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July, 2009: MSCI Advocacy Newsletter

Welcome to the July Advocacy Newsletter, a monthly medium through which MSCI aims to keep its members updated on federal legislative and regulatory issues of importance to the metals industry. The following issue covers a number of broad topics that will affect the metals industry and builds a framework upon which details may be added in the coming months. Since both the Senate and House will be in recess during August this is a perfect time to consider how the issues in this month's Newsletter will impact your business and to let your elected officials know where you stand. For additional information on these and other law-related topics, go to www.winston.com and click on "Publications" or "Newsletters" under the "Resources" tab. To contact your legislators go to [MSCI's Take Action page](#).

Health Care Reform

A. Background

Much to the President's disappointment, August recess is upon us and neither the House nor the Senate has passed a health care reform measure. Until this week, Washington has been operating on a timeline that included House and Senate passage of comprehensive health care reform legislation prior to the month long August recess. Under that scheme, the two chambers would have had enough time to reconcile their respective packages and get a final bill to the President by October. This plan is now officially abandoned and many are questioning whether the momentum is shifting away from the Democratic leadership (as evidenced by President Obama's falling poll numbers on the issue).



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Much of the attention in late July shifted away from the more substantive arguments on health care reform and toward political advertisements and town hall meetings. Republicans had mobilized a seemingly effective campaign to paint the Democratic proposals as large and costly government programs. In response, President Obama spent the better part of the month touring the country and conducting town hall meetings to sell his health care plan. Now, with a month-long break, President Obama, Congressional Democrats and leading advocacy groups will continue [pushing for comprehensive health care reform](#) through media advertisements, town hall meetings and grass roots organizing. Based on recent press reports, the insurance industry is likely to remain the target of Democratic criticism, a strategy that will likely resonate with the American people.

B. Legislation

The Senate Finance Committee is still considered to have the best chance of producing a viable health care reform package. While Chairman Baucus (D-MT) has yet to release a written draft, the Congressional Budget Office ("CBO") just last week announced that the total Finance Committee measure would cost less than \$900 billion over ten years. That represents a major improvement from the \$1.6 trillion measure previously scored by CBO. This substantial scoring reduction is widely viewed as an optimistic note in the road toward 60 senate votes. However, Chairman Baucus's timeline continues to slip as he had originally indicated a desire to complete consideration of legislation in June, giving Majority Leader Reid enough time to take the package to a vote on the Senate floor. However, despite the Senate remaining in session until the end of this week, Baucus has already deferred further consideration until the fall with the intent that he, along with a bi-partisan group of senators, will continue to work toward an informal compromise over the August recess. The "bi-partisan group of six" includes three Republicans in Senators Olympia Snowe (R-ME), Michael Enzi (R-WY), and Charles Grassley (R-IA, Ranking Republican on Senate Finance Committee). The other Democrats are Senator Kent Conrad (D-ND) and Senator Jeff Bingaman (D-NM).

Adding further pressure to advance legislation is the looming threat, articulated as recently as yesterday by Senator Schumer (D-NY), that the Senate Democrats could move health care reform legislation without 60 votes through a process called ["reconciliation"](#). This somewhat complicated and undesirable method would allow Democrats to pass many of the health care reform provisions with only 51 votes. However, the option would involve some procedural maneuvering and abandoning certain important reform provisions that would not be permitted through this process. Additionally, the move would incite heavy political attack from the Republican party, something that President Obama may not wish to invoke given his dipping polling numbers and the various legislative proposals he must work through in the coming year.

Greeted with less hope and enthusiasm is a measure proposed by the Senate Health, Education, Labor and Pensions ("HELP") Committee. That bill has been managed by Senator Dodd (D-CT) in Senator Kennedy's absence. Senator Dodd moved ahead in July with full committee consideration of the bill, but was criticized for not inviting a bi-partisan process. This fact was reflected in the final committee vote which attracted zero Republican support. The HELP Committee measure includes an employer mandate and a government run



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insurance program (public option) to compete directly with private insurers for a certain percentage of the currently uninsured and underinsured market. The Senate Finance Committee package is expected to contain neither of these provisions, leaving the question as to how the two committees will reconcile their bills before going to the Senate floor (if they get there).

Finally, the House has more steadily moved its bill through the various committees of jurisdiction. Just last week, the House Energy and Commerce Committee completed consideration on H.R. 3200, "America's Affordable Health Choices Act of 2009". However, the Committee was not able to do so in time to get the legislation to the floor of the House of Representatives. As a result, it too will have to wait until September for House passage, which despite the very narrow committee vote margins (31 to 28), is expected to happen.

Interestingly, in the House, the conservative arm of the Democratic party was the stumbling block over the past few weeks. The "[Blue Dog](#)" Democrats are fiscal conservatives who wield quite a bit of power in the House by banding together around issues. In this case, Chairman Waxman (D-CA) of the House Energy and Commerce Committee was at the last hour able to come to an agreement with four of the Blue Dog members of his committee. This paved the way for the successful vote.

Chairman Waxman's agreement included adding provisions that: (1) would require a government-run insurance plan (the public option) to negotiate payments with health providers, instead of setting rates at 5 percent above the Medicare payment, as previously proposed; and (2) allow the government to negotiate drug prices paid by Medicare while also requiring plans on the newly created "exchange" to obtain government permission prior to certain premium increases.

The most controversial health care reform issues are as follows (updated from last issue):

- ❖ Surtax: In the month of July, the surtax became the most inflammatory proposal to pay for health reform. Chairman Rangel (D-NY) of the House Ways and Means Committee included the surtax on the wealthiest Americans as his way of raising revenue. In its current form, the provision would impose up to a 5.4% surtax on the nation's top 1.2% of taxpayers. Specifically, the surtax would phase in to a 5.4% maximum at \$800,000 in individual income. Great opposition exists despite the measure raising more than \$500 billion over ten years. The most recent indications from House leadership were that they would only "trigger" this option should emergency funds be needed in future years.
- ❖ Middle Class Tax Increases: Many Republicans are attacking President Obama by citing his campaign promise not to raise taxes on the middle class. While nothing has been proposed in writing, Treasury Secretary Geithner and National Economic Council Director Larry Summers have [both acknowledged](#) that taxes may have to go up on middle class Americans as a way to pay for health care reform.



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- ❖ Repeal or Limitation of the Currently Unlimited Tax Exclusion for Employer Benefits: Employees and members of their families currently pay no taxes on employer-provided health care benefits. This is a long standing precedent in tax law and changing course now concerns many politicians. However, many argue that taxing a portion of those benefits will result in more efficient consumption of health care services since employees will no longer be sheltered from the actual cost of consumption. Additionally, the tax would raise a substantial portion of the funds needed to cover the cost of health care reform (more than \$400 billion over 10 years under prior estimates). This option is quickly fading even when targeted only to high income earners and those who purchase expensive / "Cadillac" health care plans. Instead, the past week has seen a growing tendency toward taxing insurance companies.
- ❖ Insurance Company Taxes: In lieu of repealing the income tax exclusion, many Democrats, and some Republicans, have shown interest in taxing insurance companies who offer expensive health care plans. The theory is that such plans benefit from income tax exclusion to the detriment of overall cost constraints in the health care system. In brief, they encourage over consumption of health care services and the government interest in providing tax benefits for health insurance should be capped at some reasonable level. While controversial, the insurance industry will have a much harder time fighting back this proposal given their relative political strength.
- ❖ The "Public Option": A "public option" would be a government or quasi-government (possibly administered by the private sector) insurance program that would compete head to head with private insurance products available through a national health insurance "exchange". On a level playing field with private plan choices, the public option would theoretically need to offer the same benefits, abide by the same insurance reforms, and follow provider network requirements and other consumer protections. The House Republicans have drawn a line in the sand, indicating that they will NOT support any plan with a public option included. As noted above, the House Blue Dog Democrats have included amendments to ensure that the public option is on more equal footing with private insurance. In the Senate, Senator Conrad (D-ND) and others are focusing on a compromise that involves a "cooperative" structure where state level cooperatives could band together to negotiate insurance rates. Chairman Baucus has indicated that his measure, when produced, is likely not to include a public option but instead will look for a more creative way to achieve the coverage objective.
- ❖ Employer Mandate: Largely modeled after Massachusetts, the proposals all have considered some form of "employer mandate". In a strict sense, all employers of a certain size would be required to provide health insurance options for their employees. Given significant push-back, a compromise is in the making. Likely, a compromise will require employers to pay part of the cost of insurance if their workers are covered by Medicaid or the entire cost if the workers are poor enough to qualify for certain subsidies expected to be included in the final legislation. Chairman Baucus has indicated that his measure will not include an employer mandate. The HELP Committee measure does include a mandate.



Reference Materials : (updated from June)

- ❖ Senate Finance Committee Policy Papers: (1) "[Reducing Costs and Improving Quality in the Health Care Delivery System](#)"; (2) "[Expanding Health Care Coverage: Proposals to Provide Affordable Coverage to All Americans](#)"; (3) "[Financing Comprehensive Health Care Reform: Proposed Health System Savings and Revenue Options](#)".
- ❖ House [Bill](#) (Substitute Amendment, as passed by the Energy & Commerce Committee on Friday)
- ❖ House Bill [Summary](#)
- ❖ House Bill - [Additional Amendments](#) considered Friday, July 31st
- ❖ HELP Committee [Bill](#) (Prior to Committee Mark-Up -- latest version yet to be released)
- ❖ HELP Committee [Summary](#) (Prior to Mark-Up)
- ❖ Additional commentary on the [MSCI website](#)

Auto – Cash for Clunkers

"The Cash for Clunkers" program occupied the headlines over the past two weeks. Initially, the measure was passed with an authorization for \$1 billion in total benefits to consumers. The program offers up to \$4,500 in cash rebates to consumers who trade in cars for newer, more fuel-efficient vehicles. The program was so "successful" that the entire \$1 billion was exhausted in one week despite the November 1, 2009 program expiration anticipated by the statute.

As a result, the House moved quickly last week to approve HR 3435 by a 316 to 109 vote, which would transfer \$2 billion to the program from funds that had been previously dedicated by the American Recovery and Reinvestment Act to renewable energy loan guarantees. Under the House bill, the new funds would be available until the end of FY 2010. The Senate has until Friday to pass an identical measure if the President is to sign the extension before September. President Obama would like the Senate to move quickly as the program has been wildly popular with consumers, auto dealers and manufacturers.

That said, like all large spending measures, it is not without controversy. In the Senate, 60 votes are needed to override a filibuster which is all but certain to occur. Senator Jim DeMint (R- SC) has already indicated that he will oppose this bill as "unwarranted government intervention to help one segment of the economy." That is a



consistent view among the most conservative members of Congress. However, given last minute pushes by the White House yesterday, some Senators who were previously on the fence have now come around.

Until yesterday, more environmentally focused members had suggested that they might not support an extension. While they support the program in theory, they had been disappointed at the relatively low priority that environmental considerations were given. Democratic Senators Feinstein (D-CA) and Warner (D-VA), along with Senator Collins (R-Maine), all last week said that they would seek to include better fuel efficiency standards in any extension, which would have the effect of forcing final passage to take place in September given that the Senate and House bills would not be identical. Apparently, a briefing by the National Highway Traffic Safety Administration convinced these environmentally focused senators that the program is working to substantially increase fuel efficiency of new autos on the road.

Climate & Energy

On June 26th, the House of Representatives approved H.R. 2454, "[The American Clean Energy and Security Act](#)," by a vote of 219 to 212. The Senate has not yet introduced a bill of its own, but the Chairmen of the various committees of jurisdiction Senate Finance Committee Chairman Baucus (D-MT), Senate Environment and Public Works Committee Chair Boxer (D-CA), Senate Agriculture Committee Chair Harkin (D-IA), and Senate Foreign Relations Chairman Kerry (D-MA)) have begun to discuss a process for moving ahead. Before leaving for recess this week, Senator Boxer is holding a hearing on Thursday with Interior Secretary Ken Salazar as the lead witness along with top officials from the Federal Energy Regulatory Commission, Energy Department, and the Environmental Defense Fund.

Despite an enormous legislative agenda, Senator Boxer, as the lead climate negotiator in the Senate, has indicated that she would like to move forward in the second week of September by introducing a bill on September 8th. Senator Kerry will work with Senator Boxer over the August recess to write key provisions related to international carbon markets, technology transfer, and some of the thornier diplomatic issues that are central to ensuring that cap & trade does not disadvantage U.S. industry.

Most have acknowledged that the make up of the Senate, and the need for 60 votes to override a filibuster, will make for a much steeper climb in the Senate than in the House. Attention remains on a group of about 15 Democratic moderates and a handful of Republican moderates who are on the fence. Expert estimates place roughly 34 senators in support of legislation now, with more than 20 on the fence. Securing 26 yes votes from that group and the "no" category could be an enormous challenge. That said, decisions on how to distribute hundreds of millions of dollars in emission allowances and ensure greater domestic energy production could prove helpful in attracting one vote at a time.



As stated in our last issue, geographic and industry considerations will figure prominently as follows:

- ❖ Mid-West Democrats -- Auto and manufacturing industries must be protected. President Obama recently stated that "at a time when the economy worldwide is still deep in recession, and we've seen a significant drop in global trade, I think we have to be very careful about sending any protectionist signals out." He will face a challenge from manufacturing state senators who do not believe that tariffs are "protectionist" but instead a mere leveling of the playing field. (Senator Brown (D-OH), Senator Stabenow (D-MI) and Senator Levin (D-MI));
- ❖ Farm States -- Farmers are set to benefit in the House bill from tree planting, sustainable farming practices and other green activities that generate offset carbon credits to sell into the compliance market. While many support the "Agriculture and Forestry" programs, others believe it is effectively a special interest hand out. Senators Dorgan (D-ND), Bayh (D-IN), Conrad (D-N.D.), McCaskill (D-MO), Tester (D-MT), Nelson (D-NE) will all have agriculture concerns and fight to support agricultural interests;
- ❖ Coal-Mining States -- Pennsylvania and West Virginia senators will seek to protect coal-related jobs (Senators Baucus (D-Mt), Casey (D-PA), Specter (D-PA), Rockefeller (D-WV), Byrd (D-WV));
- ❖ Southeast -- Renewable electricity standards that rely too heavily on wind and solar, sources that are not prevalent in the Southeast, may cause certain senators to push back against a comprehensive energy and cap and trade program (Senators Lincoln (D-AR), Pryor (D-AR), Webb (D-VA), Warner (D-VA), Hagan (D-N.C.); and
- ❖ Freshman Senators -- Re-election aspirations will figure much more heavily for these senators as a single vote of this magnitude could easily sink their chances at re-election (Senators Gillibrand (D-NY) and Begich (D-AK)).

While the Senate is not expected to take up the House bill as passed, it is likely to produce substantially similar provisions. Many liberals are already pushing Senator Boxer to legislate more aggressive implementation timeline than the House, while others are pushing for even stronger industry protection. While Senator Boxer and at least 2 of her 3 fellow chairmen are considered liberal members, their management of this legislation will rest primarily on what is "achievable". The following outlines the basic issues that will frame the Senate debate in the months to come:

1. The legislation will provide for a cap and trade scheme for greenhouse gas ("GHG") emission controls and a "Renewable Electricity Standard", which will require a certain mix of renewable and non-renewable fuels as a source of our nation's power. Both requirements will be phased in over time. The House bill



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calls for reducing pollution to 17% below 2005 levels in 2020, 42% below 2005 levels in 2030, and 83% below 2005 levels in 2050. It also requires that 15 percent of the nation's electricity come from renewable sources including wind, solar, hydro and geothermal by 2020. Both of these numbers will likely shift in the Senate.

2. The cap and trade program would work by setting an aggregate cap on GHGs and establishing a market for entities to trade GHG emission allowances and offset credits. Electric utilities, liquid fuel producers and importers, and large industrial sources of GHGs will have to hold an emissions allowance permit for each ton of carbon dioxide equivalent emitted, produced or imported. The compliance obligation will be phased in and the number of emission allowances declines over time so that entities are permitted to emit less and less GHGs. Under certain conditions, entities can buy credits from each other if their emissions are greater than their allowances, and the House bill allows entities to purchase credits from foreign offset sources under certain conditions, at least until the domestic market can produce a sufficient volume of such credits to satisfy demand.
3. Some have equated cap and trade with an "energy tax" due to the perceived cost of compliance. The Congressional Budget Office [has estimated](#) favorably that the total cost of the cap and trade system would be \$175 per household in 2020. However, regardless of the price, one certainty is that utilities will pass through the expense to ratepayers, including large manufacturers who demand intense power supplies. Such cost concerns inevitably must be managed so that U.S. companies are not disadvantaged in a global market place.
4. To address international competitiveness, the House bill included a title called, "Transitioning to a Clean Energy Economy". The title is specifically designed to benefit industrial sectors, including iron, steel, aluminum, cement, glass, ceramics, chemicals, and paper. Companies in these industries will likely receive a percentage of their allowances for free until 2025, and if the company is able to emit less through energy efficiency, the company can sell the additional allowance permits into the marketplace.
5. Also included in the House bill were "transitional rebates" for certain energy-intensive manufacturers burdened by strong international competition. Specifically, the rebates will likely cover the cost of direct (from manufacturing process) and indirect emissions (associated with energy consumption) until 2025. In addition importers of competing products would have to purchase special international reserve allowances to make up for emissions associated with manufacturing in their unregulated home countries. The provisions are controversial and have been called "protectionist" by some in the trade community.



Labor

Labor continues to occupy a strong seat at the Democratic table in Washington. While relatively good economic news has come out of Washington in the past two weeks, President Obama has admitted that job creation will continue to lag behind a broader recovery. Treasury Secretary Geithner has also indicated that unemployment rates would probably not begin to fall until late in 2010, making the case for extending unemployment benefits yet again. Among the many White House priorities, we should expect to see a [push by the Administration](#) to extend Unemployment Insurance (for the third time since the recession began) this fall before 1.5 million Americans have their benefits expire in December of 2009. In the House, Representative Jim McDermott (D-WA), Chairman of the relevant House Ways & Means Subcommittee, introduced a bill (H.R. 3404) late last week to keep expanded unemployment benefits running through Dec. 31, 2010.

Under current law:

- ❖ Workers are eligible for up to 46 weeks of unemployment benefits — the normal 26 weeks, plus emergency benefits of additional 20 weeks as provided in 2008 by Congress;
- ❖ States with unemployment rates of at least 6 percent (currently 44 states) can provide an additional 13 weeks of benefits (McDermott's bill would go a step further by providing for an additional 13 weeks to states with unemployment rates at or above 9 percent)

In addition, [the Employee Free Choice Act](#) (EFCA) is still on the table. While many alternatives have been discussed, none have received any serious attention in the Congress despite the enormous lobbying campaigns on both sides of the issue. In July alone, more than 300 business leaders from 12 states visited with several senators to urge them not to support any alternative to the proposed Employee Free Choice Act. As part of the U.S. Chamber of Commerce's third "Workforce Freedom Airlift," participants from Arkansas, California, Colorado, Indiana, Louisiana, Maine, Nebraska, North Dakota, Pennsylvania, South Dakota, Virginia, and Wisconsin met with either senators from their states or with Senate staff. The participants met directly with Dianne Feinstein (D-CA), Evan Bayh (D-IN), Tim Johnson (D-SD), and Richard Lugar (R-IN). On the other side of the ledger, a coalition named "The Business Leaders for a Fair Economy" wrote a letter to Congress in support of the Employee Free Choice Act. The group contains more than 1,000 small employers and businesses leaders.

[Rumors](#) had been circulating that at least six of the original Senate Democratic EFCA supporters had dropped their support for the measure behind closed doors. In addition, there is a well known group of 12 wavering Democratic senators that include Michael Bennet (D-CO), Thomas Carper (D-DE), Kent Conrad (D-ND), Dianne Feinstein (D-CA), Mary Landrieu (D-LA), Blanche Lincoln (D-AR), Ben Nelson (D-NE), Mark Pryor (D-AR), Mark Udall (D-CO), Arlen Specter (D-PA), Mark Warner (D-VA), and Jim Webb (D-VA). Some of these senators have



indicated that they may support a compromise bill, but only Senator Feinstein has indicated any specificity by stating her support for a "mail-in" option.

That said, Senator Harkin has stepped out in a leadership role in the pro-EFCA position, stating that he would "demand an up-and-down vote" if senators are unable to come to an agreement on a compromise bill. The indication is that there will be a vote one way or another, forcing Democrats who are not fond of the bill to either square off with organized labor or face the wrath of their large industrial constituents. It is a politically unpopular vote, but one that we may end up seeing sooner than later. Harkin has set his sights on September or October for Senate action.

As a refresher, the EFCA, as originally proposed, would amend the National Labor Relations Act (NLRA) to allow unions to bypass secret ballot elections and demand employer recognition of the union's representative authority through a process called "card check". Essentially, unions would need only to obtain signed authorization cards by a majority of employees in order to organize. Industry's chief concern is that such a process would allow for intimidation since the cards would be signed in public and the company would be disadvantaged in not receiving fair warning of an organizing campaign. In addition to eliminating a federally-supervised, secret ballot election, the EFCA calls for mandatory and binding arbitration for first contracts if the union and company cannot agree to terms within 120 days.

Separate from the EFCA, Republicans in Congress introduced the "Truth in Employment Act of 2009", a bill that would allow employers to fire union organizers working within a nonunion company who are suspected of attempting to organize the contractor's workforce from within. Senator Jim DeMint (South Carolina) said that the bill seeks to "protect employees and employers from harassment and disruptive actions by union 'salts' who threaten jobs and business success." According to DeMint, the legislation would amend the NLRA to protect the employer from being required to hire any person who is seeking a job in order to promote interests unrelated to those of the employer.

MSCI will continue to monitor these issues and will provide updates where appropriate. We'll be sharing updates in the weekly MSCI News, on our website and Bob Weidner, MSCI's President and CEO, will continue to provide you special notifications as warranted.

Trade & China

Trade issues remain central in the focus to end the global recession and enter a new growth stage. As mentioned above, trade related aspects of the climate change discussion continue to occupy one of the more contentious seats at the table, pitting so called "protectionists" against [free traders](#) and leaving a large number of nuanced positions



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in between. The central theme in July trade discussions has been the United States and its relationship with China.

As we have previously noted, Treasury Secretary Geithner visited China in May and released a broad [statement](#) outlining the United States-China relationship and the challenges and opportunities ahead. The two governments then announced a "[Strategic and Economic Dialogue](#)", which commenced here in the United States. On July 27th, [200 senior Chinese officials travelled to Washington](#) to discuss relations. In addition to Secretary of State Clinton and President Obama, Federal Reserve Chairman Ben Bernanke, National Economic Council Director Lawrence H. Summers and Peter Orszag, Obama's budget director, were all in attendance.

While nobody can be sure what concrete actions will come out of these meetings, many are working hard to express their concerns on Chinese currency manipulation and other actions by China that are perceived to disadvantage U.S. industry and stand in [violation to international trade agreements](#), including the "Buy China" program recently announced in an edict [released](#) by Beijing. As discussed in our last issue, a bipartisan group of lawmakers from both the House and the Senate introduced [legislation](#) supported by the [Fair Currency Coalition](#) and [MSCI](#) that would make countries with undervalued currencies subject to retaliatory import duties.

Against this backdrop, U.S. Trade Representative Ron Kirk met in July with the Steel industry at U.S. Steel's "Mon Valley Works - Edgar Thomson Plant" to announce a number of new trade enforcement measures aimed at saving and creating new jobs in the United States by leveling the playing field. Commerce Secretary Locke also made another trip to China, this time with Energy Secretary Chu to emphasize the importance of both nations working toward clean energy development and to discourage China from continuing protectionist measures and instead to focus its efforts on stimulating domestic demand.

At the same time, the "Buy America" provisions of the American Recovery and Reinvestment Act continue to be debated. While in June the Federation of Canadian Municipalities issued a 120 day deadline for the U.S. to exempt Canada from the Buy American provisions or Canadian municipalities would begin shutting out U. S. firms from bidding on local contracts, in July the House included a provision in an appropriations bill that permitted only Ford, GM, or Chrysler products be purchased under certain government contracts. The European Union Ambassador to the U.S., John Bruton, called the provision a "troubling protectionist" provision that would run afoul of U.S. obligations under the World Trade Organization and contradict a stated commitment at the G-20 summit this year to oppose trade barriers. He indicated that "it would send the wrong signal to all producers worldwide, which in turn could lead to similar protectionist measures adopted by other countries, hurting U.S. exports and delivering another blow to world trade at this critical juncture for the economy."



Finally, more than 150 U.S. manufacturers, companies and agricultural interests announced in July that they had formed the [Alliance to Keep U.S. Jobs](#) in an effort to press the Obama administration and Congress to resolve an ongoing U.S.-Mexico trade dispute that has affected \$2.4 billion worth of U.S. manufactured and agricultural products bound for Mexico. As you will recall, the Government of Mexico imposed tariffs on U.S. goods just days after the U.S. Congress terminated a U.S. pilot cross-border trucking program. Ending the pilot program put the United States in violation of the North American Free Trade Agreement, and Mexico has said it will not remove the tariffs until the U.S. Government permits Mexican trucks to enter the U.S. President Obama and Transportation Secretary LaHood have both promised a resolution and new trucking program, but to date, no action has occurred.

Looking Ahead

- ❖ Transportation: Despite House Transportation and Infrastructure Committee Chairman Oberstar's (D-MN) efforts to push his [proposed re-authorization bill](#) for the nation's highway and transit programs, further action will likely have to wait for at least another year. President Obama and Democratic leadership in Congress did not want to raise yet another large spending measure to prominence without having an ability to pay for it with offsets (as opposed to new spending). Instead, the Congress will provide \$7 billion in short-term emergency funds for the nearly depleted Highway Trust Fund and seek to extend existing programs for 18 months at a cost of roughly \$20 billion.
- ❖ Tax Proposals (unchanged): Senator Baucus, Chairman of the Senate Finance Committee, recently introduced a comprehensive tax bill. Health care reform is the number one priority of his panel, and we therefore should not expect any action on this legislation until later in the year. That said, this package should be seen as the authoritative legislation dealing with numerous tax provisions set to change or expire in 2010. In brief, the package would: (1) allow the top two tax brackets to rise to 36 percent and 39.6 percent, up from 33 percent and 35 percent respectively; (2) make permanent the 15 percent capital gains rate for taxpayers in the 25 percent and 28 percent income tax brackets and the zero rate for those in the 10 percent and 15 percent income tax brackets while increasing the capital gains rate to 20 percent for higher income brackets; (3) make permanent the increased standard deduction for married filers; (4) make permanent the 35 percent credit for child care expenses up to \$3,000 (one child) and \$6,000 (two or more children); (5) make permanent the \$46,700 AMT exemption for individuals, \$70,950 AMT exemption for married couples filing jointly and index exemptions for inflation; (6) make permanent the 45 percent estate tax rate (\$3.5 million exemption per individual, indexed for inflation); and (7) repeal the last-in, first-out (LIFO) accounting for inventories.
- ❖ International Tax Enforcement (unchanged): President Obama's budget earlier this year stated that it intended to raise \$210 billion from provisions to "implement international enforcement, reform deferral and other tax reform policies". On May 11, the Administration issued the [General Explanations of the](#)



[Administration's Fiscal Year 2010 Revenue Proposals](#) ("Green Book") which explained his full range of proposals in greater detail. Some are concerned that such provisions will diminish the ability of American-based companies to compete with foreign-based companies in the same sector. That said, both Chairman Baucus (D-MT) and Chairman Rangel (D-NY) have indicated that this is a likely source of funding for health care reform. We will continue to follow this issue.

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