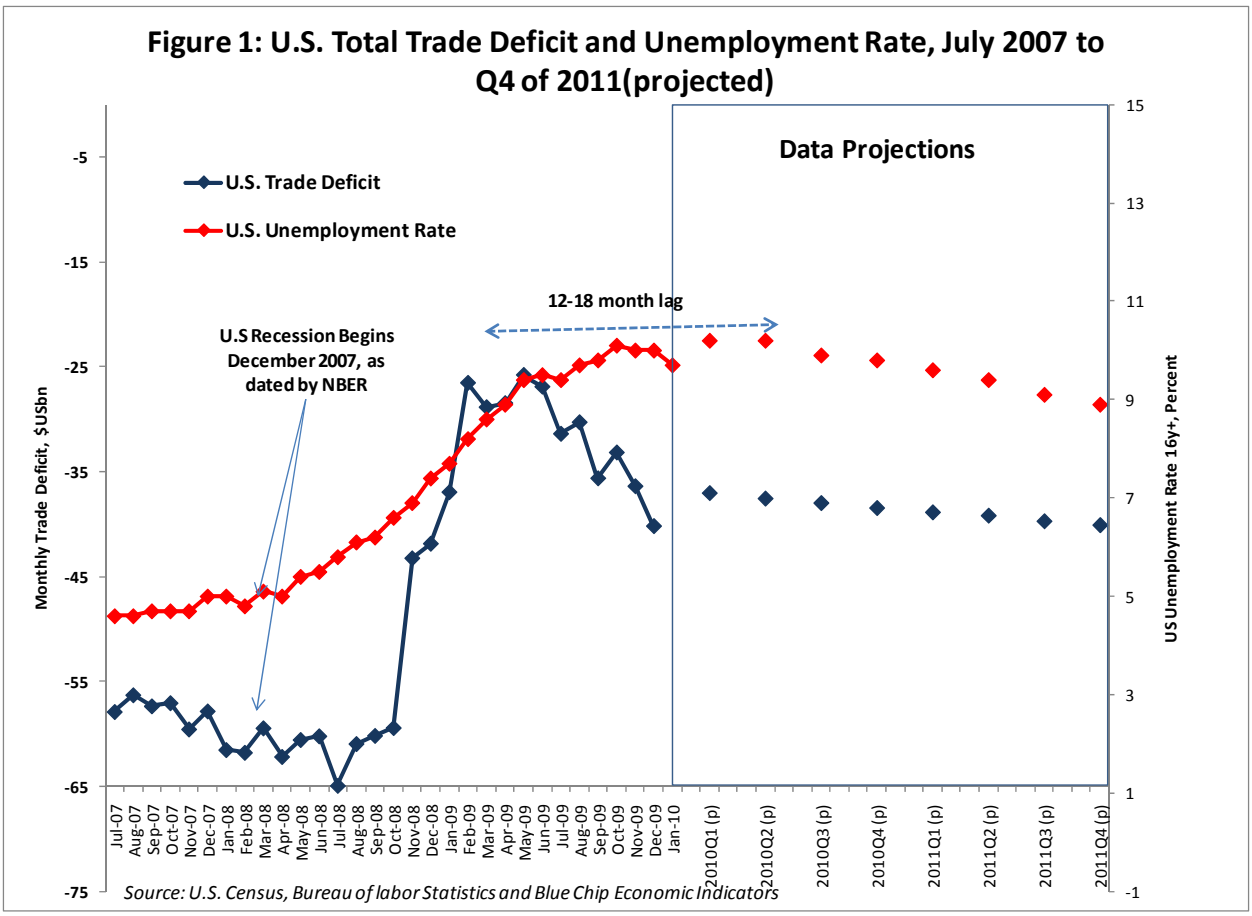
The U.S. unemployment rate more than doubled between the onset of the Great Recession in December 2007 and December 2009, and is now hovering just below 10 percent (figure 1).[1] Considering that this discouraging figure likely understates broader deterioration in the U.S. labor market,[2] the absence of sustained Congressional pressure for large-scale protectionist measures, beyond "Buy American" provisions and several smaller companions (all examined in this report), is in some ways surprising.[3]

At least part of the explanation for the restrained political response is the simultaneous large improvement in the U.S. trade balance during 2008 and early 2009. Figure 1 illustrates how the total U.S. deficit in goods and services trade was nearly cut in half during this period, creating a political obstacle to kneejerk protectionism. As we will elaborate in section IV, during recessions an improving external balance (from imports falling faster than exports) often acts an "automatic international economic stabilizer," which temporarily fulfills an equivalent economic function to a Keynesian government stimulus package. The "external sector" of the U.S. economy during the early quarters of the Great Recession provided an "automatic offset" to sliding U.S. economic activity. This probably caused policymakers to think twice about succumbing to short-term protectionist instincts.

[1] The recession start date of December 2007 was announced by the NBER Business Cycle Dating Committee on December 1st 2008. See http://www.nber.org/cycles/dec2008.html.

[2] The broader measure of labor underutilization in the U.S. economy, which includes workers marginally attached to the labor market and people on forced reduced working hours, currently stands at an historic high at over 17 percent. Source: Bureau of labor Statistics Current Population Survey, table A-12, http://www.bls.gov/cps/cpsatabs.htm.

[3] For an overview of U.S. and other G-20 nations' trade policy responses to the Great Recession, see also OECD, WTO and UNCTAD (2010).



However, figure 1 also shows how the improvement in the U.S. trade balance has been only temporary and indeed began to reverse as the U.S. economy exited the Great Recession during the second half of 2009. Crucial for the political threat of protectionism, economic forecasts indicate that the U.S. unemployment rate will probably remain at very high levels over the medium term, despite President Obama's emphasis on "jobs, jobs, jobs" in his State of the Union Address delivered on January 27th, 2010.[4]

[4] See text of President Obama's State of the Union Address at http://www.whitehouse.gov/the-press-office/remarks-president-state-union-address. The Administration's own 2010 budget, presumably an optimistic document, assumes U.S. unemployment levels above 8 percent until 2013. See table s.13 in the President's 2010 budget at http://www.whitehouse.gov/omb/budget/fy2011/assets/tables.pdf. See also CEA February 1, 2010, The Economic Assumptions Underlying the Fiscal 2011 Budget, available at http://www.whitehouse.gov/sites/default/files/microsites/20100201-cea-statement-economic-assumptions-underlying-fiscal-2011-budget.pdf.

A time lag of at least 12 to 18 months probably separates the point at which the U.S. trade balance showed maximum improvement (spring 2009) and the expected drop in measured unemployment well below 10 percent (fall 2010). Absent the "feel good" factor of an improving trade balance, but facing continuing high unemployment levels, protectionist sentiment in the U.S. Congress may increase in the coming months, especially as the November 2010 midterm election draws near.

This is particularly so, as current economic forecasts suggest a more robust U.S. economic recovery in the coming years, relative to other industrial trading partners (table 1). A large and growing deficit in the U.S. external balances will likely persist for some time, while the external balances of other major trading partners could hold steady or even improve. If the United States thus returns to its "pre-crisis role as the world's importer/consumer of last resort," protectionist impulses in the U.S. Congress are destined to escalate.[5]

Table 1: Projected Post-Crisis Recovery Paths

	Real GDP % Increase			CA Balance, $USbn		
	2009	2010	2011	2009	2010	2011
United States	**-2.5**	**2.9**	**3.1**	**-467**	**-536**	**-591**
Euro-Zone	-3.9	1.3	1.6	-86	-28	-7
Japan	-5.4	1.3	1.5	143	172	174
Canada	-2.5	2.6	3.2	-38	-32	-23
Asia-Pacific	1.3	5.2	5.1	552	543	559
World	-2.2	3.0	N/A	a.	a.	a.

Source: Consensus Forecasts, January 11th, 2010

a. By definition, the world current account balance is zero, apart from statistical errors.

Fresh U.S. protectionist initiatives, at a time when the U.S. economy is growing at a decent pace, will likely invite in-kind retaliation by America's trading partners, despite the relatively muted reaction to the original "Buy American" provisions in early 2009 and other protectionist

[5] As described in the latest report from the Global Trade Alert (GTA), with data for new world wide protectionist measures up to January 2010, the stabilization in the world economy seen in the second half of 2009 has not led to any subsequent reduction of the number of protectionist measures by the world's governments reported by GTA. See Evenett (2010) for details.

measures implemented since then. No longer facing a newly-elected U.S. president, who entered office with considerable global appeal in the midst of an unprecedented economic crisis, foreign leaders are unlikely to give the U.S. an easy pass on future new instances of U.S. protectionism.

Meanwhile, the extraordinary pre-crisis performance of U.S. exports, which saw total American exports double from an annualized level of around $950 billion in the first quarter of 2002 to around $1,900 billion by mid-2008 (figure 2), is an important reminder of the powerful positive economic effect that free trade and open borders can have on the U.S. economy. President Obama acknowledged this when, in his State of the Union Address, he set the goal to double U.S. exports over the next five years and thereby support 2 million new U.S. jobs. Based upon the latest available U.S. export data from the end of 2009 successfully reaching this goal would imply raising annual U.S. exports of goods and services to roughly $3,200 billion by 2014-15.[6]

[6] Total U.S. exports of goods and services during the last available 3-month period from September to November 2009 were $409 billion, implying an annual rate of about $1,600 billion at the time of the State of the Union address. Source: U.S. Census at http://www.census.gov/foreign-trade/Press-Release/current_press_release/exh1.pdf.

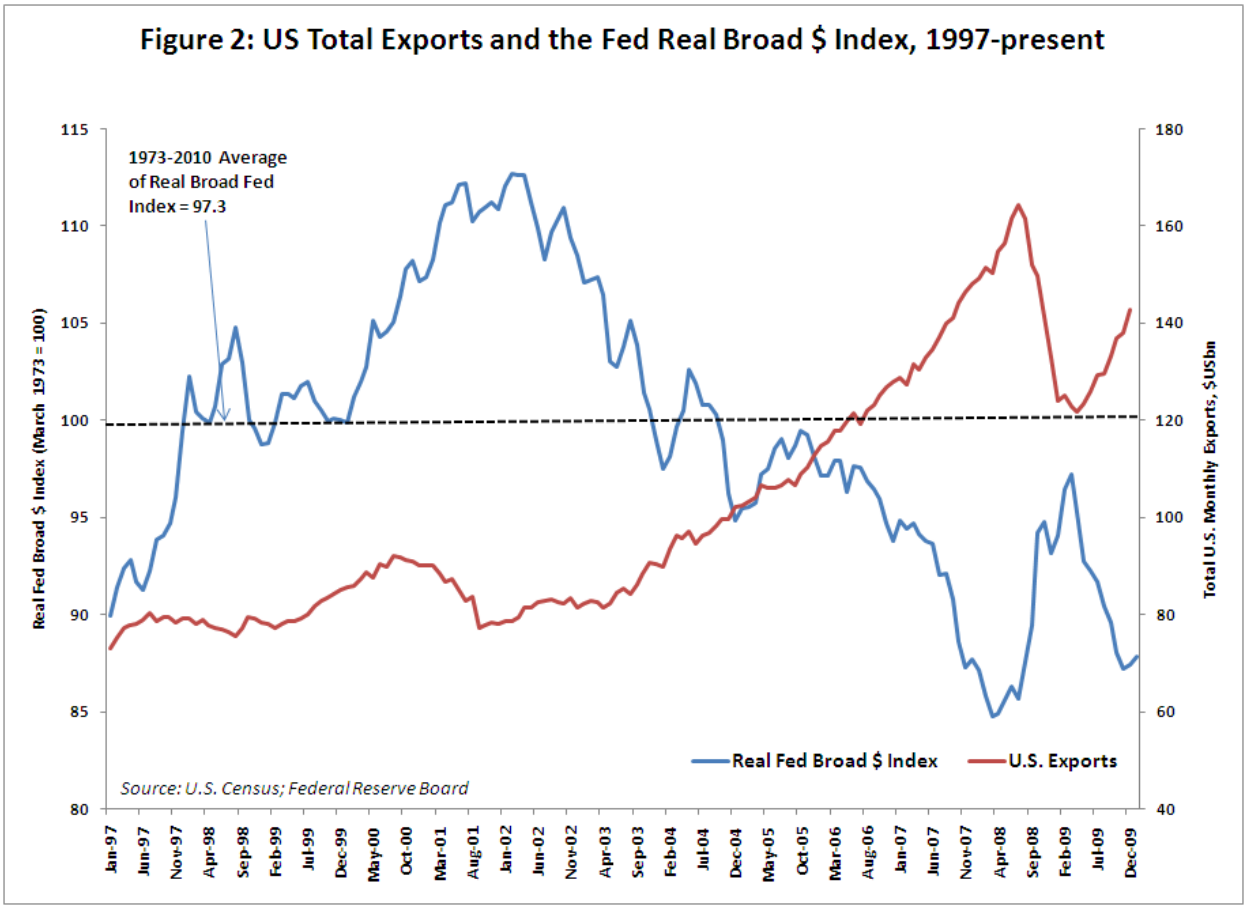


Figure 2 shows that the rapid expansion of U.S. goods and services exports between 2002 and 2008 occurred during a period when the value of the U.S. dollar declined by about 25 percent in real trade-weighted terms, and ultimately reached a level significantly below its long-term index average of 97.3. The dollar did increase sharply amidst the upheavals of the global financial crisis in late 2008, but today it has again declined to a level substantially below its long-term average trade-weighted value. Hence it seems unlikely that sizable additional support for U.S. exports will be found from a further sharp decline in the real exchange rate going forward.[7]

[7] Even allowing for the long two-year or three-year time lags before the exchange rate effects from the dollar's decline fully pass through to export performance, almost all positive effects on U.S. exports from the 2002-2008 decline in the trade-weighted value of the dollar have already occurred.

Our conclusion is that new U.S. trade promotion policies—such as the National Export Initiative announced by President Obama in his State of the Union Address—will surely be required to sustain the rebound in American exports, which began in the second quarter of 2009. In present circumstances, further U.S. protectionist measures would be particularly harmful, since the United States cannot effectively promote its exports abroad while erecting new barriers to imports at home.

II A BRIEF HISTORY OF ECONOMIC NATIONALISM IN THE UNITED STATES

Recent acts passed and contemplated by the U.S. Congress contain provisions that violate the spirit and even the letter of WTO rules and other trade agreements. Indeed, some of the legislation is now under review by the WTO Dispute Settlement Body in Geneva. However, protectionist sentiments have been a recurring feature of U.S. history. This section provides a short history of U.S. economic nationalism more broadly and U.S. domestic procurement legislation in particular.

Early U.S. History

Economic nationalism is older than the republic. As early as the 1760s and 1770s, non-importation agreements gained wide acceptance in the colonies, culminating in the Continental Association of 1774, which prohibited merchants from purchasing British goods and solidified support for the revolution.[8] The economic dimension of early American nationalism enabled protectionism to become embedded in early U.S. trade policy, particularly as tariffs were an essential source of federal revenue throughout the 19th century.

Rising tariffs in the early 1800s were largely a response to fiscal demands. However, the "American System," propounded by James Madison and Henry Clay with the Tariff of 1816, initiated a spirited debate over the use of tariff policy for the explicit protection of domestic industry, and drew a political line between northern industrialists and southern agriculturalists. The debate reached a climax in 1833 when, following the threat of secession by South Carolina, a compromise was reached that reduced tariffs back to their 1816 levels (approximately twenty percent *ad valorem*) over the following ten years.[9]

[8] Text of the original Boston non-importation agreement of 1768 is available online at: http://avalon.law.yale.edu/18th_century/boston_non_importation_1768.asp, accessed January 30, 2010.
[9] "Westward Expansion and Regional Differences." America.gov . April 5th, 2008. http://www.america.gov/st/educ-english/2008/April/20080407113634eaifas0.4282495.html, accessed January 30, 2010.

As the Civil War approached, tariffs were sharply escalated in 1860 with the Morrill Tariff and were further raised by President Lincoln to meet the fiscal demands of a vast army. While none of the nineteenth century measures were explicitly "Buy American," they relied on themes of loyalty akin to later domestic procurement legislation.

Economic Nationalism in the 1930s

Beyond the landmark Smoot-Hawley Tariff of 1930, the Great Depression inspired explicit "Buy American" legislation. In 1933, amidst growing public sentiment for Buy American legislation, Congress passed, and President Hoover signed, the original Buy America Act (BAA). The BAA received considerable support from the American Federation of Labor and an aggressive media campaign led by William Randolph Hearst.[10] The United States was not alone in calling for domestic preferences. Economic nationalism also gained favor in Europe and American proponents were well aware of European nationalism.[11] The BAA imposed several domestic source requirements on federal procurement of goods. While many of these requirements are to this day shielded in U.S. trade agreements (e.g., NAFTA and the Government Procurement Agreement of WTO), several are not.[12]

Among the most severe domestic procurement requirements are those observed by the Department of Defense (DoD) under the Defense Federal Acquisition Regulation Supplement (DFARS), pursuant to the so-called *Berry Amendment* to the BAA. Enacted during the Second World War, the limits imposed by the *Berry Amendment* varied by year until it was codified in FY2002 (10 U.S.C. 2533a). The justification offered for these restrictions is to ensure that the American defense industrial base is not eroded. DoD procurement is also constrained by the so-called Balance of Payments Program, which mandates that all end product and construction material purchases outside the United States be made from U.S. sources,[13] although certain

[10] Frank (1999), ch. 3.
[11] Frank (1999), pp. 61-64.
[12] Hufbauer and Burki (2006).
[13] Hufbauer and Burki (2006).

cost and availability waivers are available.[14] Outside of military procurement, the BAA imposes domestic procurement requirements on federally funded transportation projects, food assistance programs and small-business assistance. Several of the individual states also restrict foreign procurement of goods, and some have placed limits on services.[15]

Economic Nationalism in the 1970s

Economic nationalism rose again in the 1970s, in response to economic stagnation and the apparent migration of manufacturing jobs to foreign lands. Buy American sentiment in the 1970s was led by industrial unions facing competitive pressures from abroad, notably garment workers (represented by the International Ladies Garment Workers Union—ILGWU) and automobile, aerospace and agricultural workers (represented by the United Auto Workers—UAW).[16]

Yet overall tariff protection had dropped dramatically by the 1970s and would continue to do so despite the efforts of economic nationalists. At the end of the decade, concluding the Tokyo Round of Multilateral Trade Negotiations, Congress passed the *Trade Agreements Act of 1979*, which overrode certain provisions of the Buy America Act by extending national treatment to signatories of the GATT Government Procurement Code. Domestic source requirements were addressed again during the Uruguay Round, leading to the somewhat broader WTO Government Procurement Agreement, which took effect in 1996.[17]

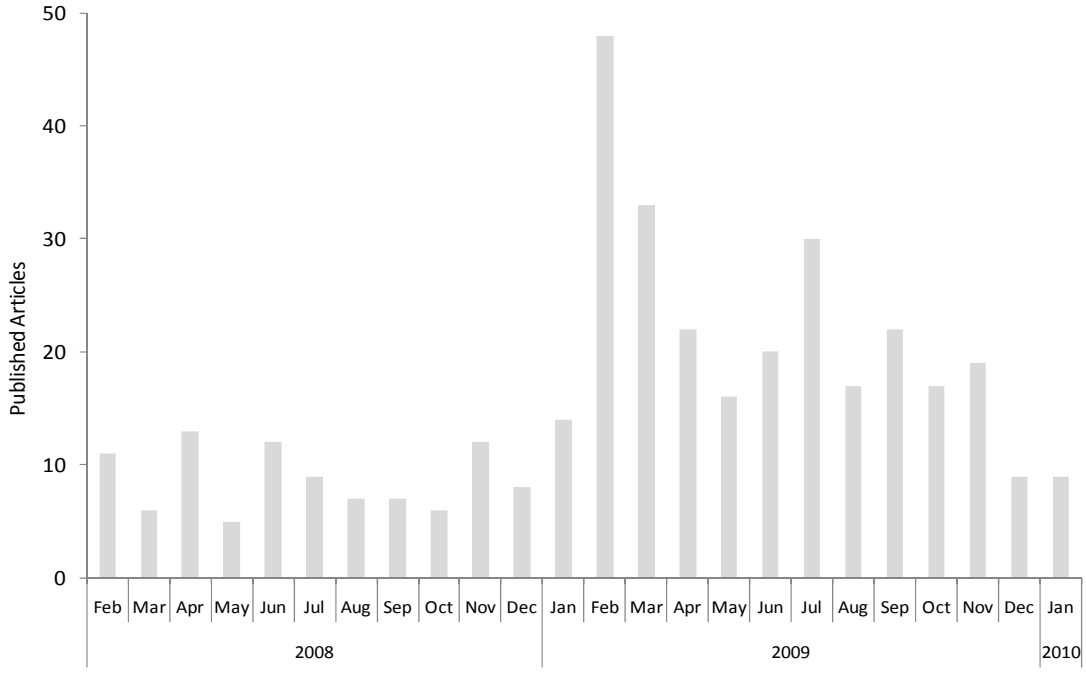
[14] "Subpart 25.3—Balance of Payments Program" Integrated Acquisition Environment. See https://www.acquisition.gov/FAR/0219/html/Subpart_25_3.html, accessed February 5, 2010.
[15] Hufbauer and Burki (2006).
[16] Frank (1999), Ch. 6.
[17] "The plurilateral Agreement on Government Procurement (GPA)." World Trade Organization (WTO). See http://www.wto.org/english/tratop_E/gproc_e/gp_gpa_e.htm, accessed February 5, 2010.

III RECENT U.S. TRADE DISPUTES

As Figure 3 indicates, protectionism received a great deal of press attention as the Great Recession unfolded. The protectionist measures we highlight were identified by Global Trade Alert (GTA), an independent trade policy monitoring website.[18] However, our information draws on a variety of sources: primarily Global Trade Alert, but also legislative source documents, *Inside U.S. Trade*, and the WTO website. We distinguish two categories of protectionist measures: first, trade measures implemented by the United States that are clearly distortive, and second, cases that are either clearly distortive but not implemented, or in fact have been implemented but are not clearly distortive. This latter category includes anti-dumping and countervailing duty measures, which clearly restrict trade, but are authorized by the WTO. Global Trade Alert has identified ten cases in the first category (i.e., implemented and clearly distortive) and 42 in the second category. The following paragraphs provide an overview of the ten distortive cases that have been implemented; we then review a subset of the 42 ambiguous cases (see Appendix A for full list of identified cases).

[18] Global Trade Alert. See www.globaltradealert.org

FIGURE 3: Count of Articles Mentioning "protection" within 5 Words of "trade" within "Major News and Business Publications," February 2008—January 2010.



Source: Dow Jones Factiva.
Notes: News articles were identifed by a free text search of "protection* w/5 trade" in the headline or lead paragraph of articles published in the Factiva-identified "Major News and Business Publications." The search was conducted 1-Feb-2010.

Implemented Trade-Distortive Measures

This section will briefly describe the ten principal cases of implemented trade-distortive measures since the beginning of the Great Recession. Except in the case of the American Recovery and Reinvestment Act (ARRA) and Chinese tires, the chronology does not imply an attempted ranking of these measures by their distortive impact.

American Recovery and Reinvestment Act and "Buy American" Provisions: February 2009[19]

By far, the leading piece of protectionist legislation was the Buy American amendment inserted in the American Reinvestment and Recovery Act (ARRA). Following the original $787 billion stimulus bill that was enacted in February 2009 (Public Law 111-5), several extensions of the Buy American provision have been proposed and some have been enacted. The ARRA requires domestic procurement in two sections. First, with certain exceptions, all covered items[20]

[19] Note that not all Buy American measures discussed have been implemented or are clearly trade distortive.
[20] Covered items include, e.g., clothing, tents, tarps and other utility goods, fabrics.

procured by the Department of Homeland Security with stimulus funds must be "grown, reprocessed, reused, or produced in the United States."[21] Next, and much bigger, the ARRA requires that "all of the iron, steel, and manufactured goods used in [an ARRA] project [must be] produced in the United States."[22] One minor exception is allowed when the cost of the *overall* project would be increased by more than 25 percent to meet the Buy American provision.[23] After strong objections were voiced both domestically and internationally, the Buy American amendment was further amended to stipulate that the provisions "shall be applied in a manner consistent with United States obligations under international agreements."[24] The term "international agreements" most notably includes the WTO Government Procurement Agreement (GPA) and bilateral free trade agreements (FTAs). A certain amount of compliance guidance has been issued by federal agencies (e.g., OMB, DHS, FHA), but rather little has been said about compliance in "a manner consistent" with international agreements.[25]

Since the ARRA was enacted, five additional Buy American provisions have been proposed but not yet enacted. The proposed measures are for: public projects, Amtrak, electric cars and batteries, defense appropriations, and school construction. H.R. 2847 was approved by the House in December 2009, and is now with the Senate. Title IV of the bill, the "Jobs for Main Street Act," appropriates $27.5 billion dollars under the Buy American section (1605) of the stimulus package (PL 111-5), but imposes additional requirements on the procedure for waiving

[21] See section 604 of Public Law 111-5. Note that certain DHS purchases may be exempted under the Government Procurement Agreement.
[22] See section 1605 of Public Law 111-5.
[23] See section 1605.b.3. Note that relating the exception for the purchase of any single good to an increase in the combined total project costs means that this exception was not intended by Congress to be utilized to any great extent.
[24] See sections 604 and 1605 (d) of Public Law 111-5.
[25] "United States of America: Buy American provisions in stimulus package." Global Trade Alert. See http://www.globaltradealert.org/measure/united-states-america-buy-american-provisions-stimulus-package; "United States of America: Expanded Buy American Provisions for Public Projects." Global Trade Alert. See http://www.globaltradealert.org/measure/united-states-america-expanded-buy-american-provisions-public-projects, accessed February 2, 2010.

the Buy American obligations. In particular, senior officials must analyze the impact on domestic employment before issuing a waiver.[26]

The ARRA's Buy American provision would be further expanded with *The Consolidated Appropriations Act of 2010* (Public Law 111-117), which forbids Amtrak from issuing "contracts [for] . . . services provided at or from any location outside the United States" (Sec. 152).[27] The *21st Century Green High-Performing Public School Facilities Act* (H.R. 2187) has passed the House and is now with the Senate. The bill would authorize $6.4 billion in funds for renovation, subject to the same Buy American provisions set forth in the ARRA.[28]

The *National Defense Authorization Act for Fiscal Year 2010* (H.R. 2647), passed by the House, has several provisions that require components of military uniforms to be produced within the United States. Exceptions can only be made by the Secretary of Defense. The corresponding Senate bill (S.1390) does not contain these provisions. Both bills, however, expand the definition of small arms and explicitly require that they be made in the United States. The House bill restricts the amount of work that can be done on certain construction projects in Guam by persons holding temporary H-2B work visas. Both bills have passed their respective chambers and await reconciliation.[29]

The *American Clean Energy and Security Act* (H.R. 2454), better known as the Waxman-Markey climate and energy bill, awaits a contentious future in the Senate. However, the central disputes are far removed from the Buy American provisions. The bill would enable the

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[26] "Buy American Provisions In Jobs Bill Could Complicate Canada Talks," *Inside U.S. Trade*, December 25, 2009. See also http://www.globaltradealert.org/measure/united-states-america-expanded-buy-american-provisions-public-projects, accessed February 4, 2010.

[27] "United States of America: Buy American provisions for Amtrak." Global Trade Alert. See http://www.globaltradealert.org/measure/united-states-america-buy-american-provisions-amtrak, accessed February 4, 2010.

[28] "United States of America: Buy American provisions in school construction bill." Global Trade Alert. See http://www.globaltradealert.org/measure/united-states-america-buy-american-provisions-school-construction-bill, accessed February 4, 2010.

[29] "United States of America: Buy American provisions and set-asides in the Fiscal Year 2010 defense appropriations bill." Global Trade Alert. See http://www.globaltradealert.org/measure/united-states-america-buy-american-provisions-and-set-asides-fiscal-year-2010-defense-approp, accessed February 4, 2010.

Secretary of Energy to "provide financial assistance to automobile manufacturers [in the United States] to facilitate the manufacture of plug-in electric drive vehicles" (Sec. 123). Financial assistance is also available for manufacturers investing capital toward "qualifying advanced technology vehicles . . . [or] components." This includes manufacturers of new technology batteries for such vehicles. No explicit appropriations are made for the financial assistance; rather funding is at the discretion of the Secretary of Energy. The bill contemplates a competitive grant process similar to the *Energy Independence and Security Act of 2007* (Public Law 110-140).[30]

Chinese Tires Case: September 2009

After Buy American, the second most noticed protectionist measure was President Obama's decision to limit imports of automobile tires from China. Section 421 of the *U.S.-China Relations Act of 2000* (H.R.4444) allows the imposition of safeguard measures by the president in the event of a "market disruption." The U.S. International Trade Commission (USITC) recommended on three occasions in 2003 that the president impose duties on various Chinese imports under this statute, but President Bush rejected all three cases.[31]

In June 2009, the USITC recommended by a vote of 4-to-2 that President Obama raise tariffs on imported Chinese tires, which the majority found to cause or threaten "market disruption." Article 16.4 of the Chinese WTO accession protocol states that disruptions can occur when a rapid increase in imports, relative or absolute, threaten or cause "material injury" to domestic producers of a like or competitive product.[32] President Obama responded to the USITC finding in September 2009 by imposing a three-year descending *ad valorem* tariff starting at 35 percent and ending at 25 percent in the third year. These rates were lower than those proposed by the

[30] "United States of America: Subsidies and Buy American provisions for electric cars and batteries." Global Trade Alert. See http://www.globaltradealert.org/measure/united-states-america-subsidies-and-buy-american-provisions-electric-cars-and-batteries, accessed February 4, 2010.
[31] "United States of America: Safeguards against imports of consumer tires from China." Global Trade Alert. See http://www.globaltradealert.org/measure/united-states-america-safeguards-against-imports-consumer-tires-china, accessed February 2, 2010.
[32] "WTO Establishes Panel To Examine China Tire Safeguard," *Inside U.S. Trade*, January 22, 2010.

USITC.[33] In 2008, the United States imported $1.8 billion worth of tires from China, or 10.9 percent of U.S. consumption by value (16.7 percent by volume).[34]

At the December 2009 meeting of the WTO Dispute Settlement Body the United States blocked a request by China to form a DSB panel to investigate the legality of the safeguard tariff. The United States was unable to block a second request, however, which China submitted during the January 2010 meeting of the DSB. The WTO consequently established a dispute settlement panel to evaluate China's challenge to the tariff.[35]

Solar Panel Tariff Reclassification: January 2009

In January 2009, the U.S. Customs and Border Protection agency made a ruling that solar panels equipped with a particular diode fell under the U.S. Harmonized Tariff Schedule classification of "electric motors and generators."[36] This reclassification subjected the panels to a 2.5 percent tariff as opposed to zero. In the WTO Doha Round talks, the United States has campaigned for free trade in environmental goods and services. Clearly this decision cuts the other way.

Employ American Workers Act (EAWA): February 2009

The EAWA restricts Troubled Asset Relief Program (TARP) fund recipients from hiring certain foreign workers. The EAWA became Section 1611 of the ARRA (Public Law 111-5) and sunsets two years from enactment (i.e., February 17, 2011). TARP fund recipients are prohibited from hiring H-1B workers unless the firms first attempt to recruit U.S. workers. This procedure was originally reserved for firms employing a large number of H-1B workers; the EAWA, however,

[33] "U.S.ITC Announces Remedy Proposals in its China Safeguard Investigation Involving Imports of Certain Passenger and Light Truck Tires from China," U.S.ITC News Release 09-048, June 29, 2009.
[34] "Certain Passenger Vehicle and Light Truck Tires From China," U.S.ITC Investigation No. TA-421-7, Publication 4085, July 2009, p. I-2.
[35] "WTO Establishes Panel To Examine China Tire Safeguard," *Inside U.S. Trade*, January 22, 2010.
[36] "United States of America: Reclassification of subjecting certain solar panels to a 2.5 percent tariff." Global Trade Alert. See http://www.globaltradealert.org/measure/united-states-america-reclassification-subjecting-certain-solar-panels-25-tariff, accessed February 7, 2010.

applied the requirement to all TARP fund recipients.[37] The New York Times has identified more than 650 firms that have received $400 billion in TARP funds; these are the firms that must observe the EAWA restrictions.[38]

Mexican Truck Access: March 2009

In March 2009, Congress passed the *Omnibus Appropriations Act*, which contained a provision prohibiting Mexican trucks from long-distance shipments into the United States (Section 136).[39] The measure, along with previous bans, contradicts a NAFTA article intended to enable Mexican-domiciled firms to provide trucking services in the United States, and vice versa. In 2001, a NAFTA dispute-settlement panel ruled that, by refusing access to Mexican trucking firms, the United States was in breach of its obligations.[40] The 2009 *Omnibus Act* overrode a compromise that had been implemented by a Federal Motor Carrier Safety Administration pilot program in 2007, which allowed a limited number of Mexican trucks on U.S. highways. The Mexican government retaliated shortly after the passage of the *Omnibus Act* by levying punitive duties on imports of U.S. agriculture, processed food, textiles, appliances and metal products.[41] The U.S. Chamber of Commerce estimated that the Mexican retaliation resulted in $421 million in tariffs faced by U.S. exporters. It further estimated that U.S. firms would incur $739 million in annual drayage costs as a result of the continued ban on Mexican trucks.[42]

Chinese Poultry Import Ban: March 2009

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[37] "United States of America: Employ American Workers Act." Global Trade Alert. See http://www.globaltradealert.org/measure/united-states-america-employ-american-workers-act, accessed February 2, 2010.
[38] Ericson, Matthew, Elaine He, and Amy Schoenfeld. "Tracking the $700 Billion Bailout." New York Times. See http://projects.nytimes.com/creditcrisis/recipients/table, accessed February 11, 2010.
[39] "United States of America: Access for Mexican trucks." Global Trade Alert. See http://www.globaltradealert.org/measure/united-states-america-access-mexican-trucks, accessed February 2, 2010.
[40] North American Free Trade Agreement Arbitral Panel Established Pursuant To Chapter Twenty, In The Matter of Cross-Border Trucking Services, Secretariat File No. U.S.A-MEX-98-2008-01 ¶295.
[41] "Mexico: Retaliatory tariffs against the United States." Global Trade Alert. See http://www.globaltradealert.org/measure/mexico-retaliatory-tariffs-against-united-states, accessed February 5, 2010.
[42] "Trade Action—or Inaction: The Cost for American Workers and Companies," *U.S. Chamber of Commerce*, September 15, 2009.

Under the same *Omnibus Appropriations Act,* which prohibited Mexican trucks, Chinese poultry imports were also banned. Section 727 of the Act states, "None of the funds made available in this Act may be used to establish or implement a rule allowing poultry products to be imported into the United States from the People's Republic of China." The House Appropriations Committee cited "concerns about contaminated foods from China" in defending the poultry ban.[43] The United States imported $135 million (14,000 metric tons) of poultry from China in 2007.[44]

China requested consultations with the United States under WTO auspices in April 2009; in July 2009 the WTO Dispute Settlement Body panel was established, and began work in September.[45] While the 2010 appropriations bill is intended to replace the import ban with food safety guidelines that allow importation, the Chinese government continues to pursue the WTO dispute.[46] Very likely as a response to the ban, China imposed its own countervailing duty on United States chicken imports in February 2010, following the conclusion of a Chinese Ministry of Commerce investigation begun in September 2009.[47]

Dairy Export Incentive Program: May 2009

The Dairy Export Incentive Program (DEIP) was revived by Secretary of Agriculture Vilsack in May 2009. The program itself is over twenty years old, but has not been utilized to the extent permitted under the limits established in the Uruguay Round. Revival of the DEIP was triggered by higher European dairy subsidies implemented in January 2009. The new DEIP allocations provide for "68,201 metric tons of nonfat dry milk; 21,097 metric tons of butterfat; 3,030 metric tons of various cheeses and 34 metric tons of other dairy products, as well as individual

[43] "United States of America: Ban on poultry imports from China." Global Trade Alert. See http://www.globaltradealert.org/measure/united-states-america-ban-poultry-imports-china, accessed February 2, 2010.
[44] Becker, Geoffrey, "CRS Report for Congress, Food and Agricultural Imports from China," *Congressional Research Service,* Order Code RL34080, September 26, 2008, p. CRS-6.
[45] "United States—Certain Measures Affecting Imports of Poultry from China." WTO. See http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds392_e.htm, accessed February 5, 2010.
[46] "United States of America: Ban on poultry imports from China." Global Trade Alert.
[47] "China: Preliminary antidumping duty on imported chicken products originated from the U.S.." Global Trade Alert. See http://www.globaltradealert.org/measure/china-antidumping-duty-imported-chicken-products-originated-us, accessed February 11, 2010.

product and country allocations."[48] The ultimate DEIP program allocations are determined by the USDA in a bidding process, the results of which are posted on its website.[49] As of February 2010, the DEIP program had approved 99 submitted bids.[50] The program subsidies are not expected to exceed one percent of the U.S. dairy market according to the Congressional Research Service. Despite being within the WTO subsidy limits and its negligible impact, the program attracted an international backlash given its dissonance from the commitment to restrain protectionist measures pledged at the London G-20 summit just two months prior.[51]

General Motors and Chrysler Financial Support: December 2008–September 2009

In March 2009, the U.S. and Canadian governments invested nearly $40 billion in General Motors in exchange for debt, preferred stock and 72 percent of GM's equity. While no explicit trade distortive border measures were enacted to favor GM or Chrysler, government control over GM and the absence of similar support for the operations of competing foreign auto firms could have an impact on trade and investment patterns. For example, it was speculated that government ownership may have dissuaded GM from investing in Chinese production facilities.[52]

In November 2008, auto industry executives appeared before a congressional hearing and requested $25 billion in public aid.[53] Just prior to this hearing, European Commission President Barroso warned of potential WTO action against U.S. subsidies to domestic automakers. By the end of 2008, the initial stimulus included $17.4 billion in loans to GM and Chrysler, half of what

[48] "USDA announces 2008-2009 allocations for Dairy Export Incentive Program." United States Department of Agriculture (U.S.DA). See http://www.fas.usda.gov/scriptsw/PressRelease/pressrel_dout.asp?Entry=valid&PrNum=0081-09, accessed February 11, 2010.
[49] "United States of America: Dairy Export Incentive Program." Global Trade Alert. See http://www.globaltradealert.org/measure/united-states-america-dairy-export-incentive-program, accessed February 2, 2010.
[50] "Dairy Export Incentive Program (DEIP)." U.S.DA. See http://www.fas.usda.gov/excredits/deip/deip-new.asp, accessed February 11, 2010.
[51] "U.S. Revival of Dairy Subsidies Sparks Global Outrage, but Effect Minimal," *Inside U.S. Trade*, May 29, 2009.
[52] "United States of America: Support for General Motors and Chrysler." Global Trade Alert. See http://www.globaltradealert.org/measure/united-states-america-support-general-motors-and-chrysler, accessed February 2, 2010.
[53] Ibid.

the industry ultimately requested but nonetheless on terms far more favorable than those commercially available to the automakers. The automakers received additional support from the stimulus package but, aside from the electric-drive vehicle and battery technology provisions discussed above, the support has been non-discriminatory. Following the 2009 bankruptcy filings by Chrysler (April) and GM (June), coupled with additional government financing in the context of both proceedings, the House passed a provision that would have limited new cars eligible for purchase incentives to those produced by the "big three;" however, this provision was eliminated in the September reconciliation with the Senate.[54]

Bail-Out of GMAC: December 2009

In December 2009, the U.S. Treasury Department expanded its $12.5 billion stake in General Motors Acceptance Corporation (GM's financing arm, known as GMAC) by $3.5 billion.[55] The sum of this expanded capital investment and conversion of a portion of previously held preferred equity into common stock (a 35 percent interest) made the U.S. Treasury a 56 percent majority shareholder.[56] The Treasury appointed four of nine GMAC directors. Both the majority interest and terms of the capital investment are potentially trade distortive, since they give GM better access to credit than other auto firms.

Expanded Bailout to Mortgage Guarantors: December 2009

The Federal Home Loan Mortgage Corporation (Freddie Mac) and the Federal National Mortgage Association (Fannie Mae) were taken into conservatorship by the Treasury Department in September 2008. Under the initial agreement a cap existed on the stake the Treasury could take in the preferred stock of either Government-Sponsored Enterprise (GSE). The December 2009 expansion lifts this cap and extends the period over which the Treasury can

[54] Ibid.
[55] "United States of America: Bail-out of GMAC." Global Trade Alert. See http://www.globaltradealert.org/measure/united-states-america-bail-out-gmac, accessed February 2, 2010.
[56] "Treasury Announces Restructuring of Commitment to GMAC" U.S. Department of the Treasury. December 30, 2009. See http://www.treas.gov/press/releases/tg501.htm, accessed February 5, 2010.

maintain its stake through the end of 2012.[57] The Treasury estimated that, "[b]y the conclusion of its MBS purchase program . . . it will have purchased approximately $220 billion of securities across a range of maturities."[58] The Treasury also relaxed the initial requirement for a more rapid reduction of the mortgage portfolios held by the GSEs; however, in a public statement issued December 24, 2009, the Treasury affirmed that it "remains committed to the principle of reducing the [GSE's] retained portfolios."[59] Nevertheless, through its huge presence in the national mortgage market, the Treasury clearly influences and possibly distorts the international flow of capital.

Potentially Trade-Distortive Measures

This section describes the four principal instances in which the U.S. government has implemented potentially trade-distortive measures since the beginning of the Great Recession.

Country-of-Origin Labeling (COOL)

Canada and Mexico have brought a dispute to the WTO over meat labeling requirements imposed by the COOL amendment to the *Agriculture Marketing Act of 1946* implemented under the *Food, Conservation, and Energy Act of 2008*. The two countries allege that the COOL labeling requirement violates the WTO rules on Technical Barriers to Trade, specifically Article 2.4.[60] The WTO established a panel in November 2009 to consider the claims but has yet to rule.[61]

[57] "United States of America: Expanded bailout to mortgage guarantors." Global Trade Alert. See http://www.globaltradealert.org/measure/united-states-america-expanded-bailout-mortgage-guarantors, accessed February 2, 2010.
[58] "Treasury Issues Updates on Status of Support for Housing Programs." U.S. Department of the Treasury. December 24, 2009. See http://www.ustreas.gov/press/releases/20091224153459245 43.htm, accessed February 5, 2010.
[59] Ibid.
[60] "Processors, Cattle Groups Square off over WTO Challenges of COOL," *Inside U.S. Trade*, January 15, 2010.
[61] "Dispute Settlement: Dispute DS384. United States—Certain Country of Origin Labelling (COOL) Requirements." WTO. http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds384_e.htm, accessed February 5, 2010.

Antidumping and Countervailing Duties Cases and Safeguard Measures: 2009-2010

U.S. firms, sometimes with the support of U.S. labor unions, have filed a total of sixteen antidumping and/or countervailing duties petitions against imports from different countries since 2009. In addition, as already described, President Obama authorized safeguard measures against imports of consumer tires from China on September 11, 2009.

Out of seventeen petitions, fourteen were aimed against China. The second most targeted country is Taiwan with three cases, followed by Indonesia and Mexico with two cases each. The concentrated targeting of China speaks for itself.

The imported goods most often targeted are steel and iron products. They make up six of the seventeen cases filed. Most recently, on December 31, 2009, a number of unions joined in a petition against imports of drill pipe from China.

Trade Reform, Accountability, Development and Employment (TRADE) Act: June 2009

This bill (H.R. 3012), introduced by Congressman Bill Michaud (D-ME), would require a review of all existing trade agreements, measured against "security, human rights, social, and environmental indicators" before any additional trade legislation could be approved.[62] The bill sets standards within fourteen different categories (e.g. labor, environment, agriculture, national security) that must be met by all trade agreements.[63] It then requires the president to submit a plan for renegotiation of existing and deficient trade agreements in order to bring them into compliance with the standards set by the bill. The standards are to be evaluated by a "Congressional Trade Agreement Review Committee," which the bill would create. The process would preclude the fast-track process from operating as it has in the past, since all new agreements would be subject to a lengthy evaluation as to whether set objectives had been met. The bill has just over 100 supporters in the House but is not expected to pass; however the

[62] "United States of America: Trade Reform, Accountability, Development and Employment (TRADE) Act." Global Trade Alert. See http://www.globaltradealert.org/measure/united-states-america-trade-reform-accountability-development-and-employment-trade-act, accessed February 11, 2010.

[63] "H.R. 2012—Trade Reform, Accountability, Development, and Employment Act of 2009." Open Congress. See http://www.opencongress.org/bill/111-h3012/show, accessed February 11, 2010.

sentiment of the supporting members is to tie up the Obama Administration in lengthy reviews of existing trade agreements, and to obstruct future agreements.

Trade Enforcement Act: January 2009

Before he "temporarily" handed over the gavel to Sander M. Levin (D-MI), House Ways and Means Committee Chairman Charles Rangel (D-NY) offered his own trade bill (the Trade Enforcement Act) which addresses trade issues in a different manner. Among Congressional Democrats, Rangel has a "free trader" reputation compared to Levin. [64]

The Trade Enforcement Act (TEA) introduced by Congressman Charles Rangel (D-NY) would establish an "Office of the Congressional Trade Enforcer" (CTE), intended to monitor trade-relevant practices of United States trading partners. If the CTE found a violation of Uruguay Round rules, it would require the United States Trade Representative (USTR) to bring an action in the WTO. If the USTR decided not to act, it would need to provide a written response to the CTE explaining the decision. The USTR is further required to identify and investigate trade practices of partners "the elimination of which is likely to have the most significant potential to increase United States exports" and would appoint a general counsel (new position) to aid him in doing so.[65]

The TEA would require the U.S. Department of Commerce to disregard the WTO Appellate Body ruling with respect to the "zeroing" in dumping cases.[66] The bill goes further to state that the WTO "dispute settlement panel is obligated to follow the text of an agreement negotiated by the WTO members themselves, and not the 'jurisprudence' of the WTO Appellate Body."[67]

Section 207 seeks to revise the rules on presidential action following ITC rulings of market disruption. Section 301 establishes an "Import Safety Program" intended to privilege firms

[64] Kane, Paul. "Sander Levin replaces Rangel as Ways and Means chairman." The Washington Post. March 5, 2010.
[65] H.R. 496 Title I.
[66] Under its zeroing procedure, the Commerce Department ignores shipments which indicate a "negative dumping margin." This procedure has been repeatedly held inconsistent with WTO rules by the Appellate Body.
[67] H.R. 496 Sec. 205.

complying with the Customs-Trade Partnership Against Terrorism (C-TPAT) with expedited customs handling. The bill contains additional measures to monitor the supply chain, including tougher penalties for intellectual property rights violations. Two supply chain monitoring systems (the International Trade Data System and the Automated Commercial Environment) would be established to monitor essentially all parties involved in producing and transporting goods to the United States.[68]

Other Cases: 2009

There are 20 additional ambiguous cases of U.S. protectionism identified by Global Trade Alert (GTA). Each is listed in Appendix A. Some of the cases involve proposed outright import bans; e.g., against switch blade knives or wind turbines from China. Several involve either the imposition of additional fees or tariffs on imports or subsidies to domestic industry. Full descriptions of the cases are available on the GTA website.

[68] "United States of America: Trade Enforcement Act." Global Trade Alert. See http://www.globaltradealert.org/measure/united-states-america-trade-enforcement-act, accessed February 11, 2010.

IV JOBS, JOBS, JOBS

As President Obama made clear in his State of the Union Address, the American people are fixated on three political goals: jobs, jobs, jobs. Many pundits have echoed this call,[69] so it is worth putting some perspective on the international dimension of the jobs quest.

Automatic stabilizers and manufacturing jobs

Students of fiscal policy know about automatic stabilizers. These come into play when an economy goes into recession: tax receipts drop quickly while safety net expenditures normally rise, even without any policy initiatives. The combined result is to put more money into household pockets, thereby cushioning the economic decline. A similar phenomenon is at work in the external accounts of the American economy. When a recession looms, imports normally drop faster, in percentage terms, than exports. Moreover, because the dollar value of merchandise imports regularly exceeds the dollar value of merchandise exports, the effect is to amplify the ensuing contraction of the trade deficit, and further cushion the job impact of a shrinking economy.

As described in the introduction, the U.S. merchandise trade deficit decreased by about 50 percent as a direct result of the Great Recession. To estimate the number of manufacturing jobs potentially saved by the contracting trade deficit, we apply a coefficient of 8,200 manufacturing jobs per billion dollars of reduction in the merchandise trade deficit.[70] The resulting calculation—8,200 jobs per billion dollars, times a reduction in the trade deficit of $331

[69] See, for example, the posting by former Governor Doug Wilder of Virginia on the Politico blog, www.politico.com, February 9, 2010.

[70] The derivation of this coefficient is explained in appendix B. A similar coefficient would not be appropriate in times of full employment, (defined as unemployment around 5 percent, and manufacturing capacity utilization around 80 percent) for the simple reason that threatened inflation would very likely compel the Federal Reserve to tighten monetary conditions if more demand, through a reduced trade deficit, was added to an already brisk economy. But these are not times of full employment; these are times of Keynesian unemployment. A smaller trade deficit can save jobs in a slack economy; therefore, applying a jobs coefficient to changes in the trade deficit gives a reasonable approximation.

billion—suggests that 2.7 million manufacturing jobs were saved by the automatic stabilizers at play in U.S. interaction with the global economy.

While these calculations are crude, it is worth noting that the 2.7 million manufacturing jobs attributable to automatic stabilizers in the international economy exceed the up to "1.5-2 million jobs" which the White House Council of Economic Advisors estimated, using economic models, as saved or created by the stimulus package enacted in February 2009[71].

Crucially though, jobs saved or created by ARRA are essentially "temporary jobs" that may disappear after the expiration of the stimulus bill, unless private sector sources of U.S. economic growth take over and drive economic expansion. Likewise, the extent to which U.S. jobs can be "saved or created" by the described automatic stabilizers in the international economy has a limit. Continuously declining imports during periods of U.S. economic growth would significantly add to U.S. inflation and increase interest rates, thereby slowing economic expansion in the short term. Meanwhile, over the long-term, reduced imports would impede the opportunities for U.S. sectoral economic specialization—in other words, shrinking industries that U.S. firms and workers are not good at and expanding on industries where America does best. Over a period of years, this would depress U.S. productivity growth and ultimately income levels.[72]

The ARRA Stimulus Legislation and Total Job Salvation and Creation

Estimating the impact of any single piece of legislation—especially one as complex as ARRA—on labor markets is an inherently imprecise exercise, since no one (even armed with the most sophisticated economic model) can be certain as to what would have happened in the absence

[71] CEA, *The Economic Impact of the American Reconstruction and Recovery Act of 2009: Second Quarterly Reports, January 13th 2010*. Available at http://www.whitehouse.gov/sites/default/files/microsites/100113-economic-impact-arra-second-quarterly-report.pdf.

[72] The comprehensive Nicoletti et al. (2003) study found that a 10 percent rise in developed economies trade exposure (exports plus imports) leads to a 2 percent increase in the level of GDP per capita. Productivity growth, resulting both from larger exports and larger imports, lies behind this relationship.

of the legislation. Accordingly, it is difficult to agree on a counterfactual scenario from which to compare the effects of the legislation in question.

Yet beliefs about "the future," in the absence of new policy action, are crucial for estimating the effect of the policy action in question and invariably shape views as to whether the new legislation should be deemed a success or a failure. The on-going political fight over the effects of ARRA offers a classical example of this dynamic. In January 2009, the White House published an estimate for the jobs impact of a future hypothetical ARRA-size stimulus package of just over $775 billion.[73] This report claimed that the effect of the stimulus could be as large as 3.675 million jobs saved or created and prevent the U.S. unemployment rate from breaching 8 percent. This report assumed that the U.S. unemployment rate would—in the absence of any stimulus legislation—peak at around 9 percent in the middle of 2010.

Judged against what has factually occurred in the U.S. labor market since the passage of ARRA in February 2009, with unemployment hovering just below 10 percent since early 2010, the large fiscal stimulus can be claimed to have failed, since U.S. unemployment remains at very high levels (and certainly above the 8 percent envisioned by the Obama Administration in January 2009). Leading Republican members of Congress repeatedly claim that ARRA has failed, referring precisely to this point.[74] On the other hand, if one believed in early 2009 that—in the absence of a large fiscal stimulus—the U.S. economy was headed for a Great Depression scenario and unemployment levels of 20 percent or higher, what has since actually come to transpire in the U.S. labor market is not a bad outcome. Unsurprisingly, this is the position of the Obama Administration.

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[73] This study is no longer available on the White House website, but was authored by CEA (then nominee) Chair Christina Romer and Jared Bernstein from Vice President Biden's office. It is widely available on the internet at for instance "The Job Impact of the American Recovery and Reinvestment Plan –Jan 10, 2009," Twine. See http://www.twine.com/item/11s7k2tcr-1vc/the-job-impact-of-the-american-recovery-and-reinvestment-plan-jan-10-2009 (accessed on February 1, 2010).

[74] See detailed discussion at politifact.com at "Cantor and other Republicans say Obama promised stimulus would keep unemployment rates below 8 percent." http://www.politifact.com/truth-o-meter/statements/2009/jul/09/eric-cantor/Cantor-and-other-republicans-say-obama-promised-s/. See also Mitchell, Daniel J. 2010. "Making Government Bigger Is Not Stimulus—and It Won't Create Jobs." Available at Cato Liberty, www.cato-at-libery.org (accessed on February 4, 2010).

What is clear, however, is that even the Administration's assessment of the labor market effects of ARRA are far below what was assumed in early 2009. The CEA's own updated estimates from January 2010 of 1.5-2 million jobs either saved or created by ARRA is thus only around a third or half of what the Administration itself claimed immediately before passage of the stimulus package. At the same time, the CEA's updated jobs estimates are generally higher than private sector forecasters such as Macroeconomic Advisors, HIS/Global Insight or Moody, are relatively close to the CBO's "High Forecast" of ARRA effects.[75]

The latest CEA estimates, similar to other economic forecasters like the Congressional Budget Office and private sector organizations, are based on a macro economic model.[76] This type of estimate has the advantage of including all indirect effects from stimulus spending, like higher or maintained consumer outlays. At the same time, though, as illustrated above, macro-economic models may suffer from incorrect baseline scenarios and assumptions. Therefore, another way to try to figure out the jobs impact of ARRA is to try to add up reported individual instances of job salvation and creation from stimulus funds to get to a total—in other words, to create aggregate jobs data from a host of individual anecdotes.[77]

The Obama Administration, on its www.recovery.gov website, regularly publishes this type of data collected from individual recipients of ARRA money. Recipients are required to estimate the number of jobs funded under the Recovery Act.[78] So far aggregate data of this kind are available for two periods: February 17-September 30, 2009, when a total of about 634,000 full-

[75] See CEA (2010, table 8).
[76] In more detail, the CEA estimates rely on a vector auto-regression (or VAR) model using the logarithms of real GDP and employment over the period 1990:Q1-2007:Q4 with four lags of each variable to make an estimate of the effects of ARRA. GDP and employment are subsequently forecast for the second, third, and fourth quarters of 2009 using actual data through the first quarter of the year. The monetary stimulus, which was put in place before the end of Q1 2009, is included in the baseline estimates, but the fiscal stimulus and other actions that took effect after the first quarter are not.
[77] See also Burtless, Gary. 2009. "Counting the Jobs Produced by the Stimulus," Available at Brookings Institution at www.brookings.edu (accessed February 4, 2010).
[78] Jobs Summary—National. Reovery.gov. See http://www.recovery.gov/Transparency/RecipientReportedData/Pages/JobSummary.aspx (accessed February 4, 2010).

time-equivalent jobs were reported either saved or created by ARRA funds; and October 1 to December 31, 2009, when about 595,000 full-time-equivalent jobs were reported saved or created by stimulus money.

Some care however must be taken in interpreting this type of "anecdote aggregating jobs data."[79] First of all, they are gross jobs data, which cannot be immediately compared to the traditional "net employment change data" published monthly by the Bureau of labor statistics.[80] Secondly, reported data only covers the parts of ARRA funds for which reporting is mandatory and excludes ARRA funding to projects under a certain threshold or related to tax breaks, unemployment insurance, and direct aid to states included in ARRA. Funds subject to the recipient reporting requirement comprise about 35 percent of the total funding of the Act.[81] Lastly aggregate sums for different time periods cannot, due to the method of data reporting, be immediately added up to equal the total impact of the stimulus bill.[82]

For these reasons, data in the aggregate should not be used to measure the total impact of the ARRA bill, but the figures do contain relevant information regarding the sectoral distribution of ARRA job salvation and creation across the U.S. economy.

Stimulus legislation and manufacturing jobs

As the manufacturing sector in recent years has accounted for about 9 to 10 percent of total U.S. non-farm employment, a rough and ready estimate is that the stimulus package saved or created around 150,000 to 200,000 manufacturing jobs (10 percent of the total 1.5-2 million jobs estimated by the CEA). Turning again to the "anecdotal ARRA data" from

[79] For a detailed analysis of these data, see also GAO (2009).
[80] Net changes in employment arise from changes in the gross numbers of jobs created and the gross numbers of jobs destroyed in the economy during a given period. As such, gross jobs data are generally far higher than net changes in employment during a given period. See the Bureau of Labor Statistics Business Employment Dynamics program for a detailed discussion at http://www.bls.gov/bdm/bdmfaq.htm.
[81] CEA (2010, p.27)
[82] Substantial double counting will occur between two individual reporting periods, as reporters were initially instructed to submit the average number of full time equivalent jobs supported over the entire lifetime of an ARRA-funded project. A host of other methodological issues concern these data, but are beyond the scope of this report to describe.

www.recovery.gov, by looking at the detailed program descriptions, one can add up the kind of projects (like highway construction, airport improvements or weatherization funding) likely to yield substantial manufacturing sector orders.[83] Doing so also suggests that perhaps 10 percent of the jobs saved or created by ARRA are manufacturing jobs.

A more detailed (but still rough) estimate can be made by combining calculations of the jobs coefficient per billion dollars of trade with the amount of government procurement funded by the ARRA and possibly directed to the U.S. manufacturing sector. For this exercise, we rely on our own calculation of 8,200 jobs per billion dollars (explained in appendix B),[84] the U.S. government's report of manufacturing procurement, and figures on ARRA money awarded to the states and territories in 2009.

According to the website of the Federal Procurement Data System, federal procurement of goods in NAICS sector codes 21, 31, 32, and 33 (corresponding to manufactured goods), between February 17, 2009 and December 31, 2009, was $129 billion. Of course a good deal of this procurement had nothing to do with ARRA; in particular, during the period in question, the Department of Defense had procurement expenditures of $295 billion, little or none supported by ARRA, but much spent on manufactured goods. On the other hand, during the same period, states and territories were awarded $199 billion of ARRA money and actually received $57 billion (counting all contracts, grants and loans). Much of the procurement flowing from funds awarded to the states and territories would have been spent on manufactured goods, but little would have been recorded as federal procurement.

[83] Detailed program descriptions are available at "Top Programs, as reported by recipients (Oct 1—Dec 31, 2009)." Recovery.gov. See http://www.recovery.gov/Pages/TextView.aspx?data=jobSummaryProgram&topnumber=200&qtr=2009Q4 (accessed February 4, 2010).

[84] This figure is similar to the calculations of 9,254 jobs per billion dollars of U.S. purchases as a result of the Buy American amendment to ARRA, and 8,558 jobs per billion dollars of U.S. GDP lost from not ratifying the U.S.-Colombia and U.S.-Korea Free Trade Agreements, both coefficients reported in Laura M. Baughman and Joseph F. Francoise, *Trade Action—or Inaction: The Cost for American Workers and Companies,* report for the U.S. Chamber of Commerce, September 15, 2009.

As a very rough but probably high guess, we estimate that 25 percent of federal procurement of manufactured goods was ARRA related, giving a federal figure of $32 billion. As another rough but high guess, we estimate that 50 percent of ARRA money actually received by the states led to orders for manufactured goods. This amounts to $28 billion. Together, the two figures come to an estimate of $60 billion for manufactured goods sales in 2009 related to the stimulus package. Applying a jobs coefficient of 8,200 per billion dollars suggests that 492,000 manufacturing jobs may have been saved or created in 2009 by ARRA money.

This figure is far larger than the 150,000 to 200,000 jobs suggested in the opening paragraph of this section, and is probably too high, but a somewhat larger number might be justified by the character of stimulus spending—more devoted to "shovel ready" projects, intensive in manufactured goods, than the normal composition of jobs in the American economy. Similarly, the manufacturing sector is typically among the most cyclically sensitive sectors in the U.S. economy that will have benefitted from the broader boost to GDP growth from ARRA, as well as benefitted from the effects of business tax incentives on investment included in the bill.

Impact of Buy American on All Manufacturing Jobs

Baughman and Francoise (2009) calculate that 10 percent of all federally procured products come from foreign sources, but that some 1.3 percent out of that amount is either sourced from trade agreement partners, is not available domestically, or is exempt from a Buy American requirement due to a public interest determination. We assume (as do Baughman and Francoise) that these same proportions apply to the ARRA package, whether the stimulus money is spent by the federal government or the states and territories. This assumption means than 8.7 percent of ARRA spending is vulnerable to the Buy American amendment.

The consequence is that Buy American may shift 8.7 percent of ARRA purchases from foreign firms to U.S. suppliers. If we apply the 8.7 percent figure to the previous estimate of $60 billion of new orders for manufactures related to ARRA spending, the calculation is that $5.2 billion of spending was shifted from imported manufactures to domestically made products. The

implication is that around 43,000 manufacturing jobs were saved or created in 2009 by the Buy American amendment.

Impact of Buy American on Steel Jobs

The U.S. steel industry led the battle for the "Buy American" amendment attached to the $787 billion stimulus program enacted on February 17, 2009.[85] Hence it is worth tracking the numbers to gauge the impact of ARRA on steel industry jobs. Federal procurement directly from the iron and steel industry (NAICS sector codes 3311 and 3312) is very small, only $121 million between February 17, 2009 and December 31, 2009. Clearly most iron and steel purchases in response to the stimulus package are not made directly by the Federal government, but rather indirectly through construction contracts awarded by the states. However, no database of state procurement records the amount of iron and steel purchased.

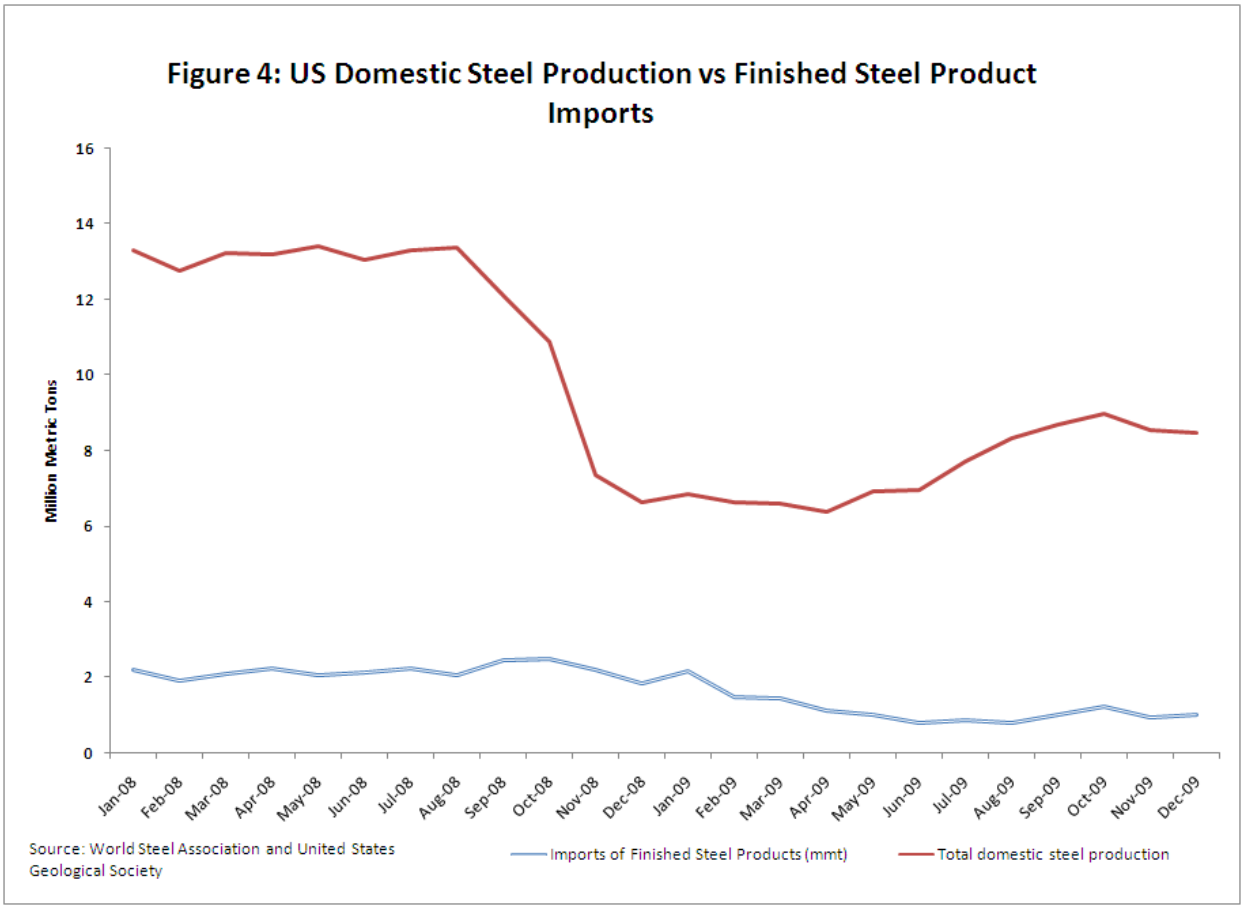
Accordingly, to gauge the impact of Buy American on U.S. domestic steel production, we apply a "shift share" analysis to domestic production and import data. Nearly all U.S. crude steel is further processed by integrated mills into finished steel; moreover, imports of semi-finished steel products are usually turned into finished products by domestic mills. Hence we measure the tonnage of domestic steel production as the sum of U.S. crude steel production plus imports of semi-finished steel, plus steel produced by electric minimills.[86] Our estimates are presented in Appendix C. We assume that U.S. steel demand equals the sum of domestic steel production plus finished steel products imported from abroad, and that the two sources are substitutes for each other.[87] The Buy American amendment was designed to change the sourcing mix in favor of domestic production.

[85] The steel industry's political clout vastly exceeds its employment level. According to the Bureau of Labor Statistics, employment in a broadly defined proxy for the U.S. steel industry (NAICS industry 331—Primary Metals) was 400,000 in early 2009, or about 3 percent of total manufacturing employment at that time.

[86] Working from scrap metal, minimills supply a large share of the finished steel market, some 57 percent of national steel production (U.S. Environmental Protection Agency. 2009. AP 42 Compilation of Air Pollutant Emission Factors, Fifth Edition, Volume I, Chapter 12: Metallurgical Industry, 12.5.1 Minimills (April 2009). Available at www.epa.gov (accessed on February 2nd, 2010).)

[87] This assumption neglects inventory changes.

U.S. domestic steel production (as we have measured it) started in January 2008 at around 9.1 million metric tons per month (figure 4). This level however sharply declined in the last few months of 2008 to reach 6.6 million metric tons at the end of the year.



Imports of finished steel told a different story. Even during the bad economic conditions at the end of 2008, the second half of the year saw a 5 percent increase in imports compared to the first half of 2008. Marking the impact of the Buy American amendment from January 2009 (when the legislative process was well along), we see that imports started to decline and, by mid 2009, had plunged almost 40 percent compared to the second half of 2008. Over this period, imports of finished steel fell from a high of 2.2 million metric tons per month to a mere 1.3 million metric tons. On an annual basis, imports experienced a 46 percent drop in tonnage between 2008 and 2009.

U.S. domestic steel production, however, started on a recovery path around April 2009, as the Buy American provisions took hold. The second half of 2009 saw a 26 percent increase in production compared to its first half (figure 4).

To measure the impact of Buy American, we compare the average of steel production and imports in November and December 2008 (Nov/Dec 2008) against the average in November and December 2009 (Nov/Dec 2009). The idea is to compare pre-stimulus, pre-Buy American market shares with post-stimulus, post-Buy American market shares. Before the stimulus, U.S. domestic production commanded 77.5 percent of U.S. demand for steel, while imports only accounted for 22.5 percent. After the stimulus and Buy American legislation, U.S. domestic production increased its market share to 89.5 percent, leaving imports with only 10.5 percent. We attribute the entire shift in market share, some 12.1 percent, to the Buy American amendment (see Appendix C).[88]

To calculate the number of steel jobs that are attributable to Buy American, we first multiply the calculated average monthly demand for finished steel in Nov/Dec 2009, namely 9.5 million metric tons, by the pre-stimulus market share for domestic steel, namely 77.5 percent (Appendix C) to give a hypothetical level of 7.4 million tons a month. We assume this would have been domestic steel production in Nov/Dec 2009 without the Buy American amendment. The difference between the observed average monthly production levels, namely 8.5 million tons, and the hypothetical level, namely 7.4 million tons, is our estimate of the direct impact of Buy American on domestic steel production in Nov/Dec 2009.

The monthly difference is 1.1 million metric tons, and the annualized difference is 13.7 million metric tons. Employing the methodology spelled out in the job impact estimation in Appendix B,

[88] In other words, we ignore the impact of other factors, such as exchange rate changes and market conditions abroad.

we estimate in Table 2 that, for every additional million metric tons of domestic steel production, a little less than a thousand (about 930) jobs are created.[89]

Table 2: Estimate of job impact of Buy American for the US steel industry

Item	Estimate	
US employment in steel industry, 2006 (thousands)		154.3
US production in crude steel, 2006 (mmt)	98.6	
US production from mini mills, 2006 (mmt)	58.2	
US Imports of semi-finished products, 2006 (mmt)	9.0	
US domestic production, 2006 (mmt) (98.6+58.2+9.0)		165.8
Employees (thousands) per mmt of US domestic production		0.93
US calculated demand for finished steel, average of November/December 2009 (mmt)[a]	9.5	
US domestic production without Buy American, average of November/December 2009 (mmt)[c]	7.4	
US domestic production with Buy American, average of November/December 2009 (mmt)[d]	8.5	
US monthly domestic production attributed to Buy American (mmt) (8.5-7.4)	1.1	
US annual domestic production attributed to Buy American, 2009 (mmt) (1.1*12)		13.74
Employees in the steel industry attributed to Buy American, 2009 (thousands) (0.93 x 13.74)		12.79

a. For further detail, refer to table 1. The December 2009 figures for US imports of semi-finished and finished steel products are 6-month averages of the second half of 2009, due to the lack of data.
b. Please refer to table 2 for the calculation of the share shift between US steel imports and domestic production.
c. US domestic production without Buy American is assumed to revert back to the average percentage share of US demand for finished steel in November/December 2008, where domestic steel production accounts for only 77.5% of the demand market while steel imports account for 22.5%.
d. Refer to table 1 for further details.

Source: World Steel Association, World Steel in Figures, 2009; Bureau of Labor Statistics, 2009; Hufbauer and Schott (2009); United States Geological Society, 2009; Author's calculations.

Given this jobs coefficient, and the 2009 annualized direct impact of Buy America steel production, the number of added employees in the steel industry directly attributed to the Buy American amendment was around 12,800 employees in 2009.

[89] Hufbauer and Schott (2009, table 1) only used crude steel production in their estimation of a jobs coefficient. Here we have counted imports of semi-finished steel and minimill production as well to estimate U.S. domestic steel production and the jobs coefficient.

The Bottom line on Stimulus, Buy American and U.S. Jobs

As this section has described, estimations of the jobs effects of stimulus spending and Buy American are complex, inherently imprecise and driven by assumptions. However, despite all these caveats, the simple order of magnitude impact of the results in section makes the conclusions both simple and powerful.

- The biggest force for saving jobs between 2008 and 2009 was automatic contraction of the trade deficit—the result of stabilizing forces in America's engagement with the global economy. The figure is about 2.7 million manufacturing jobs saved.
- The next biggest force was the stimulus package enacted in February 2009. The ARRA saved or created as many as 1.5-2 million throughout the U.S. economy.
- Perhaps as many as 150-200,000 manufacturing jobs were saved or created by ARRA. A high estimate of the impact of federal and state procurement spending on total manufacturing jobs saved or created by the ARRA is 492,000.
- The Buy American amendment saved or created around 43,000 manufacturing jobs, accounting for a minor share of total manufacturing jobs saved or created by the ARRA, and at most 2 percent of the Administration's total jobs claim.
- At most, the U.S. steel industry gained 12,800 jobs from Buy American. This figure does not take into account the negative impact on the rest of the U.S. economy from emulation or retaliation by foreign countries—a subject we now consider.

V Foreign Emulation, Retaliation and the Real Losses From Buy American

In February 2009, the ARRA was signed into law amidst heavy criticism of the Buy American amendment by foreign governments and some U.S. business firms. Commentators suggested that foreign emulation or retaliation could more than offset any U.S. job gains by reducing U.S. exports. In an early policy brief, Hufbauer and Schott (2009) calculated that, if foreign governments foreclosed just 1 percent of their government procurement to U.S. exports, Buy American would end up costing 6,500 U.S. jobs. In an extreme scenario, in which the United States lost 10 percent of these exports, as many as 65,000 jobs could vanish.

In a report issued in October 2009, Baughman and Francoise (2009) contended that U.S. jobs saved or created by the Buy American amendment to the ARRA would be more than offset if other countries implemented their own buy national policies. Baughman and Francoise calculated that, if foreign emulation or retaliation caused U.S. companies to lose just 1 percent of the potential sales opportunities created by foreign stimulus programs, U.S. exporters would lose 200,900 jobs, and the U.S. net employment *loss* as a result of the Buy American amendment might total 176,800.

Whatever the right number, the calculated gain of 43,000 manufacturing jobs by the Buy American amendment could be wiped out completely by "blowback" employment losses. However, job losses would be spread out across the entire manufacturing sector while the jobs gained would be concentrated in iron and steel and a few other industries. Based on knowledgeable but sometimes confidential industry sources, as well as the public media, we summarize several case studies as anecdotal evidence of Buy American's widespread damage and inconvenience to U.S. companies, foreign firms, as well as U.S. Federal agencies and municipalities. We focus on Canadian responses, because Canada was significantly affected and, as a large trading partner, was capable of inflicting damage of a similar scale on U.S. exporters. We then recount a number of emulation cases where foreign governments have started implementing protectionist measures on local procurement.

Case 1: Harm toward Canadian firms

IPEX Inc. has been a Canadian exporter of thermoplastic pipes to the United States for 60 years. It recently landed a contract to supply plastic piping to a new health-care center at Camp Pendleton Marine Base in California. In May 2009, the pipes had to be ripped out of the ground because they were labeled with the words "Made in Canada."[90] IPEX has since lost contracts from U.S. municipalities and has not been allowed to bid on numerous U.S. projects.

Company X is a market leader in aeration equipment for waste water projects. As a result of Buy American, its customers, mostly municipalities, now have to apply for a waiver to use the firm's equipment. This has affected 90 percent of the firm's projects. Furthermore, U.S. competitors have been using the Buy American amendment to force municipalities to reopen contracts and award the projects to them instead of Company X.

Company Y has been universally described as an innovative and environmentally-friendly company. Most of the firm's customers are municipalities and utilities. As a result of Buy American, company Y had to move some of its production and distribution facilities across the border to the United States. The relocation entailed at higher costs, since the firm's supply chains are mostly based in Canada.

Case 2: Burden on local companies

Canadian communities, angered by Buy American, have started a campaign to buy goods from countries that do not discriminate against Canadian products. Aquarius Technologies is a company from Wisconsin that makes equipment to treat sewage. The firm states that it will see 25 percent of its business disappear as a result of the Canadian reaction.[91] Furthermore, the firm uses a significant input that is only available in Canada. In the wake of Buy American, the firm is seeking an expensive and time-consuming work-around for that input. The U.S. waiver

[90] Whittington, Les. "Buy-American rules shutting out Canadians" Ottawa Bureau, The Star. May 6, 2009. Available at http://www.thestar.com/news/canada/article/629729 (accessed February 9th, 2010).
[91] Fritsch, Peter and Corey Boles. "How 'Buy American' Can Hurt U.S. Firms." The Wall Street Journal. September 17, 2009 (available at http://online.wsj.com/article/SB125306012124114135.html?mg=com-wsj). Accessed on February 9, 2010.

process is useless because waivers cannot be used by manufacturers to qualify imported Canadian products for purposes of bidding on stimulus projects; waivers can only be used directly by municipalities. Many water projects are stalled as a result.

Case 3: Municipal Retaliation

On April 15, 2009, the Canadian town of Halton Hills passed a resolution requesting all municipalities in Canada to adopt a procurement policy that would only source from companies whose countries do not impose trade restrictions against Canadian goods. This resolution was later supported by Temiskaming Shores, Marystown and other municipalities. On June 6, 2009, the Federation of Canadian Municipalities (FCM) adopted a fair trade resolution by the FCM's membership that endorses countervailing procurement measures against Buy American but held back from implementing it for 120 days to give Canadian and U.S. officials time to reach an agreement.[92] These retaliatory efforts were significant in alerting U.S. companies to the potential business they might lose. The Water and Wastewater Equipment Manufacturers Association was particularly energized since its members sell a great deal to Canada and could suffer huge losses from Canadian retaliation.[93]

Case 4: Losing U.S. Jobs

Duferco Farrell Corp, a Swiss-Russian partnership, took over a previously bankrupt U.S. steel plant in the 1990s near Pittsburgh. The plant manufactures coils using steel slabs that are not sold commercially in the United States. The introduction of these foreign slabs mean that the company's coils do not fit the current definition of "made in the United States of America." With the new Buy American provisions so broadly interpreted, Duferco Farrell is on the verge of shutting down. When its largest client—a steel pipemaker located just down the road—cancelled its orders from Duferco Farrell in order to buy from companies with 100 percent U.S. production to meet the new regulations, Duferco Farrell had to furlough 80 percent of its

[92] Resolution Text. "One Hundred Twenty Days for Fair Trade Deal, Say Municipalities." June 6, 2009. Available at http://www.fcm.ca/English/View.asp?mp=1055&x=1139 (accessed on February 9, 2010).

[93] Retaliatory efforts were suspended in October 2009, because FCM officials were encouraged by talks between Canadian and U.S. officials. President's Statement. "FCM Suspends Buy American Deadline." October 3, 2009. Available at http://www.fcm.ca/English/View.asp?mp=1055&x=1200 (accessed on February 9, 2010).

workforce. “You need to tell me how inhibiting business between two companies located one mile apart is going to save American jobs,” said Bob Miller, Duferco Farrell’s executive vice president. “I’ve got 600 United Steel Workers out there who are going got lose their jobs because of this. And you tell me this is good for America?”[94]

Case 5: U.S. recovery projects delayed

Officials from five federal agencies—the Departments of Commerce, Education, Homeland Security, Housing and Urban Development, as well as the Environmental Protection Agency have stated that Buy American has affected their ability, directly and indirectly, to select or start Recovery Act projects. Two states and one local entity have echoed the delay in timing. In particular, the Transportation Security Administration’s Electronic Baggage Screening Program implemented by Homeland Security has been hampered as officials await a Buy American waiver to allow contractors to use foreign-made components. This waiver is necessary because U.S.-made components are not compatible with the security systems at some airports. Similar problems are being faced by the Chicago Housing Authority where the only security cameras compatible with its existing system and the City of Chicago police systems are not made in the United States.[95]

Lessons Learned

The experiences of the Canadian companies and communities as well as U.S. federal agencies and firms highlighted above are faced by many others. While the primary objective of the Buy American amendment is to favor U.S. manufacturers and create U.S. jobs in ARRA projects, the actual outcomes are not clear-cut.

[94] Faiola, Anthony and Lori Montgomery. “Trade Wars Brewing in Economic Malaise” The Washington Post. May 15, 2009. Available at http://www.washingtonpost.com/wp-dyn/content/article/2009/05/14/AR2009051404241.html (accessed March 2, 2010).

[95] Government Accountability Office. “Recovery Act: Project Selection and Starts are Influenced by Certain Federal Requirements and Other Factors” February 2010. Available at http://www.gao.gov/new.items/d10383.pdf (accessed on March 1, 2010).

Canada and the United States share integrated supply chains. Many products are shipped back and forth across the border before they are marketable. However, the final “Made in Canada” or “Made in United States” label is normally slapped on the product only at the point of final assembly. Buy American interrupted these supply chains by targeting intermediate components that have a “Made in Canada” label, not considering how much of the component could actually have been produced by U.S. workers and companies.

The plight of Duferco Farrell highlights the full negative extent of Buy American for U.S. workers. This company, which has its plant in the United States, will be forced to lay off its 600 United Steel workers since its product does not meet the “Made in United States of America” standard. Given the current unemployment rate and the slow economic growth, these workers are unlikely to find new employment in the near future. This creates an unnecessary strain on the public safety net, since the workers would have been employed otherwise.

Another example comes from IPEX Inc. The firm has production plants both in Canada and the United States. The resin used to make pipes actually comes from Texas. The U.S. content in IPEX products is ranges from 70 percent to 90 percent. However, since the pipes are assembled in Canada, their label causes them to be rejected for all projects funded by stimulus money. This is ironic because a good part of the blow is felt by the IPEX resin plant in Texas. The irony is compounded when U.S. companies buy semi-finished products from Asia and transform them domestically, in adherence to Buy American, resulting in a lower U.S. content in the end product.

The inability of company X and IPEX Inc. to bid on projects or ensure smooth delivery shuts them out of the U.S. market. This effectively limits the competition for the qualifying U.S. companies. Without more choice, the municipalities are forced to pay higher prices. The result is that municipalities can undertake fewer projects with their stimulus dollars. While some manufacturing firms are no doubt pleased, this seems unfair to average citizens.

Company Y's plight is not rare. A number of Canadian companies have had to move production or distribution facilities across the border to the United States. In the short run, this means more jobs for the United States; in the long run, it means higher costs and less efficient supplier networks. Costs and delays are ultimately passed on to customers, in this case the municipalities armed with stimulus money.

Delays are worth emphasizing. When IPEX pipes have to be ripped out, when U.S. Federal and municipal agencies have to wade through different waiver processes in order to implement beneficial programs, or even when municipalities have to ponder the complex rules of origin that are baked in the cake with Buy American legislation, projects are delayed. Delay means that the recovery process is that much longer.

Also worth emphasizing is that some of the Federal and local projects held up by the Buy American mandate are crucial national security facilities—illustrated by Homeland Security baggage screening programs and security cameras in Chicago.

Lastly, it is important to note that overworked municipal staff may not have the time to decipher what can and cannot be bought with stimulus money. Consequently, municipalities may turn around and buy local for everything, going well beyond the letter of Buy American, even for procurement funded by the municipality's own money. For convenience, the municipality may use just one supplier for a given line, and stick to the same supplier for everything. This means a U.S. supplier, for better or worse.

Happy ending?

As a result of the economic nonsense created by Buy American, and pressure on both sides of the border, Canada and the United States reached a tentative agreement on government procurement on February 5, 2010.[96] Both countries agree to permanent and reciprocal

[96] United States Trade Representative. "U.S.-Canada joint statement on government procurement" February 5, 2010. Available at http://www.ustr.gov/about-us/press-office/press-releases/2010/february/us-canada-joint-statement-government-procurement (accessed on February 9, 2010).

commitments under the World Trade Organization (WTO) Government Procurement Agreement (GPA) with respect to provincial, territorial, and state procurement. Canada agreed to provide U.S. suppliers with access to a range of construction contracts across provinces, territories, and a number of municipalities. In return, the United States has agreed to provide Canadian suppliers with access to state and local public works projects in a range of programs funded by ARRA.

This agreement, if implemented, will not help companies based in countries other than Canada, but the measures taken by Canadians served to show how much U.S. companies stand to lose when the U.S. government adopts protectionist policies. In this instance, the self-interest of firms linked across the world by supply chains, coupled with the real threat of retaliation, may yet correct a misguided policy adopted at a time when the world economy seemed to be plunging into a crevasse.

Months of intense negotiations between the U.S. and Canadian governments were required to reach the bilateral February 2010 agreement. This, combined with the unique depth of the U.S.-Canadian economic relationship, means that similar bilateral U.S. government procurement deals with other large trading partners are unlikely to be feasible. Renewed multilateral policy initiatives will therefore be required to sustain the positive momentum generated by the U.S.-Canadian agreement.

Indeed, this agreement will not by itself contain the damage that Buy American has triggered. On January 18th 2010, Global Trade Alert published two "Public Procurement" protectionist measures implemented by China and Japan.[97] A number of eastern coastal provinces in China are giving priority to locally manufactured products like automobiles and home appliances for local procurement and purchases. Furthermore, these companies are required to source raw

[97] "China: 'Buy local' clauses at the provincial level." Global Trade Alert. See http://www.globaltradealert.org/measure/china-buy-local-clauses-provincial-level (accessed march 2, 2010). "Japan: 'Buy local' at the provincial level." Global Trade Alert. See http://www.globaltradealert.org/measure/japan-buy-local-provincial-level (accessed march 2, 2010)

materials or equipment locally as well. In Japan, a few local governments as well have implemented policies to encourage local purchases of manufactured goods such as cars, TV sets, and other electronic equipment. While these implemented measures were not announced as a direct retaliation against Buy American, like the Canadian municipalities, they are evidence of a much larger problem: emulation of protectionist policies. When the United States falls back on protectionist measures, those actions provide an implicit blessing for other countries to follow suit. The Obama Administration must stop this parade before more American firms, American cities, and American people are harmed.

Perhaps the Biggest Loss From Buy America Is What Should Have Been

Direct retaliation by foreign governments against the Buy American legislation has so far been relatively muted and, in the case of Canada, further damage has been averted though the bilateral agreement just described. However, the broader impact of the Buy American legislation does not require direct retaliation to translate potential damage into actual damage.

First there is the problem, described in section III, of "Congressional copycatting." Once the language of Buy American has been enacted in a significant piece of legislation, the provision gets on political autopilot to be inserted into future legislation. It takes too much political capital on the part of opposition Congressmen to remove the offending provision. Only the president can take a stand.

Second, and longer term, though far bigger is the "reputational risk" associated with Buy American. Trade liberalization has historically played a crucial role in U.S. trade expansion. Since World War II, successive rounds of multilateral trade liberalization coupled with unilateral liberalization at home and abroad, and free trade agreements, have sharply reduced barriers both to U.S. exports and U.S. imports. According to Hufbauer (2008), postwar globalization has contributed $1 trillion to the U.S. economy each year.[98] Adler and Hufbauer (2009) estimate that about a quarter of total U.S. trade growth between 1980 and 2004 can be attributed to

[98] See Bradford, Grieco, and Hufbauer (2005) for the underlying study.

lower tariff and non-tariff barriers in the United States and abroad (the remainder of U.S. trade expansion comes from rising U.S. and foreign income levels, technological innovation and declining trade costs).

"Reputational risk" can be thought of as the risk that—in the absence of the traditional U.S. leadership role—the long-term historical trend toward greater policy liberalization will grind to a halt. A large share of potential future trade expansion could therefore be forfeited by the world's trading nations, as a consequence of their departure from the historical path of steady ongoing trade liberalization. Even optimistically assuming that the world trading system does not go backwards thanks to retaliatory measures, but merely stops moving forward at its historical rates, very serious costs would be visited on the United States and the rest of the world.

We described how the approximate number of U.S. jobs saved or created by Buy American, at perhaps 43,000, is quite modest. The importance of continuing trade liberalization is easily a different order of magnitude than the direct short-term employment gains from the Buy American provision. If President Obama's goal of doubling U.S. exports for instance falls short by the 25 percent implied by Adler and Hufbauer (2009), as a result of forfeited future trade liberalization, a back-of-the-envelope calculation suggests that a quarter of President Obama's associated 2 million jobs, or perhaps 500,000 jobs, might never be created.

VI President Obama Shifts His Trade Policy Stance

The election in 2008 of President Obama and his large Congressional majorities followed the most protectionist U.S. election campaign in decades. Correspondingly, during the first year of his administration, President Obama (and the 111th Congress) pursued what generously has been termed a "passive free trade agenda"[99]—rhetorically in favor of liberal trade, but willing to commit only just enough political capital to avoid outrageously protectionist initiatives. This "damage mitigation" approach to trade was most clearly evident during the first "Buy American" debate in February 2009, when the Obama Administration—rather than forcefully persuading Congress to scrap the Buy American provision—only asked for an amendment to the American Recovery and Reconstruction Act (ARRA) to prevent the stimulus bill from overriding and thus violating existing U.S. trade agreements.[100]

This early response set the tone for almost the rest of 2009. The Obama Administration trade policy agenda focused on defensive "trade enforcement actions," largely with an objective of limiting politically sensitive imports into the U.S. market (see section III for details on specific cases). At the same time, the Administration sought to reduce foreign restrictions on U.S. agricultural exports.

The Obama Administration did not pursue the Bush Administration's agenda of pushing for Congressional ratification of completed bilateral free trade agreements with U.S. friends and allies, namely Panama, Columbia and South Korea. Instead the President's initial Trade Policy Agenda, published by USTR in late February 2009,[101] called for "*a review the implementation of our FTAs and bilateral investment treaties (BITs) to ensure that they advance the public interest*."

[99] See for instance VanGrassek (2009), Building without BRICs: Lessons from the "Buy American" Debate. Bridges Volume 13, Number 1, March 2009. Available at http://ictsd.net/news/bridges/44271. See also Barsfield and Levy (2007), In Search of an Obama Trade Policy, August 2009. Available at http://www.aei.org/docLib/20090805-IEO-Aug-2009g.pdf.

[100] See Hufbauer and Schott (2009) for a detailed discussion about the interplay between the Buy American provision of ARRA and existing U.S. trade agreements.

[101] "The President's Trade Policy Agenda." United States Trade Representative (USTR). Available at http://www.ustr.gov/sites/default/files/uploads/reports/2009/asset_upload_file810_15401.pdf.

While expressing the hope to move forward on ratification of the Panama FTA, the Trade Policy Agenda established new and unspecified "benchmarks for progress" on the economically important Colombia and South Korea trade deals. Concrete new proposals by the Obama Administration to conclude the multilateral Doha Round in the WTO were not announced. Lastly, it should be repeated, aspects of the government's bail-outs for the U.S. auto industry, designed early in 2009, might violate existing WTO rules on subsidies and certainly departed from the prior U.S. negotiating position, which advocated tighter rules on subsidies.[102]

Late in 2009, the Obama Administration was rethinking its initial neglect of trade. On December 14, 2009, the Obama Administration announced its intention to engage in talks with the Trans-Pacific-Partnership (TPP), an intended **"**high-standard regional FTA" that could link the United States with countries in the Asia-Pacific region.[103] Most dramatically, President Obama, in his State of The Union Address to Congress on January 27, 2010, announced the *verifiable* goal of "doubling U.S. exports over the next five years," a goal that would entail more than $1,500 billion in additional foreign sales of U.S. goods and services early in a potential second Obama term. If achieved, conceivably this goal would reduce the U.S. trade deficit in goods and services by $250 to $300 billion, which in turn could support an additional 2 million U.S. jobs.[104] The daunting scale of President Obama's export goal must be emphasized and is illustrated by the historical record of U.S. exports. Only during the highly inflationary 1970s and early 1980s have U.S. exports of goods and services doubled in current dollar terms during any 5-year

[102] This position was formulated by the Bush Administration early in the Doha Round. See Brunel, Claire, and Gary Hufbauer. 2009. "Money for the Auto Industry: Consistent With WTO Rules?" Policy Brief 09-4. Washington: Peterson Institute for International Economics.

[103] See USTR website for an overview at http://www.ustr.gov/about-us/press-office/fact-sheets/2009/december/tpp-statements-and-actions-date. Currently, the TPP process includes Australia, Brunei, Chile, New Zealand, Peru, Singapore, and Vietnam, but is intended to expand to the entire region.

[104] The calculation of U.S. jobs is based on a coefficient of direct and indirect employment of 7,000 to 8,000 jobs per billion dollars of exports. We assume that a rise in exports of $1,500 billion over 5 years would be accompanied by a rise in imports of at least $1,200 billion over the same period. It should be noted that our estimated coefficient of 7,000 to 8,000 jobs/$1 billion of additional exports is more optimistic than the 6,000 jobs/$1 billion mentioned by President Obama in his remarks at the U.S. Export-Import Bank on March 11, 2010 (available at http://www.whitehouse.gov/the-press-office/remarks-president-export-import-banks-annual-conference). However, the President's more conservative jobs coefficient may prove correct for 2015, given the rapid productivity growth in export industries.

period since 1960.[105] Measured in real dollar terms, this has never been achieved.[106] To tackle this challenge, in his State of the Union Address, the President announced a "National Export Initiative" (NEI) aimed at assisting U.S. farmers and small businesses in increasing their exports, as well as an intended reform of America's existing national security related export controls.

Concrete details about the Administration's new trade initiatives have gradually been announced to the public since the State of the Union Address. Commerce Secretary Locke in remarks on February 4, 2010, indicated that the NEI will include at least three principal activities:[107]

1) Additional funding for export promotion and the establishment of a an Export Promotion Cabinet, reporting to the president, and consisting of top representatives from the Commerce, Treasury and State Departments, the Department of Agriculture, the Export-Import Bank, the United States Trade Representative and the Small Business Administration.
2) Improving access to credit for small- and medium-sized business firms with an interest in exporting.
3) Continuing enforcement of international trade laws to help remove barriers that prevent U.S. companies from getting open and fair access to foreign markets.

Then on March 11, 2010, President Obama himself delivered remarks at the Export-Import Bank of the United States and offered further details on the content of the NEI:[108]

1) The Export Promotion Cabinet has been established by Presidential Executive Order

[105] U.S current dollar exports rose by more than 100 percent during the 5-year periods 1968-77, 1975-80, and 1976-81. Data from BEA Table 1: U.S. International Transactions, available at http://www.bea.gov/international/index.htm#bop.
[106] Data from NIPA table 4.2.3, Bureau of Economic Analysis. Available at http://www.bea.gov/national/nipaweb/SelectTable.asp?Selected=N.
[107] For full text of speech, "Secretary of Commerce Gary Locke National Exports Initiative Remarks." Department of Commerce. Available at http://www.commerce.gov/NewsRoom/SecretarySpeeches/PROD01_008893. See also "Back to Basics" Creating New Jobs with the National Export Initiative." The White House Blog. Available at http://www.whitehouse.gov/blog/2010/02/04/back-basics-creating-new-jobs-with-national-export-initiative.
[108] Text of the President's remarks is available at http://www.whitehouse.gov/the-press-office/remarks-president-export-import-banks-annual-conference.

2) The creation of the President's Export Council, a private sector advisory committee on international trade, initially chaired by the CEO of The Boeing Company James McNerney, with the CEO of Xerox Corporation Ursula M. Burns as vice-chair
3) The authorization of an additional $10 billion in trade financing capacity for the Export-Import Bank, starting the first quarter of 2010; this boost roughly matches the pace of expansion of Export-Import Bank expansion during FY2009.
4) The authorization of an additional $2 billion in annual trade financing available from the Export-Import Bank, earmarked to small and medium-sized businesses.
5) The establishment of "one-stop-export-shops" across to the United States and at U.S. embassies and consulates abroad to assist U.S. exporters identify new overseas markets
6) Continued aggressive enforcement of existing U.S. trade agreements and IPR related issues, including a proposed Anti-Counterfeiting Trade Agreement (ACTA)[109]
7) Begin reform of the U.S. Export Control System through:
    a. The introduction of a one-time online technical review to sharply reduce processing time for products with encryption capabilities (e.g., cell phones and network storage devices)
    b. Harmonizing diverging export standards for products sold to companies with dual-national and third-country-national employees.

It would be premature to assert that these recent declarations amount to "a new dawn" in the form of a substantive policy shift by the Obama Administration toward a genuinely proactive foreign economic policy agenda that will emphasize trade liberalization in the United States and abroad. Recent statements may simply reflect the Administration's desire to seize political high ground in the jobs debate.

[109] Discussions about ACTA, with the aim to establish international standards for enforcing intellectual property rights, were launched by the Bush Administration and the Japanese government in 2006. Initial negotiations began in 2008, with the participation of Australia, Canada, the EU, Japan, Mexico, Morocco, New Zealand, South Korea, Singapore, Switzerland and the United States. A comprehensive set of proposals or a draft negotiation text do not exist at this point. See USTR ACTA Summary at http://www.ustr.gov/sites/default/files/uploads/factsheets/2009/asset_upload_file917_15546.pdf. In 2008, total U.S. receipts of "Royalties and License Fees" amounted to approximately $91 billion, indicating that a successful ACTA agreement that raised such U.S. receipts by 20 percent would improve the U.S. external balance by about $18 billion dollars. See BEA Data at http://www.bea.gov/international/international_services.htm.

In fact, judging from President Obama's framing of his new initiatives, jobs trump trade liberalization. In the State of the Union Address, President Obama noted that fulfilling his new export goal of doubling U.S. exports in 5 years "will support two million jobs in America." Statements by U.S. Trade Representative Ron Kirk on January 28, 2010, further declared that *"my talking to you about trade, goes back to the President's main point last night: it's all about jobs. And if done right, President Obama and I firmly believe that a smart aggressive progressive trade policy of the United States can be a critical part of our overall economic recovery program."*[110] And again on March 11th, 2010 President Obama was very explicit in his intention to rely on exports to alleviate the current crisis in the U.S. labor market, when he stated "*In a time when millions of Americans are out of work, boosting our exports is a short-term imperative. Our exports support millions of American jobs…. Jobs that pay about 15 percent more than average.*"[111]

Newfound eagerness for trade initiatives therefore seems based on a view of trade liberalization as a means to the urgent but short-term goal of job creation, rather than as a way of furthering the historic goal—embraced since the Second World War—of improving the global climate for U.S. foreign and economic policy interests. In this respect, the current trade policy agenda is similar to the way in which the Administration and Congressional leaders have tried to marshal support for U.S. climate change legislation by emphasizing its potential for "green job creation."[112]

On March 1, 2010, the Office of the United States Trade Representative (USTR) released the "2010 Trade Policy Agenda and 2009 Annual Report of the President of the United States on the

[110] For full remarks see "Kirk Comments on Exports, U.S. Jobs" United States Trade Representative. http://www.ustr.gov/about-us/press-office/press-releases/2010/january/kirk-comments-exports-us-jobs.
[111] Full text available at http://www.whitehouse.gov/the-press-office/remarks-president-export-import-banks-annual-conference.
[112] See Browner, Carol. "183 projects, 43 states, Tens of Thousands of High Quality Clean Energy Jobs." The White House Blog. http://www.whitehouse.gov/blog/2010/01/08/183-projects-43-states-tens-tthousands-high-quality-clean-energy-jobs.

Trade Agreements Program."[113] The report highlights the 2010 trade priorities of the Obama Administration and also an overview of 2009 trade activities and USTR initiatives. The central 2010 Obama trade agenda is, not surprisingly, focused on doubling U.S. exports in the next five years.

While the Obama Administration's trade agenda outline has been much anticipated and welcomed, the report is lacking in details and specifics. Quoting Shea (2010) from White & Case, "much of the language in the report appeared similar to the 2009 Trade Policy Agenda in terms of general descriptions and vague policy outlines."[114] There is no clear indication of direction on the pending FTAs with Panama, Colombia, and Korea and also no details on the U.S. negotiating stance towards the stalled Doha Round, other than expressing the administration's continuing support.

New in the 2010 USTR report is the inclusion of more language on trade enforcement and monitoring, especially keeping a close eye on the compliance of trading partners with trade agreements and rules, both at the bilateral and multilateral level. The United States will also be monitoring their compliance with labor and environmental provisions included in trade agreements.

As well, the administration's focus on exports and doubling them over the next five years is new to the Trade Policy Agenda. New initiatives, focusing on exports, include the creation of an Export Promotion cabinet comprising officials from different government agencies, enforcement of international trade laws, combating foreign tariff and non-tariff barriers, and protecting intellectual property rights. Shea (2010) notes that the "administration's outward focus on U.S. exports will likely do little for U.S. trade policy and unlikely to do much for the pending FTAs or stalled Doha Round. Instead the new focus on U.S. exports is likely to

[113] Shea, James J. "USTR Releases 2010 Trade Policy Agenda." White & Case. March 3, 2010. For full report, "2010 Trade Policy Agenda and 2009 Annual Report." Office of United States Trade Representative. Available at http://www.ustr.gov/2010-trade-policy-agenda (accessed March 5, 2010).
[114] Shea (2010), page 6.

overshadow what some trade observers consider to be the more traditional elements of a comprehensive U.S. trade policy." Shea (2010) concludes that the 2010 U.S. trade agenda will continue to be a "back-burner" issue for the Obama Administration.

While this reality may not calm foreign apprehensions about America's long-term commitment to all facets of trade liberalization, it does have several potential advantages. Foremost, the United States cannot credibly promote exports while closing its own borders. Trade liberalization, as seen from Hufbauer (2008), Adler and Hufbauer (2009), and other sources, has historically proven to be essential for the expansion of both exports and imports. The President's commitment to dramatically increase U.S. exports practically ensures that the Administration will take seriously the risk of side-swiping major U.S. trading partners, such as Canada, Japan, Mexico, China or the European Union. Hence, the Administration will likely commit more political capital to resist future instances of Congressionally-instigated protectionism.

The pursuit of an "export-led job creation strategy" by the United States will require an extraordinary expansion of foreign sales to narrow the merchandise trade deficit, since larger U.S. exports will almost certainly be accompanied by larger U.S. imports. The president's assertion that a doubling of U.S. exports would support 2 million new jobs rests on underlying calculations that were not spelled out. Very likely the President's advisors assumed that imports would rise, by around $1,200 billion, against an export rise of $1,500 billion. The difference between export and import growth would spell a contraction of the U.S. current account deficit of around $300 billion annually. Assuming an optimistic "jobs coefficient" of around 7,000 to 8,000 jobs per billion dollars of exports, the jobs gain would be around 2 million. To generate a serious number of export jobs at home and a sharp reduction in the trade deficit—at a time when more than 8.4 million jobs have been lost and labor utilization has reached an historic low—will require far-reaching trade liberalization initiatives well beyond what the administration has announced so far.

VII Policy Recommendations

While the Great Recession is gradually abating, the threat of new bouts of protection remains high. Unemployment will continue to linger at politically critical levels in for a year or more, and the fiscal implications of earlier bold policy actions may force a premature scaling back of stimulus programs. At the same time, to spur domestic U.S. jobs, President Obama is politically committed to an almost unprecedented doubling of American exports in five years. To stave off the risk of renewed U.S. protectionism and to achieve his ambitious U.S. export expansion, President Obama should announce several new policy initiatives;

1) Conclude the WTO Doha Development Agenda. Only an expeditious conclusion of the current overdue WTO Round of multilateral trade negotiations has the potential to provide the global economic stimulus and open the foreign trade opportunities necessary for U.S. exports to achieve the goals set forth by President Obama in his National Export Initiative. Ratifying pending U.S. bilateral trade agreements will not suffice. Hufbauer, Schott, and Wong (2010) estimated that an ambitious Doha outcome could achieve GDP gains of over $280 billion annually for participants in the Round. The United States could realize $36 billion GDP gains annually, adding 0.3 percent to its 2007 GDP.[115]
2) Expedite the Final WTO Negotiating Process. Far too many WTO deadlines have come and gone. Only through the explicit commitment of the personal political capital possessed by President Obama and other G-20 leaders can the remaining high profile stumbling blocks be overcome. Trade ministers must be ordered by their respective heads of government to seal the deal by a hard deadline through a "Desert Island Negotiating Process" including only trade ministers themselves and a few senior aides. There should be no access to the negotiating venue for representatives of the NGO community or business lobbyists. Trade ministers should not leave before a final deal has been agreed.

[115] See Hufbauer, Schott, Adler, Brunel, and Wong (forthcoming) for the actual study.

3) Expand U.S. Export Financing. The Great Recession has shown how trade financing matters.[116] While recent Obama Administration proposals to boost the Export-Import Bank of the United States are helpful, much more money is needed. To help double U.S. exports in five years, during a period when private commercial bank export financing will be adversely affected by the losses of 2009, the Obama Administration should commit to quadruple official U.S. export support through the Export-Import Bank of the United States to $100 billion a year. This would bring U.S. official export assistance about in line with other major industrialized countries, greatly assist U.S. exporters of expensive capital goods and open new export opportunities for U.S. small and medium sized enterprises (a group of U.S. firms that has historically had little export experience). In addition, and more important, the U.S. government should provide tax incentives for banks to provide export credits for small and medium enterprises.
4) Reform the U.S. Corporate Tax Code. America's biggest exporters are its multinational companies, whose overseas activities stimulate the final sales of U.S. made goods and services abroad and facilitate international intra-company trade through global production networks. The U.S. corporate tax code must stop penalizing the global activities of this crucial group of America's most competitive firms. The tax law should be reformed by lowering U.S. corporate tax rates while expanding the corporate tax base. The United States should end its world-wide corporate taxation system and associated foreign tax credits, and instead (similar to other advanced countries) adopt a territorial tax system. Active income from the foreign operations of U.S. multinational corporations should not be taxed in America.
5) Reform the U.S. Export Control System. Extensive restrictions on U.S. exports of advanced technology products remain in place today. Despite recent statements of Administration intentions to liberalize certain parts of the U.S. export control system, a far more comprehensive approach is needed to make a difference. Many restrictions are leftovers from the Cold War era in the form of lists that curtail foreign sales of so-called "dual-use technologies"—items that can be used in both civilian activities and pursuits

[116] See Amiti and Weinstein (2009) for a detailed historical analysis of the connection between exports and financial shocks.

potentially harmful to U.S. national security. It makes little sense to try to boost U.S. exports on one hand, but then restrict sales of U.S. technology products on the other, when those items are available from other sources or when the buyer is a friend of America. The Obama Administration should put more emphasis on the issues of "foreign availability" and "trusted customers" when it revises the lists of curtailed items.

6) Promote a Multilateral Expansion of the Existing Agreement on Government Procurement (GPA). The U.S. and Canadian governments should build upon their recent successful bilateral agreement on procurement by all levels of governments and propose a new round of plurilateral GPA negotiations at the WTO. A joint U.S.-Canadian proposal to immediately extend the provisions of their bilateral agreement to all other interested major trading partners, especially the European Union and Japan, on a reciprocal basis would be a constructive foundation for such a deepening of the multilateral GPA.

Renewed policy action to prevent protectionism cannot come from America alone. It is equally imperative that the G-20 should build upon its record of success in coordinating global crisis management and live up to its strong rhetorical commitment to "*do whatever is necessary to promote global trade and reject protectionism*."[117] As part of their shift to a post-crisis agenda, G-20 leaders should therefore take the following three initiatives.

1) Appoint a G-20 Group of "Trade Wisemen" to Establish the "I Know It When I See It Doctrine"[118] against Trade Protectionism. To prevent future tit-for-tat protectionist spirals, it is necessary to move beyond the focus on a "legal" definition (namely, whether a new measure is strictly compatible with WTO rules) and focus on a broader

[117] Leaders' statement at the April 2nd G-20 Summit in London, "The Global Plan for Recovery and Reform" available at http://www.g20.org/Documents/final-communique.pdf. The G-20 leaders have at each summit in Washington, November 15th 2008; London, April 2nd 2009 and Pittsburgh September 24-25th 2009 reaffirmed commitments to promote global trade and reject protectionism.

[118] U.S. Supreme Court Justice Potter Stewart in his 1964 concurring opinion on Jacobellis v. Ohio 378 U.S. 184 noted that in the description of a threshold of obscenity that *"under the First and Fourteenth Amendments, criminal laws in this area are constitutionally limited to hard core pornography. I shall not today attempt further to define the kinds of material I understand to be embraced within that shorthand description, and perhaps I could never succeed in intelligibly doing so. But I know it when I see it [emphasis added], and the motion picture involved in this case is not that."* Full court text, "Jacobellis v. Ohio, 378 U.S. 184 (1964)." U.S. Supreme Court Center. Available at http://supreme.justia.com/us/378/184/case.html.

"consequences" identification of protectionist measures. Under this approach, a measure should be of concern when it leads to justifiable demands, on the part of trading partners, for emulation or retaliation. The G-20 should consequently appoint a small group of widely recognized and globally representative trade experts to quickly identify new government initiatives, whether WTO compliant or not, that constitute "protectionism in a political sense."[119] This high-profile naming-and-shaming exercise could have a powerful preventive effect and could possibly initially only cover the G-20's own membership. We commend respected trade persona, such as Ernesto Zedillo, Carla Hills, Peter Sutherland, Ross Garnaut, Long Yongtu or Zhu Rongji, as potential "G-20 Wisemen."

2) Expedite the WTO's Dispute Settlement Mechanism. Faster determinations are imperative if "illicit gains" from implementing novel protectionist measures are to be minimized. Regrettably, the principal international means of deterring new protectionism, the WTO Dispute Settlement Mechanism (DSM), currently takes a long time to issue a definitive ruling, and delay provides an incentive for countries to try out doubtful policies. Scofflaws know that it can take the panel and the Appellate Body three or four years to issue an adverse decision. Political and economic gains sought by a protectionist government may be reaped long before the WTO finally authorizes aggrieved parties the right to retaliate.[120] The G-20 should spearhead a push to expedite the WTO DSM process. The first step might involve the appointment of a permanent group of "WTO Panelists," based near the WTO in Geneva, who could start work immediately when a case is filed. This group of "trial jurists" would complement the sitting Appellate Body, and avoid the long delays that are now encountered in establishing panels constituted of experts based in distant cities, and arranging for their meetings in Geneva.

3) Establish a Regular G-20 Trade Ministers Meeting. The G-20 leaders, at their first meeting in Washington in November 2008, tasked their trade ministers with concluding

[119] The work of this group could build on the web-based Global Trade Alert (http://www.globaltradealert.org/), which has for some time published instances of broadly defined new protectionist measures.
[120] The U.S. steel tariffs imposed in 2002 were a classic example.

the WTO's Doha Development Round, and pledged to *"stand ready to assist directly, as necessary*."[121] In these difficult times, trade ministers need all the assistance they can get from their G-20 leaders. Tough issues that block the Doha Development Round, as well as fresh conflicts sparked by episodes of protection, invariably involve high politics. Today's circumstances require that trade issues be brought directly into the G-20 process, similar to the manner in which finance ministers meet independently and alongside their political leaders. To ensure broad representation of the multilateral trading system at regular G-20 Trade Ministers Meetings, the Director General of the WTO should serve as the chair.

[121] See G-20 Declaration after the Washington Summit, "Declaration Summit on Financial Markets and the World Economy," November 25th 2008, available at http://www.g20.org/Documents/g20_summit_declaration.pdf.

APPENDICES

APPENDIX A:

List of All Identified Cases of United States Protectionism

	Case Title	Inception	Final
	Final Cases: Implemented and Clearly Trade Distortive		
1.	Access for Mexican trucks	3/11/09	Yes
2.	Safeguards against imports of consumer tires from China	4/20/09	Yes
3.	Dairy Export Incentive Program	7/1/08	Yes
4.	Employ American Workers Act	2/17/09	Yes
5.	Ban on poultry imports from China	3/11/09	Yes
6.	Buy American provisions in stimulus package	2/17/09	Yes
7.	Support for General Motors and Chrysler.	3/30/09	Yes
8.	Reclassification subjecting certain solar panels to a 2.5% tariff		Yes
9.	Expanded bailout to mortgage guarantors	12/24/09	Yes
10.	Bail-out of GMAC	12/30/09	Yes

Source: www.globaltradealert.org

List of All Identified Cases of United States Protectionism (cont.)

	Case Title	Inception	Final
	Ambiguous Cases: Either not Implemented or not Clearly Trade Distortive		
1.	US: Water Quality Improvement Act of 2009	3/12/09	No
2.	US: EPA procedures on the construction or maintenance of water infrastructure		No
3.	Proposed port-use tax		No
4.	Investment, antitrust, and safety inspections in the aviation industry		No
5.	Trade Enforcement Act		No
6.	Trade-remedy petitions against polyethylene retail carrier bags from Indonesia, Taiwan, and Vietnam, and market-economy status of Vietnam	3/31/09	No
7.	Trade Reform, Accountability, Development and Employment (TRADE) Act		No
8.	Penalty tariffs on imports in climate-change bill		No
9.	Ban on certain switchblade knives		No
10.	"Black liquor" subsidies to the paper industry	12/1/08	No
11.	Buy American provisions in school construction bill.		No
12.	Possible imposition of a fee on imported dairy products		No
13.	Imposition of a fee on foreign travelers.		No
14.	Buy American provisions and set-asides in the Fiscal Year 2010 defense appropriations bill.		No
15.	Tax treatment of reinsurance		No
16.	Subsidies and Buy American provisions for electric cars and batteries		No
17.	New food safety requirements		No
18.	Government purchase of vehicles from the "Big Three" producers		No
19.	Countervailing duty investigation of Ni-resist piston inserts imported from Argentina and Korea		No
20.	Antidumping and countervailing duty investigation of oil country tubular goods (OCTG) imported from China		No
21.	Antidumping and countervailing duty investigation of prestressed concrete steel wire stand imported from China		No
22.	Antidumping and countervailing duty investigation of wire decking imported from China		No
23.	Antidumping and countervailing duty investigation of steel grating imported from China		No
24.	Antidumping investigation of woven electric blankets imported from China		No
25.	Antidumping and countervailing duties investigation of magnesia carbon bricks imported from China and Mexico		No
26.	Antidumping and countervailing duty investigation of narrow woven ribbons with woven selvedge imported from China and Taiwan		No
27.	Antidumping and countervailing duty investigation of matchbooks from India		No
28.	Antidumping and countervailing duty investigation of certain seamless carbon and alloy steel standard, line, and pressure pipe imported from the People's Republic of China		No
29.	Antidumping and countervailing duty investigations of standard steel fasteners imported from China and Taiwan		No
30.	Antidumping and countervailing duty investigations of coated paper imported from China and Indonesia		No
31.	Antidumping and countervailing duty investigations of sodium and potassium phosphate salts imported from China		No
32.	Antidumping investigation of refined copper pipe and tube imported from China and Mexico		No
33.	Protests against the award of a contract to a Chinese glass firm		No
34.	Bill to suspend tariffs on imports of numerous items		No
35.	Stricter inspection of imported catfish		No
36.	Demand that wind generators not be purchased from China		No
37.	Bailout of the U.S. Postal Service		No
38.	Expanded loan program for small businesses		No
39.	Buy American provisions for Amtrak		No
40.	Renewal of preferential trade programs		No
41.	Expanded Buy-American provisions for public projects		No
42.	Antidumping and countervailing duty investigations against drill pipe imported from China		No

Source: www.globaltradealert.org

APPENDIX B:

Calculated Manufacturing Jobs Possibly Saved by the Reduced Trade Deficit between 2008 and 2009

	2008	2009
Merchandise trade balance (billions of dollars)[a]	-840.3	-509.2
Value added by manufacturing industry (billions of dollars)	1,638	*
Total employment in manufacturing industry (thousands)	13,431	*
Calculated manfacturing jobs per billion dollars of value added	8,201	
Decline in merchandise trade deficit between 2008 and 2009 (billions of dollars)		331.1
Calculated jobs possibly saved in manufacturing industry owing to reduced merchandise trade deficit in 2009 (thousands)		2,715

Notes:

* 2009 data not available.

a. 2009 December trade balance figures are calculated as an average of the previous six months in 2009 due to lack of data.

Source: Bureau of Economics Analysis, 2009; Bureau of Labor Statistics, 2009.

APPENDIX C:

Calculation of Shift Share between US domestic steel production and US imports of finished steel products

Date	Imports of semi-finished Steel Products[a] (mmt)	Production of crude steel (mmt)	Production from mini mills[b] (mmt)	Domestic Steel Production (mmt)	Imports of Finished Steel Products[a] (mmt)	Calculated US Demand for Finished Steel[c] (mmt)
	A	B	C	D=A+B+C	E	D+E
Jan-08	0.5	8.7	4.2	9.1	2.2	11.3
Feb-08	0.6	8.2	4.0	8.8	1.9	10.7
Mar-08	0.5	8.6	4.2	9.1	2.1	11.2
Apr-08	0.8	8.4	4.0	9.1	2.2	11.4
May-08	0.5	8.7	4.2	9.2	2.1	11.2
Jun-08	0.6	8.4	4.0	9.0	2.1	11.1
Jul-08	0.7	8.5	4.1	9.2	2.2	11.4
Aug-08	0.5	8.7	4.2	9.2	2.1	11.2
Sep-08	0.5	7.8	3.8	12.1	2.5	14.6
Oct-08	0.6	6.8	3.5	10.9	2.5	13.4
Nov-08	0.2	4.7	2.5	7.3	2.2	9.6
Dec-08	0.2	3.9	2.5	6.6	1.9	8.5
Jan-09	0.2	4.1	2.6	6.9	2.2	9.0
Feb-09	0.1	4.0	2.6	6.6	1.5	8.1
Mar-09	0.1	4.0	2.6	6.6	1.5	8.1
Apr-09	0.1	3.8	2.5	6.4	1.1	7.5
May-09	0.0	4.3	2.6	6.9	1.0	8.0
Jun-09	0.1	4.4	2.5	6.9	0.8	7.8
Jul-09	0.1	5.0	2.6	7.7	0.9	8.6
Aug-09	0.2	5.5	2.6	8.3	0.8	9.1
Sep-09	0.2	5.8	2.7	8.7	1.0	9.7
Oct-09	0.4	6.0	2.6	9.0	1.2	10.2
Nov-09	0.4	5.7	2.5	8.5	1.0	9.5
Dec-09	0.2	5.8	2.5	8.5	1.0	9.5
Average for November and December 2008				7.00	2.04	9.03
Percentage shares between US domestic production and imports				77.5%	22.5%	
Average for November and December 2009				8.52	0.99	9.51
Percentage shares between US domestic production and imports				89.5%	10.5%	
Share shift between US imports and domestic production as a result of the Buy American provision				12.1%	-12.1%	

Note:

a. The December 2009 figure for US imports of semi-finished and finished steel products figure is a 6 month average of the second half of 2009, due to the lack of data.

b. The January to August 2008 and November to December 2009 US minimill production figures are calculated based on the corresponding US crude steel production figures, due to the lack of data for minimill production.

c. Calculated demand is the sum of domestic steel production and imports of finished steel. This calculation ignores inventory changes

Source: World Steel Association, World Steel in Figures, 2009; Bureau of Labor Statistics, 2009; United States Geological Society, 2009; Author's calculations.

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