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Buy American: Bad for Jobs, Worse for Reputation

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On January 28, 2009, the US House of Representatives passed its economic stimulus plan, the American Recovery and Reinvestment Act of 2009. Out of the bill's 700 text pages, a small half-page section attracted enormous media attention: the section requiring that all public projects funded by the stimulus plan must use only iron and steel produced in the United States (box 1). Another provision, which drew less attention, extends the so-called Berry Amendment (an old Buy American provision) to uniforms purchased by the Department of Homeland Security.[1]

The US Senate is currently debating its own version of the bill. The Senate draft includes a broad Buy American provision that goes further than the House bill, expanding the requirement to all manufacturing products (box 2).

Three sets of issues arise from the Buy American provisions of each bill: US jobs, US trade obligations, and US foreign policy. The first section of this policy brief estimates how Buy American provisions will add or subtract US jobs. The second section provides a legal analysis of the provisions and spells out violations of trading rules agreed in the World Trade Organization (WTO) and the North American Free Trade Agreement (NAFTA). The third section evaluates the foreign policy implications. The policy brief concludes with recommendations designed to ensure respect for US international obligations.

JOB EFFECTS

The House Bill

Steel is crucial to modern economies. Buildings, automobiles, pipelines, and bridges are all made of steel. However, steel manufacturing is highly capital intensive, so the labor force employed in the industry is deceptively small. About 150,000 workers are employed in the US steel industry (North American Industrial Classification System Codes 3311 and 3312).

The key selling point for Buy American legislation is job creation. Put bluntly, it is asserted that "not one dollar of the stimulus plan should be spent on foreign steel." In a time of crisis, this is a powerful argument. Blue- and white-collar jobs alike are being shed at a terrifying pace. The steel industry is no exception. Even before the financial crisis, the Bureau of Labor Statistics predicted that employment in the steel industry would decrease by 25 percent between 2006 and 2016. With the crisis, the drop will come much sooner. US steel shipments plunged almost 40 percent in November 2008, year-on-year, and 25 percent of that decrease happened between October and November 2008.[2] As the automobile sector collapsed, steel producers lost a large volume of sales. To compensate, the US steel industry hopes that strong Buy American provisions will lock in a stable customer, namely the US public sector.

Table 1 (on page 4) walks through our calculation of the positive impact on steel industry jobs of the House provisions requiring American iron and steel. We estimate that the additional US steel production fostered by the Buy American provisions will amount to around 0.5 million metric tons. This in turn translates into a gain in steel industry employment equal to roughly 1,000 jobs. To repeat a point made earlier: The job impact is small because steel is very capital intensive. In the giant US economy, with a labor force of roughly 140 million people, 1,000 jobs more or less is a very small number.

1. The Berry Amendment, which previously applied only to the Department of Defense, requires that military clothing and other textiles be purchased only from US textile and apparel firms.

2. "November Steel Shipments Down 39.9 Percent from Last Year," press release, American Iron and Steel Institute, January 15, 2009.

Box 1 HR 1 American Recovery and Reinvestment Act of 2009

Status: 1/28/2009 Passed/agreed to in House. On passage: Passed by the Yeas and Nays: 244–188 (Roll no. 46).

SEC. 1110. USE OF AMERICAN IRON AND STEEL

(a) In General—None of the funds appropriated or otherwise made available by this Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron and steel used in the project is produced in the United States.

(b) Exceptions—Subsection (a) shall not apply in any case in which the head of the Federal department or agency involved finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) iron and steel are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) inclusion of iron and steel produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) Written Justification for Waiver—If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written justification as to why the provision is being waived.

(d) Definitions—In this section, the terms 'public building' and 'public work' have the meanings given such terms in section 1 of the Buy American Act (41 U.S.C. 10c) and include airports, bridges, canals, dams, dikes, pipelines, railroads, multiline mass transit systems, roads, tunnels, harbors, and piers.

Source: Extracted from the text of the bill available at http://thomas.loc.gov.

The Senate Bill

The draft Senate bill stipulates that, in addition to steel and iron, all manufactured goods used in projects financed by the stimulus plan must be produced in the United States. We use data developed by Christina Romer and Jared Bernstein to estimate the job impact of this larger constraint.[3]

Romer and Bernstein indicate that the stimulus plan will directly create 1.5 million jobs in the US economy. Beyond the direct impact, still more jobs will be created as newly hired workers spend their wages. For calculating the effect of Buy American, however, we ignore this "indirect" effect since there is no requirement that wages earned by newly hired workers be spent on purchasing American products.

Of the direct jobs—those affected by the Buy American provisions—approximately 220,000 will be in the manufacturing industry. Table 2 (on page 5) indicates the spending components of the stimulus bill that contribute to creating these new jobs. According to the Office of Federal Procurement Policy,[4] around 4 percent of US federal spending for the procurement of manufactures used in the United States is spent on manufactured goods originating from foreign countries. We assume that roughly the same percentage applies to state procurement of manufactured goods. Thus, as a maximum effect of the Buy American provision of the Senate bill, there might be a switch of this "normal" 4 percent foreign purchases to domestic firms. Four percent of 220,000 jobs indicates a job gain of roughly 9,000 jobs. A recent report on job benefits from infrastructure spending, by the Political Economy Research Institute (PERI) and the Alliance for American Manufacturing, when correctly evaluated, reaches similar results.[5]

In response to the Buy American measures, other countries

3. Christina Romer and Jared Bernstein, "The Job Impact of the American Recovery and Reinvestment Plan," January 9, 2009.

4. Based on calculations from the Federal Procurement Data System, available at www.fpds.gov (accessed on January 31, 2009).

5. James Heintz, Robert Pollin, and Heidi Garrett-Peltier, "How Infrastructure Investments Support the US Economy: Employment, Productivity and Growth," Political Economy Research Institute and the Alliance for American Manufacturing, January 2009. The study covers direct, indirect, and induced job creation; its "upper-bound estimates" of 77,000 US job gains assume no imports of any kind, infrastructure spending almost twice as high as in the current stimulus bill, and no potential US job losses due to foreign emulation or retaliation.

Box 2 S 336 American Recovery and Reinvestment Act of 2009

Status: Introduced in Senate on January 27, 2009

BUY AMERICAN

SEC. 1604. USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS

(a) None of the funds appropriated or otherwise made available by this Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.

(b) Subsection (a) shall not apply in any case in which the head of the Federal department or agency involved finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) iron, steel, and the relevant manufactured goods are not produced in the United States if sufficient and reasonably available quantities and of a satisfactory quality; or

(3) inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the head of a Federal department or agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b) the head of the department or agency shall publish in the Federal Register a detailed written jurisdiction as to why the provision is being waived.

(d) In this section, the terms 'public building' and 'public work' have the meanings given such terms in section 1 of the Buy American Act (41 U.S.C. 10c) and include airports, bridges, canals, dams, dikes, pipelines, railroads, multiline mass transit systems, roads, tunnels, harbors, and piers.

Source: Extracted from the text of the bill available at http://thomas.loc.gov.

would likely choose to echo US legislation by further restricting the ability of foreign firms to bid on public contracts. Such action—applied to lucrative new projects covered by their own stimulus programs—would raise additional barriers to US manufactured exports. Fred Smith, chairman and CEO of Federal Express, said "if the Congress passes this Buy American provision, I can assure you—and we operate in 220-some-odd countries around the world and are a huge part of the import-export infrastructure of the United States—we will get retaliation and it will be American jobs at risk."[6]

If, for example, trading partners strike back with their own protectionist measures on steel, the US steel industry could lose exports. The United States exported around 9 million tons of steel in 2007. Conceivably, the risk to US steel exports is equal to or greater than potential production gains from the Buy American provision in the House bill.

Moreover, foreign countries might extend their retaliation list to other US manufactured goods, especially if the Senate version of Buy American provision becomes law, since it covers all manufactured goods. In particular, foreign countries might cut off purchases of US products for public projects.

To scope out this possibility, we identify 12 major US trading partners.[7] Table 3 (on page 6) shows government procurement spending in each of those countries as a percent of GDP. Applying that proportion to US exports of goods and services to each country, we estimate what share of those countries' direct and indirect imports of US goods and services are the result of government procurement.[8] The total value is around $104 billion. In our view, at least a small share of those exports are "at risk" of echo or retaliation measures.[9] But even

6. "Canada Blasts Buy American Provisions as Industry Opposition Grows," *Inside US Trade*, February 2, 2009.

7. Australia, Canada, China, France, Germany, Hong Kong, Italy, Japan, Korea, the Netherlands, Singapore and the United Kingdom. Comparable data for Mexico are not available.

8. Our estimate of US exports procured by foreign governments ($104 billion) in table 3 and our estimate of jobs connected to US exports (6,192 per $1 billion of US exports) in table 4 suggest that roughly 646,000 US jobs are supported directly and indirectly by foreign government procurement of US exports. For a number of reasons, this is a very crude estimate. Moreover we suggest that only a small fraction of supported jobs would be lost in the event of echo behavior or retaliation abroad.

9. Table 5 and appendix 1 show the categories of "at risk" exports and their trade values. Of US exports "at risk," heavy manufacturing exports are most likely to

Table 1 Estimate of positive job impact of House American iron and steel provisions

Item	Estimate
US employment in the steel industry, 2006 (thousands)	154.3
US production of crude steel, 2006 (million metric tons [mmt])	98.6
US imports of steel, 2006 (mmt)	41.7
Employees (thousands) per mmt of crude steel production (154.3/98.6)	1.6
Additional steel purchases (mmt) from House American iron and steel provisions, if applied to all government purchases of steel (see below)	0.5
Additional steel employees (thousands) from House American iron and steel provisions policy, if applied to all government purchases of steel (1.6 x 0.5)	0.7
Memorandum: Derivation of additional steel purchases estimate	
Federal government procurement as a share of US manufacturing output (percent)[a]	6.9
Federal and state government procurement as a share of US manufacturing output (percent)[b]	11.0
Total steel consumption in the United States, 2007 (mmt)	108.2
Federal and state government steel consumption, 2007 (mmt) (11 percent x 108.2)	11.9
Federal government procurement of foreign-manufactured goods as a share of total procurement of manufactured goods (percent)[c]	4.0
Estimated federal and state government purchase of foreign steel (mmt) (4 percent x 11.9)	0.5

a. This rate is determined as the share of federal procurement in manufacturing in 2007 ($158.4 billion) divided by valued added in manufacturing 2006 ($2,285.9 billion).
b. This rate is determine by scaling the 6.9 percent rate by a factor of 1.6, which is determined by the ratio of federal plus state 2007 budget outlays ($4,419.1 billion) to federal outlays ($2,784.3 billion).
c. This rate is determined as 2007 government purchases of imported manufactures ($5.8 billion) divided by total government manufactures purchases ($153.2 billion). The latter figure differs slightly from the comparable figure used in note (a) because of different government reporting requirements.

Sources: International Iron and Steel Institute, World Steel in Figures, 2008; Bureau of Labor Statistics, 2009; Bureau of Economic Analysis, 2009; OECD, Iron and Steel Market Trends, 2008; Federal Procurement Data System, www.fpds.gov, 2009.

if 1 percent of those exports were in fact lost by echo or retaliation behavior, the resulting employment loss in the United States would be around 6,500 jobs. In an extreme case that 10 percent of those exports are lost, as many as 65,000 jobs could vanish (table 4).

To summarize: The negative job impact of foreign retaliation against Buy American provisions could easily outweigh the positive effect of the measures on jobs in the US iron and steel sector and other industries. The difference is that jobs lost would be spread across the entire manufacturing sector, while jobs gained would be concentrated in iron and steel and a few other industries.

Other factors not reflected in our calculations could also have a negative impact on net job creation. For example, with a Buy American requirement, the prices charged to public agencies would likely be higher for US iron and steel and other manufactured products. Higher prices would mean that fewer roads and schools could be built with the stimulus money. Higher iron and steel prices could also hurt steel-using firms that are major US exporters—such as heavy machinery. On the other hand, prices might fall for foreign steel sold by countries where the steel industry depends on exports to the United States, such as Mexico and Canada. Private US buyers might in turn switch their purchases to those foreign producers. Depending on the size of the switch, the jobs created by the Buy American provisions could be significantly reduced by a loss of sales to private business in the United States.

INTERNATIONAL OBLIGATIONS

While the texts of Buy American provisions included in the House (HR 1) and Senate (S 336) bills are very similar, the Senate version expands the Buy American initiative from

be affected by discriminatory foreign government procurement policies.

Table 2 Positive job impact of Senate Buy American provision

Sector	Jobs (thousands)
Energy	46.1
Infrastructure	35.7
Health care	25.1
Education	25.1
Protecting vulnerable	21.2
State relief	66.8
Total	219.9
Memorandum:	
Import share of US federal manufacturing purchases in 2007 (percent)[a]	4.0
Estimated increase in manufacturing employment due to the Senate Buy American provision (4 percent x 219.9)[a]	8.8

Note: The table shows manufacturing jobs created directly from the spending components of the American Recovery and Reinvestment Plan. The impact is estimated by applying the ratio of direct jobs to total jobs for the spending components of the recovery package (Romer and Bernstein 2009, table 2) to total manufacturing jobs created (Romer and Bernstein 2009, table 4).

a. Based on calculations from the Federal Procurement Data System, available at www.fpds.gov (accessed on January 31, 2009).

Sources: Christina Romer and Jared Bernstein, "The Job Impact of the American Recovery and Reinvestment Plan," January 9, 2009; authors' calculations.

iron and steel to cover all manufactured goods.[10] These provisions go far beyond the scope of US exceptions in either the WTO Agreement on Government Procurement (GPA) or the procurement chapter of NAFTA. In other words, if the Buy American provisions are applied to signatory parties of the GPA or to NAFTA partners (Mexico and Canada), they would violate US obligations. The European Union is already examining the provisions to build a legal case for a WTO complaint.[11]

The WTO Agreement on Government Procurement

The GPA was negotiated during the Uruguay Round and entered into force on January 1, 1996. Current members of the GPA are Canada, the 27 member states of European Communities, Hong Kong, Iceland, Israel, Japan, Korea, Liechtenstein, the Netherlands with respect to Aruba, Norway, Singapore, Switzerland, and the United States. The point of the GPA is to open procurement to competition from firms based in the signatory countries—but not to firms based in other WTO members such as Brazil, China, India, Mexico, and Russia.[12] Those five countries account for around 40 percent of US iron and steel imports in 2006 (table 6). Some GPA member countries had previously opened government procurement bilaterally (see appendix 2); the agreement locked in that progress.

The Buy American provisions would violate US trade obligations and damage US reputation, with very little impact on US jobs

Article I: 1 of the GPA defines the scope and coverage. It states: "This Agreement applies to any law, regulation, procedure or practice regarding any procurement by entities covered by this Agreement, as specified in Appendix I." Pursuant to this article, parties have submitted their lists of covered entities. Those entities include central governmental entities as well as some subcentral governmental entities and public agencies.

While US commitments under the GPA cover many federal government entities and 37 states, the proponents of Buy American provisions argue that a large portion of the projects funded by the stimulus bills are not covered in the GPA.[13] For example, there is a general exclusion for federal funds destined for mass transit and highway projects.[14] Moreover, many of the 37 states that acceded to the GPA also reserved sensitive procurement areas, such as motor vehicles, construction-grade steel, and construction services. But not all states made these reservations. For example, California did not exclude construction-grade steel and motor vehicles from its GPA commitments. In the absence of a reservation or exemption, the application of Buy American provisions to projects sponsored by entities covered in the GPA would violate US obligations.

10. The texts of the House and Senate bills are available at http://thomas.loc.gov.

11. Doug Palmer, "White House Reviewing Buy American Plan," Reuters, January 30, 2009.

12. Unlike other WTO accords, GPA obligations are not extended to all WTO members under the most favored nation principle.

13. "Industries Clash Over 'Buy American' Provisions in Stimulus Package," *Inside US Trade* 27, no.4, January 30, 2009.

14. Note 5 of Annex 2, which lists the covered 37 states and subfederal bodies, states: "the agreement shall not apply to restrictions attached to Federal funds for mass transit and highway projects." See Annex 2 of the United States to the GPA (available at www.wto.org).

Table 3 Estimated US exports procured by foreign governments, 2006

Country	**Government purchase of goods and services as a share of GDP** (percent)[b]	**US exports of goods and services** (billions of US dollars)	**Estimated direct and indirect US exports purchased by public entities**[d] (billions of US dollars)
Canada	8	269	21
United Kingdom	12	97	11
Japan[a]	3	95	3
Germany	4	62	3
China (mainland)[a]	16	51	8
Netherlands	7	41	3
Korea[a]	4	38	2
France	5	38	2
Singapore[a]	5	26	1
Australia	6	26	2
Hong Kong[a]	4	21	1
Italy	5	20	1
Subtotal		785	58
Total world trade, 2006 (billions of US dollars)[c]		1,423	104
Sample country share of total (percent)		55	55

a. 2005 figures.
b. For EU countries and India, "government use of goods and services" is the description.
c. The total reflects 2005 exports to Japan, China, Korea, Singapore, and Hong Kong.
d. US exports are calculated as government purchases of goods and services as a share of GDP times total US exports to the country. By assumption, government purchases as a share of GDP roughly equals direct and indirect government purchases as a share of US exports to the country.

Sources: International Monetary Fund, *Government Finance Statistics*, 2007, and *World Economic Outlook*, 2008; authors' calculations.

Table 4 Negative job impact of discriminatory foreign government procurement

Percent of exports "at risk"	**Estimated US exports**[a] (billions of US dollars)	**Lost exports** (billions of US dollars)	**American jobs lost**[b] (thousands of employees)
1	104	1.0	6.5
5	104	5.2	32.3
10	104	10.4	64.7

a. See table 3.

b. Based on an estimated coefficient of 6,192 workers per every billion dollars of US exports of manufactured goods. This estimate is derived from 14,155,000 manufacturing workers in 2006 divided by $2,285.9 billion of value added in manufacturing in 2006.

Sources: Bureau of Labor Statistics, 2009; Bureau of Economic Analysis, 2009; US Census Bureau, 2009.

Table 5 US heavy manufacturing exports to major partners: Goods "vulnerable" to discriminatory foreign government procurement policies, 2006
(billions of US dollars)

Country/region	"Vulnerable" exports	Total exports
EU-25	29.0	214.1
Canada	23.9	230.2
Mexico	8.5	134.1
China	7.7	55.2
Japan	6.6	59.6
Brazil	4.1	19.2
Korea	3.8	32.5
India	2.1	10.1
Russia	1.2	4.7
Subtotal	86.9	759.7
Memorandum: World	127.3	1,037.0

Note: "Vulnerable" products are listed in appendix 1. The estimates here are comparable to the "at-risk" estimates listed in table 3; however, the methodologies differ.

Source: UN Comtrade database, 2009.

The North American Free Trade Agreement

On January 1, 1994, the North American Free Trade Agreement entered into force in the three signatory countries, the United States, Canada, and Mexico. Chapter 10 of NAFTA contains government procurement obligations and covers almost all federal government agencies in the three countries, as well as many government-controlled enterprises. US commitments under NAFTA cover a much larger share of federal procurement than the GPA. Unlike in the GPA, NAFTA Chapter 10 does not cover state and provincial government entities.[15] Therefore, some argue that federal funds given to state and local governments for infrastructure projects would not violate the procurement obligations under the NAFTA. This is too clever. If the federal government provided a block grant with no conditions to the states—which then decided what to spend it on—it would clearly be state procurement. However, when the federal government hands money to the states to be used in ways that are spelled out in detail—including Buy American provisions—it is a different story. In a state-to-state arbitration proceeding under NAFTA, impartial arbitrators would very likely conclude that it is federal procurement and that NAFTA obligations apply.

15. See Chapter 10 of the text of the NAFTA available at www.nafta-sec-alena.org.

Waiver Clauses

The Buy American provisions of both House and Senate versions (see boxes 1 and 2) include waiver clauses. Subsection (b) of Section 1110 in the House version of the bill states:

> (b) Exceptions—Subsection (a) shall not apply in any case in which the head of the Federal department or agency involved finds that—(1) applying subsection (a) would be inconsistent with the public interest; (2) iron and steel are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron and steel produced in the United States will increase the cost of the overall project by more than 25 percent.

The Senate version is almost identical but adds "relevant manufactured goods" to iron and steel.

By invoking the public interest exception, the United States could avoid a violation of its international obligations. But unless the final legislation explicitly waives the Buy American restrictions for foreign suppliers covered by US trade obligations, or the waiver is invoked publicly by President Barack Obama on the day he signs the bill, the damage will be done. Foreign countries will not wait for determinations by agency heads. They will conclude that the United States intends to ignore its obligations. In turn, they will map out their own echo and retaliation strategies.

US FOREIGN RELATIONS

A focus on domestic needs in time of crisis is normal. But Buy American provisions, unless waived, will violate US obligations to the international community. Therefore, it is important to consider the foreign policy implications.

The most immediate risk is an echo or retaliation, already discussed. The much bigger cost is the damage to US reputation. In a stroke, the United States would forfeit the moral high ground when it comes to slowing the protectionist juggernaut that now threatens the world economy. Enacting Buy American requirements would open the door for countries worldwide to walk away from their trade obligations—or simply to raise barriers where they have no obligations. EU spokesman Peter Power stated that "if a bill is passed which prohibits the sale or purchase of European goods on American territory, [the European Union] will not stand idly by and ignore."[16] Canadian Prime Minister Stephen Harper expressed his own grave concern about the measure.[17]

If echoes and retaliation multiply, the world could be faced with rising protection, reminiscent of the Great Depression. The Smoot-Hawley Tariff Act of 1930, which raised tariffs on some 20,000 goods, ignited retaliation from US trading partners—and served as a catalyst for turning the depression into the Great Depression. Even a small echo of that experience would be a disaster.

Buy American provisions would particularly damage US reputation abroad since they would come just a few months after the United States pledged to reject protectionism at the G-20 summit on November 15, 2008.[18] The world is carefully watching the first moves of President Obama to gauge the tone of the new administration's trade policy. Buy American provisions are an early test. The need for the stimulus bill is urgent, both economically and politically, and the administration has worked hard to enact the measure. Unless recast or waived, however, Buy American provisions will be read as an Obama trade policy that leans toward protectionism—with severe consequences abroad.

CONCLUSION

Based on our economic and legal analysis, the Buy American provisions would violate US trade obligations and damage the United States' reputation, with very little impact on US jobs. In a country of 140 million workers, with millions of new jobs to be created by the stimulus package, the number of employees affected by the Buy American provision is a rounding error.

In other words, there is little bang for the buck, and on balance the Buy American provisions could well cost jobs if other countries emulate US policies. Most importantly, the Buy American provisions contradict the G-20 commitment not to implement new protectionist measures—a commitment that was designed to forestall a rush of "beggar-thy-neighbor" policies.

What should be done? The best result would be to simply delete the Buy American provision in the House-Senate conference. Existing laws already provide Buy American preferences for much of the public procurement authorized in the stimulus bill, though the rule does not always require 100 percent US content as in the current draft bills. However, given the legislative history of the stimulus bill, and the politically salient argument that US funds should support only US jobs, the deletion option would raise hackles.

The Buy American provisions contradict the G-20 commitment not to implement new protectionist measures—a commitment that was designed to forestall a rush of "beggar-thy-neighbor" policies.

Next best would be to keep the House version, applying the Buy American restriction only to iron and steel, but stating explicitly—in either the statutory text or in the legislative history—that the public interest waiver is intended to be used to avoid violations of US trade obligations. Under this option, Canada and Mexico would be exempted due to NAFTA's broad obligations regarding federal procurement, as would GPA signatories, but the restrictions would bar the use of imported iron and steel from key suppliers such as China, India, and Brazil. Consequently, it would likely encourage those countries to adopt comparable policies that discriminate against US suppliers for their own public procurement and complicate US efforts to work cooperatively to resolve the global financial crisis.

The third option is a presidential statement—preferably before legislation is finalized—that the United States will respect its international obligations when it applies the Buy American provisions. In other words, at the starting gate, President Obama should send a clear signal that he will invoke the public interest waiver to waive Buy American provisions for GPA and NAFTA signatories. Clearly a global trade war is against the public interest. Moreover, President Obama should extend an invitation to countries that are not already members of the WTO GPA to sign up and thus receive equivalent treatment.

The United States leads by example, and it would be unfortunate if the first major trade policy action under the Obama administration bowed to protectionist pressures and violated international obligations. That would jolt US rela-

16. Wendell Goler, "'Buy American' Rule in Stimulus Bill Sparks Protest," FoxNews.com, January 30, 2009.

17. "Canadian Steel Industry has 'Grave Concerns' about US Protectionism," The Canadian Press, January 29, 2009.

18. "We underscore the critical importance of rejecting protectionism and not turning inward in times of financial uncertainty. In this regard, within the next 12 months, we will refrain from raising new barriers to investment or to trade in goods and services, imposing new export restrictions, or implementing World Trade Organization (WTO) inconsistent measures to stimulate exports" (Declaration of the Summit on Financial Markets and the World Economy, G-20, November 15, 2008, Washington).

Table 6 US imports of HS 72 (iron and steel) and HS 73 (articles of iron and steel) from GPA members, BRIC, and Mexico, 2006

Country	Value (millions of US dollars)	Net weight (million metric tons)
GPA members		
Canada	9,165	10.65
EU-25	9,742	7.31
Korea	2,765	2.90
Taiwan	3,279	2.48
Japan	3,278	2.18
Norway	196	0.19
Hong Kong	87	0.05
Singapore	44	0.05
Switzerland	192	0.04
Israel	54	0.01
Iceland	1	0.00
Subtotal	28,802	25.85
Non-GPA members		
China	11,683	8.80
Brazil	3,304	7.37
Russia	2,554	5.48
Mexico	4,847	4.64
India	1,571	1.43
Subtotal	23,958	27.72
GPA and non-GPA subtotal	52,761	53.57
World	60,350	65.61

GPA = Government Procurement Agreement
BRIC = Brazil, Russia, India, and China
HS = Harmonized System

Note: The total imports figure listed in this table differs from the comparable import figure listed in table 1 because that figure does not include all of HS 72 and HS 73 imports.

Sources: UN Comtrade database, 2009; Taiwan figures: USITC Interactive Tariff and Trade Dataweb, 2009.

tions with Canada and Mexico, just when we need to work more closely with them on important issues such as climate change and border security and just before President Obama's visit to Canada on February 19. It would dampen prospects for action by the G-20 summit in London on April 2 to forestall protectionist measures worldwide and to revive the Doha Round of multilateral trade negotiations. Why take on these risks when the Buy American provisions do little to help American workers?

APPENDIX 1 PRODUCTS SUSCEPTIBLE TO DISCRIMINATORY FOREIGN GOVERNMENT PROCUREMENT POLICIES

Harmonized System Code	Description
8406	Steam turbines and other vapor turbines, and parts thereof
8407	Spark-ignition reciprocating or rotary internal combustion piston engines
8408	Compression-ignition internal combustion piston engines (diesel or semi-diesel engines)
8409	Parts for spark-ignition reciprocating or rotary internal combustion piston engines and compression-ignition internal combustion piston engines
8410	Hydraulic turbines, water wheels and regulators thereof; parts thereof
8411	Turbojets, turbopropellers and other gas turbines, and parts thereof
8412	Engines and motors nesoi, and parts thereof
8420	Calendering or other rolling machines, other than for metals or glass, and cylinders thereof; parts thereof
8421	Centrifuges, including centrifugal dryers; filtering or purifying machinery and apparatus, for liquids or gases; parts thereof
8425	Pulley tackle and hoists other than skip hoists; winches and capstans; jacks
8426	Ship's derricks; cranes; mobile lifting frames, straddle carriers and works trucks fitted with a crane
8427	Fork-lift trucks; other works trucks fitted with lifting or handling equipment
8428	Lifting, handling, loading or unloading machinery (including elevators, escalators and conveyors)
8429	Self-propelled bulldozers, angledozers, graders, levelers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers
8430	Machinery nesoi, for moving, grading, excavating, boring etc. earth, minerals or ores; pile-drivers and pile-extractors; snowplows and snowblowers
8431	Parts of machinery of headings 8425 to 8430 covering derricks, fork-lift trucks, conveyers, self-propelled bulldozers, graders, snow plows, etc.
8457	Machining centers, unit construction machines and multistation transfer machines, for working metal
8458	Lathes for removing metal, including turning centers
8459	Machine tools, other than lathes, for drilling, boring, milling, threading or tapping by removing metal
8460	Machine tools for deburring, honing or otherwise finishing metal or cermets by means of grinding, abrasive or polishing products, nesoi
8461	Machine tools for planing, shaping, broaching etc., gear cutting, gear finishing etc., and other machine tools working by removing metal etc., nesoi
8463	Machine tools for working metal or cermets, without removing metal, nesoi
8464	Machine tools for working stone, ceramics, concrete, asbestos-cement or like mineral materials or for cold working glass
8465	Machine tools for working wood, cork, bone, hard rubber, hard plastics or similar hard materials (including machines for nailing, stapling etc.)
8466	Parts and accessories for use with machine tools of headings 8456 to 8465, including work or tool holders and other special attachments
8482	Ball or roller bearings, and parts thereof
8483	Transmission shafts and cranks; bearing housings, housed bearings etc.; gears and gearing; ball & roller screws; clutches, etc.; and parts
8484	Gaskets and like joints of metal sheet combined with other material or metal layers; assortments of gaskets and like joints, mechanical seals, etc.
8701	Tractors (other than works trucks of heading 8709)
8705	Special purpose motor vehicles, nesoi, including wreckers, mobile cranes, fire fighting vehicles, concrete mixers, mobile workshops, etc.
8706	Chassis fitted with engines for tractors, motor vehicles for passengers, goods transport vehicles and special purpose motor vehicles
8707	Bodies (including cabs) for tractors, public-transport passenger vehicles, motor cars, goods transport vehicles and special purpose motor vehicles
8709	Works trucks, self-propelled, not fitted with lifting or handling equipment; tractors used on railway station platforms; parts thereof
880220	Aeroplanes and other aircraft, of an unladen weight not exceeding 2,000kg
888230	Aeroplanes and other aircraft, of an unladen weight exceeding 2,000kg but not exceeding 15,000kg
880240	Aeroplanes and other aircraft, of an unladen weight exceeding 15,000kg

nesoi = not elswehere specified or included

Source: US International Trade Commission, Interactive Tariff and Trade Dataweb, 2009, http://dataweb.usitc.gov.

APPENDIX 2 BILATERAL OPENING OF GOVERNMENT PROCUREMENT: THE CASE OF JAPAN AND THE UNITED STATES

In the 1980s and 1990s the United States made a major effort to open Japanese government procurement and construction projects to US firms. After the US Congress threatened retaliatory steps if Japan did not open its bidding procedures, the United States and Japan reached key agreements. If new US Buy American provisions are now imposed, they would undermine the philosophy that guided many years of US policy toward Japan and other countries.

Computers. C. Fred Bergsten and Marcus Noland (1993) estimated that, in 1990, Japanese computer firms got 30 percent of their revenues from the government market of roughly $9 billion. US and other foreign firms were largely excluded, but a market access agreement was negotiated in the context of the January 1992 visit by President George H. W. Bush to Japan. However, the authors found that "both countries' public procurement policies appear to discriminate against imported supercomputers" in part because of an "informal 'buy American'" policy that existed in 1993 when their book was published.

Construction. A central target of US policy was the Japanese practice of *dango*, or bid rigging on construction projects. In 1989 the US Department of Justice reached a settlement with 99 contractors for bid-rigging at the Yokosuka Naval Base. "Since 1984, the strategy of the United States has been to use the Japanese public works markets as the wedge to begin getting US firms into the market (…). This approach has the obvious attraction of focusing on the segment of the construction market over which the Japanese government has the greatest sway and that is most amenable to government-to-government negotiations."

A key lever was an amendment that Senator Frank Murkowski (R-AK) attached to a budget resolution, passed in December 1987, which barred firms of countries not granting reciprocal access to US firms from participating in federally funded public works. "Japanese observers were shocked when the low bid on a Washington, DC, subway project, submitted by a joint venture of Kiewit Construction and Kajima Engineering (which had been implicated in the Yokosuka *dango* case), was rejected on the grounds that the Murkowski amendment barred the participation of Japanese firms." In 1988 the United States and Japan reached an understanding (the so-called Major Projects Agreement), which established bid procedures for Kansai Airport (KIA) and other large projects.

However, foreign firms continued to encounter difficulties and a big dispute erupted over the rejection of a bid by AEG and Westinghouse for a people mover system at KIA. The disputes escalated until 1991, when Prime Minister Toshiki Kaifu agreed on a compromise. Eventually 14 US general contractors obtained licenses to work in Japan, and US firms were awarded $375 million in the wake of the 1991 agreement.

Source: C. Fred Bergsten and Marcus Noland, *Reconcilable Differences? United States–Japan Economic Conflict* (Washington: Institute for International Economics, 1993).