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Congress Debates Asia: 'Rising China,' Human Rights Abuses Dominate Lawmakers' Focus In 2007

by
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Executive Summary

When the 110th Congress convened in January 2007, not a few pundits speculated that the Democratic-controlled body may affect U.S. policy toward Asia in important ways. The legislative records of senior Democratic lawmakers who were elevated to key leadership positions and committee chairmanships suggested that U.S. economic relations with China would come under tougher scrutiny. Many of these same Members also were on record as favoring a more aggressive U.S. policy toward Asian nations that abuse human rights.

At the end of the first session, these observers might smugly claim that they "called it right." By the year's end, members of the House and Senate together introduced at least 30 bills that in some way addressed U.S.-China economic relations and held 34 hearings. In the area of human rights, lawmakers introduced 27 bills, 10 of which focused on China's weak human rights record; eight hearings were held.

But to the surprise of many who assumed that 2007 would be the year Congress "got tough" with China, the often-heated rhetoric on Capitol Hill did not translate into legislative action. Despite the growing chorus of constituent angst about the job-related implications of growing U.S.-China ties, Members of the House and

Senate ultimately did not pass the legislation aimed at redressing the impact of China's highly regulated currency policy and alleged trade-distorting policies. A combination of substantive, jurisdictional, and scheduling issues ended up keeping China bills off the House and Senate floors last year.

As predicted, though, Members of the House and Senate did pass several measures aimed at addressing human rights abuses in Asia. When the first session adjourned, one or both houses had passed resolutions that (1) condemned the ruling Burmese junta's brutal crackdown of pro-democracy demonstrators and would impose new economic sanctions, (2) would deny non-humanitarian aid to Vietnam because of its intolerance of religious freedoms, and (3) criticized Japanese government's failure to formally apologize for certain egregious conduct toward Asian women during the 1930s and 1940s. Insiders attributed these legislative accomplishments to the combined influence of a Democratic leadership that long has championed human rights causes and highly organized and mobilized ethnic constituencies.

continued on page two



Grass-Roots Anxieties, Party Shifts

U.S. Trade Representative Susan Schwab earlier this year summed up the problem facing proponents of free trade and dialogue with China and other Asian nations about problems in bilateral relations: “Trade has become the black hole of all economic anxiety [and] unfortunately, China has become the poster child for this rising sense of protectionism.”¹ As Ambassador Schwab noted, studies show that more than 30 million U.S. jobs are linked to trade—one in five U.S. jobs—and that it accounts for less than 3 percent of annual jobs losses.

Nevertheless, polls indicate that many Americans fear that trade, in general, and growing U.S.-China ties, in particular, will cost them their livelihoods. Members of Congress have sought to address these concerns with a variety of proposals aimed at rectifying the unfair advantage of China’s undervalued currency, combating Chinese industry subsidies, cracking down on China’s failure to protect U.S. intellectual property rights, and even withdrawing China’s permanent normal trade relations (PNTR) status.

This response is not without precedent. Lawmakers historically have responded to constituent fears about the job-related impact of foreign competition by urging economic retrenchment. In the 1980s, for example, when a “rising Japan” appeared to threaten U.S. industries ranging from autos to semiconductors, some Members of Congress proposed protectionist solutions and even went so far as to stage “Japan-bashing” demonstrations on the steps of the U.S. Capitol.

But proponents of highly restrictive remedies ultimately proved unsuccessful. This is because both parties included sufficient numbers of members who supported free trade. Members of the Republican Party, in particular, could be counted on to champion the benefits of a liberal trading policy.

Twenty-odd years later, free trade proponents in both parties have dwindled, especially the free-trade wing of the Democratic Party. The labor-oriented, protectionist group of the party now dominates policy discussions.

The Republican Party also is embracing a more populist line as social conservatives, who, in one expert’s words, “are more driven by concerns for social values than abstract economic principles,” gain the upper hand in party affairs. This development has critical implications for the management of tensions arising from increasingly complex economic relations between the United States and Asia.

Jim Leach, former chairman of the House Subcommittee on Asian and Pacific Affairs, has proposed that party shifts are creating a policy framework may cause

Americans to retrench from active internationalism.² Neither of the dominant wings of the Democratic and Republican parties has much interest in or patience for negotiations between the United States, China, and other trading partners that do not yield immediate results, or policies that do not directly support those displaced by trade. The fact that these workers constitute a small percentage of the total U.S. workforce is beside the point.

Speaker of the House Nancy Pelosi’s (D., California) reply to a question about the number of Americans who think they have lost their jobs owing to trade—“many more than those who have”—underscores the fact that a perception of unfairness and harm appears to have trumped actual statistics in the minds of many Americans and their elected representatives.

Advocates of Engagement

This is not to suggest that there are no voices in Congress urging a more reasoned way of addressing economic challenges posed by growing U.S.-China ties and globalization. Proponents of free trade and global engagement have survived in both parties, albeit in shrinking numbers. Edward Gresser of the Progressive Policy Institute, indeed, has attributed House and Senate approval in late 2007 of legislation implementing the U.S.-Peru Free Trade Agreement to the persistence of “international instincts” in Congress, particularly within the more populist Democratic party.³

Importantly, these instincts are influencing initiatives aimed at enlightening fellow lawmakers about the economic and political importance of U.S. engagement in Asia. Responding to the rising chorus of often-vitriolic—and sometimes inaccurate—rhetoric about China, some of these efforts emphasize the importance of dialogue with this rising Asian power and enhancing mutual understanding.

Other pro-engagement lawmakers have endeavored to develop a policy alternative that addresses domestic concerns about employment but also continues to promote open trade and investment, particularly with growing Asian markets.

U.S.-China Working Group—In the House, Representatives Rick Larsen (D., Washington) and Mark Kirk (R., Illinois) have played a leading role in creating a more informed discussion about challenges in U.S.-China relations. Two years ago, they founded the 60-plus-member U.S.-China Working Group in an effort to “create space in Congress where lawmakers could examine rationally various issues in U.S.-China relations.”⁴ The group periodically holds programs for lawmakers that

continued on page three

continued from page two

address all aspects of U.S.-China relations.

In August, as the debate about “getting tough” with China was reaching a fever pitch on Capitol Hill, Larsen and Kirk introduced on behalf of the Working Group the “U.S.-China Competitiveness Agenda.” The four-bill package, aimed at “expanding America’s influence in China and increasing American competitiveness in the global marketplace,” would broaden public diplomacy, export promotion, Chinese language education, and energy cooperation.

“Our relationship with China will be the most important diplomatic relationship in the 21st century,” Kirk said as 2007 drew to a close. “The U.S. Congress needs to realize that one of the best ways to get progress with the Chinese is to bring them to the table.”

Centrist Bridge-Building—Among Democrats, there are lawmakers who subscribe to a more centrist view that economic relations with China and other Asian nations are not inherently damaging to U.S. interests. Retrenchment is not the answer to the sometimes painful changes that growing trade ties can produce, they maintain. However, proponents of this view emphasize that it is incumbent upon the U.S. government complement trade expansion initiatives with better support for affected workers.

Senate Finance Committee Chairman Max Baucus (D., Montana) has emerged as a centrist innovator. He has worked actively to bridge partisan differences on his panel. In particular, he has collaborated closely with Ranking Committee Member Charles Grassley (R, Iowa) in developing new approaches to dealing with U.S.-China trade frictions that are not harshly punitive and allegedly would not violate international trade rules.

Importantly, Baucus has sought to bring more members of his own party into the pro-trade fold. He has sought to bring his party’s “international instincts” more to the fore. Baucus’ “new Democratic trade policy,” unveiled in October 2007, echoes the call of many Democratic members that the United States should insist on fair exchange rates and develop stronger tools to enforce international trade law.

However, Baucus also argues that the United States should “multiply our successes” by continuing to engage with China and growing the export market there. In addition, he advocates conclusion of trade agreements with “commercially significant economies,” like South Korea, Malaysia, Taiwan, Indonesia, India, and Japan.⁵

Importance of ‘Political Cover’

A critical complement to this plan, in Baucus’ view, is a revamped Trade Adjustment Assistance (TAA) pro-

gram. Originally established as part of the Trade Expansion Act of 1962, TAA provides a variety of reemployment and retraining services and financial assistance to workers primarily in manufacturing industries that have lost their jobs or as a result of increased imports or shifts in production outside the United States.

Given its close relations with organized labor, the Democratic Party historically has been a strong supporter of this program. As the U.S. economy has become more global and services have come to dominate exports, Democrats in recent years have advocated expanding TAA to include American service workers who may have lost their jobs due to off-shore outsourcing.

In July 2007, Baucus introduced legislation that not only would have extended TAA coverage to services workers, communities, firms, and farmers, but also included a health care benefits and other provisions aimed at improving the efficiency and effectiveness of the program. “American workers and the companies that employ them must each continually adjust to a changing world marketplace. So too should our worker adjustment strategies,” Baucus has said.

House Ways and Means Chairman Charles Rangel (D., New York) introduced the House companion not

TAA provides a rationale for lawmakers who may be inclined to support trade but fear constituent reprisals

long thereafter, arguing that TAA is needed “to combat the negative effects of globalization and eliminate the growing perception that trade is not working for American workers.” In late October, the House approved Rangel legislation. Senate Finance did not have time to act on the bill before the first session adjourned.

TAA is a domestic program and, as such, is not directly related to U.S.-Asia relations. But Baucus other Democratic proponents of engagement recognize its political importance. In Capitol Hill parlance, the program helps to provide “political cover.” It provides a rationale for lawmakers who may be inclined to support trade initiatives but fear constituent reprisals. Many House Democrats, in fact, tied their support for pending free trade agreements (FTAs) to passage of the bill overhauling TAA.

The fact that the Kirk/Larsen competitiveness package never gathered steam underscores how important it has become in Congress to link economic engagement initiatives with measures aimed at strengthening the safety net for U.S. workers. Christopher Nelson of *The Nelson Report* predicts that as election-year pressures intensify in 2008, more and more Republicans may use TAA for “cover” despite White House objections to the House-passed bill.

continued on page four

The Bush Administration threatened to veto the measure on grounds that it would convert TAA from a trade-related program “to a universal income-support and training program.”

Some experts have proposed that TAA does not go far enough. William Reinsch, president of the National Foreign Trade Council, has argued that the key to easing trade-related anxieties at the grass roots—and resurrecting support on Capitol Hill for trade initiatives—ultimately lies in reforming the U.S. health care system, providing more effective and accessible job re-training and wage insurance, and developing tax incentives for business, among other domestic reforms.

But with the executive and legislative branches currently at loggerheads over numerous issues, it is unlikely that Congress would undertake such an ambitious agenda. It would be far easier and politically expedient for lawmakers to address voters’ unease about the economy by casting a get-tough-with-China vote, which many lawmakers no doubt are poised to do in 2008.

For this reason, caucuses such as the U.S.-China Working Group play an important role. By enabling House members to learn more about U.S.-China relations in an informal setting without the pressure of being “on the record,” lawmakers may be better able to evaluate more thoughtfully how some of the China-targeted bills may—or may not—effectively address challenges confronting the bilateral relationship.

Pressure Builds for China Bills

When the 110th Congress convened, lawmakers were primed to introduce legislation aimed at rectifying the massive U.S.-China bilateral trade deficit and redressing alleged unfair trading practices. For at least the past three years, a broad array of manufacturing industries, labor organizations, and even small to medium-sized companies had prevailed on their elected representatives to legislate a more aggressive means of forcing China to liberalize its trading and currency policies.

They argued, among other things, that China’s subsidization of certain industries and its policy of actively intervening in currency markets to prevent the *renminbi* (RMB) from appreciating too rapidly gave Chinese exports an unfair competitive advantage. This was harming American business, fueling the massive bilateral trade deficit, and generally threatening the U.S. economy, they charged.

Given the populist shift in both parties, the question was not whether Congress would take up China-targeted legislation, but rather what form it would take and how quickly it would move through both chambers.

In addition, the inability of the Bush Administration to secure a commitment from Beijing to allow its currency to appreciate at a more rapid pace created a sense of greater urgency on Capitol Hill. The cabinet-level U.S.-China Strategic Economic Dialogue (SED), a biannual initiative launched by the U.S. Department of the Treasury in 2006 ostensibly to defuse the protectionist push in Congress, was not yielding results sought by many lawmakers and their constituents.

At the May 2007 meeting of the SED in Washington, for example, Chinese officials would not agree to accelerate currency reform beyond the current incremental pace. The Bush Administration’s decision not to seize two other important opportunities to call China to task over its currency policy appeared to serve as the proverbial last straw even for Members of Congress in the pro-engagement camp.⁶

The 30-odd bills subsequently introduced that addressed problems in U.S.-China economic relations fell into three general categories:

1. Those aimed strengthening the ability of the U.S. government to combat unfair trading practices. These would include a proposal introduced by Representative Artur Davis (D., Alabama) and Senator Susan Collins (R., Maine) that would clarify that U.S. countervailing duty laws may apply to nonmarket economies (NME) like China;
2. Those designed to pressure China to liberalize its exchange rate policy, either by imposing prohibitive tariffs, mandating Treasury negotiations, or making exchange rate misalignment actionable under U.S. trade laws; and
3. Those that address product safety.

The latter group was crafted in the wake of a spate of recalls of tainted food and consumer product imports from China. They were aimed primarily at overhauling the operations of the U.S. Consumer Product Safety Commission and, as such, did not have the economic focus of the other two groups of measures. Potential China-targeted elements of bills were a provision that would place U.S. inspectors at foreign ports and a provision that would impose tougher penalties on foreign and domestic entities that sell unsafe products.

These bills ultimately did not become vehicles for sanctions that would affect U.S.-China economic relations more broadly, although that could change. The brouhaha caused by China’s unsafe imports has fanned anti-China sentiments in Congress, which may affect future legislative action.

Jockeying Over Vehicles

Of the first two groups of measures, the bills that addressed China's currency policy gained considerable momentum by mid-year. Part of the reason for this may have been that the Bush Administration maintained that U.S. countervailing duty law, indeed, can be used to determine whether nonmarket economies are subsidizing industries; additional legislation, such as the Artur/Collins measure, therefore would not be necessary.

But another reason for the focus on China's currency policy undoubtedly stemmed from the relentless efforts of the China Currency Coalition and other groups representing trade-impacted industries to keep this issue in the forefront of the minds of lawmakers. The Coalition is a broad alliance of industry, agriculture, and worker organizations whose mission is "to support U.S. manufacturing by seeking an end to Chinese currency manipulation." For nearly four years, this group, in particular, has worked directly with Members of Congress in crafting legislation to rectify currency misalignment.

Senate—Two bills emerged in the Senate in mid-June: "The Currency Exchange Rate Oversight Reform Act of 2007," introduced by Senator Baucus with the active support of Senator Grassley; and "The Currency Reform and Financial Markets Access Act of 2007," introduced by Senate Banking Committee Chairman Christopher Dodd (D., Connecticut) and Ranking Member Richard Shelby (R., Alabama).

The bills, which were targeted at China but applicable to all trading partners, generally aimed to (1) strengthen the ability of the Treasury Department to determine if a nation's currency is not properly aligned and (2) impose remedies for inaction by countries that are found to deliberately maintain misaligned currencies.

They differed over appropriate remedies. The Baucus/Grassley bill would have made currency undervaluation a factor in antidumping cases; the Dodd/Shelby bill would have required Treasury to seek remedy for currency manipulation primarily through the IMF. Senate Finance approved the Baucus/Grassley bill on July 26, 2007. The Banking panel reported the Dodd/Shelby bill less than one week later.

What was significant about both measures is that they represented a bipartisan effort to respond to populist calls for remedial action in a manner that sponsors claimed was consistent with WTO rules. Some Members of Congress have advocated imposing tariffs as high as 27.5 percent on all Chinese imports as a means of pressuring Beijing to revalue the RMB. Not only would this action violate World Trade Organization (WTO) rules, experts say, but it also likely would invite equally harsh retaliation from China.

One could argue that Beijing likely would lash out in

much the same way if Congress passed the Baucus or Dodd bills. Be that as it may, the sponsors, who are leading members of the engagement camp, recognized that U.S. interests would be hurt more than helped if efforts to force changes in China's currency policy undermined global trade rules.

House—A bill introduced by Representatives Tim Ryan (D., Ohio) and Duncan Hunter (R., California) attracted more than 100 House co-sponsors and was widely viewed as the likely vehicle for this chamber's action on China's currency. The "Fair Currency Act of 2007," which the China Currency Coalition had championed, would have made exchange rate misalignment by any foreign nation a countervailable export subsidy. Ryan, Hunter, and other supporters maintained that this bill also would be legal under WTO rules, but other experts in international trade law disagreed. When the first session ended, the bill was stalled in the House Ways and Means Committee.

Stalled Action

As 2007 drew to a close, however, neither House had passed a China-targeted bill—a development that baffled proponents who were confident that last year would be the year that Congress "got tough" with China. Grassroots concerns about employment and other ramifications of growing U.S.-China ties certainly had not dissipated. What happened?

Scheduling—Scheduling was part of the problem. During the last quarter of 2007, Members of the House and Senate had to contend with a jammed calendar of "must-pass" bills. In particular, the late-year stand-off between the executive and legislative branches over spending priorities complicated legislative activity and appeared to drain the energies of many lawmakers. In short, Members faced pressing legislative distractions.

Jurisdiction—In addition, a disagreement between the Senate Finance Committee and the Senate Banking Committee over which panel had jurisdiction over the China currency bills added another time-consuming complication. Dodd argued that it was inappropriate for the Finance Committee to act on currency-related bills because his panel has principal jurisdiction over international monetary policy and central bank matters. Baucus reportedly disagreed on grounds that his panel's bill included trade remedies, which indeed are under the Finance Committee's purview.

Both lawmakers appealed to the Senate leadership to determine which bill, or elements of either bill, would move to the Senate floor. Senate leaders, in turn, were

continued on page six

continued from page five

reluctant to mediate the Finance/Banking Committee turf battle until they knew the likely substance of the House vehicle.

Substance—Finally, in the House, there appeared to be a lack of consensus about substance, which held up action in this chamber. The Ways and Means Committee held exhaustive hearings on various proposals related to trade with China. Insiders assumed the panel ultimately would report the Ryan/Hunter bill. Yet, Committee Chairman Charles Rangel (D., New York) was unwilling to green-light formal consideration of a currency bill.

Some insiders suggest that Rangel and Ways and Means Trade Subcommittee Chairman Sander Levin (D., Michigan) were unsure about endorsing the Ryan/Hunter approach because of the mixed views of experts about the WTO legality of using countervailing duty (CVD) law to pursue currency misalignment. Baucus and Dodd apparently decided not to include this remedy in their bills for exactly that reason.

The Bush Administration also categorically opposed the Ryan/Hunter bill on grounds that it would violate international trade rules. In the final analysis, Rangel apparently decided to delay further consideration of currency bills in 2007 to allow more time to sort out substantive questions with House and Senate sponsors.

Spillover of Trade-Related Fears

The same business and constituent anxieties about globalization that fueled the China debate also appeared to undermine support in Congress for initiatives that would expand U.S.-Asia trade relations. Lawmakers reacted so coolly to the conclusion on April 1, 2007 of a groundbreaking free trade agreement between the United States and South Korea (KORUS-FTA) that the administration decided not to submit implementing legislation to Congress for approval.

Another casualty was legislation to renew the President's Trade Promotion Authority (TPA).⁷ Lawmakers allowed that authority to expire on June 30, 2007.

KORUS-FTA—Under the agreement, more than \$1 billion worth of U.S. farm exports to South Korea will become duty-free immediately; nearly 95 percent of consumer and industrial products will become duty-free within three years of the agreement's coming into force. Studies estimate annual bilateral trade could increase by as much as \$20 billion.

Experts also have stressed that the accord is important for U.S. engagement in the region. "Congress complains that the Asian nations have meetings that exclude the United States. An agreement with a major Asian nation like South Korea effectively throws a rope across

the Pacific," former U.S. Trade Representative Carla Hills has maintained.⁸

Despite these potential economic and political benefits, the U.S.-Korea FTA landed with a thud on Capitol Hill. Key Members of Congress blasted U.S. negotiators for not driving a harder bargain on politically sensitive issues, particularly trade in beef and automotive products.

Their reaction to the KORUS-FTA underscored a fact of political life in America: during times of economic uncertainty, the instinct of elected representatives—even those favoring engagement—will always be to put the interests of constituents first.

Senator Baucus, a centrist, pro-engagement advocate, first and foremost is a strong advocate for Montana's beef growers. He declared that he would block passage of KORUS-FTA implementing legislation until and unless Seoul completely lifts its beef ban.

Under the FTA, Seoul agreed to reduce its 40 percent tariff on imported beef over a fifteen-year period. South Korea also agreed to resume U.S. beef imports, provided the World Organization for Animal Health determined that U.S. beef is safe to consume. (U.S. beef has been banned from the Korean market for three years owing to concerns about mad cow disease and other safety issues.)

*During times of economic uncertainty,
even advocates of engagement will put the
interests of constituents first*

The latter proviso, in particular, proved "entirely unacceptable" to Baucus. By the year's end, Seoul still had not lifted the beef import ban.

Another formidable opponent has been Representative Levin, who represents a Michigan auto-producing constituency. Levin has said he would oppose the KORUS-FTA unless the administration renegotiates the auto provisions. Although South Korea agreed to remove an 8 percent tariff on imported cars and eliminate a discriminatory tax based on engine displacement, Levin argued that there was no guarantee those measures would rectify the gross imbalance in car sales.⁹

Even after U.S. and South Korean negotiators revisited the agreement to bring certain provisions into compliance with labor and environmental standards,¹⁰ House Democrats refused to support the KORUS-FTA. House Speaker Pelosi argued that the accord still did not address effectively the "persistent problem of non-tariff barriers" blocking U.S. manufactured imports, particularly in the automotive sector.

Insiders maintained, however, that many Members of Congress simply did not want to vote on a major trade

continued on page seven

continued from page six

issue that they feared could come back to bite them in the 2008 elections.

TPA—At about the same time as Democrats quashed further consideration of the KORUS-FTA, Pelosi further informed the administration that the House would not even consider renewing TPA until and unless the United States “expand[ed] the benefits of globalization to all Americans.” Viewed within the context of an increasingly combative relationship between the executive and legislative branches, the House Speaker’s categorical rejection of TPA may have reflected a desire by the House leadership to “stick it” to the White House.

But the fact that members of the pro-engagement camp did not press hard for TPA renewal underscores how fragile the “international impulses” in both parties have become.

The lapse of TPA underscores the fragility of ‘international impulses’ in both parties

The absence of TPA may affect U.S. efforts to expand trade and investment with other Asian nations. For the past few years, United States has been negotiating FTAs with Thailand and Malaysia. The broader Enterprise for ASEAN Initiative offers the prospect of bilateral free trade agreements (FTAs) between the United States and other members of the Association of Southeast Asian Nations. There even has been talk of exploring the conclusion of a Free Trade Area of the Asia Pacific (FTAAP) and a U.S.-Japan FTA.

Reinsch of the National Foreign Trade Council and other experts say that U.S. negotiators do not need TPA during the early stages of discussions. But they caution that potential trading partners may be wary of negotiating in earnest for fear that any trade accord they conclude with the United States will be upended by congressional amendments. As a consequence, they suggest that U.S. efforts to expand and liberalize transpacific economic relations may be compromised by TPA’s lapse.

Congress Considers Human Rights in Asia

In contrast to the inconclusive debate about China currency bills and inaction on key trade issues, one or both houses of Congress passed legislation, both binding and non-binding, that addresses human rights problems in Asia. Insiders attribute these legislative accomplishments, in part, to the influence of a Democratic leadership that long has championed human rights causes.

House Speaker Pelosi, for one, long has fought to

improve China’s human rights record. In the past, she has sought to tie trade-related benefits to improved human rights standards in China. For whatever reasons Pelosi did not pursue such initiatives in the 110th Congress. However, she did lend her support to another ardent advocate of human rights protections, House Foreign Affairs Committee Chairman Tom Lantos (D., California), in bringing some of his committee’s human rights initiatives to the House floor.

In the Senate, Barbara Boxer (D., California), the new chairman of the Foreign Relations Subcommittee on Asian and Pacific Affairs, also brought to this position an impressive track record on human rights. In years past, the Leadership Conference on Civil Rights awarded Boxer a 100 percent approval rating for her voting record on civil and human rights legislation.

Joining her on that panel are Senators John Kerry (D., Massachusetts), also a recipient of a 100 percent approval rating for his human rights voting record, Russ Feingold (D., Wisconsin), a long-time advocate of ethnic Hmong and Lao human rights, and James Webb (D., Virginia), who, along with Boxer, has been quite vocal about human rights conditions in Vietnam.

Burma Human Rights—Not surprisingly, these lawmakers acted swiftly and vociferously in orchestrating a congressional response to the ruling Burmese military’s brutal crackdown on pro-democracy demonstrators on September 24.

Senator Kerry introduced a non-binding resolution which (1) condemned the junta’s actions and called for the release from house arrest of Aung Sang Suu Kyi, leader of the National League for Democracy, (2) urged China to suspend military assistance to Burma, and (3) called on the Association of Southeast Asian Nations (ASEAN) to suspend Burma’s membership, among other demands. This passed the Senate on October 1. The House passed a comparable resolution shortly thereafter.

On June 23, both houses had passed a bill to extend for another year provisions of the Burmese Freedom and Democracy Act of 2003. This law prohibits the importation of any item produced in Burma. Immediately after the September 24 crackdown, the Bush administration went one step further by freezing the financial assets of 14 members of Burma’s ruling elite that are within U.S. jurisdiction; three weeks later, the White House expanded the financial freeze to cover 12 additional senior Burmese officials.

But when news of the junta’s abuse of Buddhist monks reached Washington, lawmakers in both parties and both houses determined that such actions warranted harsher sanctions aimed at closing the legal loopholes and third-country export avenues exploited by Burmese military officials.

Senators John McCain (R., Arizona) and Joe Biden (D.,

continued on page eight

continued from page seven

Delaware) and Representative Lantos introduced binding legislation that not only would freeze the assets of the Burmese military elite, but also prohibit U.S. banks from maintaining accounts used by a foreign banking entity on behalf of these officials. In addition, the bills clarify that the prohibition on Burmese imports encompasses gemstones and hardwoods.

Lantos argued that Burmese rulers earn more than \$300 million from the sale of gems, in part, because nearly all Burmese gems enter the U.S. market via China, Thailand, and India. The Lantos and McCain bills also would eliminate tax deductions for Chevron's investment in the Yadana natural gas project. Sales of natural gas account for the single largest source of income for the ruling junta, they maintained.

On December 10, 2007, slightly more than two months following the Burmese junta's crackdown, the House unanimously passed the Lantos bill. Nine days later, the Senate passed an amended version of the Lantos bill. The House adjourned without voting on the amended version.

On December 17, 2007, the House also passed a binding measure that would award the Congressional Gold Medal to Aung San Suu Kyi. However, time ran out for Senate action on this legislation.

Korea Human Rights—Congressional action on other Asia-related human rights issues appeared to be influenced as much by the leadership's interest as by highly organized and mobilized ethnic constituencies.

For example, the FY08 National Defense Authorization Act, which cleared both Houses in mid-December 2007, included a provision that requires the President to submit a report to Congress within six months on family re-unions between U.S. citizens and their relatives in North Korea. It also calls on the President to describe any efforts by the U.S. government to facilitate such reunions. The fact that a targeted human rights-related matter was included in this bill suggests that a constituent group appealed to their representative or senator, who used the defense measure as a vehicle.

Indeed, it would appear that Saemsori, a Korean-American group devoted to reuniting families with relatives in North Korea, effectively laid the groundwork for this amendment in June 2006. At that time, the group approached Representative Mark Kirk (R., Illinois) to officially request both the U.S. and the North Korean governments to arrange a family reunion for Cha-hee Lee Stanfield, a Chicago librarian. As a result of providing this constituent service, Kirk subsequently formed the bipartisan, 11-member Congressional Commission on Divided Families. Suffice to say, Commission members backed the amendment to the FY08 defense authorization bill, no doubt with the active encouragement of Saemsori.

Korean ethnic constituencies also apparently were

strong advocates of non-binding action pertaining to Japan's conduct before and during World War II. On July 30, 2007, House members unanimously approved a resolution sponsored by Rep. Mike Honda (D., California). It expressed the sense of the House that the Japanese government should formally "acknowledge, apologize, and accept historical responsibility in a clear and unequivocal manner" for forcing thousands of women into sexual slavery during the 1930s and 1940s. (These victims commonly are referred to as "comfort women.")

This symbolic action by the House followed a dramatic hearing several months earlier by the House Foreign Affairs Subcommittee on Asia, the Pacific, and the Global Environment. This hearing featured testimony

One lawmaker reversed his opposition to the Honda Resolution in response to the outcry from his Korean-American constituents

from surviving victims, most of whom are Korean.

The resolution garnered 167 cosponsors. Mindy Kotler, director of Asia Policy Point and an activist on behalf of Asian "comfort women," observed tacit U.S. government support for the resolution because human trafficking, which is related to this issue, is an important foreign policy concern of the Bush administration. Both Thomas Schieffer, the U.S. Ambassador to Japan, and Vice President Dick Cheney publicly supported the measure.

The Honda resolution, however, attracted a firestorm of criticism from the Japanese government. Tokyo argued that the resolution amounted to an intrusion by the U.S. Congress into Japanese domestic affairs, and reportedly retained top Washington lobbyists to kill the measure.

In one case, Representative Dana Rohrabacher (R., California), who initially defended the Japanese government's objections to the resolution quite forcefully, ended up reversing his position reportedly in response to the outcry from his Korean-American constituents.

There is a view that the House ultimately passed the resolution owing to the organizing abilities and political savvy of Korean-American groups. However, Kotler argues that the Honda resolution achieved something far more significant by "repositioning the issue into one of universal human dignity and human rights."

Vietnam Human Rights—The Vietnamese-American community also has worked actively with elected officials to rectify human rights problems in Vietnam.

Representative Loretta Sanchez (D., California), whose Orange County district is home to one of the largest Vietnamese constituencies outside of Vietnam, in October 2007 organized a special town hall meeting for her Vietnamese constituents. The sole purpose of the

continued on page nine

continued from page eight

meeting was to allow them to air their grievances to Ambassador Michael Michalak, the new U.S. Ambassador to Vietnam. She followed this up with testimony before the House Foreign Affairs Committee, arguing that Vietnam's tolerance of religious freedom and other human rights has regressed and should be sanctioned in some way.

Sanchez's views were echoed by Representative Zoe Lofgren (D., California,) whose Northern California district also is home to a sizeable Vietnamese-American community. Lofgren argued that Vietnam's Permanent Normal Trade Relations (PNTR) status with the United States should be revoked unless all political and religious prisoners are released and "significant and immediate human rights reforms are made by the government of Vietnam." Her non-binding resolution called for such sanctions. Lofgren's measure did not pass the House in 2007, but its introduction had symbolic value for Vietnamese-American critics of Hanoi's treatment of many of their ethnic brethren.¹¹

The most active advocate on behalf of the Vietnamese-American community, however, has been Representative Chris Smith (D., New Jersey). His "Vietnam Human Rights Act of 2007" passed the House on September 18, 2007. This legislation, which ultimately stalled in the Senate, would have mandated that U.S. assistance to Vietnam be contingent on significant progress by the Vietnamese government in improving human rights and religious freedoms, returning confiscated lands, and combating human trafficking.

Not surprisingly, the 10 original co-sponsors included a contingent of California members, such as Sanchez and Lofgren, as well as long-time Republican human rights activists, including Foreign Affairs Committee Ranking Member Ileana Ros-Letinen (R., Florida) and Rep. Frank Wolf (R., Virginia).

The Smith bill was not enacted in 2007. However, its unanimous passage by the House and the hearings that it generated served to keep Washington focused on Vietnam's shaky efforts to improve the treatment of its citizens, and that is precisely what Vietnamese-American groups wanted.

Outlook

During an election year, Members of the House and Senate will feel even greater urgency to respond to constituents' unease about the U.S. economy and the impact of growing U.S.-China economic relations. The outcome of the Strategic Economic Dialogue (SED) on December 12-13, 2007 no doubt will intensify the debate on Capitol Hill about China's currency. Chinese officials were even

more resistant to U.S. calls for currency reform, reportedly arguing that a rapid appreciation of the RMB will cause "repercussions for the global economy, global financial markets, and ultimately would not serve . . . any good."

Although the SED originally was created to facilitate high-level dialogue on long-term policy concerns, Members of Congress have cited the December 2007 dialogue as further evidence that consultations with Beijing are ineffective.

China Bills—House Trade Subcommittee Chair Levin, for one, has described the Bush administration's approach to China as passive and rhetorical. He has argued that the extent to which China has allowed its currency to appreciate is principally because Congress has turned up the heat: "When they've moved, it's been in

House Trade Subcommittee Chair Levin said his panel would consider a China bill as early as February 2008

part because we pushed," Levin said following the December 2007 SED meeting.

The Michigan Democrat reportedly predicted that his panel would consider a China currency bill as early as February 2008. Presumably, Levin and House Ways and Means Chairman Rangel plan to resolve the substantive questions by then.

Levin's prediction likely will hold judging by lawmakers' reactions to the Treasury Department's "Semiannual Report on International Economic and Exchange Rate Policies," issued December 19, 2007. Treasury argued, as it did in the May 2007 congressionally mandated report, that China still does not meet the requirements for designation as a currency manipulator.

Senator Charles Schumer (D., New York), who two years ago championed a bill that would have imposed prohibitively high tariffs on all Chinese imports if Beijing did not reform its currency policy, blasted the report and warned the Bush administration to expect a legislative response: "In refusing to brand China as a currency manipulator, which is so obvious, the administration gives Congress no choice but to act on its own," Schumer charged.

Possible Deal-Making—Reinsch of the National Foreign Trade Council and other Congress-watchers foresee possible deal-making between the administration and Congress on Asia-related trade bills.

Reinsch has proposed a scenario that would entail linking congressional approval of the KORUS-FTA bill (provided South Korea lifts the beef import ban) to action on a China currency bill. Another "price" that the White

continued on page 10

House may have to pay for action on KORUS or other pending FTAs is enactment of a Democratic-crafted TAA program. In both cases, each side would get some of what they want. Populist-leaning lawmakers, in particular, would have a credible excuse to justify their pro-trade vote to wary constituents.

Foreshadowing 2008 maneuvering on trade issues, in the waning hours of the first session Senate Republicans blocked action on a House-passed bill that would have extended temporarily the current TAA program set to expire on December 31, 2007. The Senate subsequently adjourned without acting on the bill. Republicans, possibly anticipating a KORUS-FTA/TAA deal next year, may have sought to undercut Democratic efforts to tie their support for the Korea trade pact to an ambitious overhaul of the TAA program.

But the Republicans' strategy may have backfired. Senate Finance Committee Chairman Baucus secured a promise from the Labor Department on December 19, 2007 to continue the TAA program through 2008 with funds provided in the omnibus spending bill enacted by Congress the following day. Importantly, Democrats were able to extract more political mileage out of the episode. Democrats in both houses issued press releases that accused Republicans of "Scrooge-like" behavior by denying benefits to laid-off workers at Christmas.

Product Safety—The product safety issue may continue to rear its head judging by the comments of U.S.-China Working Group Co-Chair Kirk following the December 2007 SED meeting. Kirk gave senior U.S. and Chinese officials a "failing grade" for not realizing forward movement on this issue. "The SED largely punted on one of the most important and immediate U.S.-China issues facing Congress," Kirk charged.

As Nelson of the *Nelson Report* observed, for a "friend of China" to make this remark suggests that lawmakers may return to Washington in January 2008 with fewer compunctions about taking punitive action against China on product safety or a host of other issues. The House passed legislation on December 20, 2007 aimed at "modernizing" the Consumer Product and Safety Commission, but the Senate adjourned without acting on the bill.

Other Asian Issues—With respect to other Asian issues, congressional staff acknowledge that Members of Congress realize they have been neglecting important developments in the rest of Asia. Nevertheless, with the exception of China, lawmakers apparently do not have a sense of impending crisis.

Members of Congress no doubt will continue to monitor developments in Burma, particularly if the junta clamps down on Aung Sang Suu Kyi once more. They likely also will watch potential hot spots such as Pakistan and North Korea.

The assassination of former Pakistani Prime Minister

Benazir Bhutto on December 27, 2007 prompted statements of condolences to the Bhutto family from many U.S. lawmakers. The remarks of Representative Lantos and Senator Biden, in particular, suggested that hearings may be in the works early in 2008 to examine how the Bhutto assassination and its aftermath may affect U.S. policy toward Pakistan.¹² "The failure [of the government of President Pervez Musharraf] to protect Ms. Bhutto raised a lot of hard questions for the government and security services that must be answered," Biden declared.

In addition, House and Senate foreign affairs panels no doubt will continue to monitor the Six-Party Talks aimed at ending North Korea's nuclear program. The fact that Pyongyang failed to make good on its pledge to declare all aspects of its nuclear program by December 31, 2007 likely will not escape the notice of members of the House Foreign Affairs Committee, which in 2007 devoted three hearings to the Six-Party process.

But in the final analysis, the reality during an election year is that lawmakers will be listening to what is important to voters and react accordingly. And that likely will mean a continued focus on the perceived international causes of domestic economic problems. ♦

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Endnotes

1. Susan C. Schwab, speech before the George H. W. Bush U.S.-China Relations Conference, October 23, 2007, Washington, D.C.
2. Jim Leach, "Is A Crisis Brewing In U.S.-China Relations?" Interview in U.S. Asia Pacific Council's *Washington Report*, July 2007.
3. On November 8, the House voted 285-132 to approve the Peru Free Trade Agreement; the Senate followed suit on December 4, endorsing the pact with a 77-18 vote.
4. Hon. Mark Kirk (R., Illinois), speech before the Asia Society Washington, April 18, 2007, Washington, D.C.
5. Hon. Max Baucus (D., Montana), speech before the New Democratic Network, October 2, 2007, Washington, D.C.
6. On June 13, the Treasury Department issued its semi-annual, congressionally mandated "Report to Congress on International Economic and Exchange Rate Policies." The report analyzes the relationship between the U.S. dollar and currencies of major trading partners. If Treasury determines that a trading

continued on page 11

partner is manipulating its exchange rate to gain an unfair competitive advantage in international trade, it must enter into negotiations with the country to properly adjust its exchange rate relative to the dollar. The June 13 report failed to designate China as a "currency manipulator." In addition, on that same day, the Bush Administration declined a request from 42 Members of Congress to initiate World Trade Organization (WTO) dispute settlement procedures against China on grounds that its exchange rate policies are inconsistent with International Monetary Fund (IMF) rules.

7. Trade Promotion Authority (TPA), also referred to as "fast-track authority," allows the President to negotiate trade agreements subject to an up or down vote in Congress without amendment.
8. Ambassador Carla Hills, "Managing Challenges in U.S.-Asia Trade Relations," U.S. Asia Pacific Council's *Washington Report*, May 2007.
9. In 2006, U.S. automakers sold about 4,000 cars in South Korea, while Korean companies sold 800,000 cars in the United States.
10. On May 10, U.S. Trade Representative (USTR) Susan Schwab concluded an agreement with House Democrats. It set forth enforceable provisions pertaining to labor standards, the environment, intellectual property protection for medicines, government procurement, port security, and investment, which the administration must negotiate into all FTAs. In return, the lawmakers agreed to approve legislation implementing the Peru and Panama FTAs and suggested they would support the KORUS-FTA if certain elements were renegotiated to conform to the deal.
11. There were several other Vietnam bills introduced in 2007 that never made it to the House floor. Like the Logfren initiative, some appeared to respond to constituent pressures. Representative Tom Davis (R., Virginia), whose district includes a significant number of Vietnamese immigrants and naturalized citizens, introduced a non-binding measure that endorses "reforms for freedom and democracy in Vietnam. Others were introduced by human rights advocates, such as Representative Jeff Fortenberry (R., Nebraska). His bill would establish a Congressional-Executive Commission to monitor and report annually on Vietnam's human rights conditions and rule of law developments.
12. Representative Gary Ackerman (D., New York), chairman of the House Foreign Affairs Subcommittee on the Middle East and South Asia, held a hearing on January 16 entitled, "U.S.-Pakistan Relations: Assassination, Instability and the Future of U.S. Policy."



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