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Myron Brilliant, formerly with Stewart and Stewart in Washington, DC, has joined the U.S. Chamber of Commerce as Director of Trade Policy for Asian Affairs.

Daniel Gutterman, formerly with Winthrop, Stimson, Putnam and Roberts, has been involved in the following activities: professor, graduate legal studies program, Central European University, Budapest; and professor, Academy of Innovation Management, Moscow, in a program organized by Institute for Constitutional and Legislative Policy; legal adviser to the Albanian Ministry of Trade and Foreign Economic Cooperation (sponsored by the Agency for International Development and American Bar Association). He reviewed drafts of Russian and commercial laws for Harvard Institute of International Development.

Nancy D. Israel has joined the Boston law firm of Hill & Barlow Of Counsel and as Chair of the International Practice Group. She previously served as the Associate General Counsel—International of Ernst & Young in Boston and New York.

John R. Lacey, formerly a partner of Lacey, Meissel, Koven & Kaufmann has been nominated by the President to serve as a Commissioner of the Foreign Claims Settlement Commission. His nomination was confirmed by the Senate on September 28, 1994. He will continue to maintain his law office in Hartford, CT, and to serve as an adjunct professor of international business law at the University of Connecticut Graduate Business School.

Carol Rafferty, Vice-Chair of the Customs Law Committee and **Kenneth G. Weigel**, Customs Law Committee Chair Emeritus, recently joined the Washington, DC office of Kirkland & Ellis.

Ernesto Soto has been honored as an Outstanding Alumnus by the University of Arizona College of Law, in recognition of significant professional achievement.

John Stephenson is now head of the International Practice Group of Jenkens & Gilchrist in Dallas, TX. He was formerly with Johnson and Wortley in Dallas and is currently Co-Chair of the Section's Mexican Law Committee. ■

International Trade and the New Congress

By John R. Magnus

One important aspect of the Republican takeover of Congress, although it has not received much press coverage so far, is the potential effect on U.S. international trade policy. The new Congressional majorities will make their mark, in the first instance, at the committee and subcommittee level where most legislative work occurs. While the committees with principal jurisdiction over trade — the House Committee on Ways & Means ("W&M") and the Senate Committee on Finance ("Finance") — will be dominated by returning members, ensuring some continuity, the change in majority status is sure to affect the outcome on at least some of the trade issues coming before the new Congress.

The Players

Long-time committee member Bill Archer (TX) will chair W&M, with Republicans outnumbering Democrats 21-15, and Phil Crane (IL) will chair W&M's international trade subcommittee. Democratic leadership will be unchanged, with Sam Gibbons (TX) serving as the ranking member on the full committee and Bob Matsui (CA) playing the same role on the international trade subcommittee. Further down in the ranks, however, the change will be pronounced. Of the 21 Republicans, 10 will be new to the committee. Phil Moseley will be the full committee's Staff Director and Thelma Askey will be in charge of the trade subcommittee staff (replacing Bruce Wilson).

Bob Packwood (OR) will chair Finance in the new Congress and is also expected to chair the international trade subcommittee, a dual role that recent Democratic chairpersons — Lloyd Bentsen (TX) and Pat Moynihan (NY) — have eschewed. While the ratio of Republicans to Democrats has been set at 11 to 9, the remainder of the lineup is still up in the air (with Alan Simpson and Frank Murkowski reported to be leading contenders among GOP senators seeking seats). Packwood has named Lindy Paull as Staff Director at Finance; Brad Figel will serve as majority Trade Counsel.

The Issues

While the 104th Congress' trade agenda cannot be known with certainty, five issues are widely considered likely to receive legislative attention. These issues are summarized below along with preliminary speculation about the effects of the congressional realignment.

Fast-Track Extension — A battle over "fast-track" rules for implementing trade agreements, simmering for several months already, will likely erupt in the early days of the new Congress. Fast-track rules in the past have guaranteed up-or-down votes on implementation of qualifying trade agreements, under streamlined congressional procedures, thereby freeing negotiators from the concern that Congress might "unravel" an agreement it has been asked to implement. While not technically requiring congressionally-delegated "authority" to meet and talk with trade partners, the administration needs assured access to fast-track legislative treatment in order to make progress at the negotiating table. The most recent fast-track extension expired earlier in 1994.

Plaguing current efforts to extend fast-track rules is a policy disagreement over whether social and environmental provisions should be included in trade agreements and, more importantly, whether Congress should prospectively waive the right to amend legislative proposals submitted by the President as "necessary or appropriate" to implement an agreement containing such provisions. This disagreement, which caused fast-track's deletion from the Uruguay Round implementing bill, has the potential to cause a highly partisan rift on trade in the new Congress. Many Republicans, including the GOP leadership, oppose including labor and environmental commitments in trade agreements, and have indicated that even the relatively "soft" labor and environmental agreements attached to the NAFTA should not be extended as other countries join the free trade area. They favor fast-track legislation that either (1) has no reference at all to labor or environmental negotiating goals, or, going even further, (2) expressly precludes fast-track treatment of an agreement containing labor and environmental commitments. At the same time, leading congressional Democrats have promised to oppose any trade agreement lacking disciplines, including trade sanctions, on

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environmental protection and worker rights.

The Administration is seeking a broad fast-track extension, applicable not only to NAFTA accession agreements but also, in theory, to initial agreements negotiated on various issues within the WTO. If such authority proves unobtainable, Congress may consider a narrowly tailored fast-track bill designed to apply only to Chile's proposed NAFTA accession. In that case, the specific focus will be on whether the NAFTA side agreements on enforcement of domestic labor and environmental standards should be extended. Administration officials have characterized the NAFTA side agreements, somewhat ambiguously, as a "baseline" for future accession agreements.

WTO Review Group — Senate Majority Leader Dole won the Clinton administration's support for a committee of retired judges to review adverse WTO panel decisions as a safeguard against anti-U.S. bias in the WTO dispute settlement system and inappropriate expansion of U.S. obligations. If the committee were to identify a pattern of errant anti-U.S. decisions, expedited legislative treatment would be available for a congressional resolution forcing U.S. withdrawal from the WTO. While legislation establishing such a committee is likely to receive strong Republican support, Democrats may demand concessions in return for letting it reach the President (who has already agreed to sign it). Decisions on other, unrelated trade issues could also affect this legislation if it is not processed as a separate bill.

NAFTA Parity for the Caribbean — There is broad and apparently bipartisan support in Congress for the principle of extending to the nations of the Caribbean certain trade benefits accorded to NAFTA signatories. In practice, however, "NAFTA parity" means extending the CBI program to many currently excluded textile and apparel products, which generates a certain amount of (equally bipartisan) opposition. Moreover, as with any law eliminating or reducing tariffs, a NAFTA parity bill under current budgetary rules would have to be "paid for" with spending cuts or revenue increases. Partly for this reason, while the House approved NAFTA parity provisions as part of the Uruguay Round implementing bill, the provisions were deleted at the insistence of the Senate. The budgetary aspects of the new Congress' NAFTA parity debate may take on a partisan flavor as the parties compete for the mantle of fiscal responsibility.

GSP Extension — The Uruguay Round implementing legislation extended the expiring Generalized System of Preferences ("GSP") program only for a year, leaving unresolved questions concerning whether, and in what form, it should continue. The GSP's basic principle is not highly controversial; the United States uses unilateral tariff concessions as a foreign policy tool (enhancing the market access of developing countries) and as an incentive to beneficiaries to improve domestic legal regimes, such as intellectual property protection or recognition of worker rights. Disagreements relate to how far the United States should go in "tying" GSP benefits in this manner. As with NAFTA parity, there are also potentially partisan budgetary issues.

Economies in Transition — The administration announced last year, and is likely to renew, a proposal to amend the antidumping duty (AD) and countervailing duty (CVD) laws so that they do not fully apply to products imported from "economies in transition" (i.e., countries converting to market-driven economies). This proposal splits those who favor the existing AD and CVD remedies — including companies who utilize the remedies in response to injurious foreign practices defined as "unfair" under existing law — from those who oppose the remedies generally or favor, on foreign policy grounds, extending trade benefits to formerly communist countries. The EIT proposal would complement, rather than replace, other forms of aid to these countries. Although support for and opposition to the proposal are found on both sides of the aisle, Republicans traditionally have been less solicitous than Democrats of AD/CVD petitioners. ■

John R. Magnus is an Associate in the Washington, DC office of Dewey Ballantine, specializing in international trade.

COMMITTEE ON WAYS AND MEANS — 104th Congress

Republicans		Democrats
Bill Archer, TX	**Jennifer Dunn, WA***	Sam Gibbons, FL
Philip Crane, IL*	**Mac Collins, GA**	Charles Rangle, NY
William Thomas, CA*	**Rob Portman, OH**	Pete Stark, CA
E. Clay Shaw, JR., FL*	**Philip English, PA**	Andrew Jacobs, Jr., IN
Nancy Johnson, CT	**John Ensign, NV**	Harold Ford, TN
Jim Bunning, KY	**John Christensen, NE**	Robert Matsui, CA
Amo Houghton, NY*		Barbara Kennelly, CT
Wally Herger, CA		William Coyne, PA
Jim McCrery, LA		Sander Levin, MI
Mel Hancock, MO*		Benjamin Cardin, MD
Dave Camp, MI*		Jim McDermott, WA
Jim Ramstad, NM*		Gerald Klecza, WI
Dick Zimmer, NJ*		John Lewis, GA
Jim Nussle, IA		L.F. Payne, VA
Sam Johnson, TX		Richard Neal, MA

***Bold** = new member. * = member of international trade subcommittee.*
The Democrats will announce their members of the subcommittee by Jan. 4, 1995.

COMMITTEE ON FINANCE — 104th Congress

Republicans	Democrats
Bob Packwood, OR	Daniel Moynihan, NY
Robert Dole, KS	Max Baucus, MT
William Roth, DE	Bill Bradley, NJ
John Chafee, RI	David Pryor, AR
Charles Grassley, IA	John Rockefeller, WV
Orrin Hatch, UT	Tom Daschle, SD
Alan Simpson, WY	John Breaux, LA
Frank Murkowski, AK	Kent Conrad, ND

***Bold** = likely new member. Ratio will be 11/9 in favor of the Republicans. Democrats not returning to Finance are Boren (OK), Mitchell (ME) and Riegle (MI). Republicans not returning are Danforth (MO), Durenberger (MI), and Wallop (WY). Republicans reported to be under consideration for Finance are Simpson (WY), D'Amato (NY), McConnell (KY), Mack (FL), Murkowski (AK), Nickles (OK), Domenici (NM), and Pressler (SD). Democrats reportedly seeking the remaining minority slot are Boxer (CA), Bryan (NV), Moseley-Braun (IL) and Graham (FL). Neither Republicans nor Democrats have selected members for Finance's subcommittees.*