

**UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS**

**Hearing on Trade and Globalization
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**Prepared Statement of
Daniel K. Tarullo**

Mr. Chairman, Ranking Member McCrery, Members of the Committee. Thank you for your invitation to testify this morning. I am a Professor of Law at Georgetown University Law Center and a non-resident senior fellow at the Center for American Progress. I testify today in my individual capacity as an academic, with no client interests or representation.

In holding this hearing as the new Congress convenes, you provide an occasion to step back from debate over a specific trade agreement or legislative proposal and to address more broadly the opportunities and challenges presented to the United States by the ongoing globalization of economic activity. In response to your specific inquiry, let me say at the outset that I certainly do not subscribe to the view that any trade agreement is a good trade agreement. Given resource constraints, the selection of agreements to negotiate is a critical decision. Furthermore, decisions on the provisions to be included or excluded can, almost by definition, make the difference between a good or bad agreement.

Having said that, I think it important to note that the United States does have an interest in negotiating additional trade agreements. The question ought not to be whether all trade agreements are good or all trade agreements are bad. Instead, the relevant questions are whether the selection of negotiating partners and topics is well-advised, and whether the terms negotiated comport with good international and domestic policy. This judgment must

be applied on a case-by-case basis, though one would hope that an administration would have an overall trade strategy that more generally embodied these aims and interests.

My testimony next explains why I believe this hearing comes at a critical period of change in the world economy and in the institutions that shape global economic activity. Next I will identify the role that trade policy can and cannot play in a sensible and strategic response to these changes. Finally, I will suggest some criteria for devising a sensible trade policy that is growth-oriented, socially equitable, and politically sustainable.

The Impact of Economic and Political Change

Trade policy has always occupied a point at the intersection of economic policy, international relations, and domestic politics. An intelligent approach to setting current trade policy must take into account the fundamental economic and geopolitical changes we encounter today. At the same time, we must recognize that the trade and other international economic policies we adopt will help shape these changes, whose end points are far from clear.

The *economic changes* associated with contemporary globalization are most frequently cited in discussions of trade policy and, for that reason, may need less elaboration. But they are useful to recall, at least briefly, in providing the context within which trade policy is formulated. It is particularly important to specify how the current wave of globalization differs from prior episodes and thus calls for new responses.

First, successive revolutions in information technology have driven much economic change in recent decades. Past periods of economic integration, national and international, were propelled as much or more by technological advances that reduced transportation costs

as they were by communications advances such as the telegraph and telephone. But there have been no revolutionary advances in land, sea, or air transportation for decades. In the present phase of globalization, economic distances have shrunk because of the increasing ability to communicate by voice, data, and image nearly instantaneously at costs that continue to decline. Meanwhile, the declining cost and growing power of computing has enabled coordination of complex activities that was unthinkable just a generation ago.

The implications of the IT revolutions for economic organization are profound. Let me note several that are especially significant for present purposes: The availability of these information technologies has enabled companies to break up their production processes into discrete segments that are not physically proximate to one another. Each segment can be placed in whatever location in the world offers the combination of infrastructure, skills, labor markets, and general business environment best suited to produce that segment at the lowest cost. This capacity also enables a company to contract out much of its production process to independent suppliers while maintaining effective communication concerning inventory, customer needs, quality control, and other issues.

Finally, the IT revolution has opened up new possibilities for services to be performed at locations remote from either a related producer or an ultimate consumer. Consequently, the set of potentially “tradeable” services is growing and with it the likelihood of further structural economic shifts. Note, however that much or all of this offshoring of services can be achieved without any person or physical product ever crossing a national border. These services, whether provided as intermediate steps of a production process or directly to consumers, are delivered solely through high-speed electronic transmission of voice, data, or images.

Second, the accelerating participation by China, India, and other emerging markets in the global economy means that the world labor force will be increasing by a billion or more workers in a relatively short period of time. A growing portion of these new entrants will be reasonably well educated and trained; a significant fraction will be highly skilled professionals whose abilities match those of their counterparts in North America, Europe, and Japan. Combined with the technological developments just mentioned, this explosion of the global work force could lead to the kind of fundamental shift in world economic power that has occurred periodically since the Industrial Revolution. This one, however, may occur at an unprecedented speed.

Changes in the international system have hastened economic globalization and, at the same time, deprived it of a stable structure for organizing the international economy. The world is moving towards a multipolar economic system with a novel set of characteristics. The multiple economic poles will include countries at very different levels of development (principally China and India, as compared to Europe, Japan, and the United States). This change reflects an ongoing secular shift in the economic weight of the world's major regions.

Most dramatic, of course, is the rise of Asia ex-Japan. Most countries in this fastest growing region in the world have pursued variations on export-led growth strategies. Many have presented formal, and sometimes less transparent but very real, barriers to market access for foreign companies. Such practices by many of these countries continue, to be sure, along with foreign exchange policies that often artificially depress the values of their currencies in order to promote exports. Yet these countries are also shifting their policies, both in response to their own movement up the economic ladder and in response to the impact of China on the regional economy.

Meanwhile, the World Trade Organization, the International Monetary Fund, and the World Bank are under stress. For a variety of reasons – the growth in the number of economically important countries, the shift in relative economic weight towards Asia, and their roots in a bygone era – these institutions are significantly misaligned with the contemporary mission of creating stable, prosperous, and equitable structures for a global economy.

Just as the end of the Cold War and the consequent passing of the familiar bipolar system engendered uncertainty in the political sphere, so the emergence of a multipolar economic system of such unusual configuration leaves us in a new environment. Few of the rising economic powers are traditional allies of the United States. They are all, to a greater or lesser extent, skeptical of the postwar international economic system over which America has had substantial influence. At the same time, even from the perspective of the United States and other mature economies, the current system seems increasingly outdated. In such circumstances, the potential for significant change in international economic arrangements over the coming years seems quite high.

The Role of U.S. Trade Policy

It is important to be clear about the relationship of trade policy and trade agreements to the phenomena described in the preceding section. Globalization is an important manifestation of economic changes that have simultaneously yielded remarkable leaps in productivity and highly disproportionate concentrations of the benefits of consequent economic growth. In many countries, including the United States, the result has been a significant rise in income inequality.

Here at home, technological change and production specialization have accelerated the loss of jobs, both where trade is involved and where the relevant economic activities are dominantly domestic. Even as these new technologies also *create* new jobs, many Americans worry that the losses will outweigh the gains and, as a consequence, they and their children will face a stagnant or declining standard of living. The previously mentioned upsurge in the global labor pool only increases these fears of job loss, along with a concern that the result will be downward pressure on wages for broad segments of American workers.

Trade agreements have often been the lightning rod for the anxieties and anger associated with these changes. Yet the trends described earlier will proceed regardless of whether the United States ever signs another trade agreement. Eschewing additional agreements would not stop emerging market nations from further developing their industrial capacities and improving the productivity of their workers. Nor would it halt the outsourcing of services.

A decision by the United States to forego all new trade arrangements would not dissuade other countries, both developed and developing, from pursuing new trade agreements of their own. In just the last two months we have witnessed an acceleration of the timetable for the creation of a free-trade zone by the Association of Southeast Asian Nations (ASEAN) and an agreement between ASEAN and China to liberalize trade in a number of service sectors.

The United States has a continuing interest in its leadership role in trade and other international economic arrangements. This role gives us the ability to shape the rules by which global economic actors must play. If we play this role in a constructive manner, it can reinforce overall American influence in the world. In addition, of course, the right kinds of

trade agreements can provide American firms and workers with access to the world's fast-growing economies as favorable as that enjoyed by other important economic powers.

Our challenge is to manage globalization to ensure that its benefits, both at home and abroad, are not limited to one privileged group while the costs are borne by others. Trade policy cannot do all, or even most, of this work on its own. But a well-conceived and well-implemented trade policy can play an important part.

Standards for a Sensible Trade Policy

Trade policy is sometimes depicted in binary terms: You are either for free trade or you are a protectionist. Anyone who opposes any trade agreement must be a protectionist. Or – as seen from another perspective – if you favor any trade agreement, you must be in favor of undermining labor or environmental or safety standards. But sensible trade policy, like most sensible policies, must recognize the multiplicity of interests at stake, as well as the different ways in which those interests are balanced and realized. It again bears saying that negotiating something called a trade agreement does not make it good or bad, a sensible or misguided allocation of government resources. The scope and specifics of the trade agreement itself are what matter. In that spirit, I suggest some standards for formulating or evaluating trade policy.

First, our trade policy should provide significant gains for U.S. workers, consumers, and businesses. Deserving of particular attention is the issue of whether the nation's trade policy is opening significant opportunities for the export of goods and services produced in the United States. Opportunities for the export of competitive goods and services support the good jobs associated with those exports. This standard implies both that new agreements

should be conceived and negotiated with an eye to this aim and that access granted under existing agreements should be protected.

Judged against this standard, the performance of U.S. trade policy in the last six years has been disappointing. While raw statistics can never tell the whole story, the contrast between the 1995-2000 period and the 2001-2006 period is striking. In the former, the United States initiated 68 dispute settlement cases under the new World Trade Organization procedures. In the latter time frame, only 16 cases have been initiated. Mercantilist practices are still prevalent in some important export markets, either in particular sectors or more generally. Whether through WTO dispute settlement or otherwise, countering these practices must be an integral part of a sensible trade policy.

Equally disappointing are the opportunities created by the new trade agreements into which the United States has entered in that same 2001-2006 period. Cumulatively, these agreements account for less than 5% of U.S. exports. It appears that, for several years, selection of countries with which the United States sought trade agreements was driven almost exclusively by geopolitical considerations. While there is nothing inherently wrong with factoring such considerations into trade policy, application of this selection criterion by the current Administration came at the expense of important commercial opportunities. Negotiators are not in infinite supply and senior officials must generally concentrate on no more than a few priorities at any one time.

The missed opportunities include the Doha Round and the faster growing markets that pose significant problems of access to U.S. exporters. At least at its top levels, the Administration seemed never more than nominally committed towards timely conclusion of the Doha Round of multilateral negotiations, which had (and, hopefully still has) the

potential to reduce significant barriers to our agricultural exports. While the Administration has more recently initiated discussions with some emerging market countries in which such problems are encountered, there is considerable doubt as to the viability of the approach taken in those negotiations.

Second, our trade agreements should contain provisions that are consistent with the exercise of responsible governmental authority. Trade agreements have for some time included terms that move well beyond border measures and into domestic economic policy. To some extent, this is inevitable, since the reduction of border measures has increased the impact of internal policies on trade. However, some agreements have gone too far down this road by restricting or prohibiting government prerogatives to take non-discriminatory actions that many would find best left to the discretion of each country. Not every regulation is a “trade barrier.” On the other hand, some non-traditional provisions, such as requirements for government transparency in regulatory or procurement, could actually reinforce the accountability of governments to their own people, as well as leveling the playing field for commercial actors.

A related matter is the inclusion of protections for basic labor and environmental standards. For years there has been a great struggle over these issues, particularly where labor standards are concerned. Yet it is hardly responsible government practice to permit violation of the five familiar internationally labor standards, and it is certainly not consistent with the aim of spreading the benefits of globalization to all. The approach of simply requiring countries to enforce their own standards – whatever they may be – is an evasion of the whole purpose of minimal labor protections. At the same time, the refusal to include such standards as an integral part of bilateral trade agreements, subject to the same dispute

settlement system as other provisions, sends an unfortunate message to the average American that liberalized trade is somehow antithetical to the most elemental protection of worker standards. Such a position seems almost perversely designed to stoke fears of trade and globalization.

A third standard for our trade agreements is that they support an international economic system consistent with American economic and political interests. This aim is particularly salient for multilateral agreements, which set global rules for trade and associated policies. For example, just as we must pay heed to our own citizens who may be left behind by globalization, so it is very much in our interest to promote development in the poorest countries of the world – for economic, political, security, and humanitarian reasons. Trade negotiations such as the Doha Round can advance this interest at the same time they generate more conventional opportunities. The use of trade agreements can bind the world more closely together in an economic system that produces gains for all nations, thereby benefiting the United States both directly and indirectly.

Fourth, trade policy should be situated in programs and policies that will give all Americans a chance to prosper. Almost all proponents of trade agreements acknowledge that there will be losers as well as winners from liberalized trade. While there is always much talk of compensating losers, there is rarely more than modest action to back up this talk. In decades past, it was perhaps reasonable to expect that most workers displaced by trade could, with some minimal assistance, move fairly quickly into jobs of comparable skill and pay.

Whatever the reasonableness of such assumptions in the past, they are clearly inoperative now. The social compact has been eroded in the United States. The economic insecurity that comes with disappearing pensions, unaffordable health care, and stagnant

wages already grips many Americans. Trade is by no means the only – or even the principal – cause, and legislation implementing trade agreements is hardly the place to tackle health care reform or pension portability.

Still, trade agreements should be occasions for reaffirming the social compact. There is no single formula for doing so. What is sensible and feasible will vary with the nature and scope of the agreement at issue. But, in one form or another, each should include measures specifically addressed to the needs of Americans whose economic prospects and security are threatened by the forces of economic change, including globalization.

Conclusion

Although I have tried, with these four standards, to develop a starting point for assessing the kinds of trade agreements we should pursue, application of these necessarily general standards will not always produce clear answers as to the advisability of a proposed trade agreement. In a sense, the best mechanism for selecting among proposals for negotiations and evaluating the terms of agreements once negotiations are launched is for an administration to consult with Congress.

The current up-or-down voting procedures for agreements under the President's trade promotion authority were designed to prevent delicately negotiated agreements from unraveling during the legislative process. But the inability of Members to offer amendments places a premium on consultation and accommodation during the conception and negotiation of trade agreements. Traditionally, presidents of both parties since the time of Franklin Roosevelt tried to pursue a bipartisan trade policy. But trade, like so many other issues, has become increasingly partisan. While this is probably inevitable to some degree, given the

nature of trade policy today, the prevailing pattern during the past six years of non-consultation with Members of the opposition party is surely ill-advised.

There have been signs that this pattern has changed. Obviously, the change in control of Congress makes bi-partisan consultations not just advisable, but necessary for the Administration. I hope, and believe, that today's hearing is the start of a forthright and open discussion by all sides of the trade policies that will best serve American interests.

Thank you for your attention. I would be happy to answer any questions you may have for me.