

Testimony by Ambassador (Ret.) Par Kettis to Maine's Citizen Trade Policy Commission, at Husson College, Bangor, 3 February 2005

Senator Rotundo, Representative Patrick, Members of the Commission, Friends.

Thank you for giving me the opportunity to appear before you and address these important issues.

I am instructor at Husson College in International Business and at Maine Maritime Academy in International Business Law. My first job experience of free trade was as a junior member of the team that negotiated the first free trade treaty in Europe, EFTA, comprising UK, Scandinavia, Switzerland, Austria and Portugal. For a while we tried to create a separate Nordic free trade area. Later I was involved in the long and successful process that led to the ultimate enlargement of the European Union. It started with six members and now has 25 including the whole Western and Central Europe. The next candidate seems to be Ukraine. While serving abroad I have been practicing free trade and investment based on WTO and other agreements. I did that as Swedish Ambassador to India and Iceland and most recently to Poland.

My view is that the global economy creates great opportunities for growth, reduced poverty and a more peaceful world, provided that the fruits of growth are fairly distributed. We need international trade and investments but they should be governed by fair and equitable trade policies.

U.S., EU and other industrialized countries are the greatest beneficiaries of the existing system. They dominate most of the current huge flows of goods, services and capital. The daily currency trade has now reached the stunning level of \$1.9 trillion. The U.S. GDP is \$11.3 trillion. Also the developing countries, including the least developed nations, can expect great returns from being more integrated with the global economy. Many studies and I think most experience show that developing countries need more globalization, not less. Withdrawing from the international economy - if at all possible for anybody nowadays - inevitably leads to slower development, not only of the economy but also in education and humanitarian aspects of life.

We need only to look around us to realize that the distribution of the global economy is not fair. The recent World Economic Forum was largely devoted to discussing these problems. The U.S. should take a leading role in shaping the global economy so it promotes human rights, democracy and a fair distribution among all countries of the advantages of the global economy.

The President has made a good start by declaring a policy to promote democracy and human rights, I think. It should not be impossible to secure a wide support for a more fair trade agenda because it is in our own interest.

It is important to remember that it is a strong correlation between the international economy and domestic policies. The WTO formulated this connection in its Trade Report for 2004 in the following way:

"Governments cannot hope to reap the real benefits of open trade if they fail to secure macroeconomic stability, supportive infrastructure, properly functioning domestic markets and sound institutions."

It means among other things that when the U.S. experiences problems with outsourcing and cannot compete with foreign producers, we cannot blame only foreign and free trade. Our own policies also have something to do with the problem. For many years the U.S. followed what is still called a "strong dollar" policy. In recent months this has meant that the dollar was sliding in value 10-20%. During many years before, however, it meant that the U.S. dollar was really strong, so strong in fact that practically anything could be produced cheaper abroad than here. Because of the present lower dollar value U.S. goods is cheaper to buy for foreigners and it is or will be more expensive to import goods from abroad. Thanks to the free trade treaties the foreign trade can continue to flourish also when it is more advantageous for us.

An important aspect of fair trade is the system of subsidizing agricultural products. The leading two entities in doing this are the U.S. and EU. The system creates surplus production and the only way to sell the surplus is to export. When these subsidized products reach other countries it can often be sold cheaper than the local farmers' products and the local farmer loses his business. The access to foreign markets is guaranteed by free trade agreements. The solution WTO has chosen to remedy this problem is to try to reduce and finally eliminate agricultural subsidies. This is one of the

main goals with the ongoing Doha Round of trade talks in WTO. If this is successful the U.S. and EU governments can reduce their budgets for this purpose, we would have to pay less taxes and global competition would be more fair. The big question is, however, if the governments can withstand the pressure from their farmers to continue to subsidize their surplus production. Evidently this solution is smarter than to change existing free trade agreements by introducing barriers to free trade.

Fair trade policies should also include labor rights. Developing countries have a definite advantage with their low wages. On the other hand that is often their only advantage in a global trade perspective; their governments and politicians are very unwilling to compromise away that advantage. What we should try to assure is that there are binding minimum conditions for workers all over the world. The International Labor Organization has some Core Conventions that most nations are subscribing to and have even signed. The problem is that they are not following these Core Conventions. I personally think that there should be a link between Core Labor Rights and foreign trade. Such linking has already been accepted in WTO for the TRIPS agreement, between trade and intellectual property rights. (TRIPS stands for Trade related intellectual property rights and is the basis for enforcement against for example pirating of software.)

NAFTA and CAFTA (signed not ratified) have provisions about labor. So in a way one can say that there is a link between labor rights and NAFTA/CAFTA. These rules could gradually be strengthened.

Another sensitive area is environmental regulation. The general impression is that by moving production to low protection countries a manufacturer can avoid more stringent rules in the U.S. NAFTA/CAFTA have environmental rules, but they are in spite of many words weak and should be strengthened.

Example in CAFTA "Art. 17.9: Environmental Cooperation. 1. The Parties recognize the importance of strengthening capacity to protect the environment and to promote sustainable development in concert with strengthening trade and investment relations."

NAFTA Ch 11 Investments

Art. 1106 para 6. ...not preventing any Party from adopting or maintaining measures, including environmental measures:

(b) necessary to protect human, animal or plant life or health; or

(b) necessary for the conservation of living or non-living exhaustible natural resources.

Art. 1110: Expropriation and compensation

1. ... "take a measure tantamount to nationalization or expropriation of such an investment, except

(a) for a public purpose ... "

CAFTA Investment

Art. 10.7 para 1. "... directly or indirectly through measures equivalent to expropriation or nationalization, except

(a) for a public purpose ... "

Art. 10.9 para 3 (c) "not ... prevent... measures, including environmental measures:

(ii) necessary to protect human, animal, or plant life or health; or

(iii) related to the conservation of living or non-living exhaustible natural resources."

When reading this one would think that environmental measures to protect life and health would be covered, but evidently they were not according to the tribunal that passed the decision concerning the dump in Mexico. So it seems one should look into strengthening both the CAFTA and NAFTA provisions in this respect. One way of doing it without starting to renegotiate the treaty is to add an explanation in the form of an exchange of letters, clarifying that each Party has the right to make environmental decisions that are necessary to protect human life and health and that this decision shall be taken by competent authorities in that country. The tribunal shall not have the right to overrule such a decision. It should also be clarified that "tantamount" or "equivalent" shall be given a limited interpretation and not include non-discriminatory environmental, health-related or security motivated decisions by competent authorities. It seems absurd that protective and necessary decisions by competent authorities of a non-discriminatory nature can not be enforced because NAFTA or CAFTA protect the foreign investor from observing such decisions.

Thank you.