



# Washington REPORT

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## Supplement

### Election-Year Pressures, Foreign Policy Priorities Dominate Congressional Agenda For Asia Policy

*by  
Barbara Wanner*

#### Executive Summary

The atmosphere of hope and optimism that enveloped the 1st session of the Democratic-controlled 111th Congress one year ago has all but evaporated in 2010. As the second session began in late January, the economic recovery remained uncertain, two of President Obama's policy priorities—health care reform and legislation addressing climate change—were stalled in one or both chambers, and job growth appeared flat.

The majority party was further stunned by the victory on January 19 of Republican Scott Brown in the Senate race in the Democratic stronghold of Massachusetts to replace the late Sen. Edward Kennedy—an outcome that Republicans hailed as indicative of voter dissatisfaction with Obama/Democratic Party policies and leadership. In early February, lawmakers in both parties appeared to be groping for a way forward.

As Members of the House and Senate gear up for mid-term elections in November 2010, this undercurrent of anxiety about stalled, ineffective, or unformed policies and related concerns about one's political fortunes will shape economic initiatives important to U.S.-Asia relations. Even as 2009 drew to a close, lawmakers had begun to explore the role of exports in fostering economic recovery, particularly U.S. exports to Asian markets.

Congressional leaders on trade policy likely will approach this challenge on two tracks. The first track will focus on opening Asian markets for U.S. products by negotiating new free trade agreements (FTAs), refining already concluded FTAs, and addressing alleged barriers to American goods and services. The second track will deal with the promotion of U.S. export growth through government programs

and other assistance. Lawmakers also will try to overhaul the U.S. export control regime to ensure that American producers of dual-use items are not being unduly deprived of sales opportunities in Asia and other markets.

In terms of trade with specific Asian partners, congressional frustration with China's trade-distorting industrial policies, highly regulated currency policy, and weak enforcement of intellectual property protections could boil over before the year's end. During an election year, it is not uncommon for lawmakers to promote legislation aimed at redressing the policies of trading partners that are perceived as costing Americans their jobs. China's practices continue to generate those fears at the U.S. grass roots.

But the initiatives of lawmakers active on foreign policy also suggest that not all developments in Asia are viewed exclusively through an economic lens. Members of the House and Senate have become increasingly concerned about regional developments and the apparent transition in U.S. diplomatic relations with key Asian partners.

The recent 50th anniversary of the U.S.-Japan security alliance will serve as the springboard for an examination of the political and security-related issues that have strained this important bilateral relationship. Lawmakers also will revisit developments on the Korean Peninsula, by considering the implications of South Korea's emergence as a G-20 host as well as the conundrum of dealing with Pyongyang and ending its nuclear program via the Six-Party Talks. Burma's upcoming elections will receive special scrutiny as will the effectiveness of the administration's policy of "pragmatic engagement" with the repressive regime.



## Jobs, Trade, and Asia

One element of President Obama's State of the Union Address that drew applause from members of both houses was his launch of a National Export Initiative (NEI). The NEI is aimed at doubling U.S. exports in the coming five years and, in so doing, supporting two million American jobs. Importantly, the president also affirmed his administration's commitment to stronger trade relations with Asia-Pacific markets, generally, and the South Korean market, in particular.

He warned that this country would lose the chance to create new U.S.-based jobs "if America sits on the sidelines while other nations sign trade deals." The president also underscored the importance of enforcing existing trade accord "so our trading partners play by the rules."<sup>1</sup>

**Filling a Policy Void**—Members of the House and Senate active on trade policy praised President Obama's export promotion strategy. However, they had seen the handwriting on the wall late last year. Despite the enactment in February 2009 of the \$787 billion economic stimulus package, the economic recovery remained uncertain and record numbers of Americans still were unemployed.

Even more worrisome to these lawmakers, the Obama administration had been slow to articulate a comprehensive trade policy much less acknowledge the importance of trade to the U.S. economy and its potential to generate employment.<sup>2</sup>

Keenly aware that pressure from the grass roots to rectify the dismal employment situation would intensify in the 2010 election year, key legislators stepped into the void and proactively proposed elements of a trade policy aimed at generating economic growth, rebalancing the global economy, and creating more jobs. "International trade is woven into the essential economic fabric of this country [and] we ignore it at our peril," Senate Finance Committee Chairman Max Baucus (D., Montana) said in November 2009. He called for the development of a "new blueprint on trade" and that Asia be the focus of a new U.S. trade promotion strategy. "We can no longer rely on American consumers to fuel our economic [recovery]," Baucus said.<sup>3</sup>

Trade leaders in the House also urged an Asian orientation to U.S. trade promotion activities. In a speech at a December 2009 program on Asia-Pacific economic cooperation, Rep. Sander Levin (D., Michigan), chairman of the House Ways and Means Subcommittee on Trade, said that the United States needs to engage with other Asia-Pacific nations and that "anyone who doubts the importance of Asian for global economic growth . . . will be left behind tomorrow."<sup>4</sup> Levin attended the APEC meetings on November 14-15, 2009 in Singapore as an observer. This experience seems to have influenced his regard for the region's economic dynamism.

Many foreign observers tend to regard the Demo-

cratic Party as the party of protectionism and, indeed, the labor-oriented protectionist wing of the party still tends to dominate discussions. However, the fact that prominent Democrats in both houses have begun to promote trade expansion as a part of a comprehensive economic recovery plan indicates that the majority party's internationalist instincts have persisted, albeit beneath often-vitriolic rhetoric targeted against China, Japan, South Korea, and other leading Asian trading partners.

**Flagging Public Support**—Congressional experts propose that recent electoral developments and dismal public opinion polls will motivate Democratic legislators, in particular, to match their words with deeds with respect an Asia-focused, jobs-generating export strategy in 2010.

The majority party was stunned by the victory on January 19 of Republican Scott Brown in the Senate race in the Democratic stronghold of Massachusetts to replace the late Sen. Edward Kennedy. Republicans were quick to hail this outcome as indicative of voter dissatisfaction with Obama/Democratic Party policies and leadership.

Recent polling, moreover, has made it difficult for Democrats to wholly dismiss the opposition party's partisan interpretation. One survey indicated that more than seven in 10 Americans disapprove of the job Congress is doing and may well vote for new congressional representation in the November 2, 2010 elections.<sup>5</sup>

Some observers have sensed an undercurrent of anxiety on Capitol Hill and a renewed desire on the part of many members of the majority party to make the most of the second congressional session and leave a strong imprint on international economic and foreign policy should they lose control of Congress following the November elections.

## Opening Markets in Asia

As the clock ticks toward mid-term elections, Democratic trade leaders in the House and Senate likely will try to capitalize on President Obama's pro-trade message by shaping the development of initiatives aimed at expanding job-generating engagement with the Asia Pacific. They will do this on two tracks.

The first track will focus on opening Asian markets for U.S. products via new or already concluded trade accords as well as addressing alleged barriers to American goods and services. The second track will deal with the promotion of U.S. export growth through government programs and other assistance. Under this rubric, lawmakers also will consider how to revise U.S. export controls so they do not impede export growth to important Asian trading partners yet still protect national security.

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### **Trans-Pacific Partnership Agreement (TPP)—**

Worried by the “lightning speed” with which the countries of the Asia Pacific have been pursuing economic integration, Senate Finance Committee Chairman Baucus and Senator Charles Grassley (R, Iowa), the committee’s ranking member, sent a letter to President Obama in October 2009. They urged the president to formally enter into negotiations on the Trans-Pacific Partnership (TPP)<sup>6</sup> not only to prevent the United States from effectively being shut out of the region by intra-Asian free trade agreements, but also to ensure that regional integration “develops in a way that is consistent with U.S. interests.”

Trade lawmakers of both parties in the House and Senate subsequently joined Senators Baucus and Grassley in endorsing the TPP as an important means of expanding trade with the nations of the Asia Pacific. They will be watching closely in 2010 how the administration follows through.

In mid-November 2009, U.S. Trade Representative Ron Kirk informally briefed the chairs and ranking members of the House Ways and Means Committee and Senate Finance Committee about the Washington’s intention to engage with the other seven Asian nations in creating a regional trade accord.

On December 14, 2009, Kirk followed this up with a formal written notice to the House Speaker Nancy Pelosi (D., California) and Senate President Pro Tempore Robert C. Byrd (D., West Virginia), highlighting the economic and employment benefits of the TPP. Two days later, the Office of the U.S. Trade Representative (USTR) published a notice in the Federal Register requesting public input on the direction, focus, and content of TPP negotiations.

The letter to the House and Senate leaders and the Federal Register notice officially began a 90-day period during which USTR is obliged to consider the views not only of Members of Congress, but also the opinions of business, labor, and any other interested parties about priorities and possible concerns to be addressed in the TPP talks. This input, in turn, is meant to inform U.S. trade negotiators when they sit down with their TPP counterparts for the first round of negotiations, which will be hosted by Australia in mid-March.

Members of Congress therefore have used the 90-day window to offer some of the following input to USTR about TPP negotiating priorities:

- The TPP should establish core environmental protections and workers’ rights, which serve as a model for future FTAs. Rep. Levin has noted that the United States already has FTAs with Australia, Chile, Peru, and Singapore, the terms of which differ from one another and in some respects. “The TPP provides the opportunity not only to further promote the high standards of our recent FTAs in the Asia-Pacific region, but to update, where

appropriate, our existing FTAs to the high standards of our most recent agreements,” he has said.<sup>7</sup>

- Vietnam must be held to the same high standards with respect to worker rights, intellectual property protections, and agricultural and other sectoral reforms as other TPP participants. Members of both parties have suggested that Congress likely will not approve a TPP accord that did not require major changes from Vietnam, particularly with respect to worker rights.
- The administration should continue to consult actively with Congress about the TPP. U.S. trade law requires the chief executive to notify and consult with Congress in advance about the negotiation of trade agreements. Democrats have been critical of what they regard as the Bush administration’s “perfunctory consultations” with Congress about free trade trade negotiations.
- Fast-track authority may not be necessary to secure congressional approval of TPP. Some trade experts have suggested that the absence of fast-track negotiating authority not only weakens the U.S. negotiating position in the TPP talks, but also potentially jeopardizes congressional approval of the accord.<sup>8</sup>

Democratic trade lawmakers have disputed this, contending that if the administration continues to consult actively with Congress at every important juncture, a Democratic-controlled legislature will approve TPP and any other trade agreements even without fast-track authority.<sup>9</sup>

### **U.S.-Korea Free Trade Agreement (KORUS) -**

Washington and Seoul concluded the KORUS in April 2007, but Congress has yet to pass legislation to implement it. Even three years later, KORUS remains in the cross hairs of key House and Senate lawmakers despite its potential to increase bilateral trade by as much as \$20 billion. The issues delaying progress are (1) restrictions on U.S. beef imports and (2) regulatory barriers to American auto imports.

- The South Korean government still has not liberalized its ban on certain beef imports to the satisfaction of leading Democrats. Baucus, a staunch proponent of economic engagement with the Asia Pacific, first and foremost is an advocate for Montana’s beef growers. While he has described KORUS as the “most commercially significant free trade deal in over a decade,” the Senate Finance Committee Chairman in nearly the next breath has stated unequivocally that he will not support a deal that does not allow market access for all ages and cuts of U.S. beef. At press time, Seoul had yet to change its regulations to Baucus’ liking.

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- The imbalance in U.S.-South Korean auto trade remains political unacceptable on Capitol Hill. For the past three years, House Trade Subcommittee Chairman Levin he has blocked lower house action on implementing legislation on grounds that KORUS did not address effectively the huge disparity in U.S.-South Korea auto trade. "In 2008, South Korea exported 616,000 cars and light trucks to the United States, but imported just 10,377 cars and light trucks from the United States," Levin argued in a letter to USTR Kirk in early November 2009.

Although South Korea agreed under KORUS to remove an 8 percent tariff on imported cars and eliminate a discriminatory tax based on engine displacement, Levin has maintained that the accord still would not rectify the auto trade imbalance or dismantle effectively tax and other regulatory barriers to U.S. auto imports.

- Seoul's version of the "Cash for Clunkers" program has added fuel to the fire on Capitol Hill about South Korea's closed auto market. Under the Korean program, an owner of a car at least 10 years old receives tax breaks if they trade their car in and buy a new one. "Because there are so few foreign autos available for sale in South Korea, domestic automakers are by and large the only car makers benefitting from the government's 'Cash for Clunkers' program," Levin charged in his letter to USTR Kirk.

He pointed to a coincidence between Seoul's implementation of this program and data indicating a marked decline in the foreign share of Korea's auto market. This reinforces points made concerning the inadequacies of the auto sector provisions in KORUS, according to the Michigan Democrat.

- In its unclear whether Washington can reach a new agreement with Seoul on beef and auto provisions in 2010 that satisfies Congress. Deputy U.S. Trade Representative Demetrios Marantis acknowledged in an address on U.S-Asia trade policy on January 28 that "there is a bad history in the automobile market in Korea with practices that have excluded foreign automakers."<sup>10</sup>

He said that while U.S. negotiators would work hard to find a solution, "it will be hard to do." Marantis also would not commit to any time-frame for re-submitting the KORUS implementing legislation to Congress.

**U.S.-Japan Auto Trade**—The U.S.-Japan "trade wars" of the 1980s may be over, but Members of Congress from auto-producing areas do not see it that way. These lawmakers, led by Congressman Levin and Senator Debbie

Stabenow (D., Michigan), likely will pressure USTR in 2010 via hearings, letters, and/or possibly legislation to dismantle barriers to Japan's auto market posed by that country's "Cash for clunkers" program—the Eco-friendly Vehicle Purchase Program (EVPP). Toyota Motor Corporation's massive recall owing to defective accelerators, braking problems, and other issues also will come under scrutiny.

- The EVPP flap revives 20-year-old complaints about Japanese protectionism. The EVPP initially excluded all U.S.-produced autos from the program. Responding to initial U.S. complaints, Japan announced changes on January 19 that ostensibly opened opportunities for autos imported using the so-called PHP import certification process.

On February 3, Tokyo then released a list of specific U.S. autos models that qualify. However, Japan's decision to use EPA "city" mileage ratings instead of EPA "combined city/highway" mileage ratings as the basis for determining eligibility ends up limiting the number of U.S. models that actually will qualify under the EVPP.

USTR Kirk expressed Washington disappointment and pledged to "urge Japan to implement its program in a manner that is transparent and as inclusive of U.S. autos as possible and continue to monitor developments closely."

But Kirk's words may do little to quell what Congressional insiders describe as a sharp bipartisan reaction on Capitol Hill to Tokyo's modification of the EVPP. The lack of information about why Tokyo used the more restrictive "city" standard may be viewed as lending credence to critics' charge that Japan still uses discriminatory means to protect its domestic auto market.

- Toyota's product safety issues create acute problems for the company, but this issue will not spark a "trade war". Although technically not a market access issue, it is significant that two House committees and one Senate panel called hearings to press for answers from executives of Toyota about the source of an accelerator defect that prompted the Japanese auto company to recall millions of vehicles worldwide. Lawmakers then broadened the focus of the hearings to include subsequent reports of faulty brakes in Prius models and steering issues in Corollas.

It is even more noteworthy that Akio Toyoda, President of Toyota Motor Corporation, was summoned from Japan to appear before one of these panels, the House Oversight and Government Reform Committee, on February 24. James Lentz, President and Chief Operating Officer of Toyota Motor Sales, USA, appeared before the House

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Energy and Commerce Committee the day before.

Depending on what the hearings uncover, Toyota could find itself subject to penalties or restrictions that might affect its U.S. sales and import operations. But trade policy experts caution that it is far too soon to know the extent to which Toyota's problems could bring the United States and Japan to the brink of 1980s-style confrontation. For the moment, Toyota's recalls and other product safety problems seem to have created a massive public relations problem and legal difficulties for the automaker.

**ASEAN FTA**—Sen. Richard Lugar (R., Indiana), Ranking Member of the Senate Foreign Relations Committee, has been a proponent of Free Trade Agreement (FTA) negotiations with the Association of Southeast Asian Nations (ASEAN). In October 2009, he introduced a non-binding resolution that encourages USTR to initiate such negotiations, which would build on the existing U.S.-ASEAN Trade and Investment Framework Agreement (TIFA).

Lugar has highlighted the economic benefits that would be reaped from such an accord in view of the approximately \$180 billion in annual trade between the United States and the ASEAN nations.

Although Lugar's bill is a non-binding resolution, it is possible that Sen. Jim Webb (D., Virginia), who chairs the Senate Foreign Relations Subcommittee on East Asian and Pacific Affairs, may use it as the focus of hearings in 2010. Webb evidently shares Lugar's view of the importance of expanding trade ties with this regional group, and may want to examine whether an FTA is the most appropriate mode of economic interaction with the nations of Southeast Asia.

**Asia Pacific Economic Cooperation forum (APEC)**—The United States will host the Asia Pacific Economic Cooperation (APEC) forum in 2011. This will feature Ministerial-level meetings and other activities in venues throughout the United States, culminating in the Leaders' Meeting in Honolulu, Hawaii in November 2011.

In the run-up to APEC 2011, the House Foreign Relations Committee and Senate Foreign Relations Committee may hold hearings to examine U.S. policy priorities. Behind the scenes, though, Members of the House and Senate undoubtedly will lobby hard for their constituencies to be the site of one of these meetings given the visibility and income-generation that goes with hosting such an event. At press time, those sites had yet to be announced.

Some legislators have shown a genuine interest in APEC as a means of promoting broader engagement with the Asia Pacific region. In May 2009, Representatives

Kevin Brady (R., Texas), who is Ranking Member on the House Ways and Means Subcommittee on Trade, along with Joseph Crowley (D., New York), Wally Herger (R., California), and Rick Larsen (D., Washington) formed the House APEC Caucus. Their stated aim was to educate their colleagues about the benefits of expanding trade with organization's 21 member economies. They also evidently felt that by forming a caucus, Members of Congress would be better positioned to help shape an agenda that best serves their constituents' interests and needs.

**Other Southeast Asian Bilaterals** -The United States initiated FTA negotiations with Thailand in 2004 but suspended them two years later following the dissolution of the Thai Parliament and the subsequent military-led coup. Washington also began FTA talks with Kuala Lumpur in 2006, which stalled two years later.

The Obama administration has not announced plans to resume FTA talks with either nation. Nevertheless, Members of Congress may introduce non-binding resolutions or make statements urging the resumption of FTA talks with Malaysia and Thailand. Such initiatives tend to be driven by well-organized and vocal constituent groups, however, and are not necessarily indicative of broad-based congressional support for such agreements.

## Promoting Exports to Asia

President Obama's National Export Initiative (NEI) is focused specifically on helping farmers and small businesses increase their exports. The second prong aims to reform U.S. export controls "consistent with national security."<sup>12</sup> The White House seems to have taken its cues from Congress on both elements.

**Helping U.S. Exporters**—During the second half of 2009, legislative activities that focused on strengthening U.S. export promotion programs and making these resources more accessible to small- and medium-sized businesses gained momentum on Capitol Hill. Sen. Ron Wyden (D., Oregon), chairman of the Senate Finance Subcommittee on International Trade, Customs, and Global Competitiveness, held a hearing in December 2009, one purpose of which was to inventory Federal resources available to small businesses to help them boost their sales overseas.

Congressional consideration of the NEI will have some of the following characteristics:

- Relevant committees will use their oversight authority to try and facilitate the administration's efforts to help small U.S. exporters and monitor

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results. Under the NEI rubric, USTR, the Department of Commerce, and the U.S. Small Business Administration have partnered to support economic recovery through export-oriented growth. USTR, in particular, created a new Assistant U.S. Trade Representative for Small Business, Market Access, and Industrial Competitiveness. This official has been tasked to help ensure that USTR's trade policy efforts address the challenges facing smaller U.S. exporters and promote opportunities these businesses need to create more American jobs.

Sen. Wyden pledged February 4 to work with the Obama administration on legislation to support the NEI as well as to establish "short- and long-term benchmarks . . . to measure the effectiveness of our efforts." House Trade Subcommittee Chairman Levin indicated that same day he will coordinate House support for initiatives aimed at making the government an active partner in assisting small business not actively trading.

- Republicans likely will object to monies budgeted for NEI implementation. Senator Grassley recently articulated what likely will be the minority party's objection to the NEI. Grassley and other Republicans do not disagree about the importance of exports to job creation. However, the Ranking Member of the Finance Committee believes that, rather than spending more money on government programs, the administration instead should focus on reducing barriers to U.S. exports through the negotiation and implementation of FTAs.

"The Administration and [congressional Democrats] have [been] unwilling to implement our pending trade agreements with Colombia, Panama, and South Korea," Grassley said at a hearing on February 23. "We all want more exports. But that doesn't mean we should throw more money and earmarks at export promotion and call it a day," he argued.

- Trade lawmakers will hammer on market access in connection with export promotion to Asia. The majority and minority parties clearly part ways concerning the appropriate role of government in helping businesses to develop and implement export strategies. But Democratic trade legislators would not dispute Senator Grassley's argument about the importance of securing market access for U.S. goods. "Enforcement" has become the new trade policy mantra of congressional Democrats.

Rep. Levin made clear when he endorsed the NEI that any federal assistance to fledgling exporters must be accompanied by government efforts to ensure "other markets are as open as U.S. markets and that trade agreements are

enforced." Baucus made a similar point when he outlined his new blueprint for trade policy last November.

What this means is that countries with whom the United States has a history of market access or unfair trade disputes—principally China, but also perhaps Japan and Korea—will come under fire on Capitol Hill in 2010. Particularly during an election year, it is not uncommon for lawmakers to promote legislation aimed at redressing the policies of trading partners that are perceived as costing Americans their jobs.

**Overhauling U.S. Export Controls**—With a similar goal of facilitating jobs-producing U.S. exports, the House passed legislation in June 2009 that included provisions aimed at helping American companies sell more "lower-end" dual-use goods overseas.<sup>13</sup> U.S. businesses, both large and small, have complained for years that the U.S. export control regime is too cumbersome, complicated, and time-consuming. Not only does the process of securing export licenses serve as a *de facto* export deterrent, they have complained, but some of the regulations also have unduly limited the ability of producers of dual-use products to profit from overseas sales opportunities.

Rep. Howard Berman (D., California), chairman of the House Affairs Committee, indicated in early January that his panel will undertake a comprehensive overhaul of the Export Administration Act (EAA), which was last revised in 1979. "Due to legal and technological developments in recent years . . . [the EAA] needs to be modernized in order to continue protecting sensitive technologies while also maintaining U.S. technological leadership," according to Berman.<sup>14</sup> The reforms apparently will build upon the committee's efforts in 2009 to ease restrictions on the export of less sophisticated dual-use goods.

- China's efforts to acquire increasingly sophisticated technologies with military applications will figure prominently in the debate about reforming U.S. export controls. Providing a preview of this year's debate, the House Foreign Affairs Committee's three previous hearings on this subject in 2009 highlighted lawmakers' growing concerns about the threat posed by China's unrelenting efforts to acquire technologies with potential military applications.

"My concern is that the State and Commerce Departments are naïve about China," Rep. Ed Royce (R., California) said at a hearing on April 2, 2009 about export controls on satellite technology. "Chinese spying is pervasive [so] export control reforms should be made with a very clear-eyed view of Chinese capabilities and intentions," Royce urged.

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In the aftermath of the controversy surrounding the threat by Google to pull out of the China, many more lawmakers likely will echo Royce's concerns about the "China threat" as they grapple with EAA reforms.

## Pressure Builds to Get Tough With China

In October 2007, then U.S. Trade Representative Susan Schwab remarked that "trade has become the black hole of all economic anxiety [and] unfortunately, China has become the poster child for this rising sense of protectionism."<sup>15</sup> Three years later, that observation still applies.

China will continue to be a lightning rod for inflammatory rhetoric and legislation that ultimately could subject it to some form of economic retaliation. Anti-China bills, which targeted Beijing's highly regulated currency policy and discriminatory industrial policies, did not gain much traction in 2009. This is largely because Congress was preoccupied with the stimulus package, health care reform, and for a time, climate change. That may change in 2010 as election-year pressures intensify.

Senate Majority Leader Harry Reid (D., Nevada) hinted on December 9, 2009 of the more aggressive approach Members of Congress likely will pursue this year to rectify the imbalance in U.S.-China economic relations. Reid sent a letter to Chinese President Hu Jintao that urged the Chinese leader to give his "personal attention" to (1) significant revaluation of the *renminbi* (RMB) to "bring [it] in line with economic fundamentals," and (2) ending "rampant" intellectual property (IP) theft and policies aimed at "undermining American competitiveness in sectors where we are strong."

The fact that the Senate Majority Leader took initiative at a time when he was intensely preoccupied with the health care debate underscores the seriousness with which U.S. lawmakers regard challenges posed by China's economic rise.

**Currency Regulation**—Both the Obama administration and Members of Congress have lost patience with China's refusal to allow the value of the RMB to be determined by market forces. In remarks before the Senate Budget Committee on February 4, Secretary of the Secretary Geithner told lawmakers that he was optimistic that China would begin to let the RMB appreciate.

Geithner's remark evidently did little to assuage the concerns of many legislators who no longer trust Beijing to behave like a responsible player in the global economy. As Members of Congress scramble in the run-up to the

November 2 elections to address continued high levels of unemployment, it becomes increasingly attractive politically for them to blame U.S. job losses on the unfair competitive advantage China enjoys through its undervalued currency.

- If Treasury does not cite China as a currency manipulator, Congress will react strongly. Lawmakers of both parties and in both houses have let the White House know in various ways that they would be sorely disappointed if the President does not authorize Treasury to cite China as a currency manipulator in the its upcoming report to Congress on exchange rates.<sup>16</sup>

This veiled threat suggests that some proposals that address misalignment of the RMB could enjoy a surge of support. These include: (1) a proposal that would enable the United States to pursue countervailing (CVD) duty cases against a trading partner whose currency is not properly aligned, and (2) a bill that would enable Washington to factor undervaluation into anti-dumping cases and ban federal procurement of products or services from designated currency manipulators, among others.

There also is a view that the no new legislation is needed for the Commerce Department to accept a CVD case against China on grounds that the undervalued RMB serves as a subsidy. Sen. Charles Schumer (D., New York) and 14 bipartisan colleagues argued just that in a February 25 letter to Commerce Secretary Gary Locke. "U.S. manufacturers have filed at least 12 allegations . . . that [Beijing] is actively engaged in keeping the value of its currency artificially low," the Senators noted. "We urge the Department to properly consider the allegation and information provided by petitioners," they stated.

**Industrial Policy**—The growing anger and disillusionment of major U.S. companies—who in the past were China's strongest advocates—with Beijing's anti-competitive policies is ratcheting up pressure for retaliatory action

On January 26, the chiefs of 19 U.S. and U.S.-affiliated business associations sent a letter to Secretary of State Hillary Clinton, Treasury Secretary Geithner, U.S. Attorney General Eric Holder, U.S. Trade Representative Kirk, and Commerce Secretary Gary Locke. The purpose was to lodge a formal protest about China's industrial policies, which are designed to promote high-technology national champions at the expense of foreign competitors. The business leaders further urged the administration to make

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- Congress will develop legislation aimed at boosting Internet security. The House Foreign Affairs Committee plans to hold a hearing in the coming weeks entitled, “The Predicament: Transforming U.S. Cyberspace Policy to Advance Democracy, Security, and Trade.” It will feature testimony from a senior executive of Google and other industry and technical experts. This likely will begin a multi-committee process to develop legislation aimed at boosting Internet security.

Insiders say elements of the bill will include: (1) establishment of a task force to advise the executive and legislative branches on the broad subject of Internet security; (2) authorization of a study to determine who (e.g., governments, individuals, terrorist groups) is behind cyber attacks; (3) a plan to circumvent the efforts of other nations to counteract U.S. Internet protections; and (4) standards and enforcement tools, among other measures.<sup>20</sup>

In April 2009, Sen. Jay Rockefeller (D., West Virginia) introduced a bill to ensure secure cyber communications. It is unclear at this stage whether the Rockefeller bill will serve as the Senate vehicle for a post-Google response.

- Independent of a comprehensive Internet security bill, Congress may develop China-targeted sanctions for its cyber attacks. If the Chinese government’s investigation of the Google hacking appears to be half-hearted or otherwise fails to meet the U.S. government’s standards for transparency, some lawmakers might pursue this option if development of the comprehensive bill becomes bogged down.
- Congress will examine the role and utility of the voluntary business efforts in promoting Internet freedom. House Foreign Affairs Committee Chairman Berman has indicated that his panel will continue to examine voluntary business efforts, such as the Global Network Initiative. This initiative brings technology companies together with nongovernmental organizations, academic experts, and social investment funds to examine demands by repressive regimes for Internet censorship and to consider an appropriate corporate response.

The committee likely will want to assess how effective a voluntary initiative is in promoting corporate accountability and maintaining trust between Internet service providers and customers.

**Other Issues Involving China**—In addressing some of the following non-economic topics,

U.S. lawmakers likely will consider the implications of China’s policy or diplomatic response:

**Taiwan Arms Sale**—On January 29, President Obama notified Congress of the sale of \$6.4 billion worth of Black Hawk helicopters, Patriot missiles, Osprey mine-hunting ships, and other defensive items to Taiwan. This action was pursuant to the Taiwan Relations Act (TRA), which requires the United States to provide Taiwan with “arms of a defensive character” to address its self-defense needs. The TRA also gives Congress 30 days to consider the sale, during which time lawmakers may raise questions or even go so far as to pass a Resolution of Disapproval. If Congress takes no action by March 1, the sale automatically goes through.

Even though American officials had informally alerted their Chinese counterparts about the arms sale, Beijing lashed out, arguing that it was aimed at encouraging Taiwan’s independence and offended Chinese “nationalist sentiments.” The Chinese government then announced that it would suspend some important, confidence-building military exchanges with the United States and impose sanctions on U.S. companies involved in the sale. Chinese officials also hinted that this transaction could affect cooperation on global and regional issues.

- Members of Congress will not object to the Taiwan arms sale, but China’s harsh reaction will refocus attention on its military buildup. Congressional observers do not anticipate that lawmakers will pass a Resolution of Disapproval. However, even before the January 29 announcement of the sale to Taiwan, there was evidence of growing concern on Capitol Hill about China’s military buildup.

The House Armed Services Committee held a hearing in early January to consider the potentially destabilizing effect of China’s missile buildup across the Taiwan Straits and the steady increase in China’s power projection capabilities. They also explored the implications of Chinese military’s missile interceptor test on January 11.

Notably, lawmakers questioned the witnesses—which included senior officials from the Departments of State and Defense and the U.S. Pacific Command—about the extent to which China’s military modernization effort, including plans to boost a blue-water naval capability, was being driven by its need to secure energy lifelines from long distances. They evidently worry that China’s energy needs might provoke use of these military capabilities in a manner that disrupts regional peace. China’s behavior in the coming months likely will influence how Congress proceeds with this inquiry.

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- The extent of China's retaliation related to the Taiwan arms sale may galvanize the "Taiwan Lobby" on Capitol Hill. Taiwan enjoys strong bipartisan support in both houses. Typically, members of this group question whether the United States is doing all that it could under the TRA to ensure that Taiwan can protect itself effectively against China's growing forces.

In recent years, Taiwanese officials have repeatedly indicated that they would like to request F-16 aircraft to update their aging fleet. Washington has refused to allow Taiwan to submit a formal letter of request. It is possible that some Members of the Taiwan lobby will seize upon Beijing's harsh reaction as further proof of China's hostile intentions and urge the Obama administration, via letters, statements, or non-binding resolutions to allow Taiwan to request the F-16s and other defensive upgrades.

**Nuclear Nonproliferation**—At press time, it was unclear whether the United States would advance its proposal in the United Nations for further sanctions on Iran aimed at halting its nuclear ambitions. Of the six Security Council members, France, Germany, and the UK have indicated they would support the U.S. proposal, while Russia has hinted it may go along. China continued to openly oppose additional sanctions, fearing their effect on its extensive energy ties with Iran.

- Frustration with Beijing's continued opposition to sanctions on Iran could spill over and influence congressional action on other bilateral irritants. Members of Congress generally believe that diplomacy with Iran has run its course. Although the House passed legislation in December 2009 that would impose unilateral punitive measures on Iran, even its chief sponsor—House Foreign Affairs Chairman Berman—has indicated a preference for multilateral sanctions under U.N. auspices.

There is little that Congress can do legislatively to force China to support a Security Council resolution, so lawmakers may feel compelled to "get tough" on other issues.

**Climate Change**—The first session of the 111th Congress featured numerous hearings on both the domestic and international policy ramifications of climate change. One message that carried through most of these discussions was the importance of cooperation between the United States and China in addressing climate change and energy conservation.

There were high hopes on Capitol Hill and elsewhere

in Washington that China would support the efforts of the United States and other major emitters to reach a meaningful agreement on emissions reductions at the 15th U.N. Climate Change Conference in Copenhagen last December.

The Copenhagen conference nearly broke down, and many observers point the finger of blame for the disappointing outcome at China. Beijing steadfastly refused to agree to the monitoring of emission reductions.

- Congress is unlikely to consider a comprehensive climate change bill or include China-targeted measures. One could speculate that China's intransigence at Copenhagen would re-ignite support on Capitol Hill for a proposal to impose a border tax on products from countries (such as China) that do not impose higher costs for carbon emissions in producing energy and manufacturing goods.

However, insiders are skeptical that Congress will take up a comprehensive climate change bill in 2010 for various reasons, which include pre-election pressures to wrap-up a health care reform bill and deliver on promises to create more jobs. As with the debate over Iran sanctions, China's unwillingness to support a verification regime for carbon emissions may be cited by lawmakers as further evidence of Beijing's antagonism toward Washington.

## Regional Diplomacy Commands Attention

As suggested by the breadth of issues of concern to lawmakers regarding China's rise, Members of the House and Senate appear eager to focus more attention in 2010 on geo-political developments in Asia and the apparent transition in U.S. diplomatic relations with key regional partners.

It remains to be seen whether pre-election legislative priorities will allow sufficient time for thoughtful consideration of these issues. But as the second session began, lawmakers expressed keen interest in delving into the following topics:

**Clarifying Principles for Engagement**—Senator Webb, in his capacity as chairman of the Senate Foreign Relations Subcommittee on East Asian and Pacific Affairs, kicked off the second session of the 111th Congress with a

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hearing on January 21 to examine the consistency of U.S. foreign policy in Asia. Webb has been concerned that U.S. diplomacy in Asia, in particular, still is “rooted in the often contradictory standards [the United States] has used in the past in defining the underlying parameters of our relationships with different countries and different government systems.”

To illustrate these inconsistencies, Webb cited “burgeoning” U.S.-China relations, which were not preconditioned on the nature of its political system or its foreign policy activities in the region and elsewhere. In addition, he pointed to growing U.S. trade relations with Vietnam, “despite its failure to abide by its agreement in the 1973 Paris Peace Accords to hold national elections.”

In contrast, Washington has been slow to engage Burma even though the ruling junta has confirmed its intent to hold elections in 2010 and allow opposition parties to form, Webb argued. The subcommittee chair’s main point of contention is that inconsistencies inherent in U.S. policies toward different governments, “tend to create confusion, cynicism, and allegations of situational ethics.”

- Senator Webb will use his panel’s oversight authority to monitor the effectiveness of the Obama administration’s case-by-case diplomacy in Asia. Testifying before Webb’s subcommittee in January, Assistant Secretary of State for East Asian and Pacific Affairs Kurt Campbell said that the Obama administration would examine the full range of issues confronting the United States in its relations with non-democratic Asian nations. The U.S. government then would consider on a case-by-case basis how to improve bilateral engagement based on what is “possible, pragmatic, and achievable,” according to Campbell.

The subcommittee chair may continue to be the most vocal critic of the administration’s Asia policy if, in his view, the case-based approach continues to swing too strongly toward pragmatism at the expense of values-based diplomacy.

In the near term, as the United States seeks to expand economic relations with Vietnam via the TPP accord, Webb and other lawmakers no doubt will be watching closely to make sure that worker rights and personal freedoms do not get short shrift.

- Lawmakers may actively question the Obama administration’s broader management of U.S.-China relations. Senator Webb expressed concern at the January hearing that the United States is becoming increasingly vulnerable by its growing reliance “on a government structure not like our own.” In is unclear how much patience Webb and his colleagues have for the Obama administra-

tion’s insistence on closely managing “big picture” economic and foreign policy issues via the cabinet-level Strategic and Economic Dialogue.

**Burma Policy**—The Obama administration’s new pragmatism in Asia policy has altered a long-time U.S. approach to dealing with the closed, repressive Burmese regime. Following a seven-month policy review, the State Department determined that “pragmatic engagement” by the United States held the best hope for realizing a unified, peaceful, prosperous, and democratic Burma rather than an approach that featured diplomatic isolation and economic sanctions.

As Assistant Secretary of State Campbell explained to the Senate and House foreign affairs panels last fall, a direct, senior-level dialogue will supplement but not replace the sanctions regime that has been central to U.S.-Burma policy for many years.

Senator Webb, for one, reacted positively to the policy shift to “pragmatic engagement.” He actively has questioned the efficacy of economic sanctions, in view of increased investment in Burma from countries such as China, Japan, Thailand, and India. In addition, as discussed above, the Senate Subcommittee Chairman has contended that the previous policy lacked consistency.

Webb has an important ally in the House. Congressman Eni Faleomavaega (D., American Samoa), who chairs the House Foreign Affairs Subcommittee on Asia, the Pacific, and the Global Environment, also has questioned the effectiveness of the U.S. sanctions-based policy toward Burma.

But quite a few lawmakers in both parties and in both houses do not share the opinions of Webb and Faleomavaega. This group still reacts viscerally to Burma’s human rights abuses and the ruling junta’s continued detainment of opposition party activist Aung San Suu Kyi. They have argued that U.S. policy should continue to focus solely on economic sanctions.

- Congress will watch Burma’s upcoming national elections closely, but may object to the outcome. Earlier this year, Burma announced that it will hold elections this year. Members of Congress active on foreign policy will be watching these elections closely to determine if they are conducted fairly and transparently, ideally with assistance from the United Nations or other international organizations with experience organizing democratic elections. They also will be looking for evidence that the members of the political opposition are allowed to organize and campaign.

But for many U.S. lawmakers, perhaps the most important demonstration of Burma’s intent

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to hold fair elections will be the ruling junta's release of Aung San Suu Kyi from house arrest. If there appear to be any gross irregularities at the polls and/or if Ms. Kyi is not released—or released after the elections Members of Congress who still may become leery of “pragmatic engagement” and re-join the pro-sanctions camp.

- Burma's near-term behavior could undermine congressional support for policy change.

Similarly, the Burmese government's own repressive actions may end up nipping a policy shift in the bud. House Foreign Affairs Committee Chairman Berman was quick to condemn the junta's sentencing on February 20 of Nyi Nyi Aung, a U.S. citizen of Burmese descent, to three years of hard labor.

Berman called upon the administration to consider tightening sanctions further “to encourage progress on human rights.” Regardless of the relative transparency of the upcoming elections, human rights activists in both houses may cite this recent case as further evidence of the need to maintain a tough, sanctions-based policy toward Burma.

**U.S.-Japan Security Alliance**—The recent 50th anniversary of the U.S.-Japan security alliance will serve as the springboard for an examination of recent political and security-related issues that have injected disturbing strains into this important bilateral relationship.

At issue is a dispute concerning the relocation of a U.S. Marine helicopter facility in Okinawa Prefecture. Four years ago, Tokyo and Washington agreed to relocate the U.S. Marine Corps' Futenma Air Station to a less crowded area in Okinawa as part of a comprehensive agreement that also included transferring 8,000 Marines from Okinawa to Guam.

However, that accord was concluded by the former Japanese government led by the Liberal Democratic Party. The current government, led by Democratic Party of Japan chief Yukio Hatoyama, has raised objections to the 2006 agreement and generally been reluctant to follow through with implementation.

On January 7, leading members of the House Foreign Affairs Committee and House Armed Services Committee sent a letter to Prime Minister Hatoyama. They expressed continued support for the Guam International Agreement, which was signed by Secretary of State Clinton and then Foreign Minister Hirofumi Nakasone in February 2009. This accord would implement to transfer of Marine troops from Okinawa to Guam.

The lawmakers underscored the “strategic value of the realignment of military forces in Japan and the

Western Pacific,” and urged both governments to “reach a consensus on the question of the Futenma replacement facility [so] that the Guam International Agreement [can] be implemented in timely manner.”

Senators active on foreign policy also have been monitoring this issue closely. In an op-ed in the *Yomiuri Shimbun* on January 30, Senate Foreign Relations Committee Chairman John Kerry urged both governments not to allow the Futenma issue to “go off track.” Importantly, he cautioned Washington and Tokyo not to lose sight of the core alliance goals of “defending Japan and preserving peace and security across East Asia.”

Sen. Webb, in his capacities as chairman of the Foreign Relations Subcommittee on East Asia and the Pacific and co-chairman of the Congressional Study Group on Japan, visited Japan and Guam on February 13-20. The express purpose of this trip was to address the Futenma/Guam force relocation issue.

- Members of the House and Senate ultimately will continue to support the U.S.-Japan alliance. Sen. Webb recently remarked “we tend to forget the amazing story of Japan and the [diplomatic] contributions Tokyo has made in many areas.” Even those lawmakers who are impatient for resolution of the Futenma/Guam force relocation issue share this view. Foreign policy legislators in both chambers would not dispute the benefits of U.S.-Japan partnership and the importance of remaining solidly committed to the alliance.
- The House and Senate foreign affairs panels will use their oversight authority to continue monitoring the Futenma/Guam force relocation issue. The Japanese government has told Washington that it will announce its decision on the Futenma/Guam force relocation issue sometime in May 2010. Recent statements by State Department and Japanese government officials suggest that a compromise acceptable to both sides may be forthcoming.

Reporting on his February trip to Japan and Guam, Senator Webb said he believes strongly that the relocation plan is a “win-win-win” for the U.S.-Japan alliance, the people of Okinawa, and the people of Guam. Depending on Tokyo's upcoming decision, he and other foreign affairs lawmakers may formally comment or introduce non-binding legislation to address what they regard as the strengths or weaknesses of the plan.

Webb already has questioned whether the 2014 deadline for completion of the plan is achievable. He also has urged the Obama administration to direct greater funding to Guam for infrastructural improvements to accommodate the Marines and their families. In short, Members

of Congress, likely will support what the Departments of State and Defense negotiate, but also endeavor to provide their own input.

- The House and Senate foreign affairs panels will use their oversight authority to explore the desirability of changes to the U.S.-Japan alliance. In his recent op-ed, Sen. Kerry argued that the two countries should not allow “short-term blips overshadow what [we] can accomplish together.” He further observed that the time is ripe to begin “re-imagining” the global roles and missions of the U.S.-Japan alliance.

The House Foreign Affairs Subcommittee on Asia, the Pacific, and the Global Environment had planned a hearing for February (subsequently postponed) to explore the Futenma matter and political developments in Japan. This suggests that House lawmakers share Kerry’s view of the importance of continuing to tend to this important alliance.

**South Korea and the G-20**—As discussed earlier, congressional dissatisfaction with the beef and auto provisions of the KORUS trade agreement has stalled its approval by the legislature and become a specific irritant in U.S.-South Korean economic relations.

By the same token, some legislators are intrigued by South Korea’s emergence as a significant player in the global economy as exemplified by its hosting of the G-20 summit in November 2010. As the chair and host of this important meeting, Seoul will be responsible for developing an agenda. This event also will provide South Korea with an important opportunity to demonstrate leadership and enhance its reputation as a nation that has moved well beyond developing country status.

- Time permitting, lawmakers may devote a hearing to exploring the “Seoul Initiatives” of the G-20 summit. Dr. SaKong Il, former Finance Minister and chairman of the G-20 preparation committee, has indicated that the Seoul Initiatives will focus on resolving global imbalances, extending credit to emerging countries, building a surveillance system to prevent a new economic crisis, and improving the ability of emerging and developing economies to deal with international capital flows. Members of Congress also may wish to consider the broader implications of Seoul’s G-20 leadership on U.S.-South Korean relations.

**North Korea and the Six-Party Talks**—The Senate and House foreign affairs committees may use their oversight authority to examine the latest developments in efforts by China, Japan, South Korea, Russia, and the

United States to end North Korea’s nuclear program via the so-called Six-Party Talks.

Secretary of State Clinton has said that the United States will meet bilaterally with North Korea, but only within the framework of the Six-Party Talks. She also was warned that Washington will not normalize ties with Pyongyang or lift sanctions unless the North Korean government takes “irreversible steps” toward dismantling its nuclear program.

- Congressional rhetoric critical of China’s relations with North Korea may escalate. Democratic Members of the House and Senate likely will support the Obama administration’s handling of the North Korean conundrum. Selected Republicans may disagree, arguing that Washington should crack down on the repressive regime even more severely by going after the bank accounts of the military elite, among other measures.

However, Members of both parties and in both houses undoubtedly will aim criticism at China concerning its reluctance to strictly enforce economic sanctions against North Korea. In official statements, Washington has lauded Beijing’s hosting of the Six-Party Talks as well as its bilateral efforts to facilitate a diplomatic solution. But many lawmakers have a different view of the situation differently.

As discussed above, there is growing frustration on Capitol Hill with China’s intransigence on various other economic and political issues. Beijing’s *de facto* economic support of Pyongyang likely will stand out in the minds of many legislators as further evidence that China is single-mindedly pursuing its own agenda in the region and is not a reliable partner.

**Other Human Rights Issues**—Members of the House and Senate will continue to weigh in, via statements or non-binding resolutions, about human rights injustices in Asia.

- The situation in Tibet will continue to generate concern in Congress. Human rights activists on Capitol Hill showered praise on President Obama for standing up to China and meeting the Dalai Lama on February 18. President Hu had threatened diplomatic reprisals if the U.S. president met the Tibetan spiritual leader. Again, this behavior by Beijing reinforces a growing anti-China perspective in Congress.
- Selected lawmakers will advocate on behalf of the ethnic Hmong from Laos. House Foreign Affairs Committee Chairman Berman and others issued a statement on December 29 expressing concern about the forced deportation of Hmong from Thailand to

Laos, where they likely will face severe persecution or discrimination. This followed a letter signed by 31 House members to Secretary Clinton urging her to appeal to the Thai government not to proceed with the deportation.

Senators Russell Feingold (D., Wisconsin) and Barbara Boxer (D., California) have been leading advocates in the upper chamber on behalf of Hmong refugees. As passionate as these appeals are, however, it is unlikely that initiatives taken on behalf of the Hmong will culminate in binding legislation that passes Congress in 2010. ■

*Barbara Wanner is Senior Projects Coordinator, U.S. Asia Pacific Council, East-West Center. She also serves as editor of Washington Report.*

## Endnotes

1. President Obama's State of the Union Address on January 27 may be accessed at <http://www.whitehouse.gov/>
2. The Peterson Institute for International Economics has estimated that (1) the \$1.5 billion worth of goods and services exported by the United States to the rest of the world creates about 10 million jobs, and (2) every \$1 billion of additional exports will produce about 7,000 very good jobs. See C. Fred Bergsten, "How Best to Boost Exports," (op-ed), *Washington Post*, February 3, 2010.
3. Sen. Max Baucus (D., Montana), "Moving Forward with a New Blueprint for Trade," speech before the Washington International Trade Association, November 10, 2009, Washington, D.C.
4. Rep. Sander Levin (D., Michigan), speech before the Washington International Trade Association, December 15, 2009.
5. Dan Baltz and Jon Cohen, "In Poll, Republicans Gaining Political Ground On Obama," *Washington Post*, February 10, 2010.
6. Countries participating in the TPP negotiations include Australia, Brunei, Chile, New Zealand, Peru, Singapore, the United States, and Vietnam.
7. Levin, *Ibid.*
8. Under fast-track authority, which expired in 2007, Congress must approve trade agreements in a timely fashion by an up-or-down vote and cannot amend them. There is a view that fast-track authority strengthens Washington's negotiating hand since it assures foreign governments that while Congress can reject trade deals it cannot unravel them with amendments. Congressional insiders have pronounced any bill aimed at renewing fast-track authority as dead on arrival during the second session of the 111th Congress. This is because most lawmakers in both parties are averse to supporting a trade measure in an election year, which anti-trade populists could argue provides the administration with the power to cut trade deals that ultimately siphon off American jobs to trading partners.
9. Levin, *Ibid.*
10. Deputy U.S. Trade Representative Demetrios Marantis, "U.S. Trade Priorities in the Asia-Pacific: TPP and Beyond," remarks before a program the Center for Strategic and International Studies, January 28, 2010, Washington, D.C.
11. The United States and the 10 members of the Association of Southeast Asian Nations (ASEAN) concluded a Trade and Investment Framework Agreement (TIFA) on August 25, 2006. For details, see <http://www.ustr.gov>.
12. The U.S. export control regime restricts the international transfer of "dual-use" technologies, a term that refers to technologies that have legitimate civilian uses but also can be used for military purposes. The purpose of such restrictions is to prevent U.S. adversaries from misusing U.S. industry advances against this country and our allies.
13. The Foreign Relations Authorization Act, which passed the House on June 22, 2009, included provisions aimed at reducing the huge backlog of export license applications that impedes legitimate, dual-use trade with U.S. allies and, in turn, enabling greater scrutiny of sensitive exports with direct military applications. The Senate has yet to consider comparable legislation.
14. Rep. Howard Berman (D., California), "U.S. Export Control Policy in Dire Need of an Update," op-ed in *The San Jose Mercury News*, January 15, 2010.
15. Amb. Susan C. Schwab, speech before the George H. W. Bush U.S.-China Relations Conference, October 23, 2007, Washington, D.C.
16. The Treasury Department is required by law to submit to Congress the "Semi-Annual Report to Congress on International Economic and Exchange Rate Policies" by April 15, 2010. The so-called exchange rate report considers whether major trading partners have manipulated their exchange rates for the purpose of preventing effective balance of payments adjustment or to gain unfair competitive advantage. To date, Treasury has not cited China as a currency manipulator, a designation which would set in motion negotiations "on an expedited basis" in the International Monetary Fund or bilaterally, for the purpose of realizing a revaluation of that currency to eliminate the unfair advantage.

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17. "Super 301" was in effect from 1988 to 1990 and originally was targeted at Japanese trading practices. It would require USTR, subject to a specified timetable, to analyze foreign trade barriers and determine which ones have the most adverse effect on U.S. exports and unemployment. If USTR is unable to reach a negotiated settlement with the offending country within a specified time, the President would be obliged to take retaliatory action.
18. On January 26, 2009, a WTO dispute settlement panel found that important aspects of China's intellectual property rights regime were inconsistent with Beijing's obligations under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). In August 2009, the WTO found that major Chinese restrictions on the importation and distribution of foreign copyrighted materials ran afoul of China's WTO obligations. See <http://www.ustr.gov> for details.
19. Secretary of State Hillary Clinton, "Remarks on Internet Freedom," speech at The Newseum, January 21, 2010, Washington, D.C., available at <http://www.state.gov/>
20. Christopher Nelson, *The Nelson Report*, January 26, 2010.



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Director, East-West Center in Washington

Mark Borthwick  
Director

Barbara Wanner  
Senior Projects Coordinator

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