

*The Politics and Economics of Fast-Track*

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Delighted to be here, exactly one month after originally scheduled. September 11<sup>th</sup> had been an interesting date for giving the talk: I had wondered what riding the train would be like—half empty? Code orange security left that puzzle unanswered.

One thing Osama bin Laden has done for us Americans is to bring us together, to make us appreciate all that we share as a national community. In some cases, this unity has extended to the public policy arena. Left relatively untouched, however, has been the U.S. House of Representatives, notwithstanding yesterday's 296-133 vote giving the President broad authority on Iraq. 9-11 did affect trade policy—contributing, on balance to President Bush's ability to win fast-track negotiating authority. But it did not bridge the gulf, and the animosities, separating House Democrats and Republicans on this and many other issues..

“Fast-track,” as you know, is the informal label given a trade policy procedure adopted to handle the problems that our divided government presents for international trade negotiations. Congress has, under the Constitution, indisputable power to regulate “commerce with foreign nations.” For our nation's first century and a half, Congress regularly used this power to impose very high tariffs on imports. Beginning in 1934, it made a 180-degree turn, delegating authority to the President to *reduce* US trade barriers in exchange for equivalent steps by our trading partners. By 1974, this had reduced US trade barriers, as a percentage of dutiable imports, from an average of 60 percent to around 6 percent. Those of other nations were also brought down, so that the main impediments to trade became so-called non-tariff barriers (NTBs) (product standards, government procurement regulations, subsidies, etc.)

But unlike the case for tariffs, where Congress could grant the President advance authority to reduce rates up to a certain limit, changes in these NTBs required amendments to US law that could not be predicted in advance. Congress would have to enact them after the deals were negotiated, and Congress might decide to change what the executive branch had negotiated, or refuse to vote on it at all. Foreign governments didn't want to initiate negotiations if this seemed a live possibility, if US trade negotiators couldn't be expected to deliver on the deals they struck.

After rejecting various alternatives, Congress and the President settled on a compromise procedure in 1974. Once the administration concluded certain trade agreements authorized by Congress, the Senate and House pledged to consider legislation proposed by the President to

implement these agreements under special rules requiring prompt action, and forbidding amendments. This “fast-track” procedure, incorporated in the Trade Act of 1974, was renewed five times, the last leading to conclusion and approval of the Uruguay Round/WTO agreements in 1994.<sup>1</sup> It was also employed for the Tokyo Round agreements of 1979, and the US-Canada FTA and NAFTA.

However, Congress rebuffed President Clinton’s efforts to get this authority continued in 1994 and 1997, and major public demonstrations contributed to the failure of the Seattle WTO ministerial conference to launch a new round of global talks in 1999. Congress did approve some other measures late in the Clinton administration—providing for permanent normal trade relations with China, and limited free trade with African and Andean nations. But on the central trade policy agenda, George W. Bush and his US Trade Representative, Robert Zoellick, inherited a political and policy stalemate when they came to office in 2001.

Twenty months later, we have good news and bad news for those who favor continued US efforts to reduce barriers to international trade. The “good news” is that the formal stalemate has been broken. Last November, at a meeting in Qatar, Zoellick succeeded in reaching with his international counterparts an agreement to launch what is now labeled the “Doha Round.” And early last month, George W. Bush signed legislation renewing fast track, now renamed Trade Promotion Authority (TPA) until 2005 and potentially until 2007.

The “bad news” is the way the domestic political victory was achieved—by an excruciatingly close and unprecedentedly partisan vote. Hence US trade policy still lacks the firm bipartisan support it enjoyed from the mid-thirties to the mid-nineties.

The year 2001 began with positive signs in one area of dispute that had been central to the Clinton failures: what I have labeled the “trade and . . .” issues. This involved the degree to which trade negotiations should be broadened to address the intersection of trade with social issues, especially labor and environmental standards. Beginning with the debate over NAFTA, and continuing through the last decade, critics argued that international trade was threatening labor and environmental conditions at home and abroad, while undercutting the capacity of governments, acting alone, to deal with them. Hence these issues needed to be dealt with at the international level. The first President Bush responded by addressing some of these issues in NAFTA, and Clinton added new labor and environmental side agreements before sending NAFTA to Congress for approval.

Most Congressional Democrats came to advocate increased attention to these issues; most Republicans were opposed, as was the business community. This reflected the difference between the parties on these issues domestically. Clinton was caught in a box—he personally favored broadening the agenda, but he knew that, in the House of Representatives, he would have to rely mostly on business lobbying and Republican votes for passage. So he proposed in

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<sup>1</sup>For more detail on this history, see I. M. Destler, *Renewing Fast-Track Legislation* (IIE, September 1997).

1997 a bill that severely limited the types of trade-related environmental and labor issues covered by fast-track. This in turn solidified opposition from labor and environmental groups. In the end, by supporters' vote counts, only about 45 House Democrats—21 percent of the total—were ready to vote in support. This contrasted with the 102 (40 percent) who had backed NAFTA in 1993, and the 167 (65 percent) who supported the WTO/Uruguay Round bill of 1994. The labor-environment issue also hurt Clinton's fast track initiative another way: it caused business to hold back lobbying until they saw exactly what language Clinton would propose. Fast-track opponents were not similarly constrained.

After the fast-track failure and the Seattle fiasco, business interests came to believe they had been too hard-line on the "trade and . . ." issues. So did Republican free-traders needing to broaden support. So the smart new chair of the House Ways and Means Committee, Bill Thomas, opened negotiations with Democrats in the summer of 2001. By late September, he released a summary of a "Bipartisan Compromise," which his committee later reported to the full House. Unlike the 1997 bill, it included a section on "labor and the environment" among the principal negotiating objectives, and agreements reached pursuant to them could clearly be part of a fast-track implementing bill.

Substantively, it was a sincere effort at compromise. Politically, it had much less to commend it. For the Democrats with whom it was negotiated were not the senior members of the Ways and Means Committee responsible for trade policy—ranking member Charles Rangel, ranking Trade Subcommittee member Sander Levin, or long-time free-trade stalwart Bob Matsui. Instead, they were three junior Democrats, whose earnest and constructive leader, Cal Dooley, was not even a member of the committee! Concluding early on that a satisfactory compromise with the senior Democrats was unlikely, Thomas decided he wouldn't even try. When Levin approached Thomas with an eye to initiating discussions, the chair reportedly replied, "I consider you part of the enemy on this issue."

It was true that Rangel and Levin had opposed fast track in 1997. It is very possible that they would not have agreed to any compromise that Thomas and the administration considered workable in 2001. But it was highly unusual, perhaps unprecedented, for a Ways and Means chair to not even try to work out a bipartisan deal on trade with his senior committee counterparts. And given the fact that at least 54 House Republicans had voted No on every major trade measure from the Uruguay Round/WTO agreement onward, it appeared politically suicidal as well.

In any case, Rangel, Levin and Matsui responded to the Thomas-Dooley bill with a "Dear Democratic Colleague" letter headed, "THOMAS' 'BIPARTISAN COMPROMISE' IS NEITHER." The tone was sharp, but the content was moderate—it raised criticisms on labor, the environment, and the role of Congress, but most of them could have been rather easily accommodated. But again Thomas did not try, even though President Bush later met personally with Rangel and urged renewed efforts at compromise. Nor, it must be said, did Rangel and his

colleagues take the substantive initiative either, by signaling what might be an acceptable compromise to them.

Matters were made worse by Thomas’s acerbic personality, to use a gentle phrase. As a former colleague and backer of the chairman put it, this is a man who is very, very smart and very purposive and has “no inter-personal skills.” So the Democrats, rebuffed and angry, submitted a very complicated and demanding alternative bill, which made compromise much harder. Thomas moved his bill through the committee on a party-line vote—only the Democrats who were co-sponsors voted in favor. And total House Democratic support remained in single digits through most of November, and eventually totaled just 21 of 211 (a low of 10 percent) when the vote was taken December 6th.

At this point, the administration and the House leadership had no choice but to put enormous heat on Republicans. Typically, at least one-quarter of them had voted against free-trade: 56 of 177 against the Uruguay Round/WTO, 57 of 222 opposing China PNTR, and 71 of 228 against fast-track under Clinton. Somehow, this number had to be brought down to around 20, about 10 percent. I thought this most unlikely—I had compiled a list of 37 likely Republican “Nos,” not including anyone elected in 2000, but including a hard core of 20 who voted that year for an extremist resolution to withdraw from the WTO and against every general major trade-expansion measure.

The result was in doubt until the vote was completed—at noon on the day of the vote, the White House told Republican House leaders the bill should be withdrawn to avoid defeat. But the Republican Whip, Tom “the Hammer” Delay thought otherwise, and he pounded one after another of his colleagues to vote “aye.” In the end, it squeaked by, 215-214—the count was one vote the other way when a textile Congressman’s vote was publicly bought with a Presidential promise of new trade restrictions, and the Speaker’s gavel banged before anyone could change the other way. Other Republicans were brought around with appeals to post-September 11<sup>th</sup> patriotism and party loyalty—of the 20 who had voted to withdraw from the WTO a year before, a remarkable 11 voted to authorize a new WTO round of trade negotiations, and three others managed to be absent. Republicans from steel districts were also remarkably supportive—anticipating, perhaps, the President’s decision in March 2002 to impose steel tariffs of up to 30 percent to assuage depressed conditions in that industry.

The day after the vote, at the Institute for International Economics, Director Fred Bergsten asked me to lead the discussion of the “victory” at Friday staff meeting. He said, “Now that you’ve been telling us they couldn’t win it this way, tell us how they won!” I responded, “They wanted to get fast track in the worst possible way, and they did it!” Why was it “worst”? Because it alienated Democrats who should have supported it, and because it relied on Republicans who, given their convictions and constituencies, had no business supporting it. But it did move the bill to the Senate.

In that body, another–more constructive–game was developing. Once Senator Jeffords’ surprise action gave the Democrats formal control, attention focused on Max Baucus of Montana, now elevated to chair of the Finance Committee. He had not exactly been a pillar of strength–in fact, he had voted against the Uruguay Round/WTO agreement for small-bore political reasons. This time, however, he seemed to want to find a way to support TPA while protecting himself in a likely-tough 2002 reelection campaign in his increasingly Republican state. So he was looking for ways he could take credit for strengthening the bill. One, which didn’t end up working too well for him, was through opposing any negotiations that might change US antidumping laws. The other, which worked very well indeed, was to strengthen programs for workers displaced by imports–so-called Trade Adjustment Assistance, or TAA.

For the American voter, the issue of TAA is a no-brainer. In public opinion surveys where the issue is unmentioned, a bare majority–at best–supports free trade. But the picture changes dramatically if you add “government. . .programs for workers who lose their jobs.” In a late 1999 University of Maryland survey, voters were asked to choose one of three positions–“I support free trade” and worker aid is “not necessary”; “I support free trade” and worker aid is “necessary”; “I do not support free trade.” The results: 14% anti-free-trade generally; 18% for free-trade without aid, and a whopping 66% for free-trade with aid to workers! With such a program, the margin was 84-14 pro-trade! In the Chicago Council on Foreign Relations poll about to be released next month, I’m told that this same question finds opposition to trade dropping below 10%!!

This is also, of course, the sort of program that appeals to Democrats. Looking to build support for trade, Baucus and his staff showed strong interest in 2001. By January 2002, Senate Majority Leader Tom Daschle was saying that it would be impossible to build consensus behind TPA without expanding TAA. Two major directions of expansion were contemplated. One was to secondary workers–say, people who produced parts for factories that closed because of trade competition. The second was to help pay the costs of health insurance for the displaced workers. Both were expansions of an entitlement program. A third idea in the mix was “wage insurance,” compensating trade-displaced workers who took lower-paying jobs by writing them government checks to compensate for part of their wage loss. (In the end, all were incorporated in the trade bill signed by President Bush.)

On the trade issues, the Senate Finance Committee reported out a TPA bill on December 12<sup>th</sup>, less than a week after the House action; the vote, 18-3, was as bipartisan as the House vote was not. But floor action was delayed for months as Senators negotiated with the administration on the parameters of a much-expanded TAA bill that would add \$1 billion-plus to the small amount government now spends for this purpose. This was controversial among Republicans, who were skeptical about such programs generally and feared it was a “foot-in-the-door” for proposals to give such aid to all displaced US workers. It was popular among Democrats for the same reason. Finally, on May 9<sup>th</sup>, agreement was reached on a major TAA package. Two weeks later, the Senate approved the overall trade bill by a strong, 66-30 margin.

All that was now required was a Senate-House conference to resolve differences between the respective bills, and there were two main ones: TAA, and the Senate’s Dayton-Craig amendment which would have effectively removed US antidumping laws from the Doha and FTAA negotiations. The Bush administration declared Dayton-Craig unacceptable, since it was likely to drive developing nations away from the negotiating table. Daschle, who voted for it, expressed willingness to modify it in conference. So the deal was obvious—the House would yield on TAA, the Senate on Dayton-Craig.

That is in fact what happened, but not until a bizarre partisan endgame. First, the Senate delayed appointment of conferees and proposed working out matters informally, which the House saw—for technical reasons—as reducing its bargaining power. Then, after the Memorial Day recess, Thomas began the move toward conference through the extraordinary procedure of attaching to the rule to appoint conferees an entirely new, 300-page bill including TAA and other provisions not in the House original. This controversial action, widely interpreted as Thomas’s effort to impose his will on the conference, drove more Democrats away and delayed matters further as Republicans scurried for more votes in their ranks. Finally, five weeks after the Senate vote, the rule to *start* the conference passed on June 26<sup>th</sup> by a 216-215 vote—just 11 Democrats “aye,” and 14 Republicans “nay.” Then, before and after the 4<sup>th</sup> of July recess, Senators battled over how many conferees to appoint (with Democrats determined to keep hardliner Phil Gramm [R-TX] out of the proceedings). The Democrats won this fight. It was followed by a week-long fight between Baucus and Thomas over who would chair the conference, which Thomas won.. Finally, the conference met on July 23<sup>rd</sup>, three days before the House was scheduled to adjourn for its August recess.

It was widely believed that enacting the trade bill would become harder the closer members came to the election, so enactment before the July recess seemed critical. In this context, the two months of procedural squabbling—May 23 to July 23—were weird indeed, and very frustrating to those of us who were watching. But once the conferees got together they resolved matters in literally days. Thomas made a constructive compromise proposal on July 24<sup>th</sup>; agreement was reached late on July 25<sup>th</sup>, it went to the House floor on July 26<sup>th</sup>, and it passed at 3:30 am the morning of July 27<sup>th</sup> (my 34<sup>th</sup> wedding anniversary) by the relatively fat margin of 215-212. Encouraged by the TAA provisions, the number of House Democrats voting in favor rose to 25, making room for 27 Republicans to vote No. George Bush and Bob Zoellick had their negotiating authority, without major prohibitions; trade-displaced workers had a program more commensurate with the scope of their need.

If one believes the polls, and I certainly do in this case, this is what the American people wanted—by an overwhelming margin. It is also a sensible and equitable policy package. Trade helps most Americans, and the national economy as a whole, but it hurts a few rather badly. Hence it is only right for those of us who are trade winners to transfer a portion of our gains to the trade losers.

But it proved excruciatingly difficult for Congress to arrive at this resolution. It almost didn't happen. One reason was personalities—there was not a single trade leader in either the House or the Bush administration who could command broad trust across party lines, as had prior Ways and Means chairs like Wilbur Mills and Dan Rostenkowski, or prior USTRs like Robert Strauss and Bill Brock.

But a deeper reason is that this is the way American politics has been moving for many years—toward increased partisan division and rancor. It is evident in how members vote substantively. It is evident in how they work out legislative issues: less and less in formal committee meetings, which engage members of the two parties face to face and promote compromise, and more and more in party caucuses, or in ad hoc groups like that joining Thomas and Dooley. The results are then presented to the committee for formal action, with votes increasingly along party lines.

Time does not permit a more extended discussion of the causes of this polarization, except for me to say it is NOT what the American people want. Most citizens are moderate; most members of Congress are positioned closer to their parties' extremes and their cause-group supporters, be they left or right. Centrist voters get turned off by this, leaving the field more to the right and the left. It is a powerful dynamic, and we have still not seen its end.

For trade, it means that the administration—if it is smart—will have to spend valuable time in 2003 and 2004 rebuilding a consensus in the House, whereas the legislative process is supposed to provide that consensus, and has in the past done just that. The game will be particularly interesting if, as seems at least plausible, the Democrats win the net of six House seats that they need to regain the majority.