The Manufacturing Council

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Subcommittee on Advocacy and International Trade
Focus: Market Access

Subcommittee Report

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Preamble:
The focus of this report is on access to foreign markets. Of course, market access is important to overall U.S. competitiveness in a number of ways. If a company has unfettered access to world markets, it can benefit from economies of scale. If it doesn't, growth opportunities are limited.

This report also wishes to recognize some basic tenets of a successful US manufacturing environment:

- It is the responsibility of American manufacturers to produce a competitive product.
- Common ethics and standards are key to success in global fair trade and market access.
- Fair access to foreign capital markets is vital to trade access. A U.S. firm should abide by the same rules and regulations when investing in a foreign nation as do the nationals with whom they might compete. Once invested in a country, that country should treat a U.S. manufacturer just as they would treat a national investor.

Finally, the Subcommittee wishes to emphasize an important and timely issue that must be addressed with all urgency:

- **Current** legislators must seize the immediate opportunity to act on the Foreign Sales Corporation/Extraterritorial Income (FSC/ETI) dispute by, as a first step, bringing the U.S. tax law into WTO compliance and directing the resulting $50 billion of tax revenue to provide tax curbs for the U.S. manufacturing industry.

Below are the prioritized issues and recommendations of the Subcommittee on Advocacy and International Trade of the Manufacturing Council. The entire focus of the materials is on barriers to access to foreign markets, which manifest themselves in various ways, including trade agreements, tariffs, sanctions and currency manipulation. The material below defines the key issues affecting U.S. access to foreign markets, and presents recommendations to address these issues.

Issues and Recommendations:

Issue	Recommendation
Foreign Sales Corporation/Extraterritorial Income (FSC/ETI) Dispute—In 1999, the WTO first ruled that the FSC/ETI tax preference for export-generated income was an "impermissible trade subsidy." On 3 subsequent occasions that trade organization has ruled that the United States cannot tax income from exports at a rate lower than that for other forms of business income. The United States' first efforts to rectify this perceived inconsistency with its multilateral obligations have failed to satisfy to WTO and, on March 1, 2004, the European Union (EU) imposed trade sanctions on certain U.S. exports. Initially, the products singled out for sanctions witnessed a 5 percent tariff increase (i.e., an estimated $16.5 million in March). The tariffs have been, and will continue to be, ratcheted up by one percentage point each month that Congress fails to act (reaching as much as $315 million for 2004) until they reach a maximum of 17 percent.	1. Take action now, in the existing Congress, to immediately bring U.S. tax law, FSC/ETI, into WTO compliance. 2. Direct the resulting $50 billion of increased tax revenue that will result from eliminating the tax preference to the U.S. manufacturing industry to be applied as a tax curb. 3. Execute a review of the overall corporate tax structure and how it affects trade issues, and consider a VAT-type tax arrangement.
Doha WTO Negotiations.—Negotiations over specific objectives for market access have been at an impasse for more than a year over conflicting proposals for a harmonization formula for tariff reductions (whereby higher tariffs receive larger percentage reductions), multilateral free trade for targeted sectors, and non-reciprocity provisions for developing countries, including China.	Negotiations will continue into next year, and the United States should continue to seek substantial reduction in trade barriers by all major trading nations, including at least reciprocal reductions by the East Asian export powerhouses. In view of the continued impasse, the bold U.S. proposal of November 2002 for multilateral free trade for the entire nonagricultural sector (mostly manufactures) should be given serious consideration in Geneva, which it has not received thus far.
Free Trade Agreements • **Bilateral Free Trade Agreements (FTAs)—** This is where most of the trade liberalization has been accomplished over the past four years, always with significant benefits for U.S. exporters. Agreements with Chile, Australia, the five Central American countries, and the Dominican Republic, all involve the elimination of much higher tariffs by the other countries, while preferential market access for U.S. exporters is obtained. • **Free Trade Area of the Americas (FTAA)—**This negotiation is also bogged down, principally over differences with Brazil and the agricultural sector more broadly.	Early approval by Congress of signed agreements should be a top priority. The next tranche of agreements, scheduled for or under negotiation, should also be pursued for the same reasons, particularly with Thailand, Colombia, and the Andean countries. Another major FTA initiative for a TransAtlantic Free Trade Agreement (TAFTA) with the European Union (EU) should be given serious consideration. The private sector TransAtlantic Business Dialogue (TABD) could play a catalytic role in such an initiative, since it would benefit exporters of manufactures on both sides of the Atlantic. Advise holding firm on the total phase out of tariffs on manufactures, benefiting U.S. exporters, and would give U.S. exporters preferential access to Latin American markets over European, Japanese, and other competitors. The United States should also press for improved investment rights and protection for intellectual property rights (IPRs).
U.S. Protectionist Actions on Manufacturing Jobs— Trade liberalization is a two-way street and increased	Any such protectionist proposals, at a minimum, should be subject to a rigorous cost benefit

access for U.S. exporters can be hindered by protectionist actions by the United States.	analysis, including the adverse impact on U.S. exports.
Enforcement of existing trade agreements	Place increased focus on enforcing existing trade agreements. As the world's most competitive economy, the U.S. must comply with its trade obligations. At the same time, it necessary for the United States to insist that other countries do the same.
Non-tariff barriers-- It is the experience of manufacturers that non-tariff barriers, particularly in developing countries, often frustrate American exporters. A common theme that runs through many non-tariff barriers is the lack of clearly articulated rules and transparent decision-making by customs authorities and trade ministries.	Negotiate the elimination of non-tariff barriers. Examples of these barriers include consular fees and currency exchange fees related to imports; valuation policies that inflate value based on hypothetical costs unrelated to market forces; customs authorities requiring exact counts of parts shipments versus acceptance of scale counts; inconsistent country of origin regulations and inconsistently applied sanitary and phytosanitary regulations.
Currency Manipulation—the pricing advantages of up to 40 percent give unfair advantage to such countries as China.	Support control of currency manipulation and insist on standards that do not give unfair advantage to one nation over another.
The "Byrd Amendment" Controversy.—Another dispute which has just come to a head at the WTO involves the successful challenge by the EU and 10 other countries to the so-called "Byrd Amendment" to the U.S. antidumping and countervailing duty laws. In late 2000, Congress amended the Tariff Act of 1930 to require the U.S. government to distribute the collected anti-dumping and anti-subsidy duties to the U.S. companies that brought the cases in the first place.	Support repeal of the Byrd Amendment, as recommended in a WTO Dispute Settlement Panel Report delivered in September of 2002. The report determined the U.S. law was an illegal response against dumping and subsidization. Offset payments to U.S. companies were deemed a remedy in addition to the imposition of an anti-dumping or anti-subsidy duty and, as such, contrary to U.S. multilateral WTO obligations. The appeal of the United States to the panel's decision was unsuccessful. On August 31, 2004, WTO arbitrators authorized the EU and the 10 other complainants to impose sanctions against the United States.
U.S. Unilateral Economic Sanctions.—Federal sanctions post a huge competitive disadvantage for U.S. companies operating in a global marketplace. Foreign competitors, not faced with such restrictions, are often able to avail themselves of dynamic international business opportunities that U.S. companies are precluded from exploring.	Recommend economic engagement featuring an investment-driven, pro-business policy. In such circumstances, unilateral sanctions should be considered as a last resort policy tool. Most of these recommendations are encompassed in a bill pending in the U.S. Senate (S. 1861), the "Sanctions Policy Reform Act." Support is recommended for the reintroduction of similar legislation in the next Congress.

Other Issues of Interest

Issue	Recommendation
Remanufactured Products—Increasingly companies are addressing life-cycle product issues by remanufacturing certain products like engines and drive trains, revitalizing individual parts and utilizing them in new products with warranties often the same or similar to OEM products. These remanufactured products should not be confused with used, rebuilt or refurbished goods.	Press for more worldwide acceptance of remanufactured products. Many developing countries discourage, and a few even prohibit, trade in remanufactured goods believing they are the same as used or obsolete items. Bilateral, regional and WTO negotiations should encourage trade in remanufactured goods, particularly in light of their reduced cost to consumers and environmentally friendly nature.
Lack of Infrastructure—the lack of physical	Urge Congress to devote more resources to the

infrastructure hurts trade, and this is particularly true in Africa. Without docks, roads, airports and telecommunications networks, there's no way a country can efficiently import or export products. That's a big reason why landlocked countries are among the poorest countries in the world	Millennium Challenge Account as well as the EXIM and World Banks.