
New Issues, New Stalemate

An important feature of American trade politics over the decade beginning in 1995 was the rise of issues involving the relationship between trade and other prominent policy concerns. Driven by the same globalization process that made producers less protectionist, the “trade and . . .” issues involved not the balance to be struck among economic interests and goals, but rather the proper balance between economic concerns and other societal values. Chief among these “new” issues were those concerning labor standards and the environment.

The new issues posed a challenge that long-standing trade policy institutions were ill-equipped to meet, or even to understand. And they undercut the bipartisan consensus upon which prior trade-liberalizing legislation had been based. Their impact was highlighted by President Bill Clinton’s failure to win renewal in 1997 for fast-track trade negotiations and by the dramatic and well-publicized failure of the World Trade Organization’s (WTO) Seattle Ministerial Conference in 1999 to reach agreement on a new global trade round. The president was able to revive the bipartisan consensus in 2000 to win approval of permanent normal trade relations with China. But the “trade and . . .” issues continued to pose a challenge in the new millennium.



From the days of the early American republic through the 1980s, US trade politics was dominated by economic interests in general and producer interests in particular. This gave policy a distinctly protectionist tilt up to the 1930s. But it also provided the foundations for the “system” of

antiprotectionist counterweights, which turned that policy around from the Roosevelt administration onward. Reciprocal trade negotiations energized export interests that would gain from reducing overseas barriers. This balanced the power of import-threatened industries, which were also bought off in part by trade remedy procedures and special deals for the strongest sectors, particularly textiles.

The success of the new, liberal policies could be seen in the reduction of most US tariffs to minuscule levels by the start of the 21st century. This reduction, in turn, helped fuel an ongoing internationalization of the US economy that gave increasing trade-political weight to firms with global interests, as described in chapter 9. Even the textile industry was forced to accept the phaseout of its long-institutionalized quota protection, and to include offshore production in its survival strategy.

But for trade politics, globalization proved to be a double-edged sword. Even as it weakened traditional, business-based resistance to trade, it fueled broader social concerns. This was natural—as trade grew, to paraphrase Georges Clemenceau, trade policy became too important to be left to the trade specialists. Advocates of other values saw trade and trade negotiations increasingly impinging on these values. Sometimes they saw trade negotiations as providing leverage to advance these values. In any case, they saw no reason why trade talks should be limited to their traditional agenda or goals.

The expansion of the agenda was foreshadowed by the Tokyo Round of 1973–79, the first negotiation of the General Agreement on Tariffs and Trade (GATT), whose priority was nontariff impediments to trade. This brought negotiators into laws that had other social purposes, such as subsidies or regulation of product standards. Thereafter, producers looked to other areas where foreign practices impeded their overseas sales. One cause that gained substantial steam in the 1980s was intellectual property protection. Makers of pharmaceuticals and recordings saw their sales cut by overseas operators who copied and “stole” their patented and copyrighted products. A broad coalition of technology-dependent industries—gaining visibility with the extension of trade preferences in 1984 and then with the Uruguay Round authorization of 1988—made the tightening of developing nations’ intellectual property laws a priority goal of US negotiators. And in the Uruguay Round agreements of 1994, they won much of what they had sought.¹

Reaching likewise beyond the movement of goods across national boundaries were advocates of a very different cause—international human rights. In 1973–74, the plight of Soviet Jews seeking to emigrate to Israel had brought Congress to condition the granting of most favored nation status (MFN) to any nonmarket-economy nation on presidential

1. They were in turn subject to counterattack by anti-AIDS advocates, who saw these intellectual property rights as pricing life-saving drugs out of reach for tens of millions of Africans, and who made the rollback of those rights a priority goal in the Doha Round.

certification, subject to congressional override, that such nation respected the rights of its citizens to emigrate.² After the Tiananmen Square massacre of student demonstrators in 1989, Congress used the annual vote extending MFN to China to highlight that nation's broader abuses of its citizens and the need for reform. And as spelled out later in this chapter, the House of Representatives passed legislation granting permanent normal trading relations (PNTR) to China in 2000 only after adopting an amendment cosponsored by Representatives Douglas Bereuter (R-NE) and Sander Levin (D-MI) establishing a commission to monitor that nation's human rights performance.

Trade negotiations even entered the area of US immigration policy. To the chagrin of the House Judiciary Committee, free trade agreements signed with Chile and Singapore in 2003 promised the annual issuance of US visas to workers from these countries, up to specified numerical limits.³

But by far the most prominent linkages to other policy spheres were those addressing the interplay of trade with national labor and environmental laws and practices. From the North American Free Trade Agreement (NAFTA) onward, these connections were central to the US trade policy debate. By 2004, insistence on strong labor-environmental provisions in future trade agreements had become the minimum that a viable Democratic presidential contender could demand.

Threat to the Social Contract?

Throughout the 20th century, liberals and reformers in the United States fought to regulate capitalism in the name of important societal values. The labor movement sought to protect workers from exploitation and increase their share of the growing economic pie, and it achieved particular success in the mid-1900s. Environmentalism's major achievements came a bit later, cresting in the 1970s with key legislation to protect air and water quality. For both, an emerging "social contract" reflected a policy and political balance: private enterprise was the best formula for economic growth, but it needed to be constrained lest it maldistribute income, brutalize working conditions, and despoil the natural landscape.

This contract now seemed threatened by globalization.⁴ Just as the nationalization of the US economy had undercut state regulation in the late

2. See Paula Stern, *Water's Edge: Domestic Politics and the Making of American Foreign Policy* (Westport, CT: Greenwood Press, 1979).

3. Committee Chairman James Sensenbrenner (R-WI) warned the Bush administration that henceforth "changes in immigration law are off the table as far as this committee is concerned in future free-trade agreements" (*Inside US Trade*, 11 July 2003, 1).

4. See, for example, Dani Rodrik, *Has Globalization Gone Too Far?* (Washington, DC: Institute for International Economics, 1997).

1800s, so the increasing international exposure of US workers and firms seemed to be undermining domestic norms. Trade put growing pressure on the wages of unskilled American workers, just as economic theory suggested it would.⁵ And to a substantially lesser degree, it placed US factories in competition with those in countries with less stringent environmental regulation, encouraging them to shift operations overseas or lobby for relaxation of laws at home. It was reasonable, therefore, for advocates of these causes to seek international agreements that might mitigate globalization's domestic effects. Raising labor and environmental standards abroad was surely preferable to seeing them erode at home.

Labor

From its earliest days, the campaign for labor rights was international in scope, as reflected in the famous Marx-Engels summation: "Workers of the world, unite! You have nothing to lose but your chains!"⁶ Even after it became clear that reforms would come primarily at the national level, organized labor movements in advanced countries devoted energy to raising standards beyond their borders. There was an idealistic motivation, but also a self-interested one, both of which were reflected in the creation of the International Labor Organization (ILO) in 1919. After citing humanitarian and political reasons for its founding, the ILO's official history notes:

The third motivation was economic. Because of its inevitable effect on the cost of production, any industry or country adopting social reform would find itself at a disadvantage vis-à-vis its competitors. The Preamble states that "the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries."⁷

Hence, it was hardly surprising that the AFL-CIO would promote unions abroad as an essential ingredient of democratic capitalism during the Cold War, nor that it would seek to use trade legislation to advance this goal. Even during its generally unsuccessful effort over the 1970s and

5. The classic Heckscher-Ohlin and Stolper-Samuelson models posit that trade expansion will reduce wages in a country where labor is relatively scarce, like the United States. A particularly comprehensive effort to measure the impact of trade on wages is William Cline's *Trade and Income Distribution* (Washington, DC: Institute for International Economics, 1997). Cline concludes that trade and immigration have made real but modest contributions to the increased wage gap between skilled and unskilled workers in the United States.

6. The following pages draw upon the more extensive discussion in I. M. Destler and Peter J. Balint, *The New Politics of American Trade: Trade, Labor, and the Environment* (Washington, DC: Institute for International Economics, POLICY ANALYSES IN INTERNATIONAL ECONOMICS 58, 1999), especially chapters 2 and 3.

7. "ILO History." www.ilo.org/public/english/about/history.htm (accessed 23 March 2005).

1980s to block new trade-liberalizing legislation, organized labor won some modest victories. Though it opposed trade preferences for poor countries, its advocates nevertheless succeeded, in 1984, in getting them conditioned on adherence to internationally recognized labor standards. And when fast track was renewed for the Uruguay Round negotiations in 1988, “worker rights” was enshrined as a “principal trade negotiating objective” (no. 14). Nonetheless, American labor increasingly saw itself as the victim of foreign competition that threatened both jobs and wages, with union locals often exceeding the national federation in their militancy.⁸

Objectively, of course, workers’ actual trade interests varied by occupation—while autoworkers were hard-hit by trade, machinists at the Boeing Corporation were major beneficiaries, and members of the Association of Federal, State, County, and Municipal Employees (AFSCME)—the largest US union—have very little direct trade interest either way. Workers also benefit as consumers from low prices.⁹ And they gain from the economic growth to which trade contributes. In practice, however, none of these interests have significantly affected labor’s overall trade stance in recent decades.

From the late 1960s through the early 1990s, that stance centered on measures that would directly limit imports or slow their increase and on measures to limit foreign direct investment by US-based firms. Overseas labor standards were a subordinate concern. Then, in the 1990s, the presentation, at least, seemed to reverse itself. Front and center in labor’s critique of NAFTA, or fast track, was the lack of strong provisions in trade agreements to improve partner nations’ labor standards. Union representatives argued, moreover, that provisions promising such improvements needed to be enforceable by sanctions (just as nations’ commitments on trade typically were). Critics suggested, with some plausibility, that this was at most new packaging, simply an attractive new cover for the old protectionism. Labor spokespeople denied this: they could not stop globalization, they argued, but they could seek to shape its terms. In any case, the focus on worker rights had a political appeal greater than a simple anti-import stance, particularly among Democrats.¹⁰

8. For more on this history, see I. M. Destler, “Trade Politics and Labor Issues, 1953–1995,” in Susan M. Collins, ed., *Imports, Exports, and the American Worker* (Washington, DC: Brookings Institution, 1998), 389–408.

9. This is one apparent reason why, in the interwar period (1919–39), labor-supported governments of the left generally supported free trade. See Beth A. Simmons, *Who Adjusts?* (Princeton, NJ: Princeton University Press, 1994).

10. Alan Krueger found that House cosponsors of a proposed “Child Labor Deterrence Act” that would ban imports made with child labor were more likely to come from districts with high average education and income than from districts with the most workers competing with such labor (“Observations on International Labor Standards and Trade,” Working Paper 362, Industrial Relations Section, Princeton University, 13 April 1996).

The Environment

Compared with organized labor, the environmental movement was late coming to the trade policy table. Its initial focus was overwhelmingly domestic. The 1988 trade legislation did not include environmental issues among its negotiating objectives. By the early 1990s, however, the movement was deep into the trade policy debate. NAFTA was the catalyst, but broader concerns—some supporting trade, others fueling resistance—also came to the fore.

One way that trade can support environmental goals is by rewarding efficiency: Open markets go to those who use the least inputs per unit of output, hence reducing the overall drain on resources. Europe's Common Agricultural Policy, for example, encourages intensive, high-cost cropping, some of which would not be viable if farmers faced world prices for their output.

A second way that trade can enhance environmental protection is through its contribution to economic growth. Studies have shown that, as per capita incomes rise, citizens place higher value on environmental improvement. Governments enact more environmental legislation and enforce it better, and, in turn, air and water quality improves and deforestation slows.

Finally, environmental policy shares a characteristic that long dominated trade policy—the need to overcome concentrated economic interests in the name of a more diffusely held broader interest. The company accustomed to trade protection finds its parallel in one accustomed to discharging its waste without concern about the “external diseconomies” thus exhibited. And the trade policy institutions built to counter such interests may offer lessons for environmentalists as well.¹¹

More prominent in the recent trade debate, however, have been images of trade's negative impact on the environment. The image of “GATTzilla” put forward by the nongovernmental organization (NGO) Public Citizen posits that relentless trade and investment by multinationals lay waste to the world we hold dear.

Some environmentalists challenge trade at the most fundamental level, by questioning the broader ethos of ongoing economic growth. The ecosystem is threatened by untrammelled economic activity, which trade reinforces. Over the not-too-long run, growth is unsustainable, argue adherents of this view, and in the meantime growth is defiling the natural world. Hence trade should be constrained as part of a broader regime of limiting overall economic activity.¹²

11. Daniel C. Esty highlights these and related interests in *Greening the GATT: Trade, Environment, and the Future* (Washington, DC: Institute for International Economics, 1994). He also proposes creation of a Global Environmental Organization to play the role that GATT/WTO has played in providing international institutional support to trade liberalization.

12. See, for example, Herman E. Daly, *Beyond Growth: The Economics of Sustainable Development* (Boston: Beacon Press, 1996).

This view has a broad following among the most committed environmentalists. Many who would not go this far, however, still see trade as damaging to the environment under current circumstances. They argue that prices do not reflect full production costs because they typically ignore or undervalue impacts on the natural world, and while in theory this flaw could be addressed by enforcing a “polluter pays” principle, in practice this is seldom done.

To the degree that this “external diseconomy” is addressed by domestic environmental regulation, there is fear that global competition will undercut it. In the “race to the bottom” scenario, producers in nations free of regulation drive out those elsewhere who must pay regulatory costs (or cause the latter to win from their home governments an easing of environmental rules).

There is further concern that in enforcing global trade agreements, the WTO will invalidate national environmental measures, that have trade-restrictive effects. In 1991, GATT ruled against a US law that kept Mexican-harvested tuna from US markets because Mexican fishermen used nets that killed many dolphins. In a broadly similar 1998 case, the WTO found illegal a US law that required shrimp sold in the United States to be harvested with nets that had turtle-excluding devices (though the WTO’s appellate body endorsed the principle of such domestic restraints provided they were nondiscriminatory).

Finally, virtually all environmentalists see a need for a worldwide attack on environmental problems that increasingly cross national boundaries. Hence they will, at minimum, want international agreements to strengthen environmental protection. In the absence of a global environmental organization or comprehensive ongoing environmental negotiations, some will see trade agreements as the best available means of advancing the environmental cause abroad. And if environmental agreements include trade sanctions as a means of enforcement, they do not want the WTO to rule that such actions are illegal.

In general, moderate organizations like the National Wildlife Federation and the Environmental Defense Fund have been inclined to see the positive side of trade and pursue prospects of trade-environmental policy collaboration (though they have often been disappointed with the results). More radical groups—such as the Sierra Club and Friends of the Earth—have been more negative and confrontational.

Impact of NAFTA

Labor and environmental issues first became prominent in the US trade debate during the initial consideration of NAFTA.¹³ As discussed in chapter 4,

13. They and related measures had a much longer history. See Susan Aaronson, *Taking Trade to the Streets: The Lost History of Public Efforts to Shape Globalization* (Ann Arbor: University of Michigan Press, 2001).

the 1988 trade law had granted fast-track authority only until mid-1991, with a two-year extension if neither house disapproved. The Uruguay Round talks needed the extra time, and the negotiations on NAFTA, the more controversial of the two, were just getting started. Labor and environmental concerns were raised prominently by early NAFTA critics; in response, the chairs of the committees of jurisdiction—Senator Lloyd Bentsen (D-TX) and Congressman Dan Rostenkowski (D-IL), both NAFTA supporters—asked the Bush administration what it would do about these issues in the NAFTA talks. The administration responded positively: It would provide adjustment aid for displaced US workers, support Mexican efforts to enforce labor standards, and promote both US and Mexican measures to safeguard the environment. The legislators declared themselves satisfied, at least for the time being, and the administration won the fast-track extension vote by a healthy (39-vote) margin in the House.

This sufficed until the election campaign of 1992, when Bill Clinton—balancing the concerns of advocates and opponents—endorsed the now-completed NAFTA accord in general but found its labor and environmental provisions inadequate. He therefore pledged that he would not send NAFTA to Congress for approval until his administration negotiated side agreements with Mexico and Canada remedying this defect. Delay in accomplishing this in 1993 gave valuable time to NAFTA opponents, as spelled out in chapter 8. But the successful negotiation of the side agreements won NAFTA important support within the mainstream environmental movement (though not the labor movement), and proved crucial in gaining House approval.

Things became dicier on the labor-environment front in 1994. Republican and business supporters of NAFTA had viewed the side agreements with some alarm, but they were trapped: they needed support from both Clinton and on-the-fence Democrats, and this was the main means to garner that support. So they limited themselves to loud protests—shots across the bow—when US Trade Representative (USTR) Mickey Kantor toyed with side agreement language that they felt went too far.¹⁴ But they clearly wanted to limit such measures in future trade agreements.

Kantor, however, was moving in the other direction. Happy with the NAFTA victory but unhappy about the resulting frayed relations between the White House and key Democratic constituencies, particularly organized labor, he sought means to repair the damage. He and Vice President Albert Gore highlighted these issues (in a manner critics saw as heavy-handed) at the Marrakesh GATT Ministerial Meeting where the Uruguay Round accords were formally adopted. In USTR's forward planning, Kan-

14. A "coalition of every major business organization in the United States" sent Kantor a strong letter on 4 June that denounced, in particular, provisions allowing "unnecessary [and] counterproductive" trade sanctions. See Frederick W. Mayer, *Interpreting NAFTA* (New York: Columbia University Press, 1998), 192–93.

tor made trade-related labor and environmental issues the administration's new priorities—along with competition policy—in future trade talks. When it came time to propose to Congress the language of the Uruguay Round implementing legislation, Kantor's draft language made them the fifth and sixth of seven "principal negotiating objectives" in future trade agreements for which he sought fast-track authority. Business hit the roof; compromise proved unattainable, so future fast track was dropped from 1994 law, as detailed in chapter 8.¹⁵

In the years that followed, positions hardened. Business, emboldened by the Republican sweep of the fall 1994 congressional elections, sought to exclude most trade-related labor and environmental issues from new trade-negotiating authority. Most Republicans agreed. They felt Kantor was pushing these causes for political more than substantive reasons, and that he hadn't really listened to their views while negotiating the side agreements. They worried also that trade agreements covering these issues could be used to impose new labor or environmental regulations in the United States. Moreover, Kantor was evasive when Ways and Means Republicans, led by Chairman Bill Archer, tried to reach agreement with the administration on a fast-track authorization bill in 1995.¹⁶

On the other side, the social issues energized a broad, disparate coalition loosely coordinated by Public Citizen that continued to attack NAFTA and insist, as an absolute minimum, that future trade pacts include labor and environmental standards, enforceable by trade sanctions, not as side agreements but in their core language. Most Democrats agreed. And in the aftermath of the 1994 election, they were increasingly dependent on labor for funding their reelection campaigns.¹⁷

Labor-environmental skepticism was reinforced by a poor administration job in implementing the NAFTA side agreements and other commitments made to NAFTA swing voters. Mainstream environmental groups became disillusioned and moved toward the opposition camp. Anxieties

15. Interestingly, Kantor's labor language tracked—and softened somewhat—that which appeared in the 1988 Trade Act. And though that law contained no parallel environmental language, Congress did legislate environmental goals for GATT negotiations in 1992. See Steve Charnovitz, "Labor and Environmental Issues," in Jeffrey J. Schott, ed., *Restarting Fast Track* (Washington, DC: Institute for International Economics, Special Report 11, April 1998), 58. The difference in 1994, perhaps, was that the administration in power gave every indication of giving such goals priority.

16. In turn, Democrats and the administration were unhappy that the Archer bill only allowed labor and environmental objectives that were "directly related" to trade, by which they meant labor and environmental measures that *impeded* trade. For details, see I. M. Destler, *Renewing Fast-Track Legislation* (Washington, DC: Institute for International Economics, POLICY ANALYSES IN INTERNATIONAL ECONOMICS 50, 1997), 20–22.

17. In prior decades, business had tended to divide its Capitol Hill contributions between those in power (generally Democrats) and those whose policy positions it preferred (mainly Republicans). After November 1994, however, these became one and the same.

were heightened by developments in the implementation of NAFTA Chapter 11, which was “unique in allowing private investors to enforce government obligations” under the agreement by bringing alleged violations of a NAFTA member government’s guarantees of investor rights to an ad hoc tribunal, which reviews the case and can award monetary damages.¹⁸ At a maximum, this posed the threat that a nation’s environmental regulations might be deemed “regulatory takings” of private property—a controversial legal doctrine that, if widely adopted, could cripple environmental protection measures.¹⁹

The overall trade-political environment was further damaged by the Mexican peso crisis and the resulting swing of the bilateral trade balance from modest US surplus to large US deficit. All this made it easier for the critical coalition—Public Citizen, the Economic Policy Institute, the Sierra Club, etc.—to issue a highly negative report in June 1997 entitled *The Failed Experiment: NAFTA at Three Years*. The administration mainly ducked. It quietly published a more systematic assessment (mandated by Congress) concluding that NAFTA had been (modestly) beneficial. But mostly it avoided talking about NAFTA at all.

This stalemate had consequences—in particular, it undercut the credibility of US trade negotiators. As 1997 began, Clinton was completing his third year without fast-track authority—the longest previous gap since its initiation had been eight months in 1988. Now safely reelected, he would make a forceful if flawed effort to regain it. And he would fail.

Clinton’s Fast-Track Fiasco

The initial signs were favorable. The president had a new, four-year mandate, having bounced back from the humiliation that saw Republicans capture both houses of Congress in 1994. Republican congressional leaders were both positive, particularly House Speaker Newt Gingrich (R-GA).

18. Gary Clyde Hufbauer, Jeffrey J. Schott, and Yee Wong, “NAFTA Dispute Settlement Systems,” 7. www.iie.co/publications/papers/nafta-dispute.pdf (accessed 23 March 2005) .

19. Actual results were more modest. The initial case that galvanized opposition from NGOs, *Ethyl Co. vs. Canada*, was settled in the company’s favor but outside the NAFTA tribunal. While the outcome of this and subsequent cases made “the alarms over NAFTA Chapter 11 seem overblown” (ibid., 43), Congress acted (properly, in this author’s view) to clarify and limit the threat of overweening investor rights in the Trade Act of 2002. The investment provisions of US free trade agreements with Singapore and Chile contain more restrained language. On the broader issue, see Edward M. Graham, *Fighting the Wrong Enemy: Antiglobal Activists and Multinational Enterprises* (Washington, DC: Institute for International Economics, 2000); and Graham, “Regulatory Takings, Supranational Treatment, and the Multilateral Agreement on Investment: Issues Raised by Nongovernmental Organizations,” *Cornell International Law Journal* 31, no. 3, 1998: 599–614.

Ways and Means chair Bill Archer (R-TX) was anxious to resume the effort he had begun in 1995.

Kantor had been replaced as USTR by his former deputy Charlene Barshefsky. She had good relations on Capitol Hill, and was less distrusted by the majority Republicans (though she would never duplicate Kantor's personal relationship with the president). And she was joined in pushing fast track by economic policy officials (led by Treasury Secretary Robert Rubin and his deputy, Lawrence Summers) and foreign policy officials, particularly the new national security assistant, Samuel Berger.

There was also reason to move quickly. Since the measure would inevitably divide Democrats, it would be best to have the vote as far as possible from the 1998 election. The president underscored the importance he attached to the issue by giving it four paragraphs in his February 1997 State of the Union Message. He called for "authority now to conclude new trade agreements," so that Americans could "prosper in the global economy" rather than "be left behind as these emerging economies forge new ties with other nations."

But the president's political advisers were hesitant, as was Vice President Al Gore. They were worried about labor. There had been some early hope that newly elected AFL-CIO President John J. Sweeney might be looking for a way to avoid a repeat of the NAFTA fight, and he or his aides apparently conveyed that view to the White House around the end of 1996. But no one in the White House was able to convert that to a concrete commitment, due, presumably, to the strength of Sweeney's industrial union constituency. Gore may have hoped for progress when he accepted an invitation to the AFL-CIO Executive Council meeting in Los Angeles in February, but his cool reception there stood in sharp contrast to the warm greeting given House Minority Leader Richard Gephardt, his putative rival for the Democratic presidential nomination in 2000 and a vociferous critic of NAFTA and fast track. After a reportedly contentious discussion, the labor confederation concluded its meeting with a clear statement opposing "any grant of fast-track authority . . . that does not include provisions and enforcement mechanisms for addressing worker rights, labor standards, and environmental protection [as] part of the core agreement."

A week later, Gephardt dispatched a 12-page "Dear Democratic Colleague" letter denouncing the "failure" of NAFTA and saying any new grant of trade authority should be limited mainly to repairing its flaws. He added that future trade agreements not only should address labor and the environment but also such issues as "capital flight and currency stability," "human rights—rule of law," "trade in narcotics," and "foreign corrupt practices." The Missouri Democrat had come late to his NAFTA opposition in 1993. By this sweeping statement, he made it clear that he would not repeat that pattern in 1997.

So the basic lines were drawn early—and most players recognized this. "We had many conversations with the White House and USTR and various

other people, where they told us they were not going to address our concerns," recalled AFL-CIO economist Thea Lee. "That's why we were willing to go out early; we didn't have to wait to see the bill."²⁰

It proved to be a substantial wait. One reason was the weakness of administration processes for forcing decision on such an issue. The new National Economic Council (NEC) had played this role admirably for the complex Clinton economic program of early 1993.²¹ But in December 1996, Clinton had effectively split the NEC by appointing one former deputy, Gene Sperling, as council director and another, Daniel Tarullo, as assistant to the president for international economic policy. Perhaps for this reason, the NEC did not play the central coordinating role for fast track in 1997; White House Chief of Staff Erskine Bowles had to establish a special group for this purpose under his direct chairmanship.

But the fundamental reason for delay was Clinton himself, caught between his personal preference and that of his constituency for substantial labor and environmental provisions on one side, and the predominant views of the majority Republicans in Congress on the other. Within the administration, Barshefsky recalled, "Sandy Berger, Larry Summers, and I were . . . saying, 'Do it now. Don't wait. The longer you wait, the more it's going to be like NAFTA' " four years earlier, when opponents gathered enormous steam before the president finally moved in September.²² On Capitol Hill, Archer "waited patiently" (to use his own words), then went public with a sharply worded letter denouncing the administration for its failure to bite the bullet.²³ But the president gave graphic evidence of his indecision in a comprehensive April foreign policy address, which devoted 18 full and eloquent paragraphs to the importance of trade and the need for fast-track legislation. His punch line: "I have asked the United States Trade Representative, Charlene Barshefsky, to work with members of Congress of both parties, with labor and business and environmental groups to try to reach consensus on these issues."²⁴

20. Quoted in Charan Devereaux for Robert Lawrence, *Fast Track Derailed: The 1997 Attempt to Renew Fast Track Trade Legislation*, Kennedy School of Government Case Program (NR15-02-1660.0), 19.

21. See I. M. Destler, *The National Economic Council: A Work in Progress* (Washington, DC: Institute for International Economics, POLICY ANALYSES IN INTERNATIONAL ECONOMICS 46, 1996), 13-15, and Bob Woodward, *The Agenda: Inside the Clinton White House* (New York: Pocket Books, 1995), chapter 11.

22. Quoted in *Fast Track Derailed*, 26. See also the NAFTA account in chapter 8.

23. Bill Archer to Bill Clinton, 15 May 1997, reprinted in *Inside US Trade*, 23 May 1997. He had "repeatedly" urged an early administration proposal and Barshefsky had "done admirable work on Capitol Hill . . . to lay the groundwork," Archer said, "but there comes a time when the preparatory work must end."

24. Comprehensive foreign policy address of 11 April 1997 to the American Society of Newspaper Editors.

By that time, such a consensus was most unlikely, and labor knew it. Recognizing that Clinton would not be able to accommodate them, the unions mobilized. Fearful that Clinton might move in the labor-environmental direction, business held back—encouraged by House Republicans who shared this concern. And Ways and Means eschewed moving its own bill, seeing that as a mistake they had made two years earlier. By late May, the early opportunity had passed and the administration was facing a congressional calendar with key votes imminent on balanced-budget legislation and the extension of most favored nation status for China. So the president, in a meeting with his top advisers, decided in May to delay submission of an administration proposal for four more months, until September.

In the meantime, the White House and USTR made efforts to shore up support. They urged business to mobilize in anticipation of the bill; in July they brought in Jason Berman, a widely respected business executive from the recording industry, to coordinate the campaign—a role similar to that which William Daley, now Secretary of Commerce, had played on NAFTA. And the Business Roundtable established an umbrella organization, America Leads on Trade, to coordinate a pro-fast-track campaign once its members saw the fine print. Through this and other vehicles, business was ultimately able to mount a substantial effort, with reported spending more than double that of the labor opposition. But serious business action did not begin until well into September.

Clinton, caught in the middle and congenitally inclined toward compromise, seemed to hope that once he could really focus on the issue, he would find a magic, bridging answer (as the side agreements had proved to be in 1993). In the meantime, by coincidence, opponents were energized by a distantly related issue, a proposed Multilateral Agreement on Investment (MAI). From 1995 onward, advanced industrial nations had been quietly working on a draft agreement that would, to some extent, do for investment what the GATT/WTO had done for trade—establish a set of common rules, such as “national treatment” for foreign-owned firms. Progress had been slow, and the outcome most uncertain when, in early 1997, Public Citizen published the hitherto confidential draft text on its website, accompanied by a critical analysis. Soon a virulent, Internet-driven campaign was under way, joined in particular by environmental groups wary of globalization, conjuring up visions of a government-business plot to exploit poor nations and despoil the environment—a “license to loot,” as a Friends of the Earth publication called it.²⁵ The MAI’s drafters were dumbfounded by the criticism: they had been struggling over a draft that “did little more than codify the status quo.”²⁶ They never mounted a serious response. By

25. Mark Vallianatos with Andrea Durbin, *License to Loot: The MAI and How to Stop It* (Washington, DC: Friends of the Earth, 1998).

26. Graham, *Fighting the Wrong Enemy*, 7.

fall, USTR was assuring all that if the MAI were ever completed and sent to the Hill for approval, it would *not* be covered by the proposed fast-track legislation! A year later, the MAI would be dead. In the meantime, the overlapping anti-fast-track coalition of NGOs was energized: they had mortally wounded one dragon, and were eager to slay another.

When Clinton finally sent down a fast-track legislative proposal on 16 September 1997, he included those labor and environmental measures he felt he could (such as a commitment to “secure a review of the relationship of labor rights to WTO rules”).²⁷ But in an inevitable bow to the Republican-business coalition, the primary thrust was to limit fast-track coverage to a narrow subset of these issues. They had to be “trade-related,” and this was defined as measures that either impeded trade or weakened domestic labor and environmental laws in order to gain competitive advantage. The House Ways and Means Committee took the president’s restrictive proposal and tightened it further. Prior fast-track legislation had given the executive branch broad leeway in interpreting—and going beyond—the statutory “negotiating objectives.” The Ways and Means bill limited the use of fast-track implementing legislation to “provisions directly related to the [narrowly drawn] ‘principal trade negotiating objectives.’” And it relegated broader goals (“seeking to protect and preserve the environment,” “promoting respect for worker rights,” etc.) to a separate section labeled “international economic policy objectives,” which concluded with the words: “Nothing in this subsection shall be construed to authorize the use of the trade authorities procedures described in section 103 to modify United States law.”²⁸ This further energized labor and environmental opponents, and played badly with most Democrats on the fence, since it was (in their minds) a clear step backward from the 1988 law and NAFTA.

In other respects, the bill was standard. The scope was broad—global, regional, and bilateral trade agreements. The time period was generous: from the bill’s enactment until 1 October 2001, with extension of four more years possible under the same trade-favoring procedure as had been employed for the Uruguay Round and NAFTA in 1991. It was reported out on 8 October by a solid numerical margin, 24-14, but this included just four Democrats—only one of whom, Bob Matsui (D-CA), was in the senior ranks.²⁹

27. “Clinton Fast-Track Bill Limits Scope of Labor, Environment Rules,” *Inside US Trade: Special Report*, 17 September 1997.

28. HR 2621, Section 103(B)(3)(B) and Section 102(C)(2), as reported by Committee on Ways and Means, 10 October 1997.

29. The Senate Finance Committee voted out a bill earlier by a wider margin, but constitutionally the House had to pass the bill first.

The problem now was to muster 218 votes on the floor. Speaker Gingrich was a strong advocate, and he knew that his Republican party would have to carry the primary burden. But roughly one-third of party members tended to be antitrade (56 of 177, or 32 percent, had opposed the Uruguay Round legislation in 1994). Now the Republicans were the majority, with 228 members to 206 Democrats. So it seemed reasonable to them that they should produce 150 “aye” votes, with Democrats coming up with the remaining 70. But the top two House Democrats—Gephardt and Minority Whip David Bonior (D-MI)—were strongly opposed: Bonior had led the opposition to NAFTA. And the specifics of this bill had been tailored to Republican specifications. Matsui, the leader of pro-fast-track Democrats, had thought earlier in the year that Democrats could produce at least 60 votes for fast track, possibly more. Now he was more pessimistic.

In such circumstances, the buck naturally passes to the White House. Clinton had (finally) made this a priority; he would have to find ways to win over wavering House members. He had worked NAFTA impressively in 1993, winning even Gingrich’s temporary admiration. But he faced serious problems four years later. Despite his solid reelection, his centrist position, and his political skills, he had little personal credit on either side of the House aisle. Republicans deeply disliked him—for his personal morals and what they saw as a slippery personality, but also for his political effectiveness—he had blocked the “Gingrich revolution,” and played off it to win reelection. Many (particularly those in the militant “class of 1994”) were reluctant to delegate increased authority to that man. But Democrats didn’t exactly love him either. Some were furious and many were frustrated about the summer deal Clinton had just struck with Gingrich and Senate Majority Leader Robert Dole (R-KS) on balanced-budget legislation that squeezed social programs. Representative Barney Frank (D-MA) would later declare that in rejecting fast track, House Democrats had “taken a hostage.”³⁰ They were waiting, he said, for the White House to press serious programs to address domestic income inequality and the plight of the worker in a globalizing world.

The conventional wisdom in Washington in 1993 had been that NAFTA would fail. By contrast, inside-the-Beltway opinion in 1997 was that Clinton would win. There was nothing like the broad public opposition NAFTA had spawned. Newspaper editorialists were overwhelmingly in favor. And presidents almost always win the “big ones,” especially when they involve international policy. No president had lost a high-profile trade policy vote in Congress since Franklin Roosevelt and Cordell Hull had initiated the reciprocal trade agreements program in 1934!

But as Washington moved toward November, and Congress toward its anticipated adjournment for the year, the votes were not breaking the right

30. He never delivered a “ransom note,” however. See his comments reported in Schott, *Restarting Fast Track*, especially 12–14 and 24.

way—despite Clinton’s now serious engagement and a range of inducements being offered on trade and nontrade issues. Labor produced a blizzard of worker communications to swing legislators. The broad anti-NAFTA, antiglobalization coalition was energized. And skeptical Republicans were not above using fast track as leverage for other issues. A group of conservatives led by James Talent (R-MO) pressed for reinstatement of an international aid policy—put in place by Reagan, reversed by Clinton—that forbade funds going to any international organization that offered or counseled on abortion services.³¹

The business community pressed for a deadline for a vote, believing that only this would force on-the-fence members to come around. Matsui agreed. So even though he felt fast-track proponents were about 50 votes short, Gingrich announced on 29 October that there would be a vote on 7 November, the projected adjournment day. The president and the speaker made some progress in the coming days, but not nearly enough. The vote was pushed back to Sunday, 9 November. Late that evening, Gingrich called the White House to say that they were still short—around 155 Republicans, a maximum of 45 Democrats, for a rough total of 200. Clinton faced the choice: go ahead with a vote in the long-shot hope that 20 or so more members would come on board rather than see the bill go down; or pull it from the floor, with the hope of resurrecting it later. He chose the latter.

Clinton declared the following afternoon that his administration and its allies would “regroup a little bit and find a way to succeed,” since “there are a large number of House members who are interested in trying to find some constructive resolution of this matter.” But for the president, 1988 would be dominated by another issue—the revelation of a sexual affair with White House intern Monica Lewinsky, leading to his impeachment (in one of the more bizarre episodes in House history). Before this had run its course, Gingrich the politician triumphed over Gingrich the statesman. Recognizing that the bill could not win, but seeing a way to put a political squeeze on Democrats in the run-up to the mid-term election, he brought the fast-track bill back to the floor for a vote in September 1998. Clinton refused to back it; Matsui denounced the move as blatantly political and voted against the measure he had fought so hard for 10 months earlier. The bill was ignominiously rejected, 243–180. Just 29 Democrats voted in favor, and no fewer than 71 Republicans joined the opposition. Thus ended action on fast track in the 20th century.

31. This was the so-called “Mexico City policy,” so named for the international conference at which it was announced. Clinton later declared, “Had we been able to resolve that, I think we could have gotten enough votes on the Republican side,” but that “it would have been wrong for me to mix the two issues.” Statement by the president, on the South Lawn, 10 November 1997. See also Devereaux, *Fast Track Derailed*, 39.

Dilemmas of Substance and Process

Fast track failed in the second Clinton administration not because of old-fashioned protectionism, and not from opposition to trade expansion per se, but above all due to deeply felt differences over bringing labor and environmental issues onto the trade agenda. Business and House Republicans were sufficiently wary of opening this door that they were willing to risk failure. They were right in concluding that Clinton would have to go along with them, but wrong in believing that they—plus the president—could prevail. For House Democrats who held the swing votes were willing to ensure failure unless the social issues were more seriously addressed.³²

Other issues were involved as well—Representative Charles Rangel (D-NY), ranking member of Ways and Means, declared in the aftermath, “There is no question in my mind, if the president had thrown in fast track with a jobs bill, this could have passed.”³³ But neither he nor the administration took the initiative to put such a package together.³⁴ This stood in sharp contrast to 2001–02, when Senate Democrats would tie their support of trade-negotiating authority to expansion and reform of trade adjustment assistance.

Still, social issues had suddenly become the “800-pound gorilla” of trade policy. The main players and institutions were ill-equipped to deal with them. Their pre-1990 exclusion from the central trade debate had helped facilitate bipartisan consensus. But now they had forced their way to the trade policy table, presumably to stay.

Trade specialists often argue that, on grounds of principle, such issues should be excluded from trade negotiations. But this argument is hard to sustain. As trade grows as a share of the economy, its effects spread more and more outside the narrow traditional sphere. Negotiations have recognized this from the Uruguay Round onward, when they began to tackle nontariff barriers that had been put in place to serve a range of policy objectives. Traditionalists consider it demagogic, and thinly disguised protectionism, for a Gephardt to declaim before an AFL-CIO audience that it is wrong to place intellectual property rights above worker rights and environmental standards. But the statement itself is hard to dispute on its normative merits. And as workers and environmentalists see their hard-fought gains threatened by globalization, it is reasonable that they will fight to shape its terms.

32. Greater tactical skill might have eked out a victory had Clinton pressed the matter early in 1997, for example, as advocates desired. And the president could have rolled the dice and insisted on a floor vote—it would certainly have been better than the vote Gingrich forced 10 months later. But it was the conflict over social issues that made his margin for error so narrow in the first place.

33. Quoted in *Inside US Trade*, 11 November 1997.

34. See Rangel’s pessimistic comments in Schott, *Restarting Fast Track*, 24.

There are plenty of labor and environmental abuses abroad to target, and some of them do offer at least marginal trade advantage to competitors. Pressing these issues could lead partner nations to adopted stronger labor and environmental regulations sooner than if this were left to the longer-term process of economic growth. And the alternative negotiating channels are often weak—in the case of the International Labor Organization—or nonexistent, given the lack of any comprehensive global environmental organization.

Finally, as Steve Charnovitz noted in early 1998, if a bill cannot muster a majority, a normal response is to “rewrite it” to broaden its appeal. “Fast track—which is now in a coma—might get healthier if it is not viewed as a trade-only mechanism.” Broadening the labor-environment agenda seemed the most plausible route to restoring a broader, more bipartisan protrade coalition.³⁵

But there are problems with moving too far in this direction. One, of course, is getting conservative acquiescence. This was unavailable in 1997 (though as described in chapter 11, a bill that was more permissive in this sphere won overwhelming Republican support in 2001–02). One major fear of Republicans has been that trade agreements would have the effect of increasing regulation of the US economy, as partner nations enforced labor and environmental commitments on us. This was, to some degree, the mirror image of environmentalist concerns that NAFTA’s Chapter 11, which protects foreign investors in the three nations, could be and was being employed to roll back environmental regulations.

A particular problem for the left is that the governments of developing countries, whose people would ostensibly be helped by higher labor and environmental standards, are overwhelmingly opposed. They see such provisions as protectionism in thin disguise: Once such standards are in place, they feel that their social policy deficiencies would be used as an excuse to block trade. When the United States presses these issues aggressively—as Gore did in 1994—their resistance only stiffens. This resistance has kept labor issues out of the WTO and limited its trade-environment agenda. And even in bilateral free trade agreements, where the United States has a potent bargaining advantage, labor and environmental standards are founded on the “Jordan standard,” under which the parties commit themselves to enforcing their existing laws.³⁶ If the United States were to press for stronger rules—tied to ILO core labor standards, for example, as advocates call for—

35. Charnovitz, “Labor and Environmental Issues,” in *Restarting Fast Track*, especially 66, 67.

36. So named because of its inclusion in the US-Jordan free trade agreement negotiated by the Clinton administration and approved by Congress in 2001. The Chile free trade agreement supplements this with new institutions and mechanisms for bilateral cooperation on these issues. The pending Central American Free Trade Agreement (CAFTA) has similar provisions.

it might fail to get them, and this could undercut the consensus, driving their advocates back into opposition. Or, if it succeeded, conservatives might rebel out of fear that they would be applied to the United States.

There are other practical concerns. Too much emphasis on these goals could reduce US leverage on more traditional trade issues—this is a prominent business concern, particularly during a Democratic administration. The actual direct impact of any conceivable labor and environmental provisions on US labor and environmental interests, moreover, is likely to be quite small—far less than direct measures targeted at the situation here at home, such as enhanced trade adjustment assistance. Yet the struggle over the inclusion of such provisions increases party polarization on trade, since these are issues that have long been fought out on a party-line basis. And in any case, there is broad agreement that the most reliable path to improved labor and environmental standards overseas is strong, continuing economic growth, which open trade can facilitate.³⁷

For all of these reasons, embracing trade and environmental issues has not proved an effective means of broadening trade policy's constituency. Efforts to address these issues are at best a "work in progress," as nations struggle for both consensus and effectiveness. The trade debate might be improved if advocates recognized these practical limitations, and critics acknowledged the normative case for trying. What happened in the aftermath of November 1997, however, was the opposite—further polarization between proglobalization forces and their critics. And it resulted in an even greater public humiliation for the Clinton administration.

The Battles of Seattle

At least once every two years, the World Trade Organization convenes a Ministerial Conference, where well over 100 trade ministers from member nations gather to address their most urgent pending issues. This conference is "the topmost body of the WTO," in the organization's words. It operates mainly by consensus, though votes can be taken. A successful Ministerial Conference typically moves the organization and its substantive work forward—the one held in Singapore in December 1996, for example, brought new issues onto the WTO agenda.

The second WTO Ministerial Conference, held in May 1998, featured an address by President Bill Clinton. He took the occasion to invite "the trade ministers of the world to hold their next meeting in 1999 in the United States." By January of that year, Seattle had been designated as the host

37. For a sophisticated, balanced assessment of one of these issues, see Kimberly Ann Elliott and Richard B. Freeman, *Can Labor Standards Improve Under Globalization?* (Washington, DC: Institute for International Economics, 2003).

city, and the European Union, Japan, and the United States (in that order) had all endorsed the idea that the WTO should launch a new trade round. Details were to be developed and differences narrowed in a series of preparatory meetings. The final deals would be struck at the Seattle conclave beginning 30 November.

What the world saw on its TV screens was something quite different. To quote John S. Odell's spirited summary of press reporting:³⁸

American critics used the occasion to organize a large campaign to protest globalization and the WTO and to attack its core norm of trade liberalization. They and allies from other countries circulated pamphlets painting the WTO as an unaccountable tool of greedy corporations and blaming it for world social and environmental problems. On the first day, union members, environmentalists, consumer advocates, and students marching in three columns converged on downtown Seattle chanting "No new round, turn around." Police allowed protesters to penetrate the space between the convention center and the hotels and block the ministers from entering the hall for a day. In the chaos, the Colombian minister was knocked to the ground. Privately, one of his officials grouched that if the same had happened to an American cabinet secretary in Bogotá, the State Department would have declared a travel advisory on Colombia for six months. The minister from Estonia sputtered as he walked away, "I'm a socialist! . . . You people are nuts." The president of the United Steelworkers thundered, "Either they fix the goddamn thing [the WTO] or we're going to get out." Dockworkers up and down the Pacific coast briefly shut down ports in sympathy. A few protesters shattered shop windows and burned trashcans. Police threw tear gas and concussion grenades and eventually called out the National Guard to restore order. Bloody faces and banners denouncing the WTO dominated the televised images.

At the end of the conference, the ministers adjourned without even issuing a communiqué. The protesters got much of the "credit," but in fact, as Jeffrey J. Schott put it, "The WTO meeting fell victim not to protests *outside* in the streets, but rather to serious substantive disagreements *inside* the convention center among both developed and developing countries."³⁹ As one member of the Secretariat put it, "We would have failed without any help."⁴⁰

The organization itself bore some of the responsibility—or, more precisely, the leadership crisis forced on the WTO by members' inability to agree on a successor to Director General Renato Ruggiero, who retired on 30 April 1999. The result was a vacancy in the top post from May to September, at which time Michael Moore of New Zealand assumed the director

38. John S. Odell, "The Seattle Impasse and Its Implications for the World Trade Organization," 2001, 1. Paper presented at the Convention of the International Studies Association, Chicago, February.

39. Schott, *The WTO after Seattle* (Washington, DC: Institute for International Economics, 2000), 5.

40. Odell quote from interview, "The Seattle Impasse," 2.

general position with a weakened mandate for a truncated, nonextendable term of three years,⁴¹ with the Seattle meeting less than three months off. He had little time to broker a consensus.

The host country might have taken up some of the slack by developing a broad, inclusive proposal. Instead, the USTR, weakened by the lack of fast-track authority, pressed a narrow, partisan agenda for the new talks. Nor was it alone, for, as Odell noted, "governments held firm in their one-sided opening positions for so long that time ran out."⁴² So the Ministerial Conference opened with an exceptionally wide range of conflicting positions to resolve. The US priority to labor issues provoked broad concern, which Clinton managed to exacerbate in a press interview. After noting a plausibly acceptable US proposal to develop a WTO working group on labor, he declared that "ultimately" agreements on this and other issues should be enforceable by "sanctions."⁴³

Last but perhaps not least, the US organizers failed to book hotel space for the contingency that the conference would run beyond its four-day schedule, as such meetings typically do. So the ministers and other delegates, having lost at least half a day to protest disruptions, had to vacate their rooms to make space for an annual convention of optometrists.

Following upon fast track, the failure at Seattle was a second major blow to Clinton's trade leadership. And it was, in its outcome and the-
atrics, a significantly greater triumph for the antiglobalist coalition than the MAI or fast track had been.

Fortunately for the chief executive, he was able to end his trade presidency on an upbeat note. He secured enactment, in May 2000, of the African Growth and Opportunity Act (AGOA), a measure granting a broad range of trade preference to nations of that continent. And in a tough legislative battle, he won House approval of new legislation granting permanent normal trading relations (PNTR) to China upon its forthcoming entry into the World Trade Organization. Unlike fast track, both of these featured bipartisan cooperation at the leadership level of Ways and Means.⁴⁴

41. Country votes were closely divided between Moore and Supachai Panitchpakdi of Thailand. The chairman of the WTO General Council, Ali Mchumo, following what he saw as established WTO procedure, pressed to win consensus for Moore on the grounds that he had more votes, better distributed. He failed and was denounced vehemently for the effort. A compromise splitting the term was finally agreed to in July. Moore, with no prior Geneva experience, had exactly three months to play a constructive role. And Mchumo, another important figure, was compromised by his role in the leadership fiasco.

42. "The Seattle Impasse," 10.

43. Interview with *Seattle Post-Intelligencer*, 1 December 1999.

44. In July 1999, the House had approved AGOA by 234-163, with 98 Democrats joining 136 Republicans in favor.

Normalizing China

During the last two decades of the 20th century, the country with the most impressive story of trade and development was the People's Republic of China. Moving from a centralized to a market economy, and from autarchy to increasing openness internationally, the nation's economy grew two-and-a-half times in the 1980s and did so again in the 1990s. Trade rose even faster, tripling in the 1980s and quadrupling in the 1990s.⁴⁵

China looked increasingly like the economic superpower of the future, and American business wanted the strongest possible foothold there. For the same reason, imports from China posed a greater potential threat to certain American firms and workers than those from Mexico ever had or could. The US trade deficit with China rose from \$10.5 billion in 1990 to \$83.8 billion in 2000 (and would reach \$162 billion in 2004, an all-time record for any bilateral balance). Since a large share of the increase represented sales taken from other exporters rather than US domestic producers, the political response was not as strong as that to Japanese export expansion in the 1980s. But concern was rising.

Since the Nixon administration, US policy had been to "open up" to China. Since the Carter administration, the United States had welcomed Chinese trade by providing most favored nation (MFN) status for its exports. The authority employed, however, was that of the old Jackson-Vanik amendment to the Trade Act of 1974, whose original aim was to encourage emigration of Jews from the Soviet Union. The president had to make a positive determination every year that China was meeting the law's criteria, and Congress had the right to override it.

As discussed in chapter 8, this process was smooth and uncontroversial until the Tiananmen Square massacre of June 1989. Clinton had attacked his predecessor's policy of extending open trade thereafter without human rights conditions, and sought, unsuccessfully, to impose such conditions in his first two years. Thereafter, he made the required annual determinations, and the House rejected disapproval resolutions by comfortable margins. The yearly debate, however, gave critics of China's restrictions on democracy and human rights a forum to denounce such practices and threaten to revoke MFN. Their case was aided, marginally, by the fact that the "most favored nation" label suggested that China was getting something very special rather than the market access granted to just about every other US trading partner. To remove this problem, Senators William Roth (R-DE) and Daniel Patrick Moynihan (D-NY) won enactment of legislation changing the name from most favored nation status (MFN) to "normal trade relations," or NTR.

45. Calculations are from data on international transactions (exports, imports) and national accounts (GDP volume, 1995 prices) in International Monetary Fund, *International Financial Statistics Yearbook*, 2002, 356–57.

China had sought membership in the WTO since the inception of the organization. For a country of such current and potential market importance, this required negotiating market-opening agreements with every major trading partner. And the biggest negotiation was with the United States, which was demanding that Beijing commit to broad measures to free up trade and deregulate domestic markets for trade and investment. The talks ebbed and flowed, notwithstanding Barshefsky's yeoman efforts, until a new economic reformer, Zhu Rongji, assumed China's number-two leadership post, that of premier. Zhu was pressing to open up his country internally and cut subsidies to state-owned enterprises. Like Mexico's president a decade earlier, he saw trade liberalization as an effective way to put competitive pressure on domestic enterprises. And the requirements of WTO membership could help drive China toward the rules-based domestic economic order that a strong and stable market economy required.

So Zhu pressed his Beijing colleagues and developed a Chinese WTO accession offer that went well beyond any previous proposal. The offer was transmitted to Washington shortly before the premier's scheduled April 1999 visit. His aim was to nail down an agreement with President Clinton at his Oval Office meeting. Clinton was by now deeply committed to a strong overall China relationship—he had surmounted a military crisis involving Taiwan in 1996 and exchanged productive visits with the Chinese president thereafter. Now he sought the views of his advisers. Barshefsky argued for acceptance, as did senior foreign policy advisers. But political aides were wary—the time might not be right for Congress—and joining them in skepticism was Treasury Secretary Robert Rubin. So Clinton decided to defer action and to seek a still better deal. Zhu was wounded, and USTR promptly made matters worse by releasing the confidential text of the Chinese offer. Shortly thereafter, the Chinese Embassy in Yugoslavia fell victim to accidental bombing during the NATO campaign to free Kosovo from Serbian repression. US-China relations were on the rocks once again.

The US business community was unhappy as well. It had strongly supported US-Chinese trade, and disliked the annual extension process. Its members had, of course, pressed for major concessions from Beijing (the specific content depending on their specific interests, of course). But they were impressed with what Zhu had brought, and uncertain that the United States could get much more. They now saw a chance to lock in a solid trade relationship for the long term. So they urged resumption of talks, with an eye to agreement before the end of the year. Barshefsky went back to China, accompanied by National Economic Council Director Gene Sperling. What they brought back went a little further in some areas—enough to justify a presidential about-face. This time Clinton said “yes.”

The agreement was, essentially, a long list of unilateral Chinese commitments. But there was one thing that required congressional action. China was unwilling, understandably, to go ahead unless granted what

was quickly labeled “PNTR”—permanent normal trading relations. And this would require new legislation.

The vote on the annual NTR renewals had become a ritual. In July 1998, for example, the House had rejected the disapproval resolution by 264-166, with majorities in both parties on the winning side. But permanence was another matter—it meant giving up an annual opportunity to press China issues, and a source of potential leverage. And the measure would go to the House in early 2000, with memories of Seattle fresh in everyone’s mind.

The battle proved to be tough, as expected. But China PNTR legislation had an advantage that fast track had lacked—there were clear and serious costs to rejection. Those who voted no on fast track could take comfort in the fact that failure would cause no concrete, immediate damage—there were no comprehensive global negotiations under way, and the target date of the Free Trade Area of the Americas was January 2005, then more than seven years distant. A negative vote on China PNTR, however, would deal a devastating blow to US-China relations, just as voting down NAFTA would have done to US-Mexico relations. Members of Congress were very much aware of this—and aware that they would be blamed for the damage. Moreover, PNTR was the only significant concession the United States was making to China, whereas the bilateral agreement to which it was linked brought major benefits to US exporters and investors.

This situation fostered a political environment in which swing members of the House looked not to defeat the measure but to find ways, consistent with their convictions, to have it pass. Representative Sander Levin of Michigan, who was becoming the lead Ways and Means Democrat on trade, had frequently expressed concern over competition from poor, low-wage countries, and he was a skeptic on Chinese human rights behavior as well. But he saw a need to move forward if a basis for doing so could be found.

One time-tested method of achieving this was to add “parallel” provisions to the pending legislation. Ways and Means chair Archer was initially cool toward such provisions in this case, as were chamber leaders. They thought China PNTR could win without them. But as April turned into May and backers still lacked the necessary votes, Archer expressed greater flexibility.⁴⁶ Levin put forward two provisions—one to limit “import surges” from China, and a second establishing a new commission to oversee bilateral relations on human rights. On the latter his position was strengthened by the cosponsorship of Representative Douglas Bereuter

46. Archer announced on 2 May 2000 that he would support such provisions because “there is more work to be done now [in building support] than I had anticipated we would have to do.” In a 10 April letter to President Clinton, he had labeled such provisions “the wrong way to go.” Quoted in *Inside US Trade*, 2 May and 14 April 2000.

(R-KS), vice chairman of the House International Relations Committee and a specialist on East Asia.

With these provisions on track, the Ways and Means Committee reported out PNTR legislation by the overwhelming margin of 34-4, with ranking Democrat Rangel joining in the majority. In the end, a total of 73 Democrats bucked opposition from labor and NGOs and voted in favor on the House floor. Garnering strong Republican support, PNTR prevailed on 24 May 2000 by a vote of 237 to 197, a relatively comfortable margin. After parallel Senate action, it became law.

More than a year would pass before China actually joined the WTO, and the House would have to reject, in the meantime, two more NTR disapproval resolutions. But the United States at last had a stable statutory base for trade relations with this enormously important nation. China trade would remain a prominent issue, of course. With the rise in the bilateral deficit, China's undervalued currency would come under increasing attack from 2003 onward, as noted in chapters 9 and 12. Chinese labor practices would be the target of a prominent Section 301 petition filed by the AFL-CIO in March 2004 (a petition rejected by the Bush administration). But there was a stronger framework for addressing such issues, since China was now further incorporated into the network of international institutions that had ameliorated interstate relations ever since the Second World War.

Clinton ended his second term on the upbeat in trade policy, just as he had begun his first term. The period in between had been frustrating, however. The president had been unable, after his first year, to secure fast-track negotiating authority. He had been unable to break the stalemate over labor and environmental standards that had precipitated this failure. And the WTO Ministerial Conference he had hosted had proved a disaster. So there was plenty of trade work waiting for George W. Bush when he entered the White House in January 2001 after a bitter and protracted electoral struggle.

