
Partisan Rancor and Trade Politics in the New Century

In recent decades, there has been steady—nay relentless—growth in party polarization and interparty rancor within the United States Congress, the House of Representatives in particular. This has been driven by broad national forces outside of trade policy. But it has undercut one of the enduring sources of support for trade liberalization: bipartisan leadership cooperation at the committee and chamber level.

In the 1970s and 1980s, trade expansion legislation was typically crafted through bipartisan cooperation inside the key trade committees—Senate Finance and House Ways and Means. And when they reached the floor, trade bills were enacted by a cross-party coalition of moderates. So when a prominent feature of Congress became what former Senator John Breaux (D-LA) has labeled “the incredible shrinking middle,”¹ trade legislating was bound to become harder. And it has, as polarization has undercut bipartisan cooperation at the committee and floor levels—particularly in the House. The George W. Bush administration and the Republican congressional leadership managed nonetheless to win renewal of fast-track negotiating authority—now renamed trade promotion authority (TPA)—by exploiting the shadow of the September 11, 2001, terrorist attacks and by exerting extraordinary pressure from the party leadership to win three excruciatingly close House votes. But the support base for the negotiations that have followed is narrower, and more partisan, than for any previous major trade round.

1. Quoted in Sarah A. Binder, *Stalemate: Causes and Consequences of Legislative Gridlock* (Washington, DC: Brookings Institution Press, 2003), 69.

Drawing on the renewed negotiating authority, US Trade Representative (USTR) Robert B. Zoellick concluded several bilateral and regional free trade agreements (FTAs), four of which won congressional approval by comfortable margins. He also achieved progress in the difficult Doha Round trade talks under the World Trade Organization (WTO). But the daunting task of completing these talks was in the hands of President Bush's second administration and his new USTR, former Congressman Rob Portman.



As the new Bush administration relaunched the drive for congressional renewal of fast-track negotiating authority in 2001, the battle lines were softening on the social issues that had done so much to doom the Clinton legislation. Antiglobalization forces, riding high after Seattle, had been brought back to earth by their failure to block the granting of permanent normal trading relations (PNTR) to China. Organized business, in turn, recognized that the hard Republican line it had encouraged on labor and environmental standards had proved counterproductive in the 1990s and would likely continue to keep Democrats on the other side. With a Republican now in the White House, moreover, business was less fearful that US negotiators would give these issues undue priority if they were included among the statutory negotiating objectives.

So compromise now seemed plausible. Responding to this opening, "new Democrat" Representative Cal Dooley of California put forward what became labeled the "Dooley principles," providing for parallel treatment of the key items on the social agenda. Trade-related labor and environmental standards would receive parity with traditional negotiating goals like market access, but without language requiring that such standards be part of all trade agreements.²

Meanwhile, on the Senate side, staff aides were developing a new, expanded approach to helping workers displaced by trade. Howard Rosen, outgoing staff director to the Joint Economic Committee under Senator Jeff Bingaman (D-NM), had long been concerned about this problem. He raised this issue and was encouraged to draft a proposal by Greg Mastel, the lead Democratic staff member on Senate Finance. It broadened the definition of trade-displaced workers and, in major innovations, added health care and wage insurance to the benefits provided.

Incorporating the social issues and enhancing worker adjustment programs was consistent with public attitudes toward trade liberalization.

2. By contrast, legislation considered in 1997 and 1998 was drafted so as to exclude most labor and environmental matters from agreements that would receive fast-track consideration.

3. Summary language from the "International Trade" section of the "Americans and the World" Web site maintained by the Program on International Policy Attitudes (PIPA), University of Maryland. http://www.americans-world.org/digest/global_issues/intertrade/onbalance.cfm (accessed 26 March 2005).

Surveys indicated that “while a strong majority of Americans have a favorable view of trade in principle, most have significant reservations [in] practice,” so “the net feeling about trade is lukewarm at best.”³ However, in a June 2002 poll conducted by the Chicago Council on Foreign Relations (CFR), 93 percent of respondents agreed that countries that take part in international trade agreements should be “required to maintain minimum standards for working conditions,” and 94 percent said that such countries should be “required to maintain minimum standards for protection of the environment.” Even more impressive, the same survey found no less than 89 percent of Americans “favor free trade” if “the government ha[s] programs to help workers who lose their jobs.”⁴

It was also true, of course, that by the late 1990s a clear majority of House Democrats stood against fast-track renewal, urged on by organized labor and by nongovernmental organizations (NGOs) that challenged globalization. On the specific question of fast-track legislation, the public was ambivalent: one 21st century survey showed a 49–42 percent plurality in opposition; a second, which stressed presidential consultation with Congress, came out 46–37 in favor.⁵ Nonetheless, flexibility on social issues and expansiveness on adjustment assistance seemed a formula for bringing a healthy minority of House Democrats back into the protrade expansion camp—if not 102 (the number that had backed the North American Free Trade Agreement in 1993), then at least over 45 (the number counted ready to support the Clinton bill in 1997). The ranking Democrat on the House Trade Subcommittee, Sander Levin (D-MI), a fast-track opponent in 1997, had brokered a deal in 2000 that helped bring 73 Democrats on board the legislation granting PNTR to China, and he was indicating a readiness to try again on fast track. So was the ranking Democrat on the full committee, Charles Rangel (D-NY), who had likewise opposed fast track and backed China PNTR. Long-time free trader Robert Matsui (D-CA) was now deferring to these two, but he would certainly have lent his weight to any compromise that they were party to.

4. Chicago CFR poll data from Americans and the World at www.americans-world.org/digest/global_issues/intertrade/overwhelm.cfm (accessed March 24, 2005). The final question mentioned here asked workers to choose one of three statements (responses in parentheses): “I favor free trade, and I believe that it is necessary for the government to have programs to help workers who lose their jobs” (73 percent); “I favor free trade, and I believe that it is not necessary for the government to have programs to help workers who lose their jobs” (16 percent); “I do not favor free trade” (9 percent). When PIPA asked the same question at the beginning of 2004, the majority was smaller but still substantial: 60 percent for trade with programs, 13 percent for trade without them, and 22 percent against free trade. Support for “minimum” labor and environmental standards was essentially unchanged: 93 percent for each. Steven Kull et al., *Americans on Globalization, Trade, and Farm Subsidies*, Program on International Policy Attitudes (PIPA) and Knowledge Networks, 22 January 2004, 16, 17.

5. *Investors Business Daily*/TechnoMetrica Institute of Policy and Politics (TIPP) poll of May 2002; EPIC-MRA poll of October 2001. See the Americans for the World Web site: www.americans-world.org/digest/global_issues/intertrade/lowsupport.cfm (accessed 18 November 2003).

But events played out very differently. On the three critical House votes on what was ironically labeled “The Bipartisan Trade Promotion Authority Act,” only 21, 11, and 25 Democrats, respectively, voted in favor, and the legislation prevailed by wafer-thin margins of 215-214, 216-215, and 215-212. President Bush and USTR Zoellick got their negotiating authority, but not the broad consensus and mandate that had been provided to their predecessors.⁶ To understand why, we must look beyond the issue of trade to what has been happening in the US Congress over the past 30 years.

Polarization of Congressional Politics

Since 1981, the *National Journal*, a respected newsweekly focusing on government, has published sophisticated voter ratings placing every member of Congress somewhere on the ideological spectrum from liberal to conservative. The general pattern in the early years was for most Democrats to cluster on the left side, and most Republicans on the right. But there was considerable overlap in the middle. By 1999, however, “for the first time” in the Senate, “every Democrat had an average score that was to the left of the most liberal Republican.” In the junior chamber, moreover, the *Journal* found that “only two Republicans . . . were in that chamber’s more-liberal half on each of the three issue areas . . . and only two Democrats . . . ranked in the more-conservative half.”⁷ Since then, the pattern has stayed essentially the same: two House Republicans (and no Democrats) meeting that criterion in 2004; just one Republican senator more liberal than just one Democrat the same year.⁸

Parallel data developed by political scientists underscore the same trend. In 1969–70, as noted by Sarah Binder, there was “substantial overlap between Democrats’ and Republicans’ right- and left-most members. . . . A large ideological middle dominate[d] the House.” But, she added, “Thirty years later, there is virtually no ideological common ground.”⁹ Figure 11.1 shows this stark contrast.¹⁰

6. For a more positive take on their trade achievements, see C. Fred Bergsten, “A Renaissance for United States Trade Policy?” *Foreign Affairs*, November-December 2002.

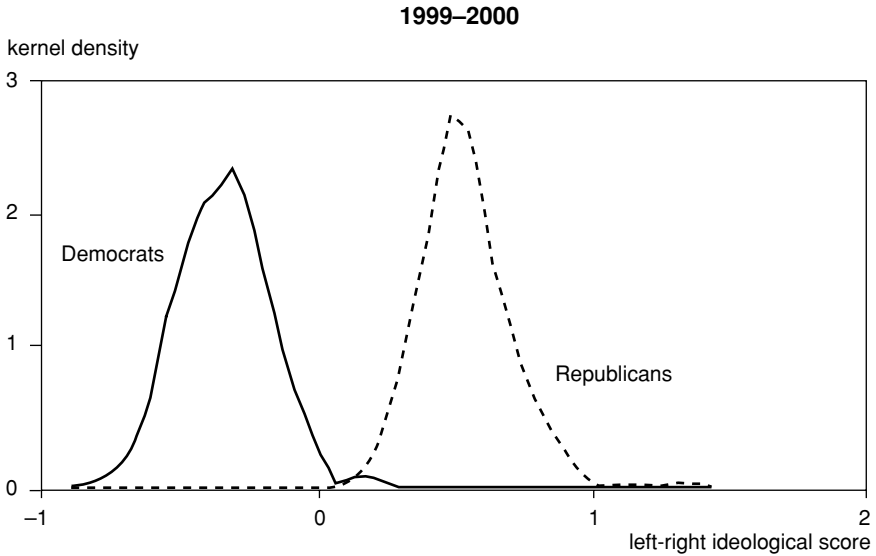
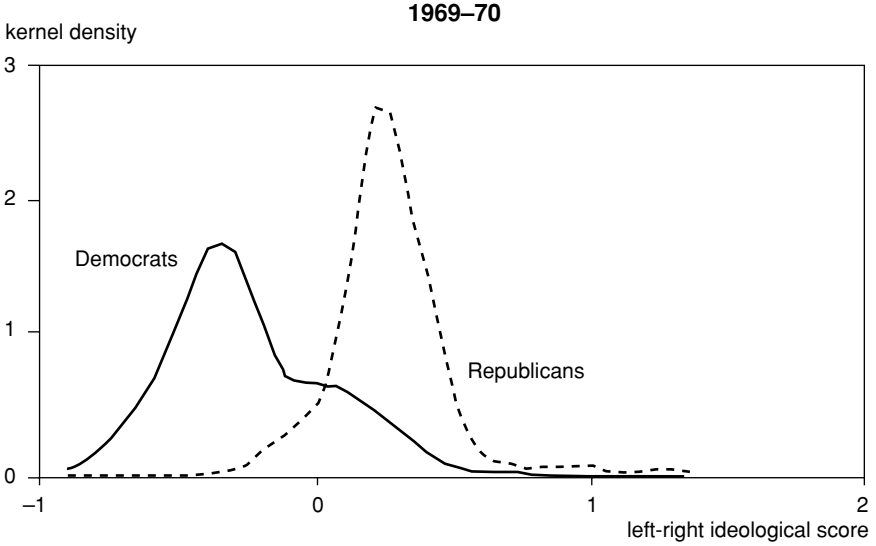
7. Richard E. Cohen, “Going to Extremes: Our Annual Vote Ratings,” A Special Supplement to the *National Journal*, 26 February 2000, 4. One of the two Democratic outliers left the party in 2000; one of the two Republicans was defeated for reelection in 2002.

8. *National Journal*, 12 February 2005, 427 and 440–54.

9. Binder, *Stalemate: Causes and Consequences of Legislative Gridlock*, 23–24.

10. The scores in Binder’s figures are based on a measure developed by Nolan M. McCarty, Keith T. Poole, and Howard Rosenthal, *Income Redistribution and the Realignment of American Politics* (Washington, DC: American Enterprise Institute Press, 1997).

Figure 11.1 Ideological distribution of the parties in the US House, 1969–70 and 1999–2000



Notes: Ideological scores are first-dimension DW-NOMINATE scores. Graph shows density plot of House members' ideological score by party.

Source: Binder, Sarah A. 2003. *Stalemate: Causes and Consequences of Legislative Gridlock*. Washington, DC: Brookings Institution Press, 24–25.

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Why this huge shift? One possibility is that the American public has been growing far more polarized. There is, indeed, some recent evidence of this in the “50-50 (and 51-48) America” symbolized by the 2000 and 2004 presidential elections, and in the deepening partisan divisions on certain public issues during the Bush years.¹¹ There has also been what political scientists term an ideological “sorting out” between the two main political parties: Republicans have become more reliably conservative, and Democrats more likely to be on the liberal side. But the bulk of the evidence indicates that division within the broad public is far shallower than division between party activists, and between members of Congress.

Since the 1970s, Americans have become somewhat more conservative and significantly more Republican. But they remain clustered near the political center. In the 1972–76 period, an average of 77 percent of voters placed themselves in one of four center categories: middle of the road, slightly liberal, slightly conservative, or didn’t know/hadn’t thought about it. By 1990–94, that figure had dropped slightly to 75 percent.¹² But this was not the case with political leaders. As summarized by David C. King in the mid-1990s, “the parties are becoming more extreme . . . increasingly distant in their policies from what the average voter would like. . . . Strong Republicans have become more conservative, and . . . party activists are drawn almost entirely from their ranks. Likewise, strong Democrats have become more liberal, though the ideological shift has not been as steep.”¹³

Has the public become more polarized since then, driven perhaps by the heat of partisan combat? Somewhat, according to the measure cited above. The portion of self-described centrists dropped to 62 percent in 2002, and averaged 68 percent over the 2000–04 period. But this indicator jumped back to 70 percent in 2004, notwithstanding a highly polarized presidential election campaign.

More generally, Morris Fiorina has demolished the “myth of a polarized America” in a brilliant short book that gives particular attention to the divisive issues of abortion and homosexuality. Most citizens in both

11. See Pew Research Center for the People and the Press, “The 2004 Political Landscape: Evenly Divided and Increasingly Polarized,” survey released 5 November 2003. <http://people-press.org/reports/display.php3?ReportID=196> (accessed 28 March 2005).

12. Calculations from National Election Studies, Center for Political Studies, University of Michigan (www.umich.edu/~nes), table 3.1. The specific question was, “When it comes to politics do you usually think of yourself as extremely liberal, liberal, slightly liberal, moderate or middle of the road, slightly conservative, conservative, extremely conservative, or haven’t you thought much about this?”

13. David C. King, “The Polarization of American Parties and Distrust of Government,” in Joseph S. Nye, Jr., Philip D. Zelikow, and David C. King, eds., *Why People Don’t Trust Government* (Cambridge, MA: Harvard University Press, 1997), 165, 171.

“red” states (Republican) as well as “blue” states (Democrat) are ambivalent about these and other public issues. What the country has, Fiorina concludes, is “centrist voters and polarizing elites,” and the latter have taken control of the political process in what he labels “the hijacking of American democracy.”¹⁴

Why has Congress come to reflect the polarized activists rather than the centrist public? One reason for the ideological overlap in 1969–70 was the presence of many Southern Democrats from states where that party had dominated since the Civil War. They were typically more conservative than many Northeastern Republicans. But the enfranchisement of blacks through a movement in which national Democrats were particularly prominent drove conservative Southern Democrats (and their children) to the Republican side. By the turn of the century, members of Congress from that region had ideological positions similar to their party brethren from elsewhere in the nation.

This explains the increase in ideological cohesion within the parties. But why the movement of the leaders in both to relatively extreme positions? One powerful force also had its roots in the 1960s—regular congressional redistricting. Once the Supreme Court ruled that districts within a state had to have substantially equal populations, the lines had to be redrawn after each decennial census. Politicians had them redrawn with eyes to their own survival. This meant more “safe” districts with strong Republican or Democratic majorities and fewer “marginal” districts. This tendency was reinforced by pressure, under voting rights legislation, to create “majority-minority” districts where practicable, so blacks (or Hispanics) could elect their own to Congress.

In a competitive district, candidates will fight for the votes of the citizens in the center, so the representative is driven toward representing the median voter. In a one-party-dominant district, however, a member is virtually assured of reelection, provided he or she can win renomination. So priority shifts to maintaining the allegiance of the median party member (a substantial move from the center) or, in practice, the allegiance of the median activist party member most likely to vote in a primary (even further from the center).

Congressional movement toward the extremes has been further driven by the rise of activist “cause” groups on the left and right. In the words of Richard E. Neustadt (paraphrasing Hugh Hecló), a growing role in both elections and legislation has been played by movements—“. . . the civil rights movement . . . environmentalists and feminists—then, in reaction, right-to-lifers.” This leads to “warfare among elites, waged since the 1960s in the name of causes, not compromises, fueled by technology, manned by

14. Morris P. Fiorina with Samuel J. Abrams and Jeremy C. Pope, *Culture War? The Myth of a Polarized America* (New York: Pearson Longman, 2005), 78, 99.

consultants, rousing supporters by damning opponents, while serving the separate interests of particular candidates and groups at given times.”¹⁵

One other, technological factor deserves brief consideration—jet air travel. When travel back to the state or district was a time-consuming enterprise, members of Congress would live together in Washington through much of the year, weekends included, with their primary trips home during the heat of summer or after adjournment in the fall. They socialized with one another, and they frequently found persons in the other party whom they liked better than some of their own. But once jet planes made it possible for legislators to return to their states or districts for a short weekend, this became the natural way for them to consolidate political support, and it became the expectation of their constituents. So the norm in the House now is for real business to be conducted from Tuesday through Thursday. A member’s Washington life has become a frenetic stopover, a rush from meeting to meeting with no time for rest and little time for cultivating personal relationships with colleagues.

These forces have affected both legislative chambers, but particularly the House of Representatives. House members’ short, two-year terms reinforce their perceived need for constant contact with district voters. And by definition, theirs is the body that is subject to redistricting; Senators represent entire states. Finally, procedures in the House make it relatively easy for a cohesive majority to dominate, while the Senate’s norm of unlimited debate forces cooperation among members—unanimous consent agreements, avoidance of filibusters (or overriding them by super-majorities)—if it is to legislate at all.

Binder has documented how polarization leads to “stalemate”—it has become harder and harder to enact legislation. She quotes Representative Barney Frank (D-MA) in 1999, in the wake of the Clinton impeachment battle: “Right now, the differences between the two parties are so great, it doesn’t make sense for us to compromise. We’ll show where we stand, and let the people decide.”¹⁶ This gridlock runs directly counter to the “responsible party” model, long in favor among political scientists, which argued that ideologically homogeneous parties would lead to more effective governance. (Scholars should be careful what they wish for.)

Within the House, partisan polarization has had a major impact on how business is conducted. Through most of the post-World War II period, committees dominated the process of developing and enacting legislation. They were run by the majority party, but they reached out for bipartisan majorities to improve the prospects for final passage. But as parties became

15. Neustadt, “The Politics of Mistrust,” in Nye et al., *Why People Don’t Trust Government*, 185, 187. On trade, the most visible manifestation has been the antiglobalist coalition under the Public Citizen umbrella, discussed at greater length in chapter 10.

16. See Binder, *Stalemate: Causes and Consequences of Legislative Gridlock*, 25.

more ideological, the pattern changed. Congressional party caucuses got more and more into the business of shaping legislation themselves.

As with many congressional trends, this began with the Democrats, whose caucus—in the 1970s and 1980s—came to take substantive positions and instruct committee leaders to adopt them. Committees retained substantial impact and often autonomy, but caucus influence was buttressed by members' readiness to evict committee chairs who were particularly unresponsive, and to select new chairs using criteria other than seniority. When Republicans under Representative Newt Gingrich (R-GA) swept to power in the 1994 mid-term election, this trend was accentuated. Party chairs were in fact selected by the new speaker, and the primary agenda—the "Contract with America"—was the party's 1994 campaign manifesto. And while the extreme centralization of 1995 could not be maintained indefinitely, a new power relationship was consolidated. On important issues, committee chairs served the party leadership rather than the other way around. Moreover, under the new rules imposed by the Gingrich revolution, committee chairs were now limited to three two-year terms, or six years in all.

This was bound to cause problems for trade policy, which was—as illustrated in prior chapters—particularly dependent on strong, broad-based, bipartisan support in Senate Finance and House Ways and Means. Bills authorizing and implementing major trade agreements had been worked out in subcommittee and full committee markups (or "non-markups"). Lopsided, bipartisan committee votes in favor paved the way for lesser, but solid, majorities in their parent chambers. And their strong role made these committees effective partners and interlocutors for successive US Trade Representatives.

Decline of House Bipartisanship on Trade

Cross-party, committee-based trade policy collaboration remained the congressional norm well after it was fading in other policy spheres. House Democrats did see partisan opportunity on the issue in 1987–88, of course, but the important provisions of the 1988 Trade Act were more the product of Chairman Dan Rostenkowski's (D-IL) bipartisan Ways and Means process, and that of his counterpart, Lloyd Bentsen (D-TX) in the Senate, than of Speaker Jim Wright's party-based initiatives. The battle over the North American Free Trade Agreement (NAFTA) was won through close collaboration between the Clinton White House and congressional leaders of both parties, with Republican Whip Gingrich and former senior Ways and Means member Bill Frenzel (R-MN) playing important roles. And after bipartisan "nonmarkup" drafting sessions in both chambers, the Uruguay Round/WTO legislation won 2-1 Republican *and* Democratic approval in the House, and 3-1 margins of each party in the Senate.

This is not to say that committee Democrats did not sometimes act in a partisan manner. Al Ullman of Oregon, who chaired Ways and Means from 1975 through 1980, sometimes had legislation shaped at Democrats-only meetings (responding to pressure from the Democratic caucus that had unseated his predecessor). His successor Rostenkowski “was by instinct and by practice a believer in bipartisan accommodation,” but despite his personal strength he could not always operate in this manner.¹⁷ When his indictment on corruption charges forced him to resign in early 1994, his successor reportedly went around the committee process in the drafting of certain antidumping language for the Uruguay Round bill, apparently with Clinton administration encouragement.

Trade bipartisanship broke down further, however, with the Republican takeover of Congress in 1995 and the concurrent rise of social issues on the trade agenda. Ways and Means Committee Republicans led by Chairman Bill Archer (R-TX) put together their own fast-track renewal proposal that year, though they were unable to win Clinton administration support. The bill was developed and voted out of committee along partisan lines, mainly because it excluded most labor and environmental concerns. The proposal died when Senate Majority Leader Robert Dole (R-KS) declared that “it would be a mistake to extend new fast-track authority at this time.”¹⁸

Archer renewed his fast-track efforts in early 1997, and Clinton followed with the administration proposal in September. This time, as set forth at length in chapter 10, it was Clinton and the Republican leadership aligned against more than three-quarters of House Democrats—in part because the Republicans still insisted on restrictive labor-environment provisions. But after failure that fall, Gingrich resurrected the issue over White House objections in September 1998 with a clearly partisan purpose: he did not expect to pass the bill but wanted to squeeze House Democrats caught between labor and business constituents. This provoked enormous resentment among longtime protrade Democrats like Matsui, and drove the number of Democratic “yeas” down to 29 out of 200.¹⁹

Bipartisanship made a modest comeback in 2000 in the struggle over granting normal trade status to the People’s Republic of China upon its entry into the World Trade Organization. This was Clinton’s last major trade priority. It had enormous business support and won by a relatively comfortable margin of 237–197, with 73 Democrats in support, as earlier

17. Nelson W. Polsby, *How Congress Evolves: Social Bases of Institutional Change* (Oxford, UK: Oxford University Press, 2004), 116 and passim.

18. Statement on the Senate floor, 4 November 1995. For a fuller description of this initiative and the response of USTR Mickey Kantor, see I. M. Destler, *Renewing Fast-Track Legislation, POLICY ANALYSES IN INTERNATIONAL ECONOMICS* 50 (Washington, DC: Institute for International Economics, September 1997), 20–22.

19. Seventy-one Republicans also voted “nay,” and the bill lost by 243–180.

noted.²⁰ Cooperation across party lines was also central to the enactment of trade preferences for African and Caribbean nations that year. And in June 2000, extreme trade *protectionism* showed bipartisan coloration when the House cast an obligatory vote on a resolution to withdraw from the WTO. Of the 56 members who voted to abandon the global trade organization, just 21 were Democrats and 33 were Republicans. (Two were independents.)

There are enduring factors in the structure of American business and politics, moreover, that limit party polarization on trade issues per se. While labor and business have pulled majorities of Democrats and Republicans, respectively, to opposite sides of the issue, and the emergence of trade-related labor and environmental issues has furthered this trend, subgroups within both parties have limited polarization. “New Democrats” in the Clinton-Gore mode continue to support trade expansion. And anti-internationalist “conservatives” have opposed it.²¹ From 1994 through mid-2001, more than 50 Republicans voted “nay” on every major piece of trade legislation.²²

The structure of contemporary American industry also seems to militate against full-blown party polarization on trade, in contrast to the situation in the early 20th century. According to research by Michael J. Hiscox, the fact that US labor is not currently mobile across manufacturing industries militates against the development of class-based trade politics.²³ Instead, trade policy divisions tend to pit industry against industry, and region against region.

20. As detailed in chapter 10, senior Ways and Means Democrat Levin brought some of them on board with a measure, cosponsored by Douglas Bereuter (R-NE), establishing a congressional commission to monitor Chinese performance on human rights.

21. After controlling for other variables, Robert E. Baldwin and Christopher S. Magee found that a higher rating given to a legislator by the American Conservative Union was associated with a greater likelihood of voting *against* NAFTA or the GATT-Uruguay Round Agreement. See Baldwin and Magee, *Congressional Trade Votes: From NAFTA Approval to Fast-Track Defeat*, POLICY ANALYSES IN INTERNATIONAL ECONOMICS 59 (Washington, DC: Institute for International Economics, February 2000), 30.

22. Fifty-six opposed the Uruguay Round in 1994; 71 voted against the fast-track bill pushed by Gingrich in 1998; and 57 stood against permanent normal trade relations with China in 2000. When the delay on China's WTO entry required President Bush to request one more temporary extension of normal trade relations in 2001, 62 Republicans voted “nay.”

23. Michael J. Hiscox, *International Trade and Political Conflict: Commerce, Coalitions, and Mobility* (Princeton, NJ: Princeton University Press, 2002). Hiscox is joining the debate between trade policymaking scholars who stress industry groupings (e.g., Peter Gourevitch and, to some degree, this author) and those who emphasize class coalitions (e.g., Ronald Rogowski). His basic conclusion: “Concentrating on industry groups will yield more inferential power to a study of trade politics when levels of interindustry factor mobility are relatively low . . . for instance . . . in the United States and Britain since the 1960s” (162). And it is class-based trade politics that is associated with sharp ideological divisions between political parties.

Finally, there is no deep divergence of opinion on trade policy between rank-and-file members of the two political parties. A 2004 survey by the Program on International Policy Attitudes (PIPA) found that Republicans are more likely to be positive about international trade (46 percent of them versus 30 percent of Democrats), but Democrats are more likely to be positive about globalization (44 versus 40 percent). More Democrats believe that US trade policy gives too little consideration to the concerns of “working Americans” (83 versus 68 percent), but more also believe that the United States should comply with WTO decisions if “it rules against the US” (74 versus 60 percent). More Democrats also support specific free trade agreements, existing and potential.²⁴

Hence, based on historical trade policy experience and the structure of interests and public opinion, one might have expected a continuation of the bipartisan tradition, albeit with substantially more Republicans than Democrats voting “aye.” But the broader House trends, exacerbated by personalities, led to trade policy polarization in the House in the new century to an extent not seen since the 1930s.

The House Bill in 2001: Partisan Contention

With his six-year term as Ways and Means chairman expiring, Bill Archer retired at the end of 2000. Vying to succeed him were Trade Subcommittee Chairman Phil Crane (R-IL) and his somewhat younger, more junior colleague, Bill Thomas (R-CA). Crane was the better liked; Thomas was smarter and tougher. The Republican caucus chose the Californian. A former colleague and mentor who supported Thomas characterized him as very smart, policy-oriented, and purposive, but possessing “no interpersonal skills.” Before the trade bill was enacted, the new chairman would vindicate all of these characterizations. He established himself as the strongest and most effective Ways and Means leader since Dan Rostenkowski. He also engendered greater suspicion and hostility than any of his predecessors in memory.

Taxes were the administration’s number one priority that year, and the Bush tax cut proposal topped Thomas’ list as well. But trade was not far behind. President Bush had signaled his interest in fast-track renewal in early January. His USTR, Robert Zoellick, was confirmed in early February. Zoellick made fast track (renamed “trade promotion authority,” or TPA) a top priority, pressing for movement within the administration and

24. Additional questions asked if NAFTA has been “good for the United States” (52 percent of Democrats, 41 percent of Republicans); and if respondents “favor CAFTA” (53 versus 48) and “favor an FTAA” (60 versus 49). Data from Kull et al., *Americans on Globalization, Trade, and Farm Subsidies*. The party breakdowns, provided to the author by PIPA, are not in the published report.

floating the idea of a comprehensive trade bill, combining this with other, unfinished trade business, such as the recently completed FTA with Jordan and a trade agreement with Vietnam. House Democrats objected, as did some senior administration officials, and so Zoellick took a step back, awaiting congressional initiatives. House Democrats met through the spring to develop their approach. In June, Crane introduced a fast-track bill, with 62 largely Republican cosponsors, that took a hard line against labor and environmental standards.²⁵

Zoellick did not endorse the Crane bill, declaring merely that “the formal legislative process has begun.” Thomas was similarly cautious. Conservative but pragmatic, the Californian recognized that he would need Democratic support, and that this would require some flexibility on the social issues. So he embarked on negotiations with colleagues across the aisle in the summer. By late September, he released a summary of a “Bipartisan Compromise” that his committee would later report to the full House. Unlike the 1997 bill, it included “labor and the environment” among the principal negotiating objectives, and agreements reached pursuant to these objectives could clearly be part of a fast-track bill. Like the 1997 bill, it provided the president a broad but time-limited grant of authority.

Substantively, it was a real effort at compromise, representing one plausible middle ground. Conservatives had wanted to exclude these issues from the agenda. Supporters of organized labor had wanted to require their inclusion in any agreement. Making them full-fledged goals with flexibility in their pursuit gave something to each side. It was, in essence, the “no mandates/no new restrictions” formula advanced in vain by the Democratic Leadership Council in 1997.²⁶ The administration was not directly involved in the drafting, and held off any explicit endorsement. But Zoellick and Secretary of Commerce Don Evans released a positive statement: “This bill should allow the Congress to move forward quickly in a cooperative fashion to grant the President vitally needed trade negotiating authority.”²⁷

But the Democrats dealing with Thomas across the table were not Rangel and Levin, his senior Ways and Means counterparts. Rather, they were three more junior Democrats: William Jefferson (D-LA), John Tanner (D-TN), and their leader Cal Dooley (D-CA), author of the “Dooley principles” providing for parallel treatment of labor and environmental issues. All three were serious and committed protrade legislators, and Dooley—whose district bordered on that of the chairman—had taken the initiative in organizing the group and initiating dialogue. But the other two were junior Ways and Means members, and Dooley was not on the committee

25. Appendix A provides a more detailed account of the House process in 2001.

26. Testimony of Edith Wilson to the House Ways and Means Committee, 30 September 1997.

27. Statement of 3 October 2001, quoted in *Inside US Trade*, 5 October 2001.

at all. None of them could be expected to exert strong sway over their colleagues, either through position or informal influence.

Not surprisingly, the process infuriated the senior Ways and Means Democrats. A day after Thomas put out his summary, Rangel, Levin, and Matsui (numbers 1, 4, and 3 among Democrats, respectively, in Committee seniority) dispatched a “Dear Democratic Colleague” letter with the heading, “Thomas’ ‘Bipartisan Compromise’ Is Neither.” Declaring that “the Democratic leadership on the Committee has not been consulted in the development of Chairman Thomas’ proposal,” they expressed “significant concerns with the so-called compromise in three key areas”: labor standards, environmental protection, and the role of Congress. Their specific criticisms in the letter were modest, however—for example, they stressed the need for “steps to reconcile Multilateral Environmental Agreements with trade agreements.” And they urged colleagues to defer judgment until they could present their own proposal, which “holds the prospect for broad and true bipartisan support.”²⁸

Why then had Thomas gone around them? It was not because they were unwilling to talk. Rather, the chairman had apparently reached a conclusion, based on his reading of their policy statements, that no acceptable TPA deal could be struck with them. Since he believed negotiations would not be fruitful, he didn’t try. During the Thomas-Dooley talks, when Levin reportedly raised the matter informally with Thomas with an eye to initiating a serious dialogue, the chair replied—no more than half in jest—“I consider you part of the enemy on this issue.”

Was he right? The evidence is not all on one side.²⁹ What is clear is that serious negotiations within the committee between senior Ways and Means Republicans and Democrats never took place. On 3 October, Thomas and Dooley introduced HR 3005, their “Bipartisan Trade Promotion Act of 2001.” On 4 October, the Democrats countered with HR 3019, the “Comprehensive Trade Promotion Act of 2001.” Thomas had set his course and was determined to stick to it. The Democrats were responding in kind.

The partisan divide within Ways and Means was exacerbated by incompatibilities of style and personality. Conflict from other committee issues—taxes, social security—had spilled over to trade. Thomas and Rangel did not get on well, and their operating styles diverged markedly. Rangel believed in working an issue personally, feeling colleagues out,

28. Letter from Rangel, Levin, and Matsui to Democratic colleagues, 26 September 2001.

29. Appendix A probes this question in detail. If one judges by the contents of the Democrats’ September letter, a deal was within reach—Thomas could easily have addressed most of the specifics therein, and it is hard to understand why he didn’t try (if only for tactical reasons). If the standard is the bill (HR 3019) that the Democrats submitted a week later, compromise looks much harder, for that bill was both highly detailed in its negotiating objectives and required a level of success in meeting them that would have been difficult to achieve.

using committee procedures to move toward compromise if one were available, but keeping somewhat elusive on substance in the meantime. Thomas placed little if any value on formal procedures and was often contemptuous of “process” concerns. He was impatient to get to the substantive bottom line.

A graphic illustration of the personality-process gap came at a full committee markup on 5 October, at which Thomas had previously signaled (and committee members expected) that he would push his bill to a final vote with as little debate as possible. To everyone’s surprise, he began the discussion by announcing that that issue would be postponed until the next week to allow members to compare his bill with the just introduced Democratic alternative. Rangel treated this as a concession with some promise of substantive flexibility, and said with gracious hyperbole that he was gratified to “have been relieved from having to read a very painful statement that . . . I have worked all night on.”³⁰ But rather than responding in kind and taking credit for what seemed a conciliatory gesture, Thomas put down Rangel by saying that all he heard were complaints about “process, process.” It was the substance that mattered.

And though the majority and minority staffs did meet over the weekend, they got nowhere. Neither side seemed willing to take a serious step toward the other. So when Ways and Means members reconvened on 9 October, the committee, led by Thomas, rejected the Democratic alternative by 26 to 12 and approved the Thomas bill by 26 to 13, a vote more partisan than the numbers make it seem (24 Republicans and just two Democrats, cosponsors Jefferson and Tanner, voted in favor). So, contrary to the standard practice in the postwar period, a major trade bill was not worked out substantially within the regular Ways and Means Committee process, with bipartisan participation. Instead, it was developed outside, brought formally to a full committee “markup,” and passed there, essentially without change, and essentially along partisan lines.

Thomas’ approach seemed extraordinarily risky in terms of his presumed goal of crafting a bill that the House would pass. The Republicans had just a 12-vote majority. And as noted earlier, no fewer than 50 Republicans had opposed every major trade bill since NAFTA. A Republican president would bring some of them along, and the post-9/11 environment would prove helpful as well. But until the afternoon of the vote, the Bush White House doubted that the Thomas bill could pass: in fact, at noon that day it urged the House leadership to pull the bill from the floor to avoid defeat.

So there were intermittent efforts toward compromise after the bill was reported. The most important began when President Bush met with Rangel on 1 November and seemed to endorse the idea of compromise

30. Statement of Charles B. Rangel, 5 October 2001, released by his office.

negotiations to bring more Democrats on board. Subsequent conversations involving Speaker Dennis Hastert and middle-ranking Committee Republican Rob Portman (R-OH)³¹ led to the drafting of a one-page summary of the concerns of Rangel and his colleagues, which the senior Democrat sent to Hastert a week later. But neither Hastert nor Thomas responded. Rangel had been calling for “negotiation to see whether we can find some common ground that would allow Fast Track to pass the House with . . . broad, bipartisan support.”³² But notwithstanding Bush’s encouragement, no such negotiation took place.

This rebuff could only deepen partisan rancor. The nonresponse gave wavering Democrats every excuse to oppose the bill, and vote counts had supporters from that party down in the 10 to 15 range until shortly before the actual tally. This placed an extraordinary burden on Republicans—it would be necessary for them to reduce their “nay” votes to around 20. This meant winning over members who had never voted for trade liberalization in their lives.³³ The White House put on a squeeze—so, even more, did Majority Whip Tom (“The Hammer”) DeLay (R-TX). And because every conceivable vote was needed, the power of protectionist interests was inflated, since members responsive to those interests were in a position to put the bill over the top or sink it.

The situation also brought partisan motivations to the fore on both sides. DeLay was widely believed to like the idea of winning mainly with Republicans—he could then play hardball with business contributors, pointing out it was his party that delivered for them and they should allocate their political money accordingly. Democratic Whip Nancy Pelosi (D-CA), a backer of NAFTA and the Uruguay Round/WTO, reportedly urged on-the-fence party colleagues to vote no because each additional Democratic vote in the negative would require DeLay to put one more protectionist Republican at risk in his or her constituency.

In the end, Republicans won through a combination of procedural control and substantive concessions. They had already mollified Republican members of the House steel caucus by initiating a Section 201 case that would lead to temporary tariff protection for that industry. A farm bill increasing subsidies had passed the House in October, and administration friendliness toward this legislation also helped win TPA votes. Finally, it was an increase in textile protection that put the bill over the top.

31. Portman, a friend of the president, would become USTR in the second George W. Bush administration.

32. Statement of Charles B. Rangel, 9 October 2001, released by his office.

33. That fall, the author compiled a list of 20 hard-core, antitrade House Republicans who had voted to withdraw from the WTO in 2000 and against every important liberalizing initiative. The list did not include any freshmen, for whom little evidence was available. In the end, 11 of the 20 hard-core antitrade Republicans voted in favor of the bill. Two others managed to be among the five House members who did not cast ballots at all.

As time ran out, the nays outnumbered the ayes, but the vote was held open for about 20 additional minutes (a procedure made famous on the Medicare reform bill two years later) while Republican members were importuned to reverse themselves. In the end, a textile caucus member, Representative Jim DeMint (R-SC), “changed his vote from ‘nay’ to ‘aye,’” as stated in *The Congressional Record*.³⁴ He did so in return for a promise of legislation to further restrict apparel eligible for favorable import treatment under the US trade agreement with Caribbean and Andean nations.³⁵ A second or so after his switch, the chair’s gavel came down declaring the vote closed. The ayes had it, 215 to 214. Just 21 Democrats supported it; only 23 Republicans voted in the negative. The “Bipartisan Trade Promotion Authority Act” now moved to the Senate.³⁶

Bipartisan Compromise in the Senate

In the senior chamber, cross-party relationships were better, particularly in the Committee on Finance. Senator Charles Grassley (R-IA) began the year as chair, yielding to Max Baucus (D-MT) after Jim Jeffords left the Republican camp in June and gave Democrats razor-thin control. Both Grassley and Baucus had something to prove, as neither was felt to measure up to the standard of prior chairs such as Lloyd Bentsen (D-TX), Bob Dole (R-KS), Bob Packwood (R-OR), or Pat Moynihan (D-NY). Baucus had long given priority to trade policy, but his record was mixed—he had voted against the Uruguay Round/WTO agreement, for example, for second-order constituency reasons. Moreover, with the Senate divided 50-49-1 and 60 votes needed to break a filibuster, a trade bill could pass only with significant support in both parties.

So Baucus and Grassley walked compatible paths. They looked for a workable compromise package, including on labor-environment issues, and found one that did not diverge sharply from the Thomas bill. Their committee reported out legislation on 12 December 2001, just six days after the House vote. And the 18-3 vote in favor was as bipartisan as its House counterpart’s was not.

34. *Congressional Record*, 6 December 2001, H 9044. Representative Robin Hayes (R-NC), who some accounts credit with the final deciding vote, was rewarded with an immediate presidential statement endorsing his stand—and certain textile industry trade objectives.

35. Under the so-called “triple transformation test,” apparel could enter the US market duty free only if the fiber, cloth, and clothing were all produced within the region covered by the agreement. The administration promised, in a letter signed by President Bush, to add the requirement that the cloth be dyed within the United States. Thomas strongly opposed this concession (as did Rangel).

36. The day after the vote, C. Fred Bergsten, director of the Institute for International Economics, asked this author to lead an IIE staff discussion. He opened by saying, “Mac, you’ve been telling us they couldn’t win this way, now tell us how they did!” The reply: “They wanted to get fast track in the worst possible way, and they did it.”

The full Senate did not take up the bill until 1 May 2002, however. The reason was the Democrats' determination to include in the bill a major expansion and reform of trade adjustment assistance (TAA). The House had passed a separate bill extending that assistance, but the issue had not been prominent in the TPA debate, in large part because House Democrats did not give it priority. Baucus, however, decided that major TAA reform was substantively desirable and a means to legitimize his support of the overall TPA measure. (He had alienated some of his party colleagues by supporting the Bush tax cut of 2001.) And before 2001 was out, Majority Leader Daschle (D-SD) had determined that TAA reform was the principal way to put his party's stamp on the legislation.

Republicans did not generally oppose trade adjustment assistance, but one element of the proposed reform did engender ideological conflict—the provision of health care benefits for trade-displaced workers. This moved the debate to a terrain characterized by strong partisan conflict, since Newt Gingrich targeted Clinton health care reform in 1993–94. The idea here was limited to workers laid off on account of trade, but liberals welcomed it as a foot in the door for a broader benefit, and conservatives feared it for the same reason. Senator Phil Gramm (R-TX) was particularly adamant in his opposition, saying he preferred no TPA at all to inclusion of the health benefit.

Once it was clear that Senate passage would not come without it, the issue was what percent of health care costs to cover (the Democrats' bottom line was any two-digit percentage beginning with a seven). The main negotiations were between Senate Democrats and the Bush administration, and they dragged on. But the TAA–health care deal was finally struck, as part of a broad expansion of the program that also

- broadened coverage to “secondary workers” (producers of inputs to trade-impacted final goods) and to certain workers who lost their jobs due to relocation of plants overseas;
- established a new, alternative program of “wage insurance” for trade-displaced workers taking lower-paying jobs;
- doubled the funds authorized for worker retraining;
- extended the maximum time period for assistance under the program; and
- increased support for job search and relocation.³⁷

37. Lori G. Kletzer and Howard Rosen, “Easing the Adjustment Burden on US Workers,” in C. Fred Bergsten and the Institute for International Economics, *The United States and the World Economy* (Washington, DC: Institute for International Economics, 2005), chapter 10. As noted earlier, Rosen played a key role in developing the legislation to expand trade adjustment assistance.

Regarding trade promotion authority, the provisions in the Senate bill were similar to what had passed the House and to the 1988 law: the negotiating authority ran until 2005, with an expedited procedure available for extending it two more years. But Senators Mark Dayton (D-MN) and Larry Craig (R-ID) raised another issue—the sanctity (in their eyes) of US antidumping laws. Despite considerable congressional opposition, Zoellick had agreed to the inclusion of antidumping laws in the Doha Development Agenda, using as his domestic rationale the need to attack unfairness in other nations' trade remedy laws. But there was broad congressional opposition to the United States making any changes in *its* laws (Baucus was among the hardliners on this point), and the Dayton-Craig amendment sought to block such changes through a procedural device—any agreement on these laws requiring US action would have to be implemented with a separate vote, in a separate bill. Zoellick and Commerce Secretary Evans declared that this would in fact torpedo the negotiations, but a proposal to table Dayton-Craig failed by 61-38. It was then approved by voice vote (administration supporters not wishing to lock it in further with an on-the-record tally). Thereafter, just before the Memorial Day recess, the full Senate approved the omnibus bill on a 66-30 vote. Bipartisanship prevailed, as did the Senate's general tendency to be more supportive of trade-liberalizing legislation. The bill would now go to conference.

But not for a while. In substance, the outlines of the deal seemed obvious. The Senate would yield on (or soften) Dayton-Craig—the administration had declared this unacceptable, and Daschle had already signaled his readiness to compromise. The House would buy into expanded TAA. This is in fact what occurred, but not before a bizarre endgame that served as a poster child for interparty and interchamber distrust.

First, the Senate delayed appointment of conferees and proposed working out matters informally (one reason being to limit the role of senior Republican Gramm). The House, and Thomas in particular, saw this as an attempt to limit its bargaining power. Then, after the Memorial Day recess, Thomas began to move toward conference on his own terms, through an extraordinary process the logic of which few of his colleagues understood: the drafting and enactment of a new House bill. The House, unlike the Senate, had passed not one but several trade measures. And the Ways and Means chairman believed that this put the House at a technical disadvantage. So he took the extraordinary step of attaching to the motion to appoint conferees a new, comprehensive 300-page bill that few if any of his colleagues had read or understood. This looked to many (not just Democrats) like an arbitrary move to impose his will on the conference. It drove even more Democrats into opposition, and delayed matters further as Republicans scurried for yet more votes from their ranks. Finally, five weeks after the Senate vote, the House rule to *start* the conference passed on 26 June by a 216-215 vote. Just 11 Democrats voted "aye"; just 14 Republicans voted "nay."

Then, before and after the July 4th recess, Senators battled over how many conferees to appoint, with Democrats pressing for a small number in order to exclude Gramm from the proceedings. The Democrats won that fight. It was followed by a week-long spat between Baucus and Thomas over whose turn it was to chair the conference—Thomas won this one. Finally, the conference met for the first time on 23 July, a full two months after the Senate vote, and just three days before the House was scheduled to go out for its August recess.

It was widely believed that enacting the trade bill would become harder the closer members came to the November mid-term election, so final action before the August recess seemed critical. In this context, the two months of procedural squabbling among the bill's supporters were weird indeed, especially given the basic compatibility of the two chambers' substantive enactments. But once the conferees got together they resolved matters in, literally, days. Thomas made a comprehensive, constructive compromise offer on 24 July; with this as a basis, agreement was reached on 25 July; the bill went to the House floor on 26 July; and it passed at 3:30 in the morning on 27 July by a relatively comfortable margin (for this bill) of 215-212. The trade adjustment assistance provisions brought the number of House Democrats voting in favor to 25, leaving room for 27 Republicans to vote no. The Senate followed on 1 August by 64-34. President Bush and USTR Zoellick had their negotiating authority, without major prohibitions or limitations. Trade-displaced workers had a program more commensurate with the scope of their needs.

Zoellick and “Competitive Liberalization”

USTR Robert Zoellick played a lesser role in lobbying for the bill than most of his predecessors would have. Congressional relations were not his forte; his capacity to reach out to Democrats was limited by the ferociously partisan House climate; and he sometimes acted to make things worse, as when he failed in December 2001 to respond to the Senate Finance Committee's request that he appear to explain concessions made a month earlier putting US antidumping laws on the international bargaining table.³⁸ However, he was more than holding his own on the

38. Zoellick was caught on this issue between the international demand to negotiate on these issues and widespread congressional opposition to “weakening” US trade remedy laws. He responded by emphasizing the need to combat arbitrary *foreign* procedures in this sphere, and two days before the Doha meeting began the House passed, by 410-4, a “sense of Congress” resolution aiming to “preserve the ability of the US to enforce its trade laws and . . . ensure that US exports are not subject to the abusive use of trade laws in other countries.” Thus Zoellick gained formal cover for the deal he struck. But Finance Committee members were upset, particularly Baucus and Senator Jay Rockefeller (D-WV). The USTR's refusal to appear before them to explain (and absorb their flak) did nothing to improve matters.

international bargaining side. He was effective at Doha on both substance and tactics—making the US concession on trade remedy laws early, then joining with developing nations to strengthen the language on agriculture in the face of European Union resistance. This achievement gave the Bush TPA something Clinton’s fast track had lacked—a prominent global negotiation for which the authority was needed. And just as the TPA bill conference was completing its work, Zoellick released—jointly with Secretary of Agriculture Ann M. Veneman—a comprehensive US proposal to slash farm subsidies and trade barriers (in exchange for parallel concessions by other leading agricultural nations). Thus he sought to offset the negative international message sent by the recently enacted 2002 farm bill that increased such subsidies. And with the timing of the release, he could claim to foreign trading partners that the proposal had congressional support, since it was public before the final TPA votes.

Zoellick’s main immediate use of trade promotion authority, however, was for a series of bilateral and regional free trade agreements. His predecessors had also pursued such deals, beginning with the Israel and Canada FTAs of the 1980s—both for their own sake, and to generate pressure for concessions on global talks by signaling that the United States had an alternative route if global talks failed. The final Uruguay Round/WTO compromise of December 1993, in fact, owed something to House passage of NAFTA in November, followed quickly by Clinton’s hosting the first summit meeting of leaders of the Asia Pacific Economic Cooperation (APEC) forum.

Bush’s USTR expanded on this record, explicitly including political-strategic criteria in the choice of partner nations. The US-Jordan FTA, completed under Clinton, was approved before TPA’s enactment, but two deals initiated by Clinton—with Singapore and Chile—were completed in early 2003 and brought up under the new authority. (Chile had been promised such a deal since the Miami Summit of 1994, but the lapse of fast track delayed the initiation of talks.) FTAs with Australia and Morocco were completed thereafter—and approved by Congress in July 2004. A Central American Free Trade Agreement (CAFTA) was completed in late 2003, and the Dominican Republic was added in 2004 (making it “CAFTA-DR.”) Talks were also initiated or ongoing with a range of others, including Bahrain, the countries of southern Africa, Thailand, Panama, and the Andean countries of Columbia, Peru, Ecuador, and Bolivia. Finally, the Bush administration declared a long-term goal of creating a Middle East Free Trade Area (MEFTA).

Zoellick enveloped these initiatives in a broader strategy. By combining global, regional, and bilateral negotiations, he said, “the United States is creating a competition in liberalization, placing America at the heart of a network of initiatives to open markets.” We would “proceed with countries that are ready” to open their markets, and success would create

pressure on others.”³⁹ Moreover, most FTAs were relatively popular with Congress, and hence useful for salving the wounds of the partisan TPA battle. Finally—though the USTR could not say this—his success in concluding free trade agreements buttressed his standing within the Bush administration. He was not close to the president; whatever credibility he achieved, therefore, had to come from visible results. With hemispheric talks flagging on the proposed Free Trade Area of the Americas (FTAA), and with the Doha Round proceeding by fits and starts, bilateral deals kept his trade vessel afloat.

Zoellick had long seen such agreements as having geopolitical as well as trade significance. And this view clearly found resonance in the Bush White House. New Zealand was excluded because of its long-standing refusal to welcome US vessels that might be carrying nuclear weapons. And the signing of the final agreement with Chile was delayed because that nation (unfortunate enough to be a member of the UN Security Council in early 2003) had failed to give clear support to a US-British resolution authorizing war with Iraq.⁴⁰

Members of Congress did not warm to such punishment of Chile. They were, moreover, concerned that geopolitical goals led to a choice of free trade agreement partners of limited economic interest to the United States. And when they sought to generate pressure on potential partners, it was more likely to be because of their trade policy behavior. For example, Senator Grassley, once again chair of Senate Finance following the 2002 election, was outspoken in his criticism of Costa Rica and Guatemala for joining with the “Group of 21” nations that resisted the US-European agricultural proposal at the September 2003 WTO Ministerial Conference in Cancún, Mexico. Grassley argued that the United States should exclude the two nations from any Central American free trade agreement unless they “back out of their support” of the G-21 (they promptly declared that they did not see the G-21 as a unit with existence beyond the Cancún meeting).⁴¹

There was some skepticism about whether free trade agreements provided leverage for broader negotiations. Deals with Latin American nations might conceivably exert some leverage on Brazil, whose disagreements with the United States were the primary obstacle to progress on the FTAA. But it was implausible that CAFTA, for example, could generate

39. Address by Zoellick in Phoenix, Arizona, 30 April 2002, *Remarks by Ambassador Robert B. Zoellick* (Office of the US Trade Representative, 2002), 81.

40. In the end, the main damage Chile suffered was that, unlike Singapore, its leader was denied the photo opportunity of a White House signing ceremony. The Chile agreement won approval on 24 July 2003 by a vote of 270–156, virtually identical to the 272–155 margin the Singapore deal had garnered earlier in the day.

41. Grassley quoted in *Inside US Trade*, 19 September 2003, 1.

the pressure for liberalization in the 2000s that NAFTA and APEC had exerted on the European Union at the close of the Uruguay Round in 1993.⁴² And while the domestic politics might be smooth with countries with which US trade was modest (Chile) or noncontroversial (Singapore), it was another matter for deals involving countries whose labor practices touched hot buttons in American trade politics. Hence CAFTA, completed before the Australia or Morocco deals, was not brought to Congress in the election year of 2004.

And the process of reviewing the easier deals was not entirely smooth. Thomas managed in the run-up to the votes on Singapore and Chile to rub salt in Democrats' wounds by indicating that he was planning to abandon the well-established, bipartisan "nonmarkup" process by which the Ways and Means Committee had reviewed draft implementing legislation for trade agreements to be considered under fast-track procedures.⁴³ Instead, *Inside US Trade* reported that the Ways and Means "majority" was "leaning toward . . . informal consultation with the Bush Administration, which would curtail the role of Democrats in shaping the implementing bill."⁴⁴

Committee Democrats responded with a letter signed by all 17 minority members, including the two who had negotiated with Thomas in 2001. Without commenting directly on the report of Thomas' plans, they expressed "our hope that the Ways and Means Committee" would hold "an informal markup—sometimes called a 'nonmarkup' of the draft legislation," as Senate Finance had decided to do. "The informal markup reflects a broadly agreed-upon and well-established practice," they declared.

42. For a comprehensive review of the pros and cons, see Jeffrey J. Schott, ed., *Free Trade Agreements: US Strategies and Priorities* (Washington, DC: Institute for International Economics, 2004).

43. For the origin of this process and its employment in 1979 and 1988, see chapter 4. For its employment on NAFTA and Uruguay Round/WTO, see chapter 8. See also I. M. Destler, *Renewing Fast-Track Legislation*, POLICY ANALYSES IN INTERNATIONAL ECONOMICS 50 (Washington, DC: Institute for International Economics, September 1997), 9–13.

44. *Inside US Trade*, 13 June 2003, 23. As reported by veteran trade watcher Chris Nelson, 2003 had begun on a happier note when, at a 26 February session, Zoellick "was the soul of tact and discretion, frequently praising Rangel, Levin and other Democrats for various good deeds on behalf of free trade. Rangel responded in kind, and in classic form, at one point saying, 'If I'm elected President, I'll have you as my USTR!' to which Zoellick smoothly replied, 'If you are ever elected president, Mr. Rangel, I'll be pleased to serve with you!' Thomas also was on good behavior, clear from the outset, when he allowed Levin to read a long statement into the Record which amounted to a bill of particulars against Zoellick/Bush trade policy." Nelson described this as "in contrast to the bitter, partisan Thomas/Zoellick tactics of previous years." Now "from Chairman Bill Thomas and Ranking Democrat Charlie Rangel, to Zoellick himself, swords were sheathed, and barbs more humorous than pointed." (*The Nelson Report* 2/26: *Big Bush Iraq Speech; Zoellick/Trade*, distributed via e-mail.)

“Failure to proceed in this manner will only fuel suspicion about provisions in the legislation.”⁴⁵

In response to this protest, and to parallel concerns expressed by business representatives, Thomas changed his plans and agreed to hold non-markups. Thus the form of the traditional review process under fast track was preserved (although not entirely the practice, as Thomas “strongly discouraged” presentation of draft amendments, according to a Democratic aide).⁴⁶ The full committee voted the FTAs out overwhelmingly: 32–5 for Singapore and 33–5 for Chile. They passed with 75 Democratic “ayes” each—including Rangel, Levin, Matsui, and Pelosi (now elevated to the post of minority leader).

But 2003 also saw the perfecting of the DeLay process of one-vote House victories built almost entirely with Republican support. Increasingly, the time limit for members to vote would be ignored, until, under the aegis of Speaker Dennis Hastert, a House “vote stayed open . . . for two hours and 51 minutes, the longest roll call in modern House history . . . until Republicans were able to bludgeon two of their members to switch sides” and approve the controversial Bush proposal to add a prescription drug plan to Medicare.⁴⁷ Aficionados of the “Bipartisan Trade Promotion Authority Act” presumably were not surprised.

Cancún—and Geneva

Whatever the trade and political benefits of FTAs, Zoellick realized that the Doha Round was paramount. Only in global talks could US agriculture win major new market access, and only from its large trading partners could the US economy add to its already considerable gains from economic openness. And only a successful WTO deal offered the possibility of reenergizing the protrade business coalition.

But the WTO was an organization of 140-plus members, operating by consensus. And emerging economies were unwilling to defer to a US-EU duopoly, as they had, in the end, in prior trade rounds. They were disappointed, they said, with their gains from the Uruguay Round. They were also upset by the steel tariffs and farm bill of 2002, which went so directly against what the United States itself preached about trade.

The new, more fractious global trade politics became manifest when, in preparation for the Cancún Ministerial Conference of September 2003, Zoellick struck a deal with EU counterpart Pascal Lamy providing for modest reductions in farm subsidies on both sides of the Atlantic. Emerging

45. Rangel et al. to Thomas, 12 June 2003, reprinted in *Inside US Trade*, 13 June 2003, 24.

46. *Inside US Trade*, 27 June 2003, 1; and 18 July 2003, 16.

47. Norman Ornstein, “. . . And Mischief,” *Washington Post*, 26 November 2003, A25.

economies refused to accept it as a basis for negotiation. Brazil joined with India and China in forming the “Group of 21” to demand a better deal.⁴⁸ Then, in the midst of the conference, a so-called Group of 90, driven by the concerns of African nations and egged on by activist NGOs, made more sweeping demands, including immediate removal of US cotton subsidies. Cancún was supposed to bring agreement—not on final Doha terms, but on the “modalities,” the ground rules, under which they would be hammered out. Instead, it ended in disarray—the Mexican chairman and host, seeing no prospect of compromise, gaveled the meeting to a close.

Initial reactions were sharp. Zoellick denounced “can’t do” nations (a label with some credibility because the G-21 and G-90 had shown little readiness to offer market concessions themselves). His EU counterpart, Pascal Lamy, labeled the WTO consensus process “medieval.” By early 2004, however, tempers had cooled. Zoellick took steps to relaunch serious discussions, working with both developed and developing nations, and traveling to sub-Saharan Africa in July to facilitate compromise with (and among) the G-90. A new group made up of the United States, the European Union, Brazil, India, and Australia helped to shepherd the process.

On 1 August, following round-the-clock negotiations, WTO members reached agreement on the “July package,” a document combining substantive and procedural accords on agriculture (and specifically cotton), nonagricultural market access, services, trade facilitation, and a range of development-related issues. The talks were back on track. But the destination remained a long way off. The original deadline had been December 2004. Now the target for substantial agreement was the Hong Kong WTO Ministerial in December 2005, with final details to be concluded within the year that followed.⁴⁹

Into the Second Bush Administration

As he approached his reelection campaign, President Bush confronted a WTO decision declaring his steel tariffs inconsistent with US trade obligations. He responded, to the surprise of some, by lifting the tariffs in December 2003, declaring they had served their purpose. This choice was made easier by pressure from steel-using US industries, and by the fact that world steel prices had risen sharply in the 19 months since imposition of the tariffs. The decision cost the president little if anything politically, and he maintained a free trade posture throughout the election year.

48. The membership varied, so the group is sometimes referred to as the G-20 or the G-22.

49. For details, see Jeffrey J. Schott, “Confronting Current Challenges to US Trade Policy,” in C. Fred Bergsten and the Institute for International Economics, *The United States and the World Economy*, chapter 8.

On the Democratic side, trade was—typically—a prominent issue during the primary campaign. Senator John F. Kerry (D-MA) took a relatively moderate stance, denouncing “Benedict Arnold corporations” for moving jobs overseas but admitting there was little a president could do about it (beyond denying them tax rewards for doing so). Once nominated, Kerry did not highlight trade issues, and they did not play a prominent role in the general election contest.

On the trade agreement front, 2004 was relatively quiet. A free trade agreement with Australia was signed and won overwhelming (314-109) approval in the House, although, in a concession to the sugar lobby, it included no increased market access whatever for that commodity.⁵⁰ An FTA with Morocco garnered an even larger margin, 323-99. The deal with Central America, however, faced stiff opposition, with labor vowing to mobilize and many Democrats unhappy with its labor provisions. No one was surprised when the administration deferred sending it to Congress for approval in 2004. And in early 2005, the sugar industry mounted a strong anti-CAFTA campaign because of its very modest increase of partner countries’ access to the US market.

In the months after the election, trade policy seemed to disappear from the policy agenda. The USTR position went unaddressed, and unmentioned, as the president replaced (or reaffirmed) all other members of his Cabinet, and as he announced the nomination of Zoellick to be deputy to the new Secretary of State, Condoleezza Rice. Trade went unmentioned in the president’s State of the Union address, which centered on his proposal to restructure the social security retirement system. Anxiety over this high-level neglect spread within the US trade policy community. Then, on 17 March 2005, Bush announced the appointment of a long-time political friend, Congressman Rob Portman (R-OH), to serve as US Trade Representative. “You couldn’t have a person with a better relationship with Congress and the president,” declared Benjamin L. Cardin (D-MD), a Ways and Means colleague who had just succeeded Levin as ranking Democrat on the Trade Subcommittee. A trade lawyer before his election to Congress in 1992, Portman won Senate confirmation on 29 April.⁵¹

The Trade Subcommittee also had a new chairman, Clay Shaw (R-FL), replacing Crane, who had lost his campaign for reelection. Both Shaw and Cardin were moderate in substance and collegial in style. Together with Portman, they offered the prospect of an easing of hostilities across the aisle. But the Hastert-DeLay leadership seemed to be moving in the other direction, buttressed by a modest increase in their House majority. And the first major issue Congress was likely to face was the contentious CAFTA-DR agreement.

50. This sent a terrible signal to Brazil and other potential FTAA partners.

51. However, in April one senator placed a “hold” on the nomination in order to force tougher administration action on trade with China.

Implications

Consensus on trade policy has become difficult to attain. Congress renewed presidential trade authority in 2001–02 and was expected to cooperate on a two-year extension in 2005.⁵² Yet the path to initial enactment was tortuous, and the House victory margin razor-thin. A large part of the reason was the rise in partisan polarization, and the decline in the capacity of members to build centrist coalitions across party lines. More and more, issues are seen as weapons for combat with the other-party enemy. Less and less are they considered dispassionately, on their own substantive terms, with recognition that neither political side has a monopoly on truth and wisdom.

Of necessity, the Senate process was bipartisan—with expanded trade adjustment assistance at its center. But Democratic leverage was enormously facilitated by Majority Leader Daschle's control over Senate scheduling. He and his colleagues would have found it hard to bargain so effectively on TAA had Democrats been in the minority—as they became once again after the 2002 elections. After all, cross-aisle relationships have grown more fractious in the Senate as well. So trade bipartisanship there could well be harder to come by the next time around. Nevertheless, the 2002 combination of TPA and TAA epitomizes the sort of balanced approach that, sufficiently enhanced, could build stronger protrade coalitions in the future. How this might be done is addressed in Chapter 12.

Generally, polarization has strengthened chamber leaders at the expense of committee chairs. Thomas has managed to buck this trend—through his personal skills and assertiveness, but also by marginalizing the committee as a whole and playing the role of combative partisan leader. He has also exacerbated matters by his singular personality. Presumably, the personal dynamic will change when Thomas' six-year term runs out at the end of 2006. But differing institutional patterns tend to bring different types of leaders to the fore, and historians may find Thomas as fitted to his times as Wilbur Mills was to his, pre-1974.

Polarization also complicates the role of the USTR. Early incumbents made a point of cultivating relations with important members of the opposite party—interestingly, former party chairs Bob Strauss and Bill Brock were the best at doing so. And this made it easier for them to build and maintain trade's political base. By contrast, Mickey Kantor ended up distrusted by Republicans due to his unabashed partisanship, and Bob Zoellick was reportedly thwarted by House Republican leaders when he sought, early in his term, to reach out to Democrats. Rob Portman will have his work cut out for him if he seeks to reverse this trend and restore

52. The extension is automatic, assuming the president requests it by 1 April 2005, and neither house disapproves it by 1 July, and no disapproval resolution can be considered unless reported out by the Finance or Ways and Means Committees.

the sort of USTR–trade committee relationship that has done so much to keep policy on a relatively steady course.

Through exploitation of its partisan majority, the George W. Bush administration and its congressional allies won the trade-negotiating legislation that Clinton had failed to win. This was no small achievement. But unlike every prior postwar administration that had won such enactment—Kennedy, Nixon-Ford, Reagan-Bush—it did not emerge with a broad supporting consensus generated through the legislative process. And while enactment of free trade agreements bridged partisan differences in 2003 and 2004, the partisan gulf returned with consideration of CAFTA-DR in 2005.

This gulf renders the basic support margin narrow, making trade policy hostage to any protectionist interests that hold the decisive, marginal votes. Whether the product be steel, textiles, sugar, or orange juice, there is a bloc of House members ever ready to abandon ship if the administration seeks to negotiate, for example, a full-fledged Free Trade Area of the Americas, or thoroughgoing agricultural reforms in the Doha Round. The fierce sugar industry opposition to CAFTA-DR in early 2005 is a particularly sharp case in point. So stay tuned.