



# Washington REPORT

News and analysis from Washington, D.C. about key issues in U.S.-Asia Pacific Relations

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## Developments in Southeast Asia Present Challenges And Opportunities For U.S. Engagement

Prof. Karl D. Jackson

Soon after entering office, President Obama pledged to increase U.S. engagement in Asia through high-level diplomacy and substantive programs. He backed up his words with action on November 15, 2009 when he met with leaders of the Association of Southeast Asian Nations (ASEAN)—the first such meeting ever between a U.S. President and all ten ASEAN leaders. Subsequently, however, the U.S. President on three occasions postponed a visit to Indonesia. In addition, long-time ally Thailand became roiled in political upheaval and Burma was rumored to have purchased arms from North Korea.

Prof. Karl D. Jackson of Johns Hopkins University discusses how political developments in Southeast Asia and other challenges may affect U.S. efforts to build closer relations.

**USAPC:** President Obama pledged to increase U.S. engagement in Asia. Yet, he postponed his much anticipated trip to Guam, Indonesia and Australia in early June for the third time. Do you have a sense for how this went down in the region?

Although President Obama met Indonesia President Susilo Bambang Yudhoyono on June 27 on the sidelines of the G-20 meeting in Canada, that isn't quite the same as actually visiting Indonesia.

**Jackson:** Having played a role in the cancellation of trips to Asia in various past administrations, I know these

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## Obama's Push for KORUS Approval Garner's Plaudits

President Obama pleasantly surprised proponents of expanded U.S.-Korea economic relations when he announced June 26 at the G-20 summit in Toronto that he would make a new push to resolve issues that have stalled congressional approval of the U.S.-Korea Free Trade Agreement (KORUS) for the past three years.

Importantly, he set a deadline—the next G-20 gathering in South Korea in November—to ensure that the process does not drag on seemingly with no end in sight. The United States and South Korea signed the KORUS on June 30, 2007. However, neither the Bush Administration nor the Obama

White House have been able to secure congressional approval owing to the concerns of key U.S. lawmakers that (1) the accord does not effectively address regulatory and tax policies that impede U.S. auto imports and (2) that Seoul maintains barriers to U.S. beef imports.

President Obama said that he wants to make sure “everything is lined up properly” by the time he visits South Korea in November. Insiders interpret this as the U.S. president's marching orders to the Office of the U.S. Trade Representative to resolve the auto and beef issues in the coming months.

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## Official Washington

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## Jackson Interview

decisions are never easy. The host country usually is very gracious in public when these sorts of things happen. There always is a residual feeling of disappointment.

I think the Obama administration will recover from this latest trip cancellation—especially with respect to the Indonesian leg, which will be a bath in love. When President Obama finally visits Indonesia, it should be very successful.

The U.S. president helped to ensure this when he met President Yudhoyono at the G-20 meeting in late June. As you may know, President Obama pledged \$165 million over five years to support a joint higher education partnership as part of the “U.S.-Indonesia Comprehensive Partnership.” In addition, he committed \$136 million over three years to support establishment of a Climate Change Center in Indonesia, among other environmental initiatives.

By way of comparison, the total amount pledged by this administration, \$301 million, is nearly double the \$157 million former President George W. Bush delivered when he visited Indonesia during his term. The Comprehensive Partnership must involve substance on both sides—and substance usually means money—or implementation cannot proceed effectively. Both substantively and symbolically, Obama’s pledge represents something new and not just more of the same.

I was not surprised that higher education will be an important element of the Comprehensive Partnership. President Yudhoyono, otherwise known as President SBY, supports this focus and repeatedly has discussed its merits. And in view of President SBY’s early pledge at the G-20 to reduce Indonesia’s carbon emissions by up to 41 percent by 2020, it also makes sense for the two countries to cooperate in tackling climate change.

**USAPC: You said that the Comprehensive Partnership should involve substance on both sides. In what area(s) do you think the Government of Indonesia also might commit new money.**

**Jackson:** Again, I think higher education would be a natural for the Indonesian government. I understand that the U.S. government invited Indonesia’s Minister of National Education to attend a U.S.-Indonesia Higher Education Summit in Washington next summer, so we’ll see what develops from that.

I know that Jakarta would like more Americans to study in Indonesia and learn about Indonesian culture and society, but also help to enhance the R&D capacity of Indonesia. So, for example, the Indonesia government

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## Congressional Watch

**Resolution Supporting Thailand**—Soon after Thai Prime Minister Abhisit Vejjajiva unveiled plans for a multi-point roadmap aimed at resolving that nation's political crisis, the Senate on May 24 unanimously approved a non-binding resolution affirming the support of the United States "for a strong and vital alliance with Thailand." By a vote of 411-4, the House approved a similar measure on July 1.

**Resolution Recognizing the 50th Anniversary of the U.S.-Japan Security Treaty**—Notwithstanding tensions in U.S.-Japan relations concerning the relocation of Futenma air base in Okinawa, both houses of the U.S. Congress passed non-binding resolutions that formally recognized the 50th anniversary of ratification of the U.S.-Japan Mutual Security Treaty. The measure that passed the House on June 24 also expressed "appreciation to the Government of Japan and the Japanese people for enhancing peace, prosperity, and security in the Asia-Pacific region." The Senate resolution, approved unanimously on June 29, reaffirmed support for the security alliance and the relationship.

**Beef Trade in Asia**—On May 27, the Senate unanimously approved a non-binding resolution urging China, Japan, South Korea, Hong Kong, Mexico, Taiwan and Vietnam to follow international guidelines and remove their "baseless bans" on imports of U.S. beef and beef products. "The science clearly proves U.S. beef is entirely safe and we will simply not stand for unscientific and unfounded barriers that hurt hardworking ranchers and Montana and across the nation," said Sen. Max Baucus (D., Montana), who sponsored the measure with Senate Agriculture Committee Chairman Blanche Lincoln (D., Arkansas) and Sen. Mike Johanns (R., Nebraska). This resolution is part of a longstanding effort by Baucus, Lincoln, and other lawmakers with beef-growing constituents to dismantle foreign barriers to U.S. beef imports, particularly in Asia.

**Radio Free Asia**—The Senate unanimously approved a bill on June 25 aimed at promoting the free dissemination of information in East Asia through the permanent authorization of Radio Free Asia (RFA). The House followed suit on June 30, and the president was expected to sign it into law shortly. Congress first created RFA in the mid-1990s to broadcast local language news into Burma, Cambodia, China, Laos, North Korea, Tibet, and Vietnam. Lawmakers had hoped that the nations served by RFA would loosen their censorship rules as their economies modernized, according to Sen. Richard Lugar (R., Indiana), the bill's sponsor. However, the opposite has occurred in the past five years. Governments often jam AM transmissions and routinely hack into RFA's websites and servers, according to Lugar. Congress therefore permanently authorized RFA to ensure that its operations would not be interrupted and its broadcasts would continue to reach audiences in these highly regulated markets—sometimes through short-wave radio and internet proxy servers.

**Support for TPP**—In an effort to boost progress in the Trans-Pacific Partnership (TPP) negotiations, Senate Foreign Relations Committee Chairman John Kerry (D., Massachusetts) and Sen. Jim Webb (D., Virginia), chairman of the Senate Foreign Relations Subcommittee on East Asian and Pacific Affairs, issued a joint statement of support on the eve of the second round of talks during July 14 week in San Francisco. "The United States risks losing export share in an exploding market and ceding influence in the Asia Pacific unless it is able to participate more vigorously in regional trade. TPP represents an excellent opportunity to change this dynamic and build a platform for region-wide economic integration," they urged. Kerry and Webb echoed the view of key House lawmakers who have demanded that Congress be consulted more actively during trade talks, saying they would "look forward to working with the Administration throughout the negotiating process."

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## Push For KORUS

**Business Plaudits**—Not surprisingly, major U.S. business groups applauded President Obama's commitment to moving the KORUS forward. The National Foreign Trade Council highlighted that not only is the KORUS "the most commercially significant agreement in 16 years" but also that ratification of the agreement is an important part of achieving the president's goal of dou-

bling exports and creating two million U.S. jobs in five years.

The U.S. Chamber of Commerce noted the geo-strategic implications of timely approval KORUS by Congress: "Free enterprise has been essential in allowing South Korea to remaining a force on the Peninsula. Now is the time for Congress and the administration to join this fight," Tami Overby, the Chamber's vice president for Asia said on June 26.

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could offer to pay all of the in-country costs of visiting U.S. scholars. It could pledge *rupiah* to support various educational initiatives, which the United States then would match in dollar-supported activities. If this is going to be a genuine partnership, it must be two-way. Both sides must play the game.

**USAPC:** The U.S. government has high hopes for Indonesia's fledgling democracy. However, some literature has characterized Indonesian politics as an ongoing battle between Islamists and nationalists. Is this an accurate characterization that might affect the outlook for Indonesia's democracy?

**Jackson:** I have been watching Indonesian politics for the past 40 years, and during this time many people worried about the rise of radical Islam. Well, all the warnings notwithstanding, this still hasn't happened and I don't believe it will happen anytime soon.

The radical, fundamentalist, xenophobic wing of the Islamic movement is a tiny fraction. It's loud, noisy, and noxious, and sometimes sets off bombs, which means it gets media attention. But I would be astonished if this wing amounts to one-third of one percent of the Islamic movement.

Many Indonesians are fundamentalists, but they are not radicals. They may believe in certain things, but they are peaceful citizens. The majority of Indonesian Muslims are remarkably tolerant of one another, but there is a tiny minority that gets all of the press coverage and generates all of the worry. This is understandable.

After all, we have Federal buildings in Omaha [Nebraska] that get blown up by tiny fractions of our population. So I'm not particularly worried about a potentially destabilizing influence by this small but radical Islamic minority.

**USAPC:** How, then, would you gauge Indonesia's political health at this point?

**Jackson:** That is another question. For the first time since 1957, there is a powerful legislature, but between elections there is very little that connects the legislator to his or her electorate.

Civil society organizations in Indonesia continue to be remarkably weak. That is not the popular image, but in fact, that is the empirical reality. There are no civil society movements in Indonesia that are capable of making the legislature or the judiciary less corrupt. Everyone agrees that corruption is a bad thing but very little is done about it.

Corruption is the sulphuric acid of democracy. It is

having a corrosive impact. President SBY twice campaigned on doing something about it, and Indonesia does have the Anti-Corruption Commission.

But the Commission itself is under fairly constant attack by the very people who want to continue the types of log-rolling operations that have been in existence ever since Indonesia became independent.

**USAPC:** Both houses of the U.S. Congress have passed resolutions expressing support for the U.S. alliance with Thailand and urging a peaceful resolution to the political unrest there.

In early May, Thailand's Prime Minister Abhisit Vejjajiva proposed a national reconciliation roadmap. It calls for (1) respect for the monarchy, (2) reforms to address social and economic injustice, (3) a free media, (4) an investigation into casualties resulting from clash on April 10, 2010 between security forces and so-called Red Shirt anti-government protesters, and (5) an examination of constitutional reform. What is your assessment of the roadmap as a means of securing peace?

**Jackson:** The roadmap is fine as far as it goes. But how far does it go? Does it really represent a willingness to bring into the same room the leaders of Thailand's political opposition?

To be fair to the Abhisit government, only one month has gone by since the shooting stopped and the streets of Bangkok were cleared. No government anywhere would have tolerated what was going on in downtown Bangkok

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*The Abhisit government must have discussions with representatives of the 'Red Shirts' for there to be genuine reconciliation*

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earlier this year. Therefore, it will take time to realize genuine reconciliation.

But at some point in the next several months, the Abhisit government must have discussions with representatives of the opposition Red Shirts [formally known as the United Front for Democracy against Dictatorship]—up to and perhaps even including behind-the-screen discussions with former Prime Minister Thaksin Shinawatra—for there to be a genuine reconciliation.

What we are observing in Thailand is a genuine increase in public participation that is unprecedented. It simply cannot be suppressed. Therefore, any democratic government must find ways of dealing with the opposition and bringing it into the discussion.

The real problem of Thailand is that when we talk about pro-government Yellow Shirts and the anti-

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government Red Shirts, in both instances it's a "parliament of the streets." Those two groups fundamentally are unrepresentative of the vast majority of Thais. They constitute the radical fringes. Somehow you have to put the "parliament of the streets" back into the formal parliament.

The normal way to do that would be through elections. Prime Minister Abhisit has said there will be an election. Originally, he had proposed calling for elections in November 2010. In the wake of the violence, however, he has said that it would be premature to hold the elections then. But the election has to take place sometime between now and the end of 2011. Importantly, this must be a free and fair election that is open to parties of all political stripes.

What role—direct or indirect—can former Prime

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*Thaksin was the first politician to really understand the potential of Thailand's growing political movement*

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Minister Thaksin play? Some political insiders maintain that Thaksin would like to leave politics permanently. If that is the case, then perhaps the Abhisit government could negotiate a deal that would do just that and allow Thaksin to return to Thailand as a private citizen. Perhaps that would help to pave the way toward fundamental reconciliation.

**USAPC:** Some media accounts of the clash between the pro- and anti-government groups described it as rooted in tensions between urban and rural forces. Is that portrayal too simplistic?

**Jackson:** Yes. One of the things generating the conflict is a growing inequality, which is mostly rural but also has an urban slice to it. Part of the Red Shirt movement is an urban phenomenon, not just a rural phenomenon. So you have inequality in both rural and urban communities in Thailand that has been increasing over time.

But there is another important development. There is a growing political movement. Thaksin was the first politician to really understand its potential. He observed the rising aspirations of the lower classes in rural Thailand as well as the Bangkok lower classes to have a genuine voice in Thai politics.

Throughout the Chakri Dynasty, [the current ruling house of Thailand] since the 18th century, Bangkok always has run Thailand. "Bangkok is Thailand; Thailand is Bangkok." Thaksin's rise to power indicated that there

are genuine, widely felt pressures to change that equation and provide a voice for rural politicians from outside of Bangkok and those from Bangkok's non-elite circles.

This is different. It represents an important change in the Thai body politic. To some extent, these political changes may be energized by economic inequality, but the reason why the Abhisit government can't get them to go away is because they have taken on a life of their own.

**USAPC:** How is the influence of the "palace" complicating the evolution of this new political voice in Thailand?

**Jackson:** As far as I can tell there isn't something called "the palace." There are differences within royal circles close to His Majesty the King. In addition, His Majesty the King is quite ill. But I also think the king is a very sophisticated man, who may have determined that he simply cannot intervene because these two mass movements—the Red Shirts and the Yellow Shirts—might be unwilling to accede to his views.

Since 1973, the king's ability to settle unrest in Thai politics has been based on his ability to summon elite members and tell them, "Stop it—get the demonstrators off the streets and stop ruining my kingdom." This is harder to do now because the Yellows represent a rising level of political activism as do the Reds.

This is a very different Thailand. So His Majesty the King may have chosen not to intervene because political participation in Thailand has become a mass phenomenon and therefore far more difficult to influence.

**USAPC:** The United States and Thailand are long-time allies, yet Washington imposed sanctions on Thailand following the coup that ousted former Prime Minister Thaksin.

More recently, the State Department's *Trafficking in Persons Report*, placed Thailand on the Tier II Watch List, which puts the country at risk for further sanctions. How have U.S. sanctions (or threat of sanctions) affected Thai attitudes about the alliance?

**Jackson:** I'm quite convinced that sanctions in most cases either are ineffective or counter-productive. Admittedly, U.S. sanctions were very effective against the Union of South Africa because the sanctions had nearly universal support and South Africa had a big economy and did not want to be isolated from the rest of the world.

Thailand, however, has many different potential trading partners that will not support sanctions. In addition, Thailand is not dependent upon the United States for military or economic assistance. You can't take away that which you have not given.

Forty years ago, the threat of sanctions might have been meaningful to Thailand. But now the threat of

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sanctions is largely empty. It would be an irritant more than anything, and yet it is unlikely to change policies.

In fact, it is more likely that sanctions would convince the Thais to dig in their heels. One should remember that the Thais are very nationalistic. They really believe that Thais should run Thailand. Why? Because no one else has ever run Thailand.

Thailand remained independent even during the Japanese occupation in World War II. The Thais ran circles around the Japanese. The Thais were just flexible enough to satisfy the Japanese. Thailand is a very independent nation, so imposing further sanctions against it would be very counter-productive.

**USAPC:** Washington has adopted a new approach to dealing with Burma, which features engagement combined with existing sanctions. Yet this does not appear to have influenced the behavior of the Burmese ruling junta in the least.

It continues to subject the country's ethnic minorities to harsh discrimination. More recently, there were allegations of arms purchases from North Korea. Where is this country headed? Could it become Southeast Asia's "North Korea?"

**Jackson:** Yes, the imposition—and re-imposition—of sanctions against Burma by the United States and others has not altered the behavior of the ruling junta. Again, this is an instance in which sanctions can irritate and they can serve to impoverish the poorest people. It's very difficult to create sanctions that will change a government's policies, especially if the sanctions do not receive support from China and ASEAN.

But beginning in 2011, I think we may begin to see Burma open up a bit. This will not be because of sanctions. Rather, it will be because of a generational change in the Burmese leadership. I've been told that one of their ways of accommodating such generational change is to bring more people into the support base of the government.

The junta probably will do this by allowing the election of the first parliament since 1962. Will that election be entirely democratic? Almost certainly not. Aung San Suu Kyi, [leader of the opposition National League for Democracy, who has been under house arrest for more than half of the past 20 years], will not be allowed to run.

Will other politicians who might be characterized as opponents of the current regime be allowed to win the election? Almost certainly not. But in the end, will you have something like a parliament, in which the people can express their views about particular government policies? This isn't much, but it may be better than nothing.

Democracies do not come about by the flicking on and off of a light switch. I don't think you'll have truly democratic elections in Burma for another decade. But we might have the beginning of a process that leads in that direction.

I think it is a good idea for the U.S. government to encourage such positive developments while continuing to speak out and label the negative aspects for what they are. It should be a nuanced policy, not black or white.

Burma will change because the Burmese change it, not because someone in Washington decides Burma is going to change. We've been trying that for 20 years and it's never worked. It's always seemed to me that a smart axiom in politics is that when you've been pounding your head against a wall for 20 years and some policy hasn't worked, you should try something different.

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*Burma likely will begin to open up a bit in 2011 because of a generational change in the leadership*

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**USAPC:** Former Philippine President Corazon Aquino's son, NoyNoy, was recently elected president there. Many observers are skeptical of his leadership capabilities. What is your view of his leadership potential?

Also, do you think developments in Thailand may inspire mobilization of the rural and urban poor in the Philippines and possibly threaten the elite hold on power in Manila?

**Jackson:** There is an important difference between the situations in Thailand and the Philippines. There is a pro-poor constituency in the Philippines that antedates the rise of Thaksin and the Red Shirts in Thailand.

The coalition that gave former President Joseph Estrada 40 percent of the vote when he was elected president in 1998 is an indicator that there is something out there that is seeking change from a political system that continues to be dominated by the same small number of families in Manila who have patronage contacts throughout the entire archipelago.

Concerning the election of NoyNoy Aquino, I don't think anyone knows what he really will do because Filipino elections are not about policy decisions. They are about personalities.

NoyNoy won by a substantial amount. The tradition in the Philippines is that immediately after someone wins the presidency, many politicians from other parties automatically switch to the new president's party. If the new president can bring effective people into the governing circle, the administration likely will be successful.

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### **Asia Pacific Economic Cooperation (APEC) forum:**

- **APEC Business Advisory Council (ABAC)**—On June 1, ABAC called on APEC's Ministers Responsible for Trade (MRT) to develop a new vision which takes into account the fundamental changes in APEC's economic and social structures during the past 16 years. ABAC is a private-sector body established by APEC in 1995 to advise the Asia Pacific leaders on matters of importance to business in the region.

The business group further urged: (1) greater detail from the MRTs on the modalities and processes towards a Free Trade Area of the Asia Pacific (FTAAP) to enable active business input; (2) the use of existing and progressing regional trade arrangements, such as the Trans-Pacific Partnership, as potential pathways to an FTAAP; (3) more effective links between the APEC Senior Officials' Meetings and ABAC processes; and (4) development of "Regional Integration Metrics" by the APEC Secretariat to monitor each economy's progress toward regional economic integration and inclusive growth—<http://www.abaonline.org>

- **APEC Meeting of Ministers Responsible for Trade (MRT)**—The trade ministers of APEC's 21 member economies wrapped up their meetings on June 5–6 in Sapporo, Japan with a statement that (1) assessed the achievement of the trade-liberalizing Bogor Goals, (2) considered the future for APEC's work to strengthen regional economic integration, (3) reaffirmed an Action Plan aimed at achieving balanced, inclusive, sustainable, innovative, and secure economic growth, and (4) underscored the importance of human security to economic growth and resilience.

The ministers also issued a separate statement extending APEC's standstill on protectionism until 2011 and expressing members' commitment to the multilateral trading system. Both statements are available at [http://apec.org/apec/ministerial\\_statement.html](http://apec.org/apec/ministerial_statement.html)

- **APEC Launches Practical Trade Tool**—On June 6, APEC launched a new gateway to tariffs and rules of origin aimed at helping business take better advantage of more than 40 intra-APEC free trade agreements

(FTA). The information available on the new web-based system includes MFN tariff rates, preferential tariff rates, and preferential rules of origin in the FTAs and regional trade agreements of APEC member economies. See <http://www.apec.org/webtr.html> to access the gateway.

### **Pacific Economic Cooperation Council (PECC):**

- **A Post 2010 Trade Agenda for the Asia Pacific: PECC-ADB-ADB-ADB Conference**—PECC partnered with the Asian Development Bank Institute (ADBI) and the Inter-American Development Bank on a symposium held July 6–7 in Tokyo. Its purpose was to develop policy recommendations pertaining to the future of the WTO, regional economic integration, the trade dimensions of climate change policy, and trade issues in the international food economy, among other topics confronting the Asia Pacific region in the wake of the global economic crisis. A report on the invitation-only symposium may be available at <http://www.adbi.org> in the near-term.

### **Key Meetings: July – August 2010:**

- **Senators Al Franken (D., Minnesota), Tom Harkin (D., Iowa), Jeff Merkley (D., Oregon), and Bernie Sanders (I., Vermont)** visited Laos and Vietnam during July 5 week. The Laos leg of the trip featured meetings with repatriated Hmong. In Vietnam, the lawmakers discussed educational initiatives, labor issues, trade relations, and environmental remediation of Agent Orange with Vietnamese officials.

- **U.S. Secretary of State Hillary R. Clinton** and **U.S. Secretary of Defense Robert Gates** will meet their counterparts for discussions about key diplomatic and security issues, Seoul, South Korea, July 21.

- **Secretary Clinton** will join foreign ministers of 26 Asia Pacific nations for the 17th ASEAN Regional Forum (ARF). Clinton also will participate in programs commemorating the 15th anniversary of normalizing U.S.-Vietnam diplomatic relations, Hanoi, Vietnam, July 23.

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## Push for KORUS

**Congressional Supporters**—Due in no small way to business advocacy, a substantial chorus of House and Senate members also responded favorably to the chief executive's call for approval of KORUS. Even before President Obama's trip to the G-20 summit, a bipartisan group of 50 House members wrote to the president and

urged him to "expedite your work to resolve outstanding issues so that [KORUS and other pending agreements] have the support necessary for congressional approval." Three signatories—Reps. Dave Reichert (R., Washington), Bobby Bright (D., Alabama), and Peter Roskam (R., Illinois)—subsequently launched the U.S.-Korea FTA Working Group to build further support among lower house lawmakers.

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## Push for KORUS

Senate proponents of KORUS include Senate Foreign Relations Committee Chairman John Kerry (D., Massachusetts), Ranking Member Richard Lugar (R., Indiana), and Sen. Jim Webb (D., Virginia), chairman of the Senate Foreign Relations Subcommittee on Asian and Pacific Affairs. In a May 10 letter to President Obama, Kerry and Lugar warned the White House that the longer KORUS is stalled, the greater the risk that the United States will cede South Korea's markets to China, the European Union, India, and other significant trading partners.

**Sticking Points**—Sen. Webb echoed their concerns about the potentially “wide-ranging negative repercussions” of failing to conclude the agreement. But he also acknowledged the “valid concerns” of the auto and beef sectors with respect to KORUS.

In this regard, Ways and Means Committee Chairman Sander Levin (D., Michigan), the auto industry's leading supporter in Congress, warned that the only way that the president could secure congressional approval of KORUS is by addressing barriers to auto and beef trade with “enforceable commitments.” Senate Finance Committee Chairman Max Baucus (D., Montana), the beef industry's champion on Capitol Hill, couched his support for KORUS with a similar warning.

**Side Agreements**—Insiders have suggested that Washington and Seoul likely will address the two major sticking points through side agreements. In this way, KORUS still could be considered under so-called “fast-track” rules, which would prohibit amendments. They say a House vote in late May 2011 is plausible. ♦

## Congress Reaffirms Support For Seoul In The Wake Of *Cheonan* Attack

The United Nations Security Council's statement on July 9, which deplored the March 26 attack on the South Korean ship *Cheonan* but did not directly implicate North Korea, likely generated profound disappointment on Capitol Hill. U.S. lawmakers from both parties and in both chambers had moved quickly to approve legislation condemning North Korea's provocative action upon learning the results of a formal investigation into the ship's sinking.

**Legislation**—On May 10, a 74-member international investigative team concluded unanimously that the *Cheonan* indeed was sunk by a torpedo launched from a

small North Korean submarine. On May 13, the Senate unanimously approved a non-binding resolution, which expressed sympathy to the families of the 46 South Korea sailors killed in the sinking but also reaffirmed support for the U.S.-Korea alliance. The House followed suit on May 25, voting 411 to 3 in favor of a non-binding resolution that called for an “appropriate and coordinated international response to North Korea's unprovoked, deadly attack.” On July 7, President Obama signed into law a joint resolution that formally cited the North Korean attack on the *Cheonan* as necessitating “a reaffirmation of the U.S.-Korea alliance in safeguarding the stability of the Korean Peninsula.” (That resolution also recognized the 60th anniversary of the outbreak of the Korean War.)

**Diplomatic Pressure**—Moreover, U.S. lawmakers complemented legislative action with diplomatic outreach. Both China and Russia had refused to accept the results of the international investigation into the *Cheonan's* sinking. On June 25, 10 prominent Senators—including Senate Armed Services Chairman Carl Levin (D., Michigan) and Senate Foreign Relations Subcommittee on Asia and the Pacific Chairman Jim Webb (D., Virginia)—appealed to China's ambassador to the United States via letter to support efforts at the United Nations to address the attack.

They pointed out to Amb. Zhang Yesui that his government's refusal to acknowledge the investigation's finding of North Korean culpability seemed inconsistent with Chinese Premier Wen Jiabao's May 28 statement that Beijing “insists on justice and is seriously considering the findings of the . . . investigation.” Notwithstanding pressure from Capitol Hill, China, together with Russia, remained adamant that North Korea not be blamed directly for the *Cheonan* attack, and the U.N. Security Council's statement on July 9 ultimately reflected this.

**Study of Sanctions**—U.S. lawmakers are unlikely to back down in insisting that Pyongyang be properly sanctioned for its belligerent behavior in the region.

On June 8, Sen. Richard Lugar (D., Indiana), Ranking Member of the Senate Foreign Relations Committee, asked the Congressional Research Service to undertake a detailed study of U.N. Resolution 1874. This resolution, adopted in 2009, imposed further economic and commercial sanctions against North Korea in response to an underground nuclear test.

Lugar noted that the *Cheonan* episode had generated debate about appropriate responses to North Korea. He suggested that Congress should first consider the effectiveness of existing U.N. sanctions in punishing Pyongyang before pressing for new punitive actions. He reportedly wants the results within 90 days. This suggests that U.S. lawmakers will continue to monitor Pyongyang's behavior closely and, in time, may advocate a new approach aimed at holding North Korea accountable for its rogue behavior. ♦



# Hill Remains Focused On China's Currency, Trade Policies

The potential threat to U.S. economic welfare posed by China's currency and trade policies remains on the front burner for many U.S. lawmakers, particularly as the November mid-term elections draw ever closer. In the past two months, Members of the House and Senate have vented their frustrations, searched for answers, and threatened punitive action in various hearings in both chambers.

Beijing's announcement on June 19 that it would increase the flexibility of its exchange rate appeared to brake the momentum on Capitol Hill, at least temporarily, of legislation that would impose punitive tariffs on imports from countries designated as currency manipulators. But Members of the House and Senate also made clear that China by no means was off the hook. Their disappointment with the decision of the U.S. Treasury on July 8 not to cite China as a currency manipulator (see Regulatory Update), in fact, suggested that their patience was not endless.

U.S. lawmakers ultimately may decide to pursue legislative remedies depending on how the Obama administration addresses some of the following issues:

**Commerce Department Rulings**—Trade lawmakers anxiously are awaiting a decision by the Commerce Department about whether it will rule on the charge in two separate cases that China's currency manipulation constitutes a "countervailable export subsidy" that has caused injury to U.S. workers. American producers of "coated paper" and "extruded aluminum" originally filed the complaints.

Some experts contend that the Commerce Department indeed has authority under U.S. law to investigate whether currency undervaluation by a government constitutes a countervailable subsidy. But Commerce has declined to investigate similar complaints in 10 previous cases involving various manufactured products and—to industry and congressional observers—seemed to be stalling in deciding on the latest two cases. At a Senate Finance Committee hearing on June 23, Commerce Secretary Gary Locke said only that agency experts are still "taking a very hard look" at these cases to ensure that the decision holds up in court. Rulings in both cases are expected in the early fall.

**Combatting Indigenous Innovation and IPR Theft**—Members of the House and Senate also have prevailed upon the Obama administration to pursue aggressively China's trade-related policies that place U.S. companies and workers at a disadvantage. At a Ways and

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## Regulatory Update

**Treasury's Semi-Annual Report to Congress on International Economic and Exchange Rate Policies**—Although more than two months late, the U.S. Department of the Treasury sent to Congress on July 8 its semi-annual report that examines the economic and exchange rate policies of the major trading partners of the United States. The report, which was due on April 15, concluded that China's *renminbi* remains undervalued, but that Beijing nevertheless did not meet the statutory standards of a currency manipulator.

Treasury noted China's announcement on June 19 that it would end its peg to the dollar and return to a more market-based exchange rate regime. However, it stated that what matters is now far and how fast the renminbi appreciates. "Treasury will monitor closely the pace of appreciation and will report on progress in the fall report to Congress," the report stated— see <http://www.treas.gov>

Key U.S. lawmakers remain frustrated by Treasury's persistent refusal to cite China as a currency manipulator. Senate Finance Committee Chairman Max Baucus (D., Montana) described Beijing's decision in June to modify its currency policy as only a small step. "China must take significant steps to appreciate its currency . . . and I urge the administration to be vigilant in pushing China on this issue," he said. House Ways and Means Chairman Sander Levin (D., Michigan) agreed, and urged the administration to keep pressure on China to follow through on further appreciation by, among other things, "exploring the option of challenging China's currency practices through a WTO complaint."

**'Special 301' Report on Intellectual Property Rights**—The Office of the U.S. Trade Representative (USTR) issued on May 14 is annual "Special 301" Report on the adequacy and effectiveness of U.S. trading partners' protection of intellectual property rights (IPR). Like Treasury's currency report (above), USTR's "Special 301" report also homed in on IPR concerns with respect to China. "We are seriously concerned about China's implementation of 'indigenous innovation' policies that may unfairly disadvantage U.S. IPR holders," U.S. Trade Representative Ron Kirk said. "China must maintain a level playing field," Kirk warned.

China's "indigenous innovation" policy aims to promote the development of key domestic industries by, among other measures, requiring the transfer of or otherwise failing to adequately protect the intellectual property of non-Chinese products.

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When former President Fidel “Eddie” Ramos was elected, he received only 24 percent of the vote. But Ramos had one of the most successful post-war presidencies. Eddie Ramos, with only 24 percent of the vote, was effective because many switched into his party after the election. Why? They wanted a share of the spoils. Politics in the Philippines is about spoils.

And that’s also the underlying problem of Filipino politics. The system has enormous transactions costs because there is so much corruption. And yet, how are you going to make this struggling democratic political system work without it? These are tough questions. I would suggest that very few people in the Philippines or the United States have an answer to that conundrum.

Corazon Aquino’s lasting contribution was to put in place certain democratic institutions and to prevent them from being overthrown. Now maybe her son will make them work—at least as well as Eddie Ramos was able to make them work. Estrada was a disaster, but outgoing President Gloria Macapagal-Arroyo at some levels has been incredibly effective. At the same time, though, her administration also has been tarred by enormous scandals. ♦

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## China’s Currency, Trade Policies

Means Committee hearing on June 16, Rep. Rick Larsen, co-chair of the U.S.-China Working Group, reminded his colleagues that “a number of other issues have a greater impact on U.S. jobs” than China’s exchange rate. He singled out for concern China’s lax IPR protections as well as its “indigenous innovation” policy. The latter aims to improve domestic innovative and technological capabilities by requiring that all products eligible for government procurement contain intellectual property that is developed and owned in China. China also must be the origin of all registered trademarks.

U.S. business groups have charged that indigenous innovation, in particular, represents an “unprecedented use of domestic intellectual property as a market-access

condition.” This policy makes it nearly impossible for the products of American companies to qualify for sales to the Chinese government unless they are prepared to establish Chinese brands and transfer their research and development of new products to China, these groups have argued. Some American observers have gone so far as to call indigenous innovation a mask for outright intellectual property theft.

**ITC Hearing and Report**—Senate Finance Committee Chairman Max Baucus (D., Montana) has become so concerned about the extent to which U.S. industry is being hurt by China’s indigenous innovation policies and lax IPR enforcement that he ordered the U.S. International Trade Commission (ITC) to prepare a study that quantifies this economic damage.

Toward that end, ITC held hearings on June 15–16, which featured a litany of complaints from American business representatives about billions of dollars of lost sales in China owing to IPR infringement and indigenous innovation regulations. Robert Holleyman of the Business Software Alliance noted, for example, that “79 percent of software installed in China in 2009 was not paid for—and about 45 percent of that was illegally-used U.S. software.” All testimony is available at [http://www.usitc.gov/press\\_room/spotlight/ipchina1\\_testimony.htm](http://www.usitc.gov/press_room/spotlight/ipchina1_testimony.htm).

The ITC hopes to deliver its report to Baucus by November 19. The Senate Finance Committee Chairman has yet to indicate whether he will use the report’s findings to develop legislation.

**U.S. Government Procurement Restrictions**—Some U.S. lawmakers are not waiting for the ITC report. They have proposed clamping down on China’s access to the U.S. government procurement process as a means of redressing the negative effects of indigenous innovation. On June 17, Sen. Debbie Stabenow (D., Michigan) introduced the “China Fair Trade Act of 2010.” The bill would prohibit purchases by the U.S. Government of Chinese goods and services until China agrees to the WTO Agreement on Government Procurement.

Rep. Don Manzullo (R., Illinois), Ranking Member of the House Foreign Affairs Subcommittee on Asia, the Pacific, and the Global Environment, too, has advocated blocking Chinese bids on U.S. government contracts—but he also wants to keep China out of the WTO Procurement Agreement. If China signed this accord, “Chinese firms would swamp the U.S. government procurement marketplace and weaken the U.S. industrial base, putting our nation at risk from our enemies,” he argued before the Ways and Means Committee on June 16.

**Outlook**—The administration has insisted that bilateral dialogue is the best way to address economic challenges in U.S.-China relations. The outcome of the November elections may determine whether lawmakers continue to respect this approach or—faced with angry, unemployed voters—decide to take matters into their own hands and pursue punitive legislation. ♦



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