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BEFORE THE UNITED STATES
TRADE REPRESENTATIVE

TESTIMONY REGARDING THE PROPOSED UNITED STATES – TRANS-PACIFIC PARTNERSHIP FREE TRADE AGREEMENT

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PUBLIC CITIZEN'S GLOBAL TRADE WATCH DIVISION

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On January 23, 2009, the Office of the U.S. Trade Representative (USTR) published in the Federal Register a Request for Comments and Notice of Public Hearing concerning the last minute Bush administration proposal that the United States join in negotiations for a proposed Trans-Pacific Partnership Free Trade Agreement (TPPFTA) between Singapore, Chile, New Zealand, Brunei Darussalam, Australia, Peru and Vietnam. The USTR gave notice that it seeks public comment to assist the USTR in amplifying and clarifying negotiating objectives for the proposed agreements and to provide advice on how specific goods and services and other matters should be treated under the proposed agreement. However, the first order inquiry must be into why the Obama administration would consider picking up this end-game Bush administration trade agenda item that runs counter to its stated trade and domestic agenda priorities rather than pursuing the new trade reform agenda that President Obama pledged during his campaign.

On behalf of Public Citizen's Global Trade Watch division, we urge USTR and the entire Obama administration to add to its list of reversed last-minute Bush policies the previous administration's unilateral September 22, 2008 decision that the United States should enter into negotiations for yet another North American Free Trade Agreement (NAFTA)-style Free Trade Agreement (FTA).

Instead of picking up on the Bush-era TPPFTA proposal, we urge the Obama administration to focus on reforming what President Obama identified as an existing U.S. trade policy that is failing to meet the needs of most people and indeed causing damage. Getting the model right is critical before any new negotiations are started. President Obama identified many aspects of the current FTA model that need reform during the campaign: over-reaching foreign investor privileges and their private enforcement, service sector privatization and deregulation, trade agreement limits on domestic procurement and import safety policies and more.

Among the reasons that the United States should not enter into TPPFTA talks are:

1. **Negotiating another NAFTA-style FTA is exactly the opposite of the trade reform agenda to which President Obama committed.** Like the Panama, Colombia and Korea FTAs, the TPPFTA is a Bush hangover project that should be scrapped in favor of the change of course on U.S. trade policy that the American public is demanding and on which President Obama and the last two classes elected to Congress campaigned.

2. **The last thing the United States needs now is *any* agreement that *expands* financial services liberalization and deregulation.** The Bush administration initially became interested in this agreement because it was viewed as a venue to push financial service deregulation in parallel to similar financial service proposals now on the table in the World Trade Organization (WTO) Doha Round talks. As the Congress works to establish new financial service regulation at home and world leaders are united on the need for more global regulation of this sector, having a 'trade' agreement that moves us in the exact opposite direction is a non-starter.

3. **FTAs under the current model have proved not to create good jobs, increase wages or even spur U.S. export growth, so doing another such agreement is not in the U.S. economic interest.** Under the current FTA model, U.S. real median wages are still scarcely above 1973 levels, while income inequality has risen to levels not seen since the Robber Baron era and 4.3

million U.S. manufacturing jobs – 1 in 4 of the entire sector – have been lost. The U.S. has become a net importer of food and has seen its total agriculture trade surplus plummet. U.S. export growth to current FTA partners has been 6 percent while export growth to non-FTA partners has been 14.4 percent. The United States had a trade deficit of $200 billion in 2008 with the 14 U.S. FTA partners. As regards the FTA countries with which we have the largest volume of trade, such as Canada, Mexico and Israel, deficits increased dramatically after implementation of FTAs. Doing more of the same makes no economic sense. A critical aspect of remedying our current economic crisis is creating a trade policy and a new model for our trade agreements that harvests the benefits of trade under rules that create good jobs here, increase wage levels, restore balance to our trade flows and promote equitable growth here and within our trade partners countries.

4. **FTAs under the current model have proved environmentally destructive.** Given the increasingly- recognized contribution of long-distance shipping to carbon emissions, there are strong ecological reasons for ramping down our dependence on carbon-intensive Trans-Pacific trade flows. The Obama administration should instead prioritize local, national and regional production.

Below, we present these reasons in more detail.

1. Negotiating another NAFTA-style FTA is exactly the opposite of the trade reform agenda to which President Obama committed.

Like the Panama, Colombia and Korea FTAs, the TPPFTA is a Bush hangover project that exemplifies the Bush administration approach to trade. Certainly rescuing the last floundering items of the failed Bush trade policy should not be the start of the Obama trade agenda. At issue is whether the Obama administration will breath life into the shell of another NAFTA-style FTA that the Bush administration unilaterally launched in the waning days of the past administration without Congressional consultation much less consent.

Taking up Bush's TPPFTA would directly contradict the change of course on trade policy that the American public is demanding and on which President Obama and the last two classes elected to Congress campaigned. From the presidency, to both chambers of Congress, from Florida to New Mexico, from Colorado to New York, successful candidates in the 2006 and 2008 races ran on a resounding platform of fundamental overhaul of U.S. trade and economic policies. In the two cycles, there was a combined shift of 72 members in the fair-trade composition of Congress.[1]

And President Obama of course campaigned on a whole series of specific trade reform commitments. Whether he will meet his pledges to the American people will be tested by whether the Obama administration continues with more Bush NAFTA-style FTAs, such as the TPPFTA, or conducts the promised repair of the existing trade agreements and develops a new policy that, as President Obama said, benefits the many, not only a few special interests. Specifically, President Obama pledged to remedy the following FTA problems that the TPPFTA would replicate:

[1] Todd Tucker, "Fair Trade Gets an Upgrade," Public Citizen's Global Trade Watch, November 2008.

- FOREIGN INVESTOR PRIVILEGES Obama answered "yes" to the question: "Will you commit to renegotiate NAFTA to eliminate its investor rules that allow private enforcement by foreign investors of these investor privileges in foreign tribunals and that give foreign investors greater rights than are provided by the U.S. Constitution as interpreted by our Supreme Court thus promoting offshoring?[2]" He also said: "While NAFTA gave broad rights to investors, it paid only lip service to the rights of labor and the importance of environmental protection. We should amend NAFTA to make clear that fair laws and regulations written to protect citizens in any of the three countries cannot be overridden simply at the request of foreign investors." [3]

- LABOR RIGHTS "We'll add binding obligations to protect the right to collective bargaining and other core labor standards recognized by the International Labor Organization. And I will add enforceable measures to NAFTA, the World Trade Organization (WTO), CAFTA [Central America Free Trade Agreement] and other Free Trade Agreements (FTA's) currently in effect."[4] "The rights of working people should be equal to those of commercial interests and their protections in trade agreements should be the same. Again, this was a fundamental failing in the NAFTA and CAFTA agreements."[5]

- ENVIRONMENT "We must add binding environmental standards so that companies from one country cannot gain an economic advantage by destroying the environment."[6] "The protection of the environment is just as critical as the protection of commercial interests and must be subject to the same mechanism for protection." [7]

- PROCUREMENT Obama answered yes to the question: "Do you support renegotiating trade agreements so they will allow us to use "Buy America" and "Buy Local" procurement policies?" [8]

- AGRICULTURE AND IMMIGRATION In a Fortune Magazine interview, Obama said "not only did [NAFTA] have an adverse affect on certain communities that saw jobs move down to Mexico but for example our agricultural section pretty much devastated a much less efficient Mexican farming system. But from a pure economic [sic], you know if you're just an economist looking at this in an abstract way you would say well a more efficient producer displaced a less efficient producer in Mexico, there's nothing wrong with that. As a practical matter those are millions of people in Mexico who are displaced. Many of whom now are moving up to the United States, contributing to the immigration concerns that people are feeling. And so, those human factors should be taken into account. They may not override or[sic] every single decision that we make in respect to trade, but to pretend those costs aren't there, that those costs aren't real, and my job as president to take those into

[2] http://www.citizenstrade.org/pdf/QuestionnairePennsylvaniaFairTradeCoalition040108FINAL_SenatorObamaResponse.pdf
[3] http://www.citizen.org/documents/TXFairTradeCoalitionObama.pdf
[4] http://www.citizen.org/documents/Obama_IFTC.pdf.
[5] http://www.citizenstrade.org/pdf/wftc_obamaresponsestotradequestionnaire_02182008.pdf
[6] http://www.citizen.org/documents/TXFairTradeCoalitionObama.pdf.
[7] http://www.citizenstrade.org/pdf/wftc_obamaresponsestotradequestionnaire_02182008.pdf
[8] http://www.citizenorg/documents/ORFairTradeCoalitionObama.pdf

> account, I think, does no service to free trade. And its part of what has fed the protection incentive and the anti-immigration incentive that is out there in both parts and you know I think that if we manage trade more effectively, if we're better partners, if we are thinking about the dislocations that occurs as a consequence of it, if we're true to our belief that labor and environmental standards should be a part of raising living standards around the world instead of a race to the bottom, then we can have free trade and it will be sustainable and we will have political support over the long run."[9]

Similar language was included in the Democratic Party platform, which stated: "We will negotiate free trade agreements that open markets to U.S. exports and include enforceable international labor and environmental standards; we pledge to enforce those standards consistently and fairly. We will not negotiate free trade agreements that stop the government from protecting the environment, food safety or the health of its citizens, give greater rights to foreign investors than to U.S. investors, require the privatization of our vital public services, or prevent developing country governments from adopting humanitarian licensing policies to improve access to life-saving medications. We will stand firm against agreements that fail to live up to these important benchmarks."[10]

Polls focusing on specific trade and globalization issues showed the majority of Americans consider status-quo policies to be damaging to themselves and the nation, including by a two-to-one margin, a majority of self-identified Republican voters.[11] The lived experience of damage under NAFTA, and other NAFTA-style pacts has resulted in opposition to this model across broad demographics.[12] For instance, a June 2008 Rasmussen poll shows that nearly three-quarters (73 percent) of Americans believe that a FTA has had a negative effect on their families. Only 14 percent say their families have benefited from a FTA. Over half – 56 percent – of Americans believe that NAFTA should be renegotiated. Only 16 percent believe it should *not* be renegotiated. *And 71 percent of voters say negotiation of trade agreements is important to them in terms of how they will vote.* Only

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[9] http://factcheck.barackobama.com/factcheck/2008/06/18/fact_check_on_fortune_intervie.php

[10] Democratic National Convention Committee, "The 2008 Democratic Party Platform: Renewing America's Progress," August 25, 2008. Available at http://www.democrats.org/a/party/platform.html.

[11] Wall Street Journal-NBC News Poll, September 2007. Available at: http://online.wsj.com/public/resources/documents/WSJ-POLL-20071003.pdf. Accessed Oct. 28, 2008. (Republican voters, by a two-to-one majority, agree that "Foreign trade has been bad for the U.S. economy, because imports from abroad have reduced demand for American-made goods, cost jobs here at home, and produced potentially unsafe products." Fifty-nine percent of Republicans agreed with this statement, and an additional six percent said this partially reflected their views. Only 32 percent agreed with the statement "Foreign trade has been good for the U.S. economy, because demand for U.S. products abroad has resulted in economic growth and jobs for Americans here at home and provided more choices for consumers.")

[12] Greenberg Quinlan Rosner, Sept. 15, 2008, http://www.democracycorps.com/strategy/2008/09/the-changing-presidential-race-after-the-conventions/. (A majority of voters are cool to NAFTA, regardless of level of electoral participation, region, past presidential favorite, degree of loyalty to McCain or Obama, party affiliation, ideology, who they supported in the primary, what they think is the top concern facing the country, gender, age, generational cohort, race, educational level, union membership status, marital status, parental status, religion, how they feel about the direction of the country, and which party controls their congressional district. Catholic, swing and independent voters – among the most sought after constituencies – are among the most anti-NAFTA voting blocs in the country.*)* Zogby, September 2008, http://www.zogby.com/news/X-IAD.pdf. (NAFTA opposition is the majority position across every demographic. Hispanics are among the most anti-NAFTA voting blocs in the country, as are progressives, liberals, Democrats and internationalists. Similar conclusions held in terms of opposition to the Colombia FTA.)

20 percent say it is not important.[13] A May 2008 Pew Research Center for People and the Press poll shows that 48 percent of Americans – including 42 percent of Republicans, 50 percent of Democrats, and 52 percent of independents – said that "free trade agreements – like NAFTA, and the policies of the World Trade Organization" have been "a bad thing" for the United States, while only 35 percent said they have been a good thing. *This is a dramatic reversal from a 2004 poll in which Americans believed that these trade agreements were a good thing, by a 47-34 margin.* 61 percent of Americans believe "free trade" costs U.S. jobs, and 56 percent believe it lowers wages. Only 9 percent believe "free trade" creates U.S. jobs, and only 8 percent believe it raises wages – results which are consistent across party affiliation lines.[14]

In short, the Bush trade agenda has been thoroughly discredited in the public's mind, as shown by both election outcomes and polling. The Obama administration's pursuit of the Bush administration's trade agenda – by negotiating another NAFTA-style FTA no less – after pledging to the American people that finally their concerns about the status quo trade policy would be addressed would undermine public support for the government at a time when our nation faces enormous economic and political challenges.

Further, 54 members of the House of Representatives wrote to President Obama earlier this month explicitly requesting that he not pick up Bush's proposal to negotiate a TPPFTA. Given immense political capital that would be expended by pursuing this Bush trade agenda item and the many challenges with existing agreements and trade relationships that demand urgent attention, it does not make policy or political sense to take up this Bush hangover trade agreement proposal. And, because the United States has not been formally engaged in the process, deciding now to reverse Bush's decision to enter into these negotiations has few downsides. Thus, the Obama administration should make a clean break and rally public opinion towards a real change of course.

2. The last thing the United States needs now is *any* agreement that *expands* financial services liberalization and deregulation.

In 2008, the Bush USTR initially became interested in what were continuing negotiations among Brunei, Chile, Singapore, and New Zealand who had previously signed a Trans-Pacific Strategic Economic Partnership (P-4) agreement. The new talks were to focus on financial service liberalization and deregulation and new foreign investor rights. When USTR announced its interest in these pre-TPPFTA talks in February 2008, it singled out the trade and investment chapters as being the key reason for the Bush administration's interest in the talks.[15]

Since then, the model of radical financial service deregulation and liberalization that has been at the core of past FTAs and also the Financial Services Agreement (FSA) of the WTO has been widely criticized, including by many supporters of 'free trade', as a major contributing factor to the current global financial crisis. Congress is now working to establish new financial service regulations at

[13] Rasmussen Reports, "56% Want NAFTA Renegotiated, Americans Divided on Free Trade," June 18, 2008. Available at: http://www.rasmussenreports.com/public_content/politics/general_politics/56_want_nafta_renegotiated_americans_divided_on_free_trade. Accessed Oct. 31, 2008.

[14] Pew Research Center for People and the Press, May 1, 2008.

[15] See e.g. U.S. Trade Representative, "United States to Join Sectoral Negotiations with Four Asia-Pacific Countries," Feb. 4, 2008.

home. World leaders will meet again in April following on the November G-20 summit in Washington with creation of new global financial service sector regulatory systems as a main goal. Negotiating TPPFTA rules that would establish new financial service deregulation and liberalization commitments on the United States and other countries – the core goal of these TPPFTA talks - is antithetical to the domestic and international re-regulation agenda that is widely viewed as an essential element to counter the current crisis and avoid future meltdowns.

Indeed, rather then entering into new negotiations regarding financial service deregulation, the Obama administration should revisit the requests and offers made regarding further financial service deregulation and liberalization made by the Bush administration in connection with on-going WTO Doha Round negotiations. One of the three main pillars of the Doha Round is further service sector liberalization and deregulation related to expansion of the WTO's General Agreement on Trade in Services (GATS). This agreement sets out rules for how countries can regulate the "service sectors" of their economies. The WTO Secretariat was unusually direct in describing the implications of the GATS rules: "Governments are free in principle to pursue any national policy objectives ***provided the relevant measures are compatible with the GATS***" [emphasis added].

One of the most controversial service sectors covered by the GATS is finance. When many countries initially rejected the extreme banking and insurance deregulation agenda pushed by U.S. and European governments and corporations, special additional negotiations were launched after the WTO was established. Thus, the WTO's limits on domestic financial service regulation are contained not only in the original GATS, but in the subsequent FSA, which went into effect in 1999, with 105 countries signed on. These rules not only guarantee foreign financial firms and their products access to U.S. markets, but also include numerous additional rules that limit how our domestic governments may regulate foreign firms operating here. These rules ban certain forms of regulation banned outright even if they are applied equally to domestic and foreign firms. These expansive "Market Access" obligations are why the Clinton administration agreed as part of GATS negotiations to "fix" Glass-Steagall's "barrier to entry". (Glass-Steagall's firewalls requirement that commercial banks not provide investment services meant that foreign firms that combined both activities would not have been able to operate in the U.S. market.)

The United States and Organisation for Economic Cooperation and Development (OECD) countries also committed to even greater deregulation and liberalization by signing an additional WTO agreement, called the "Understanding on Commitment in Financial Services." When all was said and done, the United States was bound to extremely broad WTO obligations to stay out of regulation of "banking," "other financial services," and "insurance."

Re-regulating financial services must include revisions to these existing rules. Yet, in contrast, through the Doha Round, the Bush administration and the European Union have pushed for more countries to take on these extreme deregulation and liberalization commitments, including a commitment not to issue new regulations of financial services by adoption of a "standstill provision"; elimination of domestic financial service regulatory policies that may "*adversely affect the ability of financial service suppliers of any other (WTO) Member to operate, compete, or enter*" the market even if they meet GATS rules; and guarantees that foreign financial service suppliers are permitted "to offer in its territory any new financial service," a direct conflict with the various proposals to limit various risky investment instruments, such as certain types of derivatives.

The Bush administration's preoccupation with the financial service negotiations of the P-4 countries was a parallel means for pursuing this agenda, as the P-4 and now the TPPFTA negotiations in this sector are to be conducted on the basis of a negative list. That is to say that unlike WTO, where countries must opt sectors into coverage, the FTA model of service sector negotiations is for all sectors to be covered unless exceptions are negotiated. This negotiating format means that countries have less flexibility in preserving domestic policy space needed to pursue important goals, such as stabilizing the troubled financial sector.

While there have been increasing congressional and public demands for a massive re-regulation of banking, insurance and other financial firms, U.S. participation in a TPPFTA would take us in the opposite direction. Indeed, re-regulating financial services must include revisions to the existing WTO rules.

3. FTAs under the current model have proved not to create good jobs, increase wages or even spur U.S. export growth, so doing another such agreement is not in the U.S. economic interest.

An examination of various metrics of the trade-jobs relationship (wages, inequality, trade deficits and jobs), demonstrates that the current FTA model has produced economic outcomes against the interest of most Americans. Pursuing further agreements under this model is antithetical to the Obama administration's commitment to create good U.S. jobs and combat growing U.S. income inequality, an extremely urgent goal in the context of our deep economic troubles. The U.S. labor market is experiencing the worst job losses since World War II. In the last three months alone, the United States lost 1.8 million jobs, and the unemployment rate is on its way to 8 percent. This rate does not include workers that have simply given up on looking for employment: when these workers are included, the adjusted unemployment rate for January 2009 jumped to 13.9 percent.[16]

The data show that trade agreements based on the NAFTA-WTO model have not been associated with the creation of sustainable and good jobs, and that this approach should be rejected in future trade talks. Further, examination of U.S. export growth data show that our current FTA model seems to impose an export-growth penalty with export growth to non-FTA partners at 14.4 percent and export growth to FTA partners at 6 percent.

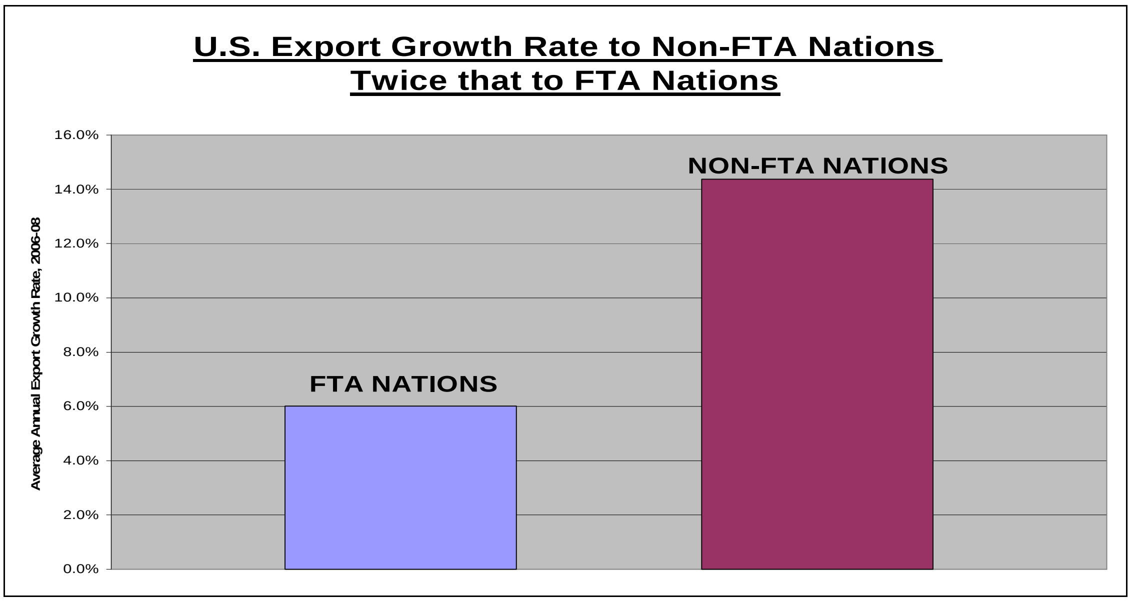
Corporate fair-trade opponents systematically tout FTAs as a means to cut the U.S. trade deficit. In fact the export growth to U.S. FTA countries is half of that to non-FTA countries – resulting in a nearly $200 billion net deficit in 2008 with the 14 U.S. FTA partners. The latest variant of this tired, false claim is that expanding the NAFTA model to Panama, Colombia and South Korea (and now perhaps to the Trans-Pacific Region) will lead to a U.S. export boom that will help our economy recover. The real story is quite different.

First, because imports from the 14 U.S. FTA partner countries have outstripped our exports to these countries, the United States has large and growing trade deficits with its major FTA partners and

[16] Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey, Total unemployed, plus all marginally attached workers plus total employed part time for economic reasons, as a percent of all civilian labor force plus all marginally attached workers, seasonally adjusted rate, BLS series LNS13327709, accessed Feb. 9, 2009.

with the group of FTA nations as a whole. And in the cases of Mexico and Jordan, we went from small surpluses to trade deficits.

Second, U.S. FTAs actually penalize export growth rates. Because CAFTA and the Bahrain FTA are only now being implemented, we can only compare growth rates for the full list of 14 FTA nations over the 2006-08 period. Inflation-adjusted annual average export growth to the 14 FTA countries during that period was 6 percent, while export growth for non-FTA countries was over twice that at 14.4 percent. This amounts to an 8 percent FTA export penalty. In other words, if exports to the FTA countries had simply grown at the much higher rate of exports to non-FTA countries, we would have had a $77 billion smaller trade deficit overall in 2008 alone. *This sum is equal to five of the proposed 2008 auto bailouts.*



Source: Analysis of U.S. International Trade Commission numbers.

Sometimes U.S. trade negotiators are candid. In an October 2006 speech to a Korean audience, Bush administration official Karan Bhatia said that it was a myth that "The U.S. will get the bulk of the benefits of the FTA. If history is any judge, it may well not turn out to be true that the U.S. will get the bulk of the benefits, if measured by increased exports." He added that, in the instance of Mexico and other countries, **"***the history of our FTAs is that bilateral trade surpluses of our trading partners go up*" [italics added].

The negative outcomes of our current FTA model have translated into direct damage for many Americans' economic wellbeing.

Wage and Income Inequality Trends: In the past, trade competition came from imports of products made by foreign companies operating in their home countries. But today's "trade" agreements contain various investor privileges – the provisions that are at the core of the proposed TPPFTA talks - that reduce many of the risks and costs previously associated with relocating production from developed countries to low-wage developing countries. Thus, many imports now entering the United States under what would more correctly be called international investor agreements come from companies originally located in the United States and other wealthy countries that have moved production to low-wage countries. Underlying this trend is what the Horizon Project called the "growing divergence between the national interests of the United States and the interests of many U.S. multinational corporations which, if given their druthers, seem tempted to offshore almost everything but consumption."[17] American workers effectively are now competing in a globalized labor market where some poor nations' workers earn less than 40 cents per hour.[18] Trade agreements that require companies to respect workers' rights to organize a union would empower workers in developing countries to fight for higher wages. However, as the century-long U.S. struggle to form a social contract shows, this a long-term proposition.[19]

Also in the past, American workers represented by unions were able to bargain for their fair share of economic gains generated by productivity increases.[20] But the corporate protections in today's trade agreements facilitate offshoring of production, thereby altering the power dynamic between workers and their employers. For instance, a study for the North American Commission on Labor Cooperation – the body established in the NAFTA labor side agreement – showed that after passage of NAFTA, as many as 62 percent of U.S. union drives faced employer threats to relocate abroad, and the factory shut-down rate following successful union certifications tripled.[21]

And trade policy holds back wages even of jobs that can't be offshored. Economists have known for over 60 years that *all* workers with similar skill levels – not just manufacturing workers – will face downward wage pressure when U.S. trade policy creates a selective form of "free trade" in goods that non-professional workers produce.[22] When workers in manufacturing are displaced and seek new jobs, they add to the supply of U.S. workers available for non-offshorable, non-professional jobs in hospitality, retail, health care and more.[23] Thus, retooling U.S. trade adjustment assistance programs, while welcome, does not address the most serious impact of America's trade policies, which is not just on those workers who actually lose jobs, but on the majority of American workers who see their wages stagnate.

Consider the longer-term wage trends under our current trade model. Fast Track – the mechanism where Congress delegated its constitutional authority to determine the contents of trade agreements, in existence from 1975-94, and then again during 2002-07 – was used to push flawed trade agreements like NAFTA, the WTO, and CAFTA. In 1973 (the year the Nixon administration first proposed Fast Track to Congress), the median hourly wage for American workers in today's dollars was $18.16, while in 2009 it was up less than 2 percent to $18.46. Over the same period, U.S. workers' productivity more than doubled.[24] Increasingly, even economists who defend status-quo

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17 Horizon Project, "Report and Recommendations," February 2007, at 1.
18 Forthcoming study from Worker Rights Consortium, 2008.
19 Ha-Joon Chang, *Kicking Away the Ladder*, (London: Anthem Press, 2002), at 108.
20 Dean Baker, *The United States Since 1980*, (Cambridge: Cambridge University Press, 2007), at 35-45.
21 Kate Bronfenbrenner, "The Effects of Plant Closing or Threat of Plant Closing on the Right of Workers to Organize," Cornell University, Prepared for North American Commission for Labor Cooperation, 1996, at 7.
22 Wolfgang F. Stolper and Paul A. Samuelson, "Protection and Real Wages," *The Review of Economic Studies*, 9:1, November 1941, at 58-73.
23 Josh Bivens, "Globalization and American Wages," Economic Policy Institute (EPI) Report, October 2007.
24 Average wage data for 1962-2009 from Bureau of Labor Statistics' Current Employment Statistics survey, series CES0500000008. Productivity data from Bureau of Labor Statistics' Major Sector Productivity and Costs index, series ID PRS88003093, accessed Feb. 18, 2009. 2008-09 figures are preliminary data, as reported by the BLS. All data in this document were inflation-adjusted using the Consumer Price Index-U-RS as estimated by the Congressional Budget

trade policies are attributing a significant share of this unprecedented disconnect between American workers' productivity and their real wages to a form of "labor arbitrage."[25]

This phenomena brings us to the inequality picture. The inequality between rich and poor in America has jumped to levels not seen since the Robber Baron era. The richest 10 percent of Americans are taking nearly half of the economic pie, while the top 1 percent is taking over a sixth. Wealthy individuals' share of national income was stable for the first several decades after World War II, but shot up 50 percent for the richest 10 percent and 150 percent for the richest 1 percent between 1973 and 2006 – the Fast Track era.[26] Is there a connection to trade policy?

In fact, longstanding economic theory predicts that trade will increase income inequality in developed countries. A decade ago, the Peterson Institute for International Economics (IIE) sought to quantify the effect of trade policy on U.S. income inequality, and found that nearly 40 percent of the increase in inequality was attributable to U.S. trade policy.[27] When the Economic Policy Institute (EPI) updated the IIE figures, it found that the average American family lost $2,000 a year from the burden of rising inequality due to trade. All of these calculations take into account the consumer savings from cheaper imports, meaning net wage losses from trade now exceed the median American household's income tax burden by hundreds of dollars. EPI projects that, if current trade policies and trends continue, all wage gains made since 1979 by workers without a four-year college degree (70 percent of Americans) could be erased.[28]

And changes in technology or education levels do not fully account for American wage pressures. Some have argued that advances in computer technology explain why less technologically-literate American workers have been left behind, asserting that more education – rather than a different trade policy – is how America will prosper in the future.[29] While more education and skills are desirable for many reasons, these alone will not solve the problems of growing inequality. First, as documented in a Federal Reserve Bank paper, inequality started rising as systematic U.S. trade deficits emerged, in the early Fast Track period, far before most workers reported using computers on the job.[30] Second, college-educated workers have seen their wage growth stagnate, even in technologically sophisticated fields like engineering.[31] Finally, a National Academies study found that employers will continue to demand mostly lower-skilled labor for the foreseeable future,

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Office in the backup data for Table E-1 of their Budget and Economic Outlook: Fiscal Years 2008 to 2018, released September 2008.

[25] Stephen Roach, "The World Economy at the Crossroads: Outsourcing, Protectionism, and the Global Labor Arbitrage," Speech before the Boao Forum for Asia, 2003.

[26] Thomas Piketty and Emmanuel Saez, "The Evolution of Top Incomes: A Historical and International Perspective," National Bureau of Economic Research Paper 11955, January 2006; numbers updated through 2006 in a March 2008 extract.

[27] William Cline, *Trade and Income Distribution*, (Washington, D.C.: Peterson Institute for International Economics, 1997), at 264; Dean Baker and Mark Weisbrot, "Will New Trade Gains Make Us Rich?" Center for Economic and Policy Research (CEPR) Paper, October 2001.

[28] Bivens 2007.

[29] *World Economic Outlook 2007: Globalization and Inequality* (Washington, D.C.: International Monetary Fund, 2007), at 31-65.

[30] David Card and John E. DiNardo, "Technology and U.S. Wage Inequality: A Brief Look," *Federal Reserve Bank of Atlanta: Economic Review*, Third Quarter 2002, at 45-62.

[31] Jared Bernstein and Lawrence Mishel, "Economy's Gains Fail to Reach Most Workers' Paychecks," EPI Briefing Paper 195, September 2007.

projecting that occupations like hospitality and restaurants will have the greatest labor demand in the coming decades.[32]

Thus, addressing trade policy, not only better educating American workers, will be an essential part of tackling rising income inequality. Indeed, countering race-to-the-bottom labor arbitrage will require new rules of international commerce including addressing the pro-offshoring trade agreement investor rights and domestic tax policies that President Obama rightly identified during his campaign as needing alternation. Getting the model right and correcting past agreements is essential before the United States enters into new trade agreement negotiations.

Trade-Deficit and Jobs Trends: Prior to the establishment of Fast Track and the trade agreements it enabled, the United States had balanced trade; since then, the U.S. trade deficit has exploded. The pre-Fast Track period was one of balanced U.S. trade and rising living standards for most Americans. In fact, in 1973, the United States had a slight trade surplus, as it did in nearly every year between World War II and 1975. But in every year since Fast Track was first implemented in 1975, the United States has run a trade deficit. And since establishment of NAFTA and the WTO, the U.S. trade deficit jumped exponentially from under $100 billion to nearly $700 billion – almost 5 percent of national income.[33] The establishment of the extraordinary Fast Track trade procedure coincided with President Nixon's decision to abandon managed exchange rates – the so-called gold standard – which had helped ensure balanced trade over time. In the new economy that would emerge from these policy shifts, companies that produce abroad (or produce nothing at all, in the case of finance) would replace domestic employment and rising wages as the driving force of economic policy.[34] From Federal Reserve officials to Nobel Laureates, there is nearly unanimous agreement among economists that this huge trade deficit is unsustainable: unless the United States implements policies to shrink it, the U.S. and global economies are exposed to risk of crisis, shock and instability.[35]

The rising deficit has had a strong link to jobs. Nearly 5.6 million American manufacturing jobs – nearly 1 out of 3 – have been lost during the Fast Track era. And since NAFTA and the WTO were signed, we've lost 4.3 million manufacturing jobs. The U.S. manufacturing sector has long been a source of innovation, productivity, growth and good jobs.[36] By 2009, the United States had less than 13 million manufacturing jobs left – nearly 5.6 million fewer than in 1973 before Fast Track was

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[32] Mary Gatta, Heather Boushey, and Eileen Appelbaum, "High-Touch and Here-to-Stay: Future Skills Demands in Low Wage Service Occupations," National Academies' Center for Education, June 2007.
[33] Trade balance information from Bureau of Economic Analysis, U.S. International Transactions Accounts Data, released December 2008, Line 74; 2008 preliminary figure taken from February 2009 "U.S. International Trade in Goods and Services" news release. GDP numbers taken from January 2009 news release on GDP.
[34] James K. Galbraith, *The Predator State,* (New York: Free Press, 2008), at 72-79.
[35] Franco Modigliani and Robert M. Solow (Nobel Laureates 1985 and 1987), "America Is Borrowing Trouble," *New York Times*, April 9, 2001; Joseph E. Stiglitz (Nobel Laureate 2001), "The IMF's America Problem," column, 2006; Roger W. Ferguson (Fed Vice-chairman), "U.S. Current Account Deficit: Causes and Consequences," Remarks to the Economics Club of the University of North Carolina at Chapel Hill, Chapel Hill, N.C., April 20, 2005; Timothy P. Geithner (Fed president), "Policy Implications of Global Imbalances," Remarks at the Global Financial Imbalances Conference at Chatham House, London, Jan. 23, 2006; "Minutes of the Federal Reserve Open Market Committee," June 29-30, 2004.
[36] Bob Baugh and Joel Yudken, "Is Deindustrialization Inevitable?" *New Labor Forum,* 15:2, Summer 2006.

first established,[37] with less than 10 percent of the American workforce in manufacturing for the first time in modern history.[38] The U.S. Department of Labor lists millions of workers as losing jobs to trade since NAFTA and WTO were passed – and that is under just one narrow program that excludes many whose job loss is trade-related.[39] Further, studies show that the U.S. economy could have supported an estimated 7 million *more* manufacturing jobs if not for the massive trade deficit that has accrued under current U.S. trade policy.[40] Some analysts say that technology-related efficiency improvements account for U.S. manufacturing job loss, not trade policy. But both factors play a role. However, Congress actually has say over trade policy. Many analysts and policymakers of diverse political stripes believe that the rebuilding of the manufacturing sector is important to America's security and economic well-being.[41]

Trade policy affects the quality of American jobs available, not the overall number of jobs. Total employment and unemployment rates are largely determined by monetary and fiscal policy – for instance the Federal Reserve Bank's interest rate policies. Trade affects the *composition* of jobs available in an economy. The United States lost millions of manufacturing jobs during the NAFTA-WTO era, but overall unemployment has been stable as new service-sector jobs were created. Proponents of the NAFTA-WTO status quo raise the *quantity* of jobs in the U.S. economy to claim that recent trade policies have not hurt American workers. But what they do not mention is that the *quality* of jobs available to the majority – and the wages most American workers can earn – have been degraded. For instance, according to the Brookings Institution, the average worker displaced from manufacturing went from earning $40,154 to $32,123 when re-employed.[42]

Offshoring of American jobs is moving rapidly up the income and skills ladder. Alan S. Blinder, a former Federal Reserve vice chairman, Princeton economics professor, and NAFTA-WTO supporter, says that 29 to 38 million American jobs could be offshored in the foreseeable future.[43] The majority of the jobs Blinder identified are not in manufacturing.[44] Indeed, according to Blinder's data, American workers with at least a four-year college degree are those most vulnerable to having their jobs offshored. As well, the jobs that Blinder considered most subject to offshoring pay better (by $8,000 or 14 percent) than those that are not, meaning America could see its very best jobs moving offshore.[45] Offshoring of consumers' medical and financial information subject to privacy protections under U.S. law also raises an array of concerns about identity theft, private

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[37] Bureau of Labor Statistics, Current Employment Statistics survey, series ID CES3000000001, manufacturing industry.

[38] Dean Baker, "Economy sheds jobs, unemployment stable," CEPR Data Byte, Feb. 1, 2008.

[39] Department of Labor Trade Adjustment Assistance certifications, at http://www.citizen.org/trade/forms/taa_info.cfm.

[40] Lawrence Mishel, Jared Bernstein, and Sylvia Allegretto, *State of Working America 2006-2007*, (Washington, D.C.: EPI, 2006), Table 3.30 at 175.

[41] Leaders from both parties and from manufacturing industry have called for a reinvigorated manufacturing policy. *See* Reps. Donald Manzullo (R-Ill.) and Tim Ryan (D-Ohio), April 19, 2007 press release; "U.S. Steel Industry Salutes Men and Women in Uniform," *SteelWorks*, Nov. 8, 2007.

[42] Lael Brainard, Robert E. Litan and Nicholas Warren, "Insuring America's Workers in a New Era of Off-shoring," Brookings Institution Policy Brief 143, July 2005, at 2.

[43] Alan Blinder, "Off-shoring: The Next Industrial Revolution?" *Foreign Affairs*, March-April 2006; Alan Blinder, "How Many U.S. Jobs Might Be Offshorable?" Princeton University Center for Economic Policy Studies Working Paper #142, March 2007, at 25-26.

[44] Bivens 2007.

[45] Jared Bernstein, James Lin, and Lawrence Mishel, "The Characteristics of Offshorable Jobs," EPI Report, November 2007, at 3.

medical information being released, and consumer redress for such violations. If the United States were to implement policies to forbid the offshoring of certain types of jobs to countries that do not provide adequate privacy protections for such confidential health and financial data, the nation might also decrease certain job offshoring. Europe already has such an offshore consumer-data privacy-protection policy in place, showing it is a workable option.[46]

4. The TPPFTA could promote environmentally destructive trade patterns.

Given the increasingly- recognized contribution of long-distance shipping to carbon emissions, there are strong ecological reasons for ramping down our dependence on carbon-intensive Trans-Pacific trade flows. Rather then entering into negotiations to establish new foreign investor protections that will promote relocation of more production to distant venues, the Obama administration should instead prioritize local, national and regional production.

A recently leaked United Nations study found that carbon emissions from merchant shipping are nearly three times greater than previously estimated, or an estimated 4.5 per cent of global carbon emissions.[47] Moreover, in the case of many products, the United States imports *and* exports massive amounts of the same grains, foods and other products. Some of the food items with the highest volume of highly redundant trade include rice and beef cuts. A leading expert on the issue summed up the international quandary thusly: "We're shifting goods around the world in a way that looks really bizarre… Britain, for example, imports – and exports – 15,000 tons of waffles a year, and similarly exchanges 20 tons of bottled water with Australia."[48]

The carbon embedded in Trans-Pacific trade is of growing concern to environmental policymakers. Studies have concluded that increased U.S.-China trade, for instance, has been net carbon-increasing due to both the increased carbon emissions from transport, and underlying energy efficiency issues.[49] Given the increasingly recognized contribution of long-distance shipping to carbon emissions, our future trade agreements should focus on incorporating these externalized costs rather than replicating the foreign investor provisions that promote concentration of production in distant, low-wage venues with goods shipped here for sale.

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[46] Lori Wallach, Fiona Wright and Chris Slevin, "Addressing the Regulatory Vacuum: Policy Considerations Regarding Public and Private Sector Service Job Off-shoring," Public Citizen, June 2004.
[47] John Vidal, "Shipping boom fuels rising tide of global CO2 emissions," *The Guardian*, Feb.13, 2008.
[48] Elizabeth Rosenthal, "Environmental Cost of Shipping Groceries Around the World," *New York Times,* April 26, 2008, at http://www.nytimes.com/2008/04/26/business/worldbusiness/26food.html
[49] Frank Ackerman, Masanobu Ishikawa and Mikio Suga, "The carbon content of Japan-U.S. trade," *Energy Policy,* 35, September 2007.