
Appendix A

Trade Promotion Authority in 2001: The Bargain That Wasn't

On 6 December 2001, the US House of Representatives passed the Bipartisan Trade Promotion Authority Act by a vote of 215 to 214. It was the closest vote ever on a major piece of trade legislation. And notwithstanding the title, it marked the most partisan congressional vote on such a bill since the 1930s. Just 21 of 210 Democratic votes were recorded in favor. Only 23 of the 217 Republicans casting ballots said “nay.”

In the broad political context, this was not entirely surprising. Increasing attention to foreign labor and environmental standards had been exacerbating interparty divisions on trade legislation as Democratic constituencies pressed these concerns and Republican business allies resisted them. Moreover, as set forth in chapter 11, broad political forces—particularly the drawing of “safe” congressional districts that promote election of liberal Democrats and conservative Republicans—had been making Capitol Hill a more and more polarized place. Hair’s-breadth victories won by holding the floor vote open until that last Republican arm was twisted into the fold would become a trademark of the House in the 2000s under Speaker Dennis Hastert and his hard-driving deputy, Tom DeLay. So would processes designed to marginalize the Democratic minority.¹

1. In November 2004, Hastert went so far as to refuse to bring to the floor the conference report on the major intelligence reform bill that both he and President George W. Bush supported, because the issue was splitting Republicans and victory would have depended on a substantial number of Democratic votes. In the end, dissenting Republicans were appeased and the bill enacted.

But winning this way was costly for trade policy. Since the victory was built on a number of Republicans voting against their convictions and their constituencies, it cast doubt on the ability of the US Trade Representative (USTR) to win approval of controversial trade agreements in the future. It inflated the leverage of the entrenched interests (such as steel or sugar producers) determined to resist liberalization of their markets. (If your mandate is narrow, any organized group can threaten it.) For USTR Robert B. Zoellick, winning by a narrow, partisan margin was certainly a lot better than not winning trade promotion authority at all. But it gave him a far weaker negotiating mandate than the parallel trade legislation of 1962, 1974, and 1988 had provided his predecessors.

Winning this way may also have been unnecessary. In 2000, a bipartisan coalition, including 71 House Democrats, had approved the terms of Chinese entry into the World Trade Organization (WTO). Among the supporters were the three senior trade Democrats on the House Ways and Means Committee—ranking member Charles Rangel (D-NY), ranking trade subcommittee member Sander Levin (D-MI), and long-time liberal trade supporter Bob Matsui (D-CA).

This important trio ended up bitterly opposed to the 2001 trade legislation. In the month before the vote, Rangel had sent Hastert a summary of their position that seemed a plausible basis for compromise negotiations with the bill's chief sponsor, Ways and Means Chair Bill Thomas (R-CA). But neither Hastert nor Thomas replied, and negotiations never took place.

This short chronicle explores why. Was a compromise in fact possible? If so, what mix of issues and personalities kept it from happening? Was one side to blame? Or did the roots lie in issues that were too dicey to bridge? In the end, no clear answers may be possible. But seeking them will still prove illuminating.



It was only on 13 December 2000 that George W. Bush laid claim to the presidency, following the closest US national election since 1876. But in the first half of January, key elements of the trade drama of 2001 were falling into place. On the 4th, the House Republican Conference chose Bill Thomas as Ways and Means chair over his more senior colleague, Phil Crane (R-IL).² On the 8th, the president-elect's press secretary declared that Bush would seek renewal of fast-track negotiating authority. On the 11th, Bush announced his choice of Zoellick to serve as US Trade Representative and declared that the position would remain at the cabinet level. (Members of his transition team had suggested earlier that the job might be downgraded, eliciting the predictable protests from organized business and Capitol Hill.)

2. In fact, Thomas ranked third in seniority, behind Crane and Clay Shaw (R-FL), but the latter did not enter the contest for the chairmanship.

The Senate confirmed Zoellick unanimously on 6 February, and he promptly set to work trying to build support for renewal of fast-track authority. He found the going hard. His initial idea was to bundle that authority in a comprehensive bill that would include such other measures as the recently completed free trade agreement (FTA) with Jordan and the bilateral trade agreement with Vietnam. A broad range of House Democrats objected, arguing instead for “taking up the key trade issues in progression” in order to form “building blocks toward reaching common ground.”³ Other senior administration officials objected also, partly because of the Democrats’ resistance. Zoellick backed away from the package approach.

The Democrats wanted—and eventually got—separate House votes on Jordan and Vietnam, both of which passed easily. The Democrats also achieved their goal of keeping intact the labor and environmental provisions of the Jordan FTA, which were negotiated under President Bill Clinton.⁴ But their main interest was in the content of fast-track legislation, which Zoellick had relabeled “trade promotion authority” (TPA). To formulate a consensus, they met through the spring and into the summer under the leadership of Levin, ranking Democrat on the Trade Subcommittee. But the process was slow. Meanwhile, moderate “New Democrat” Cal Dooley (D-CA)—a participant in the meetings—was also circulating an outline proposal, which became known as the “Dooley Principles.” Its central thrust was that labor and environmental provisions in a trade agreement would receive parallel treatment with other provisions in terms of the means of enforcement.

Through the spring and summer, the Democrats refrained from submitting a bill—one reason was to leave the door open for negotiations with the Republicans, another was that they had not yet reached a consensus among themselves. On 13 June, however, Crane and 62 largely Republican cosponsors introduced a fast-track bill (HR 2149) that excluded labor and environmental issues entirely. The House Republican leadership immediately endorsed the bill, and began talking about bringing it to the floor before the August recess. House Democrats reacted angrily. Minority leader Dick Gephardt (D-MO) said it represented “the most extreme view on the other side” of labor and environmental issues. Levin said the approach had “close to zero” chance of gaining Democratic support. And the administration expressed caution. Zoellick declared, “The formal legislative process has begun, and I look forward to working with members of both parties in the Congress as we move ahead.” And White

3. Letter to the president from Rangel, Levin, Matsui, Nancy Pelosi (D-CA), Cal Dooley (D-CA), Steny Hoyer (D-MD), and 21 other House Democrats, 16 March 2001.

4. But in a bow to Republicans opposed to enforcement of such provisions with trade sanctions, Zoellick and his Jordanian counterpart exchanged letters declaring that they “would not expect or intend” to employ trade sanctions to enforce any provisions of the agreement. Ways and Means Democrats saw this as unnecessary and a harbinger of future trouble on these issues.

House legislative director Nick Calio indicated that it was important to count the votes before proceeding.⁵

Also cautious in his response was the new Ways and Means chair, Bill Thomas. He had been instrumental in moving Bush's tax bill through his committee on a party-line basis, to the unhappiness of his Democratic colleagues. But he wanted to move carefully on trade—and to play the central role in the process. He was determined to be a strong chair, and felt that Archer, his predecessor, had let some power over trade issues slip to other House Republicans, including the able chair of the House Rules Committee, David Dreier (R-CA). So while Thomas formally cosponsored Crane's bill, he emphasized—in language similar to Zoellick's—that its introduction was just “the beginning of the process.”⁶

Thomas had been elevated over his Ways and Means colleagues because he was smart, strong, and substantive. He was not chosen for popularity—he had, in the words of a former colleague and supporter, “no interpersonal skills.” A headline in a feature story two years later would label him “smart as a whip, and almost as subtle.”⁷ His insensitive and noncollegial style would generate friction time after time with Republican as well as Democratic members. In particular, there was a striking incompatibility between his approach to issues and that of Rangel, his Democratic counterpart. The *New Yorker* liked first to establish interpersonal trust and agreement on process and broad principles, moving from there to fleshing out the details. Thomas' style was to focus on the substance from start to finish—he saw “process” as an excuse for ducking or deferring hard choices.

Looking at the substance, Thomas seems to have concluded early on that he could not find common ground with Rangel and Levin, and when the latter reportedly approached the chairman informally, he was rebuffed. The trade press reported Thomas as indicating in July that “he would only work directly with Levin if it became clear that he needed to pick up a large number of Democrats”—that is, more than the 40 he then estimated he could get without the Ways and Means trio.⁸

But as that same report made clear, Thomas knew he needed *some* Democratic support. His party had only a 12-vote House margin, and there had been at least 50 negative House Republican votes on every trade-liberalizing bill from the Uruguay Round/WTO legislation onward. Having a Republican president would presumably bring that number down.

5. Quotes and information from *Inside US Trade*, 15 June 2001.

6. *Ibid.*

7. *Washington Post*, 27 July 2003, D1. This article was triggered by a bizarre incident nine days earlier in which Thomas had summoned the Capitol police to go after Democratic members who had walked out of a contentious Ways and Means session on pension reform. Thomas apologized on the House floor the following week.

8. *Inside US Trade*, 27 July 2001.

But how much? In 2000, 33 Republicans had even backed a resolution to have the United States withdraw from the World Trade Organization.

Meanwhile, on the Democratic side, Dooley was getting impatient. He had received some positive feedback for his “principles” from a range of trade policy professionals, including some in the business community, and he thought they might offer a basis for substantive compromise. But neither party’s members seemed to be moving in that direction. So he sounded out some of his Democratic colleagues on their willingness to approach Thomas directly. Two junior members of Ways and Means agreed to do so: William Jefferson (D-LA) and John Tanner (D-TN). Dooley then contacted Thomas and suggested they explore possible compromise legislation. Thomas agreed.

Dooley’s California congressional district bordered on that of Thomas, and they had worked together before. And the Democrat had a straightforward, substantive approach that proved quite compatible with the style of the chairman. So Dooley, Jefferson, and Tanner began to submit compromise suggestions to Thomas, particularly on labor and environmental issues. The three were careful to keep Rangel informed about what they were doing. By late summer, they had reached broad agreement on a formula that was more labor- and environment-friendly than the unsuccessful Clinton-era proposal or the Crane bill. The legislation reported by Ways and Means, in 1997, for example, had excluded all but a narrow range of trade-related labor and environmental issues from inclusion in a fast-track implementing bill.⁹ The Thomas-Dooley draft had no such exclusion, though its stated negotiating goals were modest—enforcement of existing national laws and ensuring that trading partners’ labor and environmental practices did not “serve as disguised barriers to trade.” And regarding the enforcement of trade agreements, it did not explicitly distinguish between labor-environment and other provisions, though it allowed for some distinction in practice.¹⁰

As members returned from recess in early September, there was talk of rapid introduction and Ways and Means consideration of the Thomas-Dooley bill. Then came the 9/11 terrorist attacks, which shocked the nation and focused congressional energies on immediate, direct legislative responses. There was a new mood of bipartisan cooperation that some hoped would extend to TPA. But the general mood proved short-lived. The attacks did prompt several long-time Republican opponents of fast track, such as Duncan Hunter of California and Frank Wolf of Virginia, to back the president on this issue as a matter of national security. But when

9. HR 2621 (105th Congress) did so by including broad objectives (“preserv[ing] the environment,” “promoting respect for worker rights”) in a separate subsection (102[c]) of the bill, outside of the “principal trade negotiating objectives,” which explicitly excluded them from “use of the trade authorities [fast-track] procedures.”

10. HR 3005 (107th Congress), Section 2(b)(10).

Zoellick championed national security arguments for TPA in a 24 September speech (originally scheduled for the 11th) at the Institute for International Economics, Rangel responded angrily to what he labeled an attempt to make support of the bill a test of “patriotism.” Matsui also declared himself “offended.”¹¹

On 25 September, Thomas released a summary of what he labeled the “bipartisan compromise” on trade promotion authority. Dooley declared it “monumental” and said, “For the first time, it includes enforceable labor and environmental standards in a trade promotion authority plan.”¹² The next day, however, Rangel, Levin, and Matsui responded with a “Dear Democratic Colleague” letter with a heading, “Thomas’ ‘Bipartisan Compromise’ Is Neither” and expressing “significant concerns” in three areas: labor standards, environmental protection, and the role of Congress. A week later, Thomas and Dooley introduced the Bipartisan Trade Promotion Authority Act, which became HR 3005. The next day, 4 October, the Democratic trio put into the hopper their alternative, HR 3019, labeled the Comprehensive Trade Promotion Authority Act.

The rhetoric was sharp from both sides, but on substance, as the *Washington Post* editorialized, “The differences do not seem insurmountable.”¹³ The specific points in the Democrats’ letter of 26 September, for example, did not seem unreasonable: emphasis on core International Labor Organization (ILO) labor standards, reconciling multilateral environmental and trade agreements, and strengthening the oversight role of Congress. After Thomas had scheduled a Ways and Means markup for Friday, October 5—signaling a plan to roll the Democrats in a party-line vote—he surprised friends and foes alike by announcing at that session that he would postpone the markup—and vote—so that staffs on both sides could meet over the weekend and explore possible compromise. As noted in chapter 11, Rangel responded graciously: He had been “relieved from having to read a very painful statement that . . . I have worked all night on.”¹⁴ And while Thomas reacted rather grumpily to this statement, his action seemed to signal a search for common ground.

But compromise was not to be, and the opportunity went unexploited. And so did another, one month later, that involved President George W. Bush.

When the Ways and Means Committee reconvened on 9 October, nothing had changed. The staffs had met over the weekend in a session described by participants on both sides as contentious and unproductive. With no one tasked to lead toward compromise and no apparent instruc-

11. *Inside US Trade*, 28 September 2001.

12. Quoted in Paul Blustein, “Trade Compromise Proposed,” *Washington Post*, 4 October 2001.

13. “A Chance for Trade,” *Washington Post*, 2 October 2001.

14. Statement of 5 October 2001, released by Rangel’s office.

tions in that direction from members on either side, the aides could only reiterate entrenched positions. As Rangel told the committee, “What was missing from these talks was what can only be done with members and not staff . . . negotiation to see whether we can find some common ground that would allow Fast Track to pass the House with . . . broad, bipartisan support.”¹⁵ So Thomas presented his bill, essentially unchanged from the version he had introduced. Rangel’s motion to substitute the Democratic alternative failed, 26-12; the chairman’s bill then prevailed 26-13. Just two committee Democrats, Jefferson and Tanner, voted in favor. It was the most partisan committee vote in memory on major trade legislation.

Had Ways and Means been a mirror of overall House sentiment, a two-to-one margin would have been reassuring. But it was not such a mirror. Its membership was disproportionately Republican, and disproportionately protrade. So the vote was not encouraging. The day after, White House spokesman Ari Fleischer declared that TPA “certainly can’t pass without a healthy dose of bipartisanship.” Yet few other Democrats were coming on board. Dooley arranged a meeting with the president, and hoped to attract at least 20 Democrats—but only 13 came, and just two of them declared their support. In all, fewer than 15 of the chamber’s 211 Democrats appeared to be in favor. The White House was well aware of this. So were business community advocates of the legislation.

So the scene appeared ripe for compromise. It seemed possible. And it seemed necessary.

Around this time, Zoellick contacted ex-President Jimmy Carter through his long-time associate, Bob Pastor, a professor at Emory University and the Carter Center who had worked with the former president on his initiatives for democracy and human rights. The aim was to secure Carter’s endorsement of TPA, and thus replicate the united front of former presidents that had buttressed Bill Clinton’s campaign for the North American Free Trade Agreement (NAFTA) eight years earlier. Carter was very much a free-trader and hence favorably disposed. But where were the House Democrats? he wondered. Learning that senior Ways and Means Democrats had been shut out of the bill’s drafting, Carter—through Pastor—pressed for a new effort. The Georgian wrote President Bush on 29 October to encourage him to meet with Democratic leaders and lend his influence to a compromise.

This led, with Zoellick’s encouragement and facilitation, to a short White House meeting about the trade stalemate on 1 November involving Bush, Rangel, and Nick Calio, the president’s assistant for congressional relations. The meeting apparently went well. Bush and Rangel were personally simpatico. When Rangel complained of the Democrats’ exclusion, the president expressed regret and asked what the New Yorker thought should be done. Rangel responded that Bush should call the

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

House Speaker, Dennis Hastert (R-IL), and ask that he set up a process for a compromise negotiation. Bush said he would.

After some further back-and-forth, Bush did phone Hastert. This led to a meeting six days later involving Hastert, Thomas, Rangel, and Representative Rob Portman (R-OH), a committee member with ties to the president.¹⁶ Portman also met jointly with Republican and Democratic staff members, exploring compromise possibilities. In the meantime, aides had managed to draw from the Democrats' 134-page bill a one-page statement highlighting differences in four areas: core international labor standards, multilateral environmental agreements, investment, and the role of Congress. This was delivered to Hastert on 8 November, with a handwritten note from Rangel noting that staff members "were not able to resolve key differences." The ranking Democrat also had another short meeting that day with Hastert and Portman that he characterized as "helpful." All the while, Calio and other administration officials were signaling their openness to changes in the Thomas bill.

In describing the meetings, Rangel declared his flexibility. "I never insisted that my bill or any bill be the basis for negotiations or fully incorporated."¹⁷ His one-page summary set forth issues that needed to be resolved, but it was not a take-it-or-leave-it proposal. It did not put forward any draft legislative language other than (by reference) that in the Democratic alternative. Still, it was a genuine overture. If it reflected the Democrats' actual bargaining position (and Levin and Matsui had been consulted), it certainly represented a reduction in differences when compared with the full Rangel bill.

But the initiative failed. Worse, Rangel did not get the courtesy of a response. Thomas was resistant throughout, offering no encouragement in the 7 November meeting and not joining the meeting the following day. So the four issues were never joined. On 15 November, Rangel joined a press conference with Gephardt denouncing Republicans for failure to engage with Democrats on airline security and economic stimulus as well as trade.

From then until the House vote on 6 December, the game was played mainly on the Republican side. Process leadership moved from Thomas to DeLay, and the Republican Whip, known as "The Hammer," pressed reluctant colleagues to join him. Speaker Hastert leaned on members particularly responsive to calls of party loyalty. Rules chair Dreier, whose role Thomas had limited in earlier stages, played a key lobbying role on substantive issues. DeLay doled out favors as needed—and drove the overall process. The White House was nervous and skeptical: as late as noon on the day of the vote, it urged House leaders to withdraw the bill to prevent

16. In March 2005, Bush would designate Portman as Zoellick's successor as US Trade Representative.

17. Rangel quotes are from the statement of 9 November 2001 released by his office.

its being voted down. But DeLay stood firm. Reportedly, he had a list of Republicans in order of increasing difficulty they had with the bill, and planned to go as far down that list as necessary.

When the normal time period ended with more nays than ayes, DeLay had the Speaker hold the vote open until he could reach the member whose switching would put the bill over the top. Finally, as reported in *The Congressional Record*, 37 minutes after the 15-minute roll call began, “Mr. DeMint changed his vote from ‘nay’ to ‘aye.’” The South Carolina Republican’s price was a concession to the textile industry. He won a letter promising future legislation mandating that Caribbean and Andean beneficiaries of US trade preferences would have to use, in their apparel products, yarn and cloth dyed in the United States.¹⁸ It was signed by Hastert, DeLay, and Majority Leader Dick Arney (R-TX)—noticeably *not* by Thomas, who like Rangel was bitter about this dilution of preference laws.¹⁹

Washington Post columnist David Broder called it “a shaky victory.”²⁰ It was followed by a much more constructive, bipartisan process in the Senate, highlighted by a comprehensive expansion and reshaping of trade adjustment assistance laws that brought a substantial number of Democrats there on board. Then came a tumultuous conference process, in which Thomas first insisted on rewriting the House bill entirely for bargaining purposes, then fought over who would chair the proceedings, and finally offered—at the eleventh hour—a constructive compromise that led to agreement and final enactment. President Bush signed it into law on 6 August 2002.²¹

“They wanted fast track in the worst possible way, and they got it.” So stated this author the day after the December House vote. But was another “way” possible? Had Thomas and the Republicans accepted Rangel’s invitation and sat down with the senior Democrats, would this have led to agreement? Were the Democrats really serious? Aside from the interplay triggered by Carter and Pastor, the Democrats had been reluctant to take the initiative—out of resentment over their treatment, and also in the expectation that, in the end, the Republicans would lack the votes and have to come back to them. (In the meantime, it would not help their bargaining position if they seemed too eager to deal.)

We cannot know, of course, and the lack of an aggressive senior crafter of compromise on either side of the aisle made no small contribution to

18. The existing requirement (the “yarn forward rule”) was that it be spun and woven in the United States.

19. Representative Robin Hayes (R-NC), also credited with the deciding vote in some accounts, received a statement from President Bush praising Hayes’ devotion to textile industry trade interests and endorsing those interests to some degree.

20. “A Shaky Victory on Trade,” *Washington Post*, 12 December 2001.

21. For more detailed treatment of these events, see chapter 11.

the interparty impasse. One way of assessing prospects, however, is to examine the specifics in Rangel's one-page summary. Essentially, it contained five proposals under its four headings, examined here in order of increasing difficulty.²²

One proposal regarding labor standards was to create a WTO Working Group on Trade and Labor. This essentially replicated a goal already specified in existing law (albeit unsuccessfully pursued by the Clinton administration). One of the two environmental issues was to negotiate a WTO rule allowing a nation to use trade measures to enforce a multilateral environmental agreement against a nation party to that agreement. This should have been easy for Republicans to accept: it would apply only to a narrow range of cases, and it is substantively appropriate for the WTO to defer to multilateral consensus on issues like the environment. The other environmental issue, of great importance to environmental groups, was to correct a flaw (apparently inadvertent) in NAFTA that gave foreign investors greater rights in member countries than domestic investors. This problem was in fact addressed in a House floor amendment. So none of these should have been difficult for Thomas and other Republicans to accommodate.

The Rangel proposal on the role of Congress was more problematic. Its core provisions were, first, a structured biennial review of trade negotiations allowing one-third of a chamber's members to bring a resolution of disapproval to the floor for a vote; and second, a new requirement that a group of congressional trade advisers concur with the president's certification that negotiating objectives had been met. Either of these could have proved troubling in practice, and while these hurdles could likely be surmounted by a reasonably adroit USTR, one could see why the administration would be wary here. However, Rangel had made a point of signaling flexibility in this area, and plausible and acceptable modifications of each of these provisions are easy to envisage.

The hardest issue was the Rangel bill requirement that "FTAA countries . . . implement and enforce five core ILO standards in domestic law."²³ This went beyond the "Jordan formula" fashioned under Clinton and employed in subsequent free trade agreements—that parties would enforce their existing labor laws—by establishing a minimum level of pro-

22. The undated and unpublished document provided by Rangel to Hastert was entitled "Fast Track—Four Key Differences Between Rangel and Thomas Bills." The section of the document labeled "Core International Labor Standards" included two distinct provisions for FTAA and the WTO, hence the above reference to five proposals.

23. In the Rangel bill, these were listed (without explicitly naming the ILO) as "the right of association, the right to bargain collectively, and prohibitions on employment discrimination, child labor, and slave labor" (HR 3019, Section 2(c)(9)(A)).

tection that their laws should provide.²⁴ The standards themselves were not controversial—in 1998, members of the ILO from around the world had adopted, by consensus, a “Declaration on Fundamental Principles and Rights at Work,” specifically (a) freedom of association and the effective recognition of the right of collective bargaining; (b) the elimination of all forms of forced or compulsory labor; (c) the effective abolition of child labor; and (d) the elimination of discrimination with respect to employment and occupation.

But Republicans were wary, particularly about the requirement for collective bargaining, and because a US commitment to ILO standards might be used by other nations to challenge US labor laws. In general, GOP legislators were not in favor of anything that might strengthen regulation of labor practices in the United States. The Rangel summary stressed that it “does not require countries to sign ILO conventions” (and the United States has never ratified most of the basic ones). But it would have been difficult nonetheless for Republicans to accept this commitment—in fact, Senator Phil Gramm (R-TX) was lobbying against the Thomas bill that very month because he thought its lesser language opened the door to attacks on, or changes in, US labor laws.

If Hastert or Thomas had responded constructively to Rangel’s initiative, and, to employ his words, “the members [had gotten] together to have substantive discussions to . . . resolve some of these issues in a broadly bipartisan way,” core labor standards could well have proved the deal breaker. Nor was there any guarantee that, once such talks began, the Democratic trio would not have pressed other provisions of the Rangel bill—such as its much more demanding general standard for an agreement to qualify for TPA procedures.²⁵

Yet it seemed astounding at the time that the House Republican leadership, encouraged by the president and badly short of the needed votes, did not respond positively to Rangel’s overture and put the senior Ways and Means Democrats to the test. At a minimum, Republicans could have discussed the specific points in the Rangel summary—which ones they might accommodate, which ones caused them major problems. Or they could have responded by accepting, say, half the points and asking if the Democrats would yield on the rest.

24. Democrats did not see it this way—in fact, in developing that formula, the Clinton administration had stressed that Jordan did in fact have the basic labor standards incorporated in its laws.

25. The Rangel bill allowed an agreement to be submitted under fast track only “if such agreement *substantially achieves* the applicable objectives described in [the sections spelling out negotiating objectives]” HR 3019, Section 4(B)(1)(c)(2). The Thomas bill required only that “such an agreement *makes progress in meeting* the applicable objectives . . .” HR 3005, Section 3(b)(1)(C)(2). Emphasis added. Prior fast-track laws had employed the “makes progress” standard.

If the Democrats did not in fact raise additional hard issues, and a middle way could be found on core labor standards, the result would have been the real bipartisan agreement that both sides said they wanted. If, on the other hand, agreement in the end was simply not possible, the Republicans would have visibly walked the extra mile, and would have been in a far better position to ask other Democrats to join them. And the opposition of Rangel, Levin, and Matsui to the legislation might have been less intense.

For most of the year, to be sure, the Democrats had been difficult, complaining about exclusion but not putting forth an alternative that would encourage the administration or the Republicans to respond. Through October, for some combination of personal, substantive, and tactical reasons, the two sides stayed apart, in a sort of Alphonse and Gaston routine. But in November, Rangel took an important step to break the impasse. It was just a first step—but his Republican counterparts never even responded. An opportunity was lost.

Three years and some months later, at this writing, the costs of this failure are manifest. The second Bush administration faces the daunting task of winning House approval of the Central American Free Trade Agreement (CAFTA). Democrats are overwhelmingly opposed, citing labor and environmental concerns very much like those advanced by Rangel and his colleagues in 2001. Administration hopes for victory seem to rest on replicating that year's partisan vote, which will require putting the squeeze on an even larger number of reluctant Republicans.

Such a narrow margin has once again inflated the power of special interests. Exploiting CAFTA's frail condition, the US sugar industry has leaped into the fray, declaring all-out war against the tiny increase in sugar market access that the agreement provides to Central American nations. If the Bush administration cannot turn this attack aside, how will it be able, credibly, to negotiate the much larger reduction in US sugar protection that a serious Doha agricultural agreement will require? There could hardly be a more graphic illustration of how ongoing partisan rancor undermines the administration's capacity to pursue the serious trade liberalization to which it is committed.