
Fast Track/Trade Promotion Authority

Making Trade Policy

Trade promotion authority (TPA), known until 2001 as fast track, plays a major role in determining US trade policy. In the United States, the president has the constitutional authority to negotiate international trade agreements. But if a trade agreement requires changes in US statutory law, Congress must approve the implementing legislation. From 1974 to 1993, Congress granted the president fast-track authority—that is, in return for being consulted regularly by the administration, it committed to an expeditious yes-or-no vote on such legislation, with no amendments. Beginning in the early 1990s, however, fast track became the subject of fierce political debate and a focal point for concerns about global trade liberalization—especially in connection with labor and environmental issues.

The fast-track/TPA case provides insight into the role of the US Congress in international trade negotiations. It also highlights the erosion of political support for trade liberalization in the United States, particularly among Democrats in the House of Representatives, and raises the central question of what issues should be covered in trade agreements.

Fast Track Derailed: The 1997 Attempt to Renew Fast-Track Trade Legislation is an edited and revised version of the case with the same name originally written for the Case Program at the Kennedy School of Government. For copies or permission to reproduce the unabridged case please refer to www.ksgcase.harvard.edu or send a written request to Case Program, John F. Kennedy School of Government, Harvard University, 79 John F. Kennedy Street, Cambridge, MA 02138.

Governance

Foreigners often view the United States as a single rational actor—typically embodied by the president. But US trade policymaking occurs through an intricate process in which the Congress plays a key role. Indeed, the Constitution of the United States gives Congress the power to regulate international commerce, leaving the president only the power to negotiate. Therefore, the relationship between the president and the Congress is that of agent and principal, where there is an expectation that the agent (the president) will act on behalf of the principal (Congress). It is a problematic arrangement: The classic principal-agent problem arises when the agent's objectives differ from those of the principal and the agent can pursue hidden actions. The fast-track/TPA case exemplifies how complicated such relationships can become, as we see Congress trying to exert control over the actions of the president.

Economic theory suggests that trade liberalization provides benefits to a nation as a whole, while at the same time creating individual winners and losers. The president, whose constituency is the entire nation, is likely in the best position to internalize these costs and benefits and to represent the overall national interest in open trade. By contrast, members of the House of Representatives have constituencies whose opinions about trade are largely determined by the fate of a few local industries or organizations. Representatives from districts that are hurt by trade will find it difficult to support liberalization despite the potential benefits to the nation as a whole. Senators, who generally must answer to more numerous and more diverse voters, will typically adopt an intermediate perspective. It is thus no surprise that enthusiasm for trade liberalization usually comes from presidents and resistance to it from the House.

Congress is aware of its propensity to favor special interests; ever since the disastrous adoption of the Smoot-Hawley tariffs in the 1930s, it has sought to restrain this tendency by delegating more power over trade to the president. Starting in 1934, and renewed at three-year intervals, the Reciprocal Trade Agreements Act gave the president temporary authority to negotiate and implement reciprocal tariff reductions without the need for further congressional approval. Congress, while never giving up its constitutional authority, thus showed its willingness to constrain its behavior for the sake of promoting the national interest.

Once trade agreements began to cover nontariff measures, it became clear that a new arrangement was needed between Congress and the president. Indeed, after the Kennedy Round (1964–67), Congress refused to implement the round's antidumping rules and an agreement on US customs procedures, rejecting the argument that the president had the power to make such commitments without congressional oversight.

The failure of the United States to deliver on important parts of the Kennedy Round agreement naturally caused problems with negotiating partners in the General Agreement on Tariffs and Trade (GATT). To deal with the difficulty, fast-track procedures were developed in 1974. Under fast track, Congress was restricted to an up-or-down vote on trade-implementing legislation within a specific time limit. By forfeiting its ability to amend trade agreements, Congress was again shifting power to the president. As a result, the president could strategically frame the agenda for any particular trade agreement. For example, the president could bundle many issues under one negotiation, increasing the chance for agreement on certain measures that might never be accepted if considered in isolation. Such power clearly increased the need for trust between the president and Congress—a factor that would loom large when it became necessary to renew fast-track legislation.

Coverage and Depth

Fast track worked well as long as there was consensus on which issues should be covered by trade agreements and how they should be dealt with. However, debate over the inclusion of labor and environmental standards came to the forefront when the North American Free Trade Agreement (NAFTA) was being considered. These issues are highly controversial. On the one hand, organized labor and most environmental groups believe that provisions on core labor standards and environmental standards should be included in trade agreements; on the other hand, many business representatives would like to see such provisions excluded or limited solely to measures that are strictly trade-related. In addition, many in Mexico and other developing countries resist having these standards enforced by a trade agreement.

There are compelling arguments on both sides of this argument. One concern is that these standards could be used as a means of protecting domestic markets. For example, if one nation decides to trade only with countries that meet certain environmental regulations, then its domestic firms will not face as much foreign competition. The worry that protectionism may be disguised as regulation is not new: Such fears prompted Tokyo Round negotiators in the 1970s to design a code that dealt with standards and technical barriers to trade. While the code did not seek to enforce particular standards, it did lay out requirements that had to be met. For example, standards that “create an unnecessary obstacle to international trade” were not permitted. These requirements, in turn, raised concerns among environmental groups that trade was being allowed to trump other important policy considerations. Environmentalists argued that trade agreements should explicitly redress this imbalance.

Proponents of including both labor and environmental standards in trade agreements point to the precedent set by the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). If the trade regime is used to enforce intellectual property rights that benefit corporations, they argue, then it should also be used to enforce other basic rights and standards. Many labor and environmental groups worry that without such measures, trade could result in a race to the bottom as countries seek to use lax labor and environmental standards to gain competitive advantage. In particular, they point to the development of special export-processing zones in which national labor and environmental rules are not enforced. Labor standards proponents also stress that they do not seek to establish a global minimum wage that would price developing countries out of world markets; instead, they ask only for the enforcement of the core International Labor Organization (ILO) standards, which entail four principles: nondiscrimination, the right to unionize and bargain collectively, prohibitions on exploitative child labor, and prohibitions on forced labor.

Enforcement

Although most international agreements are enforced by international law, signatory countries that violate the terms of their agreements are not necessarily penalized, aside from their loss of face in the court of public opinion. But a country found in violation of a trade agreement may well suffer consequences. In the World Trade Organization (WTO), for example, a country that refuses to come into compliance may find that its trading partners “suspend concessions” and raise tariffs. This superior enforcement mechanism was the key factor in making the inclusion of TRIPS in the WTO so attractive to its proponents—and in increasing the desire of proponents of labor and environmental standards to have their issues similarly incorporated into trade agreements.

Developing Countries

Opponents of introducing labor and environmental standards into trade agreements fear that developing countries could be required to implement rules that are inappropriate for their level of development. While many developing countries favor international labor standards, they do not support including these issues at the WTO, because only developed countries generally have large enough economies to resort to trade sanctions against violating nations. Instead, they believe the ILO to be the most appropriate forum. In addition, many developing countries voice

concern about the competence of trade officials to deal with questions of labor and environmental policy.

Winners and Losers

George H. W. Bush was the first president to struggle with this debate over labor and environmental standards, and its attendant difficulties have been integral to the controversy of fast track ever since. Between 1993 and 2001, the relevant players in almost every conceivable alignment failed to mobilize sufficient support for fast track's passage. In 1994, the Clinton administration tried to work with House Democrats in a pro-labor alignment and found inadequate support. In 1995, House Republicans sought a probusiness formulation without the administration's support and failed. In 1997, the administration worked with the Republicans and failed. In 1998, the Republicans acted independently and failed. Only in 2001 was a Republican president able to achieve passage of the desired authority in the House by abandoning efforts at bipartisanship: With Republican support, he won by the narrowest of margins.

The basic problem is that Congress in recent years has been highly polarized and evenly balanced between the two major parties. If the fast-track/TPA language includes stronger labor and environment provisions, more Democrats become supporters but Republicans drop out; if the language is weakened to attract more Republicans, support from Democrats erodes. The case also highlights the growing opposition to trade liberalization and globalization in the Democratic Party more generally, a trend that made it essential for the president to work with Republicans to obtain negotiating authority.

Such challenges raise the question of whether fast track/TPA is really necessary. The successful passage of China's permanent normal trade relations (PNTR; see chapter 6) and of the US-Jordan Free Trade Agreement indicates that bilateral deals can be negotiated without fast-track legislation. But conventional wisdom (and the early experience with the Kennedy Round) suggests that in negotiating multilateral agreements, fast track/TPA is more important. Certainly, a US president who is not equipped with this authority will be unable to extract the best foreign offer, because other countries know that any commitments made at the table could be altered or rejected by Congress.

In June 2002, President George W. Bush was able to obtain trade promotion authority. This achievement raises the question of whether the problems faced by President Clinton were related to strategic failures by him and his administration or were instead structural, suggesting that future granting of TPA will require the particular alignment of a Republican president and a Republican Congress.

CASE STUDY: Fast Track Derailed— The 1997 Attempt to Renew Fast-Track Trade Legislation

At 1:15 A.M. on November 10, 1997, President Bill Clinton telephoned House Speaker Newt Gingrich (R-GA) and asked him to cancel the vote on fast-track trade authority scheduled for later that morning. The Clinton administration and the Republican leadership had intensely lobbied members of the House of Representatives for days in an attempt to secure its renewal, but the effort was over. The head count had come up short of the 218 votes needed for passage: Republicans, who controlled the House, had lined up more than 150 votes, but reportedly no more than 45 Democrats supported the fast-track legislation.

At a time when the United States was the world's largest exporter, the US economy was booming, and the unemployment rate was at its lowest in seven years, the failure of an effort to facilitate international trade negotiations might seem surprising.¹ But labor unions, many Democrats, environmentalists, and certain right-wing groups were not convinced that most Americans would benefit from competition in the international economy. In the aftermath of NAFTA's passage, many US workers felt threatened by the prospect of jobs moving overseas, where labor costs were lower. In the end, many observers attributed fast track's defeat to domestic anxiety about the impact of globalization on labor and the environment, giving rise to disagreement about the extent to which trade agreements should incorporate labor and environmental protections.

Other issues raised by the fast-track debate had proven divisive as well. To what degree should Congress participate in the formulation of US trade policy? Who should set goals for international trade negotiations? Should the president be entrusted with fast track? Is fast track necessary? In addition to these substantive concerns about the legislation came a host of political considerations. For example, some Democrats felt that Clinton had worked out the details of the 1998 budget with Republicans, essentially cutting his own party out of the process. As a result, some Democrats were unwilling to hand the president a victory on fast track. Ultimately, fast track came to exemplify the increasing politicization of trade.

1. In 1996, unemployment fell as low as 5.2 percent. USTR, *1997 Trade Policy Agenda and 1996 Annual Report*, 1.

What Is Fast Track?

The president has the constitutional authority to negotiate international trade agreements. If a trade agreement requires changes in US statutory law, however, Congress must approve the implementing legislation. The key to fast track, originally passed in 1974, is that it restricts Congress to an expeditious yes-or-no vote on the legislation to implement trade agreements; no amendments or changes are allowed. But the executive branch can't simply negotiate any trade agreement it pleases: Congress sets guidelines, and negotiation objectives are specified in advance. In addition, the executive branch has to meet certain requirements, such as consulting with congressional committees and private-sector advisers. In practice, Congress also played an active role in drafting the implementing bills during informal sessions known as "non-markups," though such sessions were not codified as part of the fast-track process.

Proponents of fast track argued that without such authority, the power of the United States was blunted in trade negotiations. Other countries would know that any commitments made at the table could be altered or rejected by Congress. According to former White House Special Assistant Jay Berman, the Clinton administration's point man on fast track, "Fast track is important because it's very hard to see how trade negotiations can go on without it. Other countries would be very unlikely to put their final best offer on the table if, each time they did so, Congress had an opportunity to go back and say, 'That's not enough' or 'We're going to change it.'"² Without fast track, supporters said, the United States' traditional leadership role in the global trade arena was compromised.

President Clinton and others cited the growing importance of trade to the American economy. The United States, they argued, was the world's largest exporter, sending more than \$848 billion in goods and services worldwide in 1996.³ One in every five jobs in America was supported by international trade, and almost 33 percent of overall US growth in GDP between 1985 and 1994 came from exports (Destler 1997, 30). Trade accounted for nearly a quarter of the US economy in 1997, up from 10 percent in 1970.⁴ And this trend would only continue. The Office of the US Trade Representative (USTR) estimated that by 2010, trade would be responsible for 36 percent of US GDP.

2. Unless otherwise noted, all quotes from Jason Berman are from a March 1998 interview with Charan Devereaux.

3. US Bureau of the Census, Foreign Trade Division, 1996.

4. David Sanger, "Trade Fight Was Battle of Perception Against Analysis," *The New York Times*, November 16, 1997, sec. 1, 26.

The History of Fast Track

Until 1934, Congress imposed tariffs on specific imports as a way of protecting domestic industries and generating income. US tariffs were subject to change only by an act of Congress. However, during Franklin D. Roosevelt's first administration, Congress conceded authority to the president for making product-specific trade law. Believing that high tariffs had contributed to the Great Depression, Congress passed the 1934 Reciprocal Trade Agreements Act, which authorized the president to negotiate reductions in US tariffs in exchange for concessions by US trading partners. Congress typically limited how much tariffs could be lowered and how long negotiations could last. Once the reductions were negotiated, the president issued an order declaring the new tariff rates, and they became US law—no implementing legislation was needed. This arrangement persisted through the 1940s, 1950s, and 1960s, with Congress reauthorizing the 1934 act through 11 successive Trade Agreement Extension Acts (see Shapiro and Brainard 2003). Average US tariffs fell from around 60 percent in 1930 to 5.8 percent by 1975 (Dobson 1976, 34; cited in Destler 1997, 6).

By 1970, however, trade negotiations were increasingly focused on nontariff barriers to trade, such as subsidies, technical standards, discriminatory procurement practices, and barriers to service exports. US officials could not negotiate credibly on these issues, because they lacked the power to implement any required changes in US law. This impotence became clear after the Kennedy Round of multilateral trade talks in 1967, when Congress refused to pass two nontariff measures agreed on by negotiators. With this precedent in mind, the Senate Finance Committee reached agreement on fast track as part of the Trade Act of 1974, signed by President Gerald Ford in 1975. Through this mechanism, Congress attempted to balance its insistence on review and approval of trade agreements with some guarantee that US negotiators had a good chance of securing congressional approval in a timely manner (Shapiro and Brainard 2003). Fast track was subsequently the mechanism under which major trade agreements were negotiated (on this subject generally, see Destler 1997, 6–7). These agreements included the Tokyo Round (1979) and the Uruguay Round (1994) of the GATT, the Canada-US Free Trade Agreement (1988), and NAFTA (1992).

The 1979 Tokyo Round implementing bill included an eight-year extension for fast track, and the legislation was again extended in 1988. In 1991, as described below, the debate was contentious, but the authority was ultimately renewed for another two years. In 1993, fast track was extended for less than a year in order to allow completion of the Uruguay Round of trade talks; in 1994, it lapsed. A powerful force in the unfolding fast-track saga was concern about NAFTA.

The Shadow of NAFTA

On June 11, 1990, President George H. W. Bush and President Carlos Salinas of Mexico declared that they planned to negotiate a US-Mexico trade agreement. Bush formally notified Congress of his plans in September 1990. After months of discussions, the administration announced in early 1991 that Canada would also join the US-Mexico talks. The goal would be a North American free trade agreement that would eliminate many tariff and nontariff trade barriers within 10 years, liberalize restrictions on foreign investment, and strengthen protection for intellectual property rights.

On March 1, 1991, President Bush requested a renewal of fast track. The 1988 Trade Act had reauthorized fast track until 1991, but an additional extension was permitted if neither the House nor the Senate objected. Congress had until June 1, 1991, to block fast track; barring congressional action, it would be extended automatically for two years.

Never before 1991 had Congress voted on fast track alone, rather than as part of a larger, complex trade bill (as in 1974, 1979, 1984, and 1988). The 1991 fast-track vote became an early referendum on the yet-to-be-negotiated NAFTA agreement. Fast track would also cover continuing talks in the multilateral GATT Uruguay Round, which were stuck in a quarrel over agriculture. However, it was largely the controversy over trade with Mexico that fueled the ensuing three months of congressional debate.

The AFL-CIO strongly opposed extending fast track. Labor organizations argued that the free trade agreement would pave the way for jobs to be exported to Mexico, and they made the defeat of fast track a top priority. It was a long-standing position of several powerful unions—the Teamsters, the Steelworkers, the United Auto Workers (UAW), the textile and apparel workers union (UNITE, the Union of Needletrades, Industrial, and Textile Employees), and the Oil, Chemical, and Atomic Workers union (OCAW)—that worker rights must be addressed in trade negotiations. UAW political director Alan Reuther cites his union's objections to fast-track negotiating authority as far back as 1977.

Public Citizen, a consumer group founded by Ralph Nader, also opposed fast track, raising a number of worries about the Mexico deal—including its implications for food safety. In addition, US fruit and vegetable growers expressed concern about competition from Mexican producers.

Environmental groups were split on fast track. Though the Sierra Club, Friends of the Earth, and Greenpeace opposed it, the president of the National Wildlife Federation wrote a letter to the *Washington Post* tentatively supporting it.⁵ The Environmental Defense Fund, the Nature Conservancy,

5. Jay D. Hair, "An Environmental Vote," *The Washington Post*, May 22, 1991, A20.

the Natural Resources Defense Council, and the National Audubon Society also expressed cautious support. A few leaders of environmental groups met with President Bush to discuss trade with Mexico, a move that fast-track opponents blasted as “selling out.”⁶

Though initially undecided about fast track, Democratic House Majority Leader Richard Gephardt (MO) eventually supported the extension. “I sympathize with labor’s concerns,” Gephardt said. “But I think we should try to do a treaty [with Mexico]. We retain the right to amend or reject it if it’s not agreeable to us.”⁷ Some of his constituents were far from happy with Gephardt’s position—union members and farmers picketed his St. Louis office.⁸ Fast track was supported by other powerful Democrats as well, including House Ways and Means Chairman Dan Rostenkowski (IL), Speaker Thomas Foley (WA), and Senate Finance Committee Chairman Lloyd Bentsen (TX).

The Bush administration fiercely lobbied for fast track, seeing the vote as a major test of presidential authority. The administration’s chief lobbyist in the House, Nicholas Calio, devoted almost all of his time to fast track and postponed plans to leave the administration for the private sector until after the House vote. “We’ve not left a lot to chance here,” Calio said.⁹

Business support for fast track was broad and included the US Chamber of Commerce, the Business Roundtable, and the National Association of Manufacturers. On the team of lobbyists were leaders from American Express, Eastman Kodak, General Electric, Procter & Gamble, and many other companies. “We’ve never had a trade issue that has been this hot,” said Harry Freeman, a former American Express executive who was lobbying for the bill. “It’s a pan-business effort,” said Calman Cohen of the Emergency Committee for American Trade. “I’ve never seen a larger grouping from the private sector.” According to some observers, however, the effort was slow to start until Representative Dan Rostenkowski bluntly warned 20 business leaders two months before the vote, “If you want to win this thing, move your ass.”¹⁰ Mexico and Mexican business interests also hired lobbyists to generate support in Congress for fast track.

Many commented on the wide range of players in the fast-track controversy. “For the first time,” said one advocate, “different social groups

6. As described in Gary Lee, “‘Fast Track’ Sprint: Frenzied Lobbying on a Treaty Not Yet Written,” *The Washington Post*, May 23, 1991, A21.

7. Gephardt, quoted in Lee, “‘Fast Track’ Sprint,” A21.

8. Philip Dine, “Gephardt’s Trade Stance Draws Labor Protesters,” *The St. Louis Post-Dispatch*, May 14, 1991, 8A.

9. *Congressional Quarterly Almanac* (1991), 119.

10. All quoted in Jill Abramson, “US-Mexico Trade Pact Is Pitting Vast Armies of Capitol Hill Lobbyists Against Each Other,” *The Wall Street Journal*, April 24, 1991, A16.

have been brought into the negotiations over a trade pact. . . . Trade has become a public issue."¹¹ A turning point came on May 1, when the administration submitted an 80-page "action plan" on the US-Mexico free trade agreement to Congress. The plan addressed labor and environmental issues prominently, including a commitment to worker adjustment assistance and a pledge to negotiate safeguards to protect US producers from sudden import surges. Observers say the document persuaded more Democrats to support fast track.

On May 23, 1991, the House of Representatives voted 231 to 192 to defeat a resolution to deny fast track, giving President Bush a victory; 91 of 268 Democrats voted with the majority. The Senate also voted to extend fast track, 59 to 36 (23 Democrats joined 36 Republicans allowing the extension). Representative Byron L. Dorgan (D-ND), sponsor of the House resolution to deny fast track, said, "I'm obviously disappointed that the leadership of our caucus is not close to the caucus itself on this issue."¹² However, Democratic leaders Gephardt and Rostenkowski sponsored a nonbinding "sense of the House" resolution (H. Res. 146) calling on the Bush administration to pay close attention to environmental, labor, health and safety, and other matters during the NAFTA negotiations. The measure passed 329 to 85.

Some fast-track opponents complained that lobbyists for the AFL-CIO had conceded defeat several weeks before the vote and were not active in the final fight. The AFL-CIO's Bill Cunningham noted that the unions "cared only about the Mexico free trade agreement" and felt that fast track for Mexico could have been defeated if it were somehow separated from fast track for the Uruguay Round, a trade negotiation more popular in Congress.¹³

The NAFTA negotiations concluded in August 1992, and President Bush signed the agreement in December 1992. As he ran for president in 1992, Bill Clinton had initially delayed taking a position on NAFTA; he ultimately voiced his support, with the stipulation that additional protections should be negotiated for labor and the environment.¹⁴ After defeating George Bush in the election, Clinton became US president in January 1993.

In 1993, the Clinton administration requested an extension of fast track in order to complete the GATT Uruguay Round negotiations. Labor leaders indicated they would not fight a short-term extension limited to the

11. Quoted in Lee, " 'Fast Track' Sprint," A21.

12. Dorgan, quoted in Guy Gugliotta, "House Vote Backs Bush on Trade; President Seeking 'Fast Track' Talks for Pact with Mexico," *The Washington Post*, May 24, 1991, A1.

13. Cunningham, quoted in Gugliotta, "House Vote Backs Bush on Trade," A1.

14. See remarks by Governor Bill Clinton at the student center at North Carolina State University, Raleigh, North Carolina, Federal News Service, October 4, 1992.

Uruguay Round and Gephardt supported it. Fast track passed in the Senate 76–16 and in the House 295–126 (145 Democrats voted for the extension; 102 were opposed).¹⁵

Also in 1993, the Clinton administration began to negotiate with Canada and Mexico on labor and environmental standards, relying on side agreements to supplement NAFTA without reopening the negotiations as a whole (the trade deal had already been signed). The effort found little support among Republicans, some of whom opposed any linkage of trade with labor and environmental issues—especially if sanctions could be used to enforce the agreed-on standards. Many Republicans also felt that the process of negotiating side agreements endangered NAFTA’s passage in Congress because it gave the opposition time to mobilize. Brian Bieron, legislative assistant to “fierce free trader”¹⁶ Representative David Dreier (R-CA), recalls:

People who were going to lead the fight for NAFTA [in Congress]—Republicans like Archer, Dreier, Kolbe, and Gingrich—opposed reopening NAFTA. They also opposed any kind of side agreements that allowed the use of trade sanctions to enforce what they considered to be domestic policy considerations [i.e., labor and the environment]. The administration’s method of dealing with the Republican members was basically just to tell them what they were going to do. Republican members would say, “We don’t want you to do that.” Then the administration would go and do it anyway. In fact, what we heard from the Canadians and Mexicans was that the administration was attempting to portray Congress as demanding side agreements that were enforceable by sanctions. For much of that year, Republican members actually consulted more closely with the Mexicans and the Canadians than they did with the Clinton administration. The staff members were having meetings saying “Don’t believe [the administration].”¹⁷

Yet the negotiations resulted in two side agreements that, Bieron said, “Republicans could live with . . . because neither of them really had sanctions involved.”

These agreements earned support from some environmental groups (six major organizations said they would back NAFTA) but not from labor unions, which continued to totally oppose NAFTA.¹⁸ Thelma Askey, chief

15. The deadline for notifying Congress of the president’s intent to enter the Uruguay Round agreement was extended to December 15, 1993, and it had to be signed by President Clinton by April 15, 1994. (Fast track had been set to expire March 1, 1993.)

16. Amy Borrus and Richard S. Dunham, “Tech: The Virtual Third Party,” *Business Week*, April 24, 2000, 74.

17. Unless otherwise noted, all quotes from Brian Bieron are from a March 1998 interview with Charan Devereaux.

18. The six environmental groups were the National Wildlife Federation, the Natural Resources Defense Council, the Environmental Defense Fund, the World Wildlife Federation, the National Audubon Society, and Conservation International. “Six Environmental Organizations Back NAFTA, Denounce Opponents,” *Inside US Trade*, September 17, 1993.

of staff of the House Ways and Means Subcommittee on Trade, reflected on Clinton's frustrations: "First he was in a big hole because he spent a [long time] negotiating the side agreements, rather than building support for implementation. Then he got into a bigger hole because the side agreements weren't making organized labor come on board."¹⁹ Labor unions and some environmentalists criticized the side agreements as a half-hearted effort whereby the United States, Mexico, and Canada merely agreed to fully enforce their own domestic labor and environmental regulations.

The NAFTA debate in Congress was fierce, and initially some analysts predicted that the agreement would never pass. Many observed that anti-NAFTA forces were better organized and more vocal than NAFTA's business-minded advocates, who, some complained, never launched an effective grassroots campaign.²⁰ Opponents to the agreement formed an unlikely coalition that included former presidential candidate Ross Perot, conservative commentator Patrick Buchanan, consumer activist Ralph Nader, many Democrats, some environmental groups, and a good number of labor unions. Perot's most-quoted statement about NAFTA was that the agreement would create a "giant sucking sound" as jobs left the United States for Mexico.²¹ Many Democratic lawmakers shared Perot's view that American manufacturers would relocate to take advantage of less expensive Mexican labor. Notably, two members of the House Democratic leadership—Majority Leader Richard Gephardt and Majority Whip David Bonior (MI)—strongly opposed the agreement. Bonior came out early against NAFTA and spearheaded the opposition.

Among NAFTA's proponents were President Clinton, many Republicans, much of the business community, and every living ex-president. Some environmental groups and key Democrats such as Representative Robert Matsui (CA) also supported NAFTA. Moreover, almost every American Nobel laureate in economics and 41 of 50 state governors endorsed the agreement. NAFTA supporters worried that defeat would signal that the United States was turning inward, abandoning its leadership on international trade. NAFTA would increase exports and create new jobs, they argued. "We have to decide whether we're going to participate in a global economy. . . or turn our backs," said Representative Rick Lazio (R-NY).²²

19. Unless otherwise noted, all quotes from Thelma Askey are from a March 1998 interview with Charan Devereaux.

20. Martin Kasindorf and Susan Page, "The NAFTA Vote: Clinton Comeback as in Budget Vote, a Run from Behind," *Newsday*, November 18, 1993, 4.

21. Ross Perot in the October 19, 1992, Presidential Candidates Debate, Wharton Center, Michigan State University, East Lansing, Michigan.

22. Lazio, quoted in Bob Davis and Jackie Calmes, "The US House Passes NAFTA," *The Asian Wall Street Journal*, November 19, 1993, 1.

The White House devoted two months to a final massive lobbying campaign. The administration's tactics included setting up a "war room" to monitor the issue and bringing in a NAFTA czar from outside of Washington—Chicago businessman William Daley. The effort culminated in a debate between Vice President Al Gore and Ross Perot that Gore was widely judged to have won. Yet even two days before the vote in the House, the outlook remained uncertain. Many described the intense end of the battle as messy and a frenzy of deal cutting. The most crucial bargains protected the producers of sugar, citrus, tomatoes, asparagus, and sweet peppers.

NAFTA was approved in November 1993, and Clinton shared credit for the victory with an unlikely ally, Newt Gingrich. The House Republicans' deputy leader delivered a dozen more votes than expected. The final count was 234 to 200 in the House (with 102 of the 258 House Democrats supporting the agreement) and 61 to 38 in the Senate.

But NAFTA cast a long shadow over later attempts to renew fast track. In its aftermath, many Democrats committed themselves to the pursuit of labor and environmental goals more specifically through trade agreements. Mike Wessel, Gephardt's trade adviser, explains: "The side agreements were unacceptable to Mr. Gephardt, which is why he opposed the final passage of NAFTA. So having that history under our belt, we then wanted to make sure that the fast-track language in 1994 and thereafter was much more specific about what constituted an acceptable conclusion."²³

Some Republicans, by contrast, saw NAFTA as the model for how labor and environmental issues should be handled in the trade arena. Don Carlson, chief of staff for Bill Archer (R-TX, and chair of the House Ways and Means Committee after the 1994 election), articulates this position: "We have contended all along that there is no reason to have [labor and environmental provisions] in fast-track legislation, because the administration already has the authority to negotiate labor and environmental agreements. It's only trade agreements that they don't have the authority to negotiate. We can do the same thing as in NAFTA where those issues were handled outside the scope of the actual treaty."²⁴

NAFTA also influenced how Congress and the administration interacted over subsequent trade issues. As Republican legislative assistant Bieron recalls, "NAFTA really established the mental framework among Republicans as to the administration's attitude on labor and environment, as well as what USTR consultations really meant. The feeling was that consultations with these guys were not worth a dime, because of what

23. Unless otherwise noted, all quotes from Mike Wessel are from a March 1998 interview with Charan Devereaux.

24. Unless otherwise noted, all quotes from Don Carlson are from a March 1998 interview with Charan Devereaux.

happened during the consultations over the NAFTA side agreements.” Thus when the Clinton administration’s efforts to renew fast track began in 1994, many Republicans already had a stance. Bieron explains,

The Republicans saw the administration threaten the entire passage of NAFTA by delaying five months trying to squeeze the Canadians and Mexicans into a trade sanction process [for labor and environmental standards]. So that made us think, “Gosh, those guys are very serious about labor and the environment—to the point where they are willing to endanger a good free trade agreement that we all like.” That lesson was behind the way some Republicans members reacted to the administration. They wanted a very, very tight reading of how labor and environment was to be included in fast track. There was very little personal or ideological trust.

The 1994 Attempt to Pass Fast Track

Soon after the passage of NAFTA, USTR Mickey Kantor completed negotiations for the Uruguay Round of GATT, the seven-year, 124-nation multilateral trade deal that, among other accomplishments, lowered tariffs, strengthened intellectual property rules, and established the World Trade Organization. The Uruguay Round, like NAFTA, required the passage of implementing legislation. Hoping to avoid another battle, the Clinton administration undertook lengthy consultations with Congress to develop the legislation and smooth the way.

Because fast track would expire in 1994, the implementing bill for the Uruguay Round was expected to contain an extension. The fast-track draft produced by the administration in June 1994 included a new element: trade-related labor and environmental issues. These were included among the fast-track negotiating objectives, the specific goals that the administration would try to achieve during trade talks. This position had been developed in consultation with labor unions. As AFL-CIO policy analyst Thea Lee recounts, “There were extensive discussions between the AFL-CIO, Mickey Kantor, and other people in the administration in order to work toward some consensus or agreement that we all could live with.”²⁵

But the administration’s fast-track draft provoked hostility among some Republicans and many in the business community. According to Thelma Askey of the House Subcommittee on Trade, Kantor “wanted to propel labor and the environment into the same category as trade violations, which could be enforced by trade sanctions. That worried the business community. It worried our members.” Such a policy would lead to retaliation and challenges in the WTO, opponents argued. They also worried that traditional trade goals would take a back seat to these new preoccupations.

25. Unless otherwise noted, all quotes from Thea Lee are from a March 1998 interview with the author.

As one Republican insider complained, “It would divert resources. Instead of focusing on the traditional objectives about what should be achieved in a trade agreement, Kantor would spend a lot of time trying to achieve unachievable goals. We didn’t believe that there was enough consensus for labor and environment in order to make that step.” In August 1994, the House Ways and Means Committee approved draft fast-track language that did not include labor and environmental standards in the principal negotiating objectives.

Meanwhile, the debate over the Uruguay Round Agreements was starting to heat up. Republicans worked to delay the vote on the bill until after the midterm 1994 elections, not wanting to give the Clinton administration a legislative victory before the elections. In addition, Senator Ernest Hollings (D-SC) held the bill in committee for the full 45 days permitted under fast track as a way of registering his opposition to US trade policy.²⁶ The leadership of both parties committed to voting on the Uruguay Round before the end of the year, however.

Worried that fast track would endanger passage of the entire Uruguay Round Agreement, two influential members of the Senate Finance Committee—the chairman, Daniel Patrick Moynihan (D-NY), and the ranking minority member, Robert Packwood (R-OR)—made known their reluctance to include language renewing the authority.²⁷ At a September meeting of the National Economic Council, Treasury Secretary Lloyd Bentsen declared that the administration lacked the votes for fast-track extension (Destler 1997, 19). The White House was convinced, and the bill implementing the Uruguay Round—approved overwhelmingly by Congress in a special December lame duck session—contained no new fast-track authority. The vote was 288 to 146, with 86 House members casting their vote after being defeated in the elections or choosing to retire; 167 of 256 Democrats supported the agreement.

Despite the setback on fast track, President Clinton was soon taking steps toward new free trade commitments. In December, the president played host to the heads of 32 other Western Hemisphere nations, meeting at the Summit of the Americas to discuss trade issues. Latin American nations, especially Chile, had hopes of expanding NAFTA beyond Mexico and Canada, and therefore “the Latins were aghast when fast track was pulled off the table,” said one observer.²⁸ Another attempt to renew fast track was imminent.

26. See “Moynihan Announces Deal for Senate GATT Vote in December,” *Inside US Trade*, September 30, 1994.

27. “Moynihan, Packwood Urge Clean GATT Bill, Better Funding Options,” *Inside US Trade*, September 2, 1994.

28. Quoted in Linda Robins, Jack Epstein, Tim Zimmerman, David Bowermaster, and Matthew Cooper, “Reaching for New Heights Latin Leaders Will Push for Free Trade at the Summit of the Americas,” *US News and World Report*, December 12, 1994, 68.

The 1995 Attempt

In early 1995, fast track was back on the legislative agenda with an important change in the dynamic. In the 1994 elections, Republicans gained control of the House for the first time in 40 years; they also controlled the Senate.

Republicans took the lead on the fast-track issue. Republican members of the Ways and Means Committee developed a proposal and consulted with the administration, but no House Democrats were involved in the process. "By their own choice, Democrats on the committee never participated," Thelma Askey recalls. "This was always an effort between the administration and the House Republicans." The Ways and Means fast-track proposal was quite restrictive in its treatment of labor and the environment. While not excluding all references to these issues, it required any labor or environmental objective to be "directly related" to trade. By this, Republicans meant that only labor and environmental measures that *impeded* trade could be considered under fast-track authority (Destler 1997, 21).

In August 1995, the House Ways and Means Trade Subcommittee postponed action on fast track until September. A few days later, Subcommittee Chair Phil Crane led a nine-member US congressional delegation to Santiago, Chile. Negotiators from Chile, Mexico, Canada, and the United States had kicked off the first round of talks on Chile's entry into NAFTA, and Crane wanted to discuss the possibilities. Eduardo Aninat, Chile's finance minister, noted that Chile wouldn't negotiate any crucial points without fast track for fear that any agreement would be open to major amendments in the US Congress. "What Chile is not going to do is negotiate twice," Aninat said.²⁹

Back in the United States, the Ways and Means committee passed a version of fast track lacking the labor and environmental provisions favored by the administration. It also limited bills implementing trade agreements to provisions "necessary" to carry out those agreements, as opposed to more permissive prior fast-track language that allowed "necessary and appropriate" provisions. According to Askey, the new language attempted to clarify that no "extraneous matters" could be included in implementing legislation.³⁰ The House Ways and Means fast-track bill was opposed by USTR Mickey Kantor, who criticized it as more limited and less flexible than the authority given to past administrations.³¹ But the news of the Ways and Means bill dominated the front pages of Chilean newspapers.

29. Aninat, quoted in Christopher Chazin, "US Congress Delegation in Chile to Discuss NAFTA," *Emerging Markets Report*, August 7, 1995.

30. "House Ways and Means Approves GOP Version of Fast-Track Bill," *Inside US Trade*, September 22, 1995.

31. Robert S. Greenberger and Nancy Keates, "Fast-Track Bill on Trade Is Backed by Panel in the House," *The Wall Street Journal*, September 22, 1995, A6.

The fast-track bill was dropped from an upcoming budget reconciliation measure after the administration and Ways and Means Republicans failed to reach an agreement. Moreover, some Democrats announced they would oppose the budget bill if it included fast-track language. In a final blow, presidential aspirant Bob Dole declared in November that “it would be a mistake to extend new fast-track authority at this time.” Dole further asserted, “I do not believe Congress should extend new fast-track authority until we’ve had an adequate cooling-off period following the two recent major trade agreements [GATT and NAFTA].”³² As one senior House Republican aide noted, “That speech was the death knell for fast track.”

The 1997 Fast-Track Effort

In his 1997 State of the Union speech, President Clinton once again called on Congress to renew fast-track negotiating authority. The United States, Clinton said, “must act to expand our exports, especially to Asia and Latin America, two of the fastest-growing regions on earth, or be left behind as these emerging economies forge new ties with other nations.”³³ A few weeks later, he repeated his commitment during a visit from the president of Chile.

Clinton wanted to be armed with fast-track authority because the United States faced a variety of upcoming trade talks, among them new discussions on including Chile in NAFTA, creating a hemisphere-wide Free Trade Area of the Americas, and creating an Asia-Pacific free trade zone. The president also wanted to build on the Information Technology Agreement (ITA) that had eliminated \$5 billion in tariffs on IT products.³⁴ Finally, the administration argued that it could not successfully participate in planned WTO negotiations—on intellectual property in 1998, agriculture in 1999, and trade in services in 2000—without fast track.³⁵ At the same time, according to some observers, the administration lacked an explicit negotiating agenda and none of the prospective talks was urgent; when fast-track renewal was at issue in 1974, 1988, and 1993, by contrast, a global round of trade talks was under way. Did the administration really *need* fast track?

32. Dole, quoted in his statement on the Senate floor, Congressional Record, 104th Congress, 1st Session, Vol. 141, No. 173, November 3, 1995.

33. President William J. Clinton, address before a Joint Session of the Congress on the State of the Union, February 4, 1997.

34. Under the ITA, the United States and 43 other countries agreed to eliminate tariffs, with a few exceptions, by the year 2000.

35. Stuart Eizenstat, testimony at a Hearing of the International Economic Policy and Trade Subcommittee, House International Relations Committee, 105th Congress, 1st session, September 24, 1997.

The president's endorsement of fast track was not immediately followed by a legislative proposal. As one Republican staffer noted, "[Clinton] made a very good statement on fast track in his State of the Union address. However, it was not reflected in anything of substance." Some senior administration officials were unenthusiastic about fast track; they worried about the political costs of pursuing the legislation and the difficulties of securing its passage. Thelma Askey of the House Trade Subcommittee agrees that the administration was divided:

I think the president was solidly behind it. Beyond the president, I think you'd find a range of views or even resistance. You have some individuals like [Clinton's boyhood friend and senior adviser Thomas "Mack" McLarty and [White House Chief of Staff Erskine] Bowles who I think personally were very supportive of fast track. . . . You'd find as many people, if not more, who thought it was not a good idea politically. They weren't looking at it from a policy point of view. They just thought politically it did not address their base. And, in fact, it was objectionable to a significant part of their base—organized labor. So the president's strong commitment to fast track was never adequately or consistently reflected in how the administration pursued it.

Of course, fast track was not the only legislative issue the administration faced that spring. Securing passage for the fiscal 1998 federal budget was crucial. One senior House Republican aide remembers the administration's being "unwilling to move forward [on fast track] while the budget deal was being hammered out because it would split Democrats. The administration needed all the Democrats it could get on the budget." Another priority for the administration was the controversial renewal of China's most favored nation (MFN) trading status (see chapter 6). Some Democrats did not want to side with business and Republicans on both China's MFN status and fast track.

On April 1, 1997, the sequence in which these legislative issues should be handled was discussed in a meeting of cabinet members; also attending was Charlene Barshefsky, Clinton's nominee to replace Mickey Kantor as the US Trade Representative. No final determination was made.³⁶ As Barshefsky remembers, "Basically, the division in the White House at the time was this: Some of us were saying, 'We should go for fast track early in the spring;' others were saying, 'No, no, no, we have budget negotiations going on in the spring.' It turned out we were right. We should have pushed ahead on fast track in the spring."³⁷

36. "Administration Wrestles with Timing, Substance of Fast Track Bill," *Inside US Trade*, April 4, 1997, 1.

37. Unless otherwise noted, all quotes from Charlene Barshefsky are from a March 2001 interview with Charan Devereaux.

Labor and Fast Track

One major force attacking fast track was organized labor, whose opposition had been stiffened by the battle over NAFTA. Many union members essentially viewed NAFTA as a 1,000-page agreement aimed at protecting US investments in Mexico. Labor had fought hard against NAFTA, and the loss was infuriating. "There was a lot of pent-up resentment over NAFTA," the AFL-CIO's Thea Lee acknowledges, "having lost the battle as narrowly as we did." Even some staunch supporters of NAFTA admit that the agreement was probably oversold to Congress and the American public, with promises that it would create 200,000 jobs in its first two years and alleviate pollution along the border with Mexico, among other benefits. Three years after the enactment of the agreement, labor remained unconvinced. According to Bill Klinefelter of the United Steelworkers of America, "NAFTA was the key. We saw actual job loss and we knew which plants were closed because of that agreement. The steelworkers could point out very accurately that we had lost about 7,000 jobs since NAFTA had gone into effect."³⁸ The collapse of the Mexican peso and reports of worsening environmental degradation along the border fueled labor's charge that NAFTA was a failure. Fast track, labor insisted, should protect workers as well as investors. As the United Auto Workers' Alan Reuther put it, "We saw NAFTA as having been a disaster. We did not want to see NAFTA expanded, which was the whole point of fast track."³⁹

Even so, insiders report that the AFL-CIO, a 78-union labor federation representing 13.1 million workers, initially resisted embarking on a fight against fast track. In a February 1997 Executive Council meeting, a few AFL-CIO staff members balked at the idea of mobilizing to oppose the legislation. Observers attribute this resistance to the close relationship between the AFL-CIO and the Clinton administration.

Vice President Gore reportedly attended the February 1997 Executive Council meeting in an effort to dissuade AFL-CIO leadership from a full-scale battle over fast track, but the leaders of the Steelworkers, the Autoworkers, and OCAW were unconvinced. After a contentious meeting, the council issued a strong statement opposing any "grant of fast track negotiating authority . . . that does not include provisions and enforcement mechanisms for addressing worker rights, labor standards and environmental protection. These provisions must be part of the core agreement."⁴⁰

38. Unless otherwise noted, all quotes from Bill Klinefelter are from a March 1998 interview with Charan Devereaux.

39. Unless otherwise noted, all quotes from Alan Reuther are from a March 1998 interview with Charan Devereaux.

40. AFL-CIO Executive Council, "Fast Track Trade Negotiating Authority," Portland, OR, February 19, 1997, www.aflcio.org.

Union Arguments for Opposing Fast Track

Labor's essential argument was that international trade does not help everyone. A globalized economy benefits the wealthier member of society, labor maintained, while middle- and lower-income citizens are often left behind. US companies often move their operations to, or purchase products from, countries where workers cost less to employ. These lower labor costs were sometimes attributable to unfair, even inhumane labor practices and lax environmental protection. Labor also claimed that US companies often threatened workers at the negotiating table by emphasizing their freedom to relocate abroad. Thea Lee explains:

It is a universal experience among workers that globalization is used as a threat. It's used as a tool to bring their wages down. To frighten them. To cow them. And this is the contradiction that people who live in Washington, who sell free trade for a living, don't understand. Managers across the country are beating workers over the head with the threat of globalization. Sometimes it may be just a bluff—maybe the company has no intention of moving overseas. That doesn't matter, because if they threaten to move overseas and workers believe the threat, they'll take a 50 percent pay cut. Then trade has had an impact on their wages without any trade having taken place.

Many fast-track supporters suspected that what unions really wanted was to block international trade. They interpreted efforts to insert language on labor and the environment into fast track as thinly disguised protectionist attempts to limit trade altogether. "It's a poison pill designed to scuttle trade agreements," said Julius Katz, the Bush administration's chief negotiator for NAFTA (quoted in Kosterlitz 1997, 2076). Another fast-track supporter charged, "We think what [labor] has done is to try and establish conditions for trade agreements which they know are not achievable so they can avoid the US entering into trade agreements." Unions wanted to turn back the clock, some fast-track advocates argued, to a time when trade was less important.

Labor interests countered that they were not motivated by protectionism, nor were they capable of stopping the trend toward globalization. "We can't put the genie back in the bottle. We're not trying to block trade," says Thea Lee. "But we do want to change the rules under which international trade and investment take place." Not enough was being done, labor argued, to help US workers adversely affected by trade. To be sure, assistance and training were available for some—for example, through Trade Adjustment Assistance (TAA), which was created in 1962 to assist workers and firms hurt by imports.⁴¹ But labor called such programs

41. In the Tokyo Round of trade negotiations, Congress liberalized TAA eligibility requirements and enriched the TAA package. As part of the legislation granting trade-negotiating authority for the Uruguay Round of trade talks, Congress enacted the Economic Dislocation and Worker Adjustment Act of 1988.

inadequate. Those who lost their jobs because of global trade faced rough times. Among American manufacturing workers whose jobs were permanently eliminated, 20 percent were still out of work a year later. The average length of unemployment was five months and those who succeeded in getting a job took on average a 10 percent pay cut (Stokes 1998, 9).

For their part, fast-track advocates argued that trade should not be blamed for unemployment and the growing income inequality in the United States. They pointed to interest rates set by the Federal Reserve and rapid technological change as having a far greater impact on wages and employment levels, and they insisted that in the long run, holding the American economy hostage by opposing fast track would only hurt workers and consumers. After all, export-related employment accounted for 23 percent of private-industry new job growth in the United States between 1990 and 1995 (Stokes 1998, 6). “Let’s be realistic about this,” said USTR spokesman Jay Ziegler. “The choice is: Are we going to make progress, or disengage from the rest of the world? We would prefer to advance trade—and labor and environmental goals—in a realistic framework, rather than to set a standard that prevents us from making any progress” (quoted in Kosterlitz 1997, 2076).

In response to organized labor’s argument that low wages abroad often reflected unfair practices by governments and companies, fast-track supporters retorted that the *imposition* of labor and environmental standards through the vehicle of trade agreements was not an appropriate remedy. Indeed, suggests Don Carlson, trade itself may be the solution:

Frankly, we believe that increased trade and the involvement of American business in many of these countries has a far greater impact in raising standards within those countries. How American businesses operate overseas ethically and legally, and the way they treat their workers, raises the standards within these countries by example. We operate in a far different manner than . . . the French and the Italians, and many of the other trading countries in the world. We have a great deal to offer by example.

Furthermore, some claimed, trade-generated wealth is a more powerful vehicle for change than forcing standards on a nation. “If you look at Korea, Taiwan, Chile, and Argentina, these are the models for how you raise the standards for average people,” says Republican congressional staffer Brian Bieron. “The transition toward a more free economy ends up empowering people. As a country gets wealthier and wealthier, they invest in worker rights and cleaner technologies.”

In part, the fast-track debate centered on determining the best place to negotiate and enforce agreements on labor standards. Many fast-track supporters believed that labor talks belong at institutions like the International Labor Organization, an independent agency of the United Nations whose “main goal is to promote decent work for all men and women” (see www.us.ilo.org). Unions disagreed, noting that workers

have no leverage at the ILO because the organization lacks the power to enforce its conventions.⁴² The only way to ensure enforcement, the AFL-CIO argued, was to link violation of labor standards to economic consequences—and thus the best forum is a trade negotiation. “We want the same kind of binding dispute settlement for our concerns that business gets for things like intellectual property rights and investment rules,” says Thea Lee. “Businesses understand, as we do, that you use the leverage of a trade agreement to obtain promises from your trading partners to improve their laws.”

Labor also portrayed addressing worker rights in trade negotiations as a matter of fairness. Lee notes, “If you look at NAFTA, the GATT, these are sets of rules that look like they were written by businesses. That’s because they *are* written by businesses. All we’re really asking for is to have equal weight for the concerns of American workers and the environment.” Inviting in more participants would indeed make the policy process messier, Lee acknowledges, but “democracy can be inconvenient.”

Labor Organizes

The time seemed right for labor to marshal its arguments. Labor’s frustrations over NAFTA had already hurt Democrats in Congress. They “felt disenfranchised about what happened on NAFTA,” says one congressional staff member. “And they didn’t show up to vote [in 1994]—a lot of folks didn’t. And it hurt Democrats at the polls.” In the aftermath of NAFTA, many Democrats were ready to listen to their labor constituencies about trade.

According to labor representatives, they were able to oppose fast track outright in 1997 before language was drafted because the administration had signaled from the start that it would not be able to meet labor’s demands. Compromise was not possible. “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,” recalls Thea Lee of the AFL-CIO. “That’s why we were willing to go out early, we didn’t have to wait to see the bill.”

Organizing on fast track at labor’s grassroots level soon gathered steam. Post-NAFTA, unions recognized the need to reenergize their members. And so, Bill Klinefelter explains, they tried new strategies:

After the 1994 elections, steelworkers decided that we really needed to change the way we communicated with our membership—mainly because we weren’t communicating with our membership. In 1994 what was being discussed in the plants and in the shops were not worker’s issues, were not economic issues, were not social issues, but wedge issues like abortion and prayer in the public schools. We

42. In addition, the United States has signed only two of the ILO’s eight core conventions.

decided that in order to better communicate with our membership, we had to devise a grassroots program.

Coordinators trained local union leaders to recruit 4 percent of their members into this new program, called “Rapid Response.” Once the recruits were in place, local leaders received a fax machine and became a part of a communication loop. Klinefelter continues:

So now we could communicate with a large percent of our membership almost instantaneously and make things happen. We put out a series of informational faxes on fast track that prepared them for action. We looked at the data from the NAFTA adjustment assistance program and saw where we had lost members. Then we talked to those people at the local plant level, got their stories and said, “What we would like you to do is sit down, write a letter and write your story. What happened to you, what happened to your family.” And we sent them to the White House. This was before any Hill action began.

Some Republican leaders charged that the strong-arm tactics of “Big Labor” doomed fast track, but other observers disagree. Responsibility lies not with the leaders, they say, but with the tens of thousands of members who took action. “When the AFL-CIO’s grassroots and communications department got involved, they were excellent,” says Lori Wallach of Public Citizen’s Global Trade Watch, a nonprofit consumer advocacy organization founded by Ralph Nader. “But all of the formative and much of the most important grassroots work were rallies of Teamsters. Letters and visits of Steelworkers. UAW folks on the ground.”⁴³ The apparel workers’ union ran ads in Spanish-language newspapers to spread the word. And the Teamsters broadcast anti-fast-track ads on radio stations popular with truckers. Members of the Steelworkers union alone sent 160,000 handwritten letters to Congress.⁴⁴ Many members of Congress noted the grassroots nature of the union effort. As one Democratic staffer reflects: “I would say from the labor perspective, this is one of those issues that is really from the bottom up. This is an issue that gets their membership all over America very fired up. It’s a very grassroots-driven type of an issue, and what the unions did was a reflection of what all their membership thinks. This is a bottom line for them.”

Strange Bedfellows—Other Fast-Track Opponents

Labor was hardly fast track’s only opponent in 1997. In fact, an unusually diverse coalition of interests mobilized to fight the legislation. Though

43. Unless otherwise noted, all quotes from Lori Wallach are from a March 1998 interview with Charan Devereaux.

44. Jill Abramson and Steven Greenhouse, “The Trade Bill: Labor Victory on Trade Bill Reveals Power,” *The New York Times*, November 12, 1997, A1.

some environmental organizations had supported fast track's reauthorization in 1991 and NAFTA in 1993, most now opposed fast track. One such group was the National Wildlife Federation (NWF), America's largest not-for-profit conservation organization. Steven Shimberg, NWF's vice president for federal and international affairs, told Congress:

We recognized the potential of trade as an instrument to enhance environmental protection, and believed that NAFTA was a good first step toward the integration of trade and environment. . . . Based on our experience with NAFTA and with other trade and investment agreements, we now know we can no longer rely solely on side agreements to achieve our environmental objectives, or on fast track rules which do not state explicit goals for environmental protection.⁴⁵

Another fast-track opponent was Public Citizen's Global Trade Watch, which published three reports charging that NAFTA had compromised food safety, promoted environmental degradation in Mexico, and failed to facilitate job creation. For Global Trade Watch, fast track became a referendum on NAFTA. Other foes included conservative populist Pat Buchanan, who argued that protecting US national interests was more important than free trade; he also urged withdrawal from the WTO. Some Republicans opposed fast track on constitutional and political grounds, arguing that it was a mistake to grant any type of extra executive authority to the president. Others simply didn't trust Clinton to negotiate agreements they would support. Representative Dana Rohrabacher (R-CA) declared, "I would predict that the president is going to have a difficult time getting fast track through this Congress. I mean, after all, he's relying on Republican votes and, quite frankly, we Republicans, at least this Republican, doesn't trust the president. . . . I feel like I was betrayed the last time I gave up that authority."⁴⁶ Other Republicans had concerns specific to their districts, such as worries about how certain agricultural and textile sectors would be affected.

Gephardt Mobilizes

Union and environmentalist apprehension about trade intersected with many traditional Democratic values, and House Minority Leader Dick Gephardt moved early to oppose fast track. Gephardt's office reportedly had five separate meetings with the White House on fast track beginning

45. Steven J. Shimberg (vice president for federal and international affairs, National Wildlife Federation), testimony to the House Subcommittee on Trade of the Ways and Means Committee, 105th Congress, 1st Session, September 30, 1997.

46. Rep. Dana Rohrabacher, speaking at a Hearing of the House Subcommittee on International Economic Policy and Trade of the International Relations Committee, 105th Congress, 1st Session, September 24, 1997.

in late 1996, two of them one-on-one sessions between Gephardt and Clinton. Gephardt's position was clear, says his trade adviser Mike Wessel:

Gephardt had supported fast track in the past and was prepared to do so again. But we would publicly organize around the Democratic Leader's views and we would not sit idly by while [the administration] moved forward, therefore diminishing our effectiveness at the end of the day. We did that during the NAFTA fight, which is in part why we lost. We did not organize opposition to NAFTA until it became clear that we could not work these issues out. Gephardt said that he would not make that same mistake again, of sitting in negotiations where it was clear that the other side was not acting in good faith but was already organizing and had already made up their minds. We began very serious organizational activities to enhance the Leader's effectiveness.

In February 1997, Gephardt wrote a 12-page "Dear Colleague" letter to House Democrats denouncing NAFTA and voicing disapproval of any fast-track proposal that lacked protections for labor and the environment. Gephardt opposed relegating labor and environmental issues to side agreements, as in NAFTA, and called for their inclusion in the body of trade pacts "equal in stature and force and linked to provisions on investment and trade . . . fully enforceable with access to trade sanctions where necessary" (Gephardt 1997).

Gephardt's colleague, House Minority Whip David Bonior, also organized early. Bonior's office led regular meetings on the fast-track issue for members of the House. "We started in March, meeting every week," says one staff person active in the anti-fast-track effort, "to educate ourselves and the rest of the caucus about what happened in NAFTA and to what extent it was relevant to fast track. We had blue dogs, we had new members, the tomato folks, Hispanic Caucus members, members who had supported NAFTA, it was really a cross section of the Democratic Caucus that was active."

In March, the *Washington Post* obtained a copy of a Clinton administration memo to Stuart Eizenstat, undersecretary of commerce for international trade, which made clear that the executive would try to push a fast-track bill over the objections of Gephardt and Bonior.⁴⁷ Many administration officials believed that there was no room for compromise with Gephardt because his position was doomed to political failure. Some said the Minority Leader himself knew that a fast-track bill with provisions he favored stood no chance of getting out of the Republican-led Ways and Means Committee.

Some critics accused traditional Democrats of siding with the labor unions for financial reasons. Union money had become increasingly important for House Democrats, whose financial support from business de-

47. Paul Blustein, "Fast Track' Trade Plan Pits White House Against Top Congressional Democrats," *The Washington Post*, March 22, 1997, A11. Also see "Confidential Memo Reveals Administration Strategy on Fast Track," *Inside US Trade*, March 28, 1997.

creased when the Republicans won control of Congress in 1994. By 1996, contributions from labor's political action committees accounted for 48 percent of PAC donations to House Democrats, up from 33 percent in 1992. Furthermore, in 1997, the Democratic Party was \$15 million in the red. "The Democratic Party is bankrupt, everyone knows that," said Thomas J. Donohue, president of the US Chamber of Commerce, "and the only money these guys can get is from the unions."⁴⁸

While acknowledging the decline in business support for the Democratic Party, union officials are skeptical about the degree to which it influenced the fast-track battle. As one observes:

A lot of people talked about union money. What people said was that since the Republicans took over Congress, businesses stopped giving as much to Democrats and so labor money became more important than ever. And that is why Democrats couldn't afford to vote [yes on fast track]. I think that is putting way too much emphasis on the money and not giving members of Congress credit for having brains and constituents and being able to read the bill themselves and to draw their own judgments.

Finally, presidential politics was also a variable. Many press accounts of the fast-track fight pointed to the presidential ambitions of both Gephardt and Gore. Pundits wondered if the prospect of the upcoming presidential race in 2000 increased Gephardt's fervor in campaigning against fast track in order to secure union support for his potential candidacy. Participants in the anti-fast-track campaign scoff at this interpretation. "It is the lazy reporter's way of explaining what happened," says one senior Democratic staffer. "The political story is much more interesting than the mundane trade debate. You know, two titans of the Democratic party fighting over an issue that divides the party. It's good drama, but it was not that relevant to the process."

The House Ways and Means Trade Subcommittee: Republicans Push for Action

Even as labor and the traditional Democrats mobilized against it, Republicans on the House Ways and Means Trade Subcommittee were pushing fast track as an idea whose time had come. Ways and Means Chairman Bill Archer and Trade Subcommittee Chairman Phil Crane (R-IL) wanted to move the legislation during the spring of 1997. Fast-track supporters from Ways and Means were eager for Charlene Barshefsky to be confirmed as the next US trade representative, succeeding Mickey Kantor. Barshefsky was expected to be fast track's most ardent supporter in the

48. Figures on labor's PAC contributions and Donohue, quoted in Abramson and Greenhouse, "The Trade Bill," A1.

administration and a catalyst for momentum on the issue. Don Carlson, Archer's chief of staff, recalls, "From the first announcement of Charlene's nomination, she indicated that her highest priority was fast track, and we kept hoping that the nomination would move. But all of the nominations stalled. So there was no movement whatsoever."

During the spring, Trade Subcommittee Republicans and the administration exchanged language on the substance of fast-track legislation. In late April, Republicans rejected an administration proposal to eliminate negotiating objectives from fast track on the grounds that doing so would allow the administration to pursue trade agreements with no limits at all. On May 13, House Republican staff presented a proposal to administration officials to allow the inclusion of labor and environmental issues in future trade agreements only if they were "directly trade-related," language similar to the 1995 proposal. Generally, Republicans felt that the inclusion of labor and environmental objectives could hurt US businesses, as nations would simply choose to trade elsewhere. Carlson explains their position:

One of the big tensions in international trade is the tension between major companies for advantage in developing markets. There is a fight between the major trading nations to develop positions of advantage in opening markets. The underlying issue in almost all of our trade relations is, To what extent are American businesses placed at a disadvantage with regard to their foreign competitors? Will America get access to the markets that we helped to force open, or will others take advantage of these efforts? That's one of the big issues that we've got to deal with.

Business interests echoed these concerns. "Let's not delude ourselves into thinking that we are bestowing a special favor on other countries by letting them buy our goods and services," says lobbyist Gail Harrison of the Wexler Group. "American businesses and farmers face very stiff competition in overseas markets."⁴⁹

Ways and Means Republicans continued to press the administration on the timing of fast track. Thelma Askey of the House Trade Subcommittee told the *Washington Post* that Republican members had informed the White House of a possible meeting on May 15 to draft the legislation. This move was criticized by the White House and Representative Robert Matsui, the ranking Democrat on the Trade Subcommittee, as premature. Askey said, "What we're telling the administration now is that this is a window of opportunity that shouldn't be lost."⁵⁰

49. Unless otherwise noted, all quotes from Gail Harrison are from a March 1998 interview with Charan Devereaux.

50. Askey, quoted in Blustein, "Republicans Urge Clinton to Join Trade Fast Track; Some on Hill Say There Is a Window of Opportunity for Legislation to Speed Treaties," *The Washington Post*, May 14, 1997, D9.

On May 14, White House spokesman Mike McCurry commented that the Clinton administration expected to renew fast-track authority in time for the Second Summit of the Americas, which was to be held in Santiago in early 1998.⁵¹ Partly in response to this remark, Archer wrote a letter to the president the next day accusing the administration of paying lip service to fast track without taking action: “Although voicing strong support for fast-track authority, no concrete steps have been taken by your Administration to reach our objective of enacting trade negotiation authority. . . . Every month that goes by means more lost contracts and more job opportunities forgone for Americans.”⁵² Archer warned that the administration’s failure to agree to a May 15 markup endangered the chances for passage of the bill in 1997.

The reaction of many Democrats to the proposals coming out of Ways and Means was far from enthusiastic. As one Democratic congressional staffer active in the anti-fast-track coalition remarks, “Obviously, no Democrats had any role in the drafting process. So from our point of view, what they put in it was relatively trivial because they never really tried to meet our concerns. It’s not as though we had a give-and-take.” David Bonior and other House Democrats paid attention to the activity in the Ways and Means Committee mainly to glean “clues about timing”—to figure out how long they had before a vote. The same staffer continues:

The only people fooled, to be honest, were some of the opinion leaders in the media. They thought that because the Republicans were talking about labor and environmental issues that would mean the problems were solved. Newt Gingrich made a speech saying he endorsed this approach, and there were some stories written about how Gingrich was allowing these environmental issues to be considered in fast track, and this was going to save it. When you actually looked at what it was all about, it was a joke.

A Long Hot Summer

On May 21, President Clinton decided to delay action on fast-track negotiating authority until September. The decision was made at a meeting attended by Vice President Gore, National Security Adviser Sandy Berger, National Economic Council Director Gene Sperling, Treasury Secretary Robert Rubin, Deputy Treasury Secretary Larry Summers, and USTR Charlene Barshefsky.⁵³ During the meeting, Barshefsky argued that the

51. “White House, Republicans Trade Charges Over Timing on Fast Track,” *Inside US Trade*, May 16, 1997, 33.

52. “Archer Letter on Fast Track” reprinted in *Inside US Trade*, May 23, 1997.

53. “Administration Decides to Delay Fast Track until September,” *Inside US Trade*, May 23, 1997.

administration should move ahead with fast track as soon as possible. As she recalls:

The president announced in the State of the Union address at the end of January that he wanted fast track. But the real effort, the muscle that the White House would bring to bear, didn't come along until the end of the following September. And in the intervening period, the opposition to fast track was allowed to grow essentially unchecked. It was a terrible mistake. Terrible. Sandy Berger, Larry Summers, and I were the most vocal people saying, "Do it now. Don't wait. The longer you wait, the more this is going to be like NAFTA. We almost lost the NAFTA because of the hiatus over the August recess. You're going to risk loss again."

Despite these arguments, other members of the administration were convinced that it was unwise to expend political capital on fast track when Congress faced votes on both the budget and the renewal of China's MFN status. Mike McCurry announced the decision: "The President has come to the conclusion that we should push hard for fast-track authority beginning in the fall, in September, and use the time between now and then to really help educate the American people on all the benefits that free trade has brought to this country."⁵⁴ Action on fast track thus was postponed. "[But] we probably don't want to do it on Labor Day," a White House aide wryly noted (quoted in Simendinger 1997, 1338).

In July, the administration appointed Jason Berman, longtime president of the Recording Industry Association of America, to coordinate the campaign on fast track. The choice of someone outside the administration did not come as a total surprise. As Berman points out, "It was a system that [the administration] had used to some extent in NAFTA when [Chicago businessman] Bill Daley worked with Mickey Kantor. In addition, there were some internal issues that needed to be resolved. Some people [in the administration] weren't so interested in going forward on fast track and, therefore, if you took it out of the normal process, you might avoid having to deal with that." Berman was well known on the Hill; according to a senior House Republican aide, "He knew a lot of members and had a very good relationship with them. He had been associated with free trade for a long time. He was from a very popular industry and was good at what he did. It was a long struggle to find someone and the administration had been talking about naming a fast-track czar for some time."

As the summer continued, the administration attempted to generate more support among Democrats for fast track. President Clinton met with more than 60 Democrats in late July and early August to make the case for the legislation. According to a congressional source, Democrats told Clinton that they would take "a lot of heat" if they supported fast track. Mc-

54. McCurry, quoted in "Key House Supporter Sees Speedy Action on Fast Track This Fall," *Inside US Trade*, May 30, 1997.

Curry said members told the president there needed to be “sufficient protection” for US workers, as well as attention to the needs of workers in other countries and to the environment.⁵⁵

In July, 14 Hispanic House members, led by Representative Esteban Torres (D-CA), wrote a letter to President Clinton saying that for Latinos, African Americans, and women, NAFTA had cost more jobs than it had created. The legislators added that they could not support fast-track extension until improvements were made, such as strengthening the Trade Adjustment Assistance program that helped US workers who lost their jobs.

The administration downplayed NAFTA in discussions of fast track. USTR Barshefsky, speaking to members of the Business Roundtable in late June, emphasized that the goal of fast track was not expanding NAFTA but promoting trade with Asia and agricultural trade with the European Union.⁵⁶ The Clinton administration “did not want to support NAFTA during this process,” says Thelma Askey. “A number of times they tried to take NAFTA off the table in spite of the fact that we told them their efforts would be fruitless. As we warned, they couldn’t ignore NAFTA because labor was always going to bring it up.”⁵⁷

In fact, playing up the relationship between NAFTA and fast track was a key aspect of labor’s strategy. As an AFL-CIO pamphlet argued in bold-face type: “Fast Track brought us *NAFTA*, and look where that got us. . . . Now, big *corporations* want to extend the NAFTA deal to other countries. In today’s world, America needs *fair* balanced trade—not *more* *NAFTAs*” (AFL-CIO pamphlet, 1997).

Labor kept up its campaign against fast track, as Thea Lee of the AFL-CIO explains:

The lobbying effort, as you can imagine, slows down in the summer. Congress was on recess, so there wasn’t very much going on. But we started with a postcard campaign. We sent out almost a million tear-off postcards to our members and through affiliates letting them communicate with their members of Congress. We were also organizing district visits as well as Washington visits to members of Congress. We targeted members of Congress that we knew were undecided.

Gephardt’s office was said to have met with labor representatives to persuade them not to target Democratic members of Congress. Though Gephardt himself opposed fast track, as Minority Leader he was not eager to see fellow Democrats threatened by labor.

55. Congressional source and McCurry quoted in “Administration Considering New Policies to Win Passage of Fast Track,” *Inside US Trade*, August 1, 1997, 18.

56. “Barshefsky Promises Start of Fast-Track Campaign in Early September,” *Inside US Trade*, July 4, 1997.

57. A congressionally mandated three-year review of NAFTA, due in July, was delayed; the report was ultimately delivered in the fall.

Labor's growing effectiveness frustrated Ways and Means Chairman Archer, as Don Carlson remembers: "We were very discouraged, particularly because of the long August recess, because the opposition kept targeting members in their districts. And as they put people into the 'no' column, they went out and targeted others. So the universe in which we could potentially get our votes was constantly shrinking. And the passage of time played clearly against us and into the hands of the opponents."

The Role of Business

The business community had kept a low profile during the maneuvering, but in July the Business Roundtable, a lobbying group made up of the nation's 200 largest corporations, organized and funded the America Leads on Trade (ALOT) Coalition. ALOT's mission was to build support for a version of fast-track legislation capable of attracting bipartisan endorsement. TRW chaired the trade and investment task force of the Business Roundtable, and thus became the lead company in the effort. Ultimately, the coalition was joined by more than 550 trade associations and companies, including the National Association of Manufacturers and the US Chamber of Commerce. ALOT did not favor any particular fast-track bill. "At the time ALOT was formed, the administration had not yet proposed, and Ways and Means Committee leadership had not reacted to, detailed legislative language," says Gail Harrison, who lobbied on behalf of ALOT. "The coalition was therefore not in the position to endorse a specific bill."

In fact, business had been asked to withhold its support for fast track until the administration and Ways and Means Republicans had come to agreement on a fast-track version. "That was coming from the [Ways and Means] Committee leadership and the House [Republican] leadership," says one source in the business community. "The signal from the Republican side to the business community was 'Do not do this until we're agreed on the language.'" Reportedly, pressure from Republicans continued through July and August and into September. One senior House Republican aide recalls:

We were afraid that the administration would co-opt the business community by getting them so intent on having fast track that they would agree to the administration's version. Then the administration could use the business community to put pressure on [Ways and Means]. . . . But at the same time, we wanted some general advocacy of the concept of fast track by the business community to Members. It was just very difficult for the business community to straddle that line because the companies were being asked in their meetings which version of fast track they supported. So they basically just held off. The administration sent us its proposal on September 21, and then that began a two-week negotiation period between us and the administration, culminating in the Ways and Means markup on October 8. Then the business community came out strongly in support of fast track, but by that point we really only had a month left.

Some observers also point to the lack of a clear motivation for business to put its weight behind fast track. One member of Congress said that the executives who came to lobby her characterized fast track as a “nice opportunity” rather than a dire necessity.⁵⁸ Jay Berman, the administration point man, says of the business effort:

The word *mobilize* would cause some people to cringe compared to the effort we saw on NAFTA. NAFTA was a country-specific set of circumstances. Companies had the ability to say, “If we do a NAFTA deal, this is what’s going to happen in terms of our business with Mexico.” It was much more direct and concrete, whereas just getting fast-track authority was more generic. Business didn’t make the same level of effort over a sustained period of time. But most importantly, they bought into the Republican strategy which was to say, “Don’t come out for fast track, don’t negotiate the terms of this deal with the administration. We will do that. Once we’ve done the deal and you look at the bill, then you can decide what you want to do.”

The administration, for its part, was signaling the business community that action during the spring and summer was crucial. According to one observer, the administration “hoped the business community would rally and convince Congress like they always had.” But, as some House leadership and Ways and Means Republicans had counseled, business did not rally until late in the game.

The Administration Floats a Proposal

On September 4, USTR Barshefsky met with House Ways and Means Committee Chair Bill Archer and Senate Finance Committee Chair William Roth (R-DE) to discuss the upcoming administration legislative proposal on fast track.⁵⁹ On September 8, the White House delayed the introduction of its fast-track proposal until the following week. The decision was largely prompted by Senate Democrats, who demanded that the administration lay out what role Congress would play in trade negotiations. Some wanted more specific language about how the administration would consult with legislators during trade talks. As Senate Finance Committee member Bob Kerrey (D-NE) pointed out, “Members very much involved with these [trade negotiations] over the years . . . are of the opinion that consultations have not occurred . . . in a meaningful way.”⁶⁰ Some Democratic senators advocated formal consultations with Congress before a negotiation was complete—when it was initialed but not signed.

58. Steven Pearlstein, “US Trade on Fast Track of Its Own; Upcoming Legislation on Treaties Is Expected to Have Little Effect,” *The Washington Post*, November 7, 1997, D1.

59. “Archer Sees Good Prospects for Passage of Fast-Track Authority,” *Inside US Trade*, September 5, 1997.

60. Kerrey, quoted in “Senate Democrats Prompt Delay of Fast-Track Bill Until Next Week,” *Inside US Trade*, September 12, 1997, 24.

On September 16, the administration floated its fast-track proposal. “We put in what you would have predicted given the fact that Republicans controlled both the Senate and the House,” says Jay Berman. Bruce Stokes, a senior fellow at the Council on Foreign Relations, concurs: “This was clearly a bill that was designed to placate the Republicans and the business interests in the Democratic Party.”⁶¹ Labor’s reaction was predictable, as Thea Lee makes clear:

We hated it. We were pretty dismayed because it was even worse than we had imagined it would be. It was a step backwards from previous fast tracks in the Reagan and Bush era. This fast-track authority we read as very restrictive. It limited the president’s ability to negotiate anything that looked like upward harmonization, where other countries might be forced to improve their labor standards or the United States might actually be subject to any requirement that it enforce its own laws or improve its labor standards to be in compliance. And the same thing with environment. So it was a big disappointment to us.

The Response

On the day that the administration offered its proposal, the AFL-CIO announced it would target 13 undecided House members and the entire California market in a \$1 million television and radio advertising campaign against fast track.⁶² One day later, the ALOT Coalition unveiled a large-scale media effort in support of fast-track renewal: The four-week advertising campaign would target 103 congressional districts, and its television ads alone would cost \$2 million. The coalition also drew a who’s who of the Washington lobbying community into the fight. ALOT did not explicitly endorse the Clinton proposal, however. Jim Christy, ALOT’s coordinator and TRW’s chief lobbyist, said that coalition members found Clinton’s proposal “constructive” but agreed that it wouldn’t pass as proposed (Stone 1997, 1903).

On September 22, an AFL-CIO convention in Pittsburgh turned into a protest rally against fast track. Nine hundred union delegates vowed to fight even harder against fast track than they had against NAFTA. The delegates jumped to their feet when Richard Gephardt said, “If intellectual property and capital deserve protections in the core free-trade treaties, with trade sanctions to enforce it, so do labor laws and environmental laws, on an equal basis.”⁶³ President Clinton was given a cool reception when he told the crowd, “We cannot create enough good jobs and

61. Stokes, quoted in Ronald Brownstein, “Clinton Trade Agenda Draws Steady Barrage from the Left, Right,” *Los Angeles Times*, September 25, 1997, A4.

62. By November the AFL-CIO had spent \$1.5 to \$2 million on advertisements, according to Denise Mitchell, an AFL-CIO spokeswoman (Abramson and Greenhouse, “The Trade Bill,” A1).

63. Gephardt, quoted in Steven Greenhouse, “AFL-CIO Turns Energy Against Pacts on Free Trade,” *The New York Times*, September 24, 1997, A22.

increase wages if we don't expand trade."⁶⁴ Clinton also urged labor not to let the trade issue create a rift between unions and Democrats.

Many trade proponents felt that the unions left no room for a compromise. Asked about the administration's strategy for dealing with labor, Berman responded:

There was no need to have a strategy. Labor announced very early on that they were going to be against any fast track that didn't have [certain labor and environmental objectives] in it. And anything that had [such objectives] in it was guaranteed not to move. So we had to make a decision. We agreed to have a gentlemanly disagreement about it and then they went out and did what they had to do and we tried to do what we had to do. There was no mystery to this. This was not complicated, given how stark the choices were.

Trouble in Congress

House Republicans faulted the administration's fast-track draft for giving the president too much flexibility in negotiating trade agreements. For one thing, the language did not obligate the president to bring back trade agreements that reflected *only* the negotiating objectives stated in the fast-track authority. The use of the phrase "necessary or appropriate" to describe what could go into implementing legislation drew further opposition; Archer's bill, by contrast, allowed only provisions "necessary" to implement the agreement.⁶⁵ Finally, Republicans also criticized the "undue vagueness" of the proposed bill's labor and environment provisions.

The difficulty of building a congressional majority for fast track was widely recognized. "Obviously, if you go anywhere close to the minimally acceptable position for labor, you won't get Republican support," said I. M. Destler, a trade expert at the University of Maryland. "If you don't include anything on labor and the environment, you are going to give the Democrats an excuse to take a walk. . . . That leaves you with a fairly narrow line."⁶⁶ With protectionist sentiment growing in the GOP, Republican supporters needed some Democrats on board to pass fast track. They had little choice, observed one administration official: "If they want to make it a total Republican bill, fine, they should come up with the 218 Republican votes [the bare majority needed in the House]; but they don't have the 218 Republican votes."⁶⁷

64. Clinton, quoted in Ronald Brownstein, "Clinton Trade Agenda Draws Steady Barrage from Left, Right," *Los Angeles Times*, September 25, 1997, A4.

65. Carter Dougherty, "House Republicans Preparing New Version of Fast-Track Legislation," *Inside US Trade*, September 19, 1997, 1.

66. Destler, quoted in Brownstein, "Clinton Trade Agenda Draws Steady Barrage," A4.

67. Ronald Brownstein, "Clinton Trade Agenda Draws Steady Barrage," A4.

The continued opposition of some Democrats could be blamed in part on their disgruntlement at the recent budget negotiations. The administration had delayed the fast-track vote in order to get the budget through Congress, and many Democrats claimed that Clinton had worked more closely with Republicans than with Democrats to reach a deal. "Many of us feel left out," said one House Budget Committee member.⁶⁸ Representative Charles Rangel (D-NY) denounced the accord as "a Republican's budget."⁶⁹ Some Democrats were left in no mood to do the administration's bidding. ALOT lobbyist Gail Harrison reflects:

I think fast track was sort of a payback for the budget agreement that curbed funding for some of the [traditional Democrats'] domestic priorities. A share of the Democrats were not going to give this [fast-track] victory to the president after the budget agreement. If you look at the way the votes were breaking out toward the end of the period, you had quite a number of members on the Democratic side who in the past had voted for trade, who were sending a message back to the administration. It may have been that the unstated message was, "We didn't like the budget agreement, and you're not doing enough for the cities and the districts that are economically disadvantaged."

Former USTR Barshefsky believes that the impact of the budget negotiations on Democrats may have been one of the most important elements in the fast-track story:

Bill Clinton had worked out the budget with the Republicans and informed the Democratic Caucus of the outcome. What really went on with fast track more than anything else was captured by the views of most members of the Democratic Caucus which said to Bill Clinton, "You cut us out of budget negotiations and other legislative initiatives and now you're telling us you need our vote on fast track? No way." This was in large measure a personal rebuke to President Clinton, payback; Democrats felt that the president worked with the Republicans to effect compromise, rather than with the Democratic Caucus. The president understood the depth of these feelings. It was very painful for him. In addition, however, there was substantial pressure brought to bear on Democrats by anti-fast-track unions. It was a very nasty campaign.

Pressure for a Vote

On October 1, the Senate Finance Committee approved a version of fast track. The bill declared that labor and the environment were two of four "international economic policy" objectives that would not be covered by

68. Quoted in Gerald F. Selb and Greg Hitt, "Budget Pact Seems Headed for Approval—Clinton Shows Optimism on Reaching an Accord on the Tax Component," *The Wall Street Journal*, May 19, 1997, A2.

69. Rangel, quoted in James Pinkerton, "The GOP Will Really Have Its Budget Day," *Newsday*, May 8, 1997, A53.

fast-track rules. In order to comply with the constitutional requirement that the House vote first on revenue legislation, the House now needed to vote on fast track before the Senate could act.

The House Ways and Means fast-track markup session went long into the night, but agreement on language was finally reached at 2:00 A.M. on October 7. Fast track cleared the committee by a vote of 24 to 14; of the panel's 16 Democrats, only 4 (Matsui among them) supported the measure. Congress promptly adjourned for its October recess. When the members returned, only about three weeks would remain in the legislative session.

Still, the administration hoped that a vote on fast track would be taken in 1997. According to some observers, the White House wanted to keep the fast-track fight inside the Beltway. An argument across the nation would have put Democrats at the center of a controversy just when they needed to prepare for the 1998 midterm elections. Reportedly, House Speaker Gingrich initially suggested a vote in the spring. "When the Speaker mentioned to the president, 'We really think we might not win, what do you think about doing it in the spring?' the president and his people said, 'We would rather you vote now and lose. We do not want to push this thing off to the spring,'" says Republican staffer Brian Bieron. The administration "figured that as long as you have a quick bloody battle, win or lose, the important thing at the end of the day, was [for Democrats] to kiss and make up. That was their ultimate desire."

On October 22, the chairman of the House Ways and Means Committee indicated that he did not want to bring the fast-track bill to the floor until the president could provide a list of 70 Democrats who would vote for the legislation. Archer's letter came after a Republican leadership meeting concluded that Democrats were "not even close to 70 votes."⁷⁰ In addition, some Republicans had mixed feelings about the bill, viewing the passage of fast track as an outcome that would strengthen a Democratic president.

Business interests lobbying for fast track pressed for a prompt vote. The issue was so controversial, they argued, that many members would not commit to either side unless a vote was imminent. In an October 28 letter, a group of 40 CEOs called on Clinton and the congressional leadership to hold the vote before adjournment. They believed that scheduling a vote would force the administration and Republicans to make the deals that were necessary to pass the legislation.

At the end of October, Gingrich met with pro-fast-track Democrats led by Robert Matsui. Participants said a vote was needed to convince undecided Democrats to support the measure. "If they don't think they're

70. "Archer Presses for Democratic Fast-Track Support Before Setting Vote," *Inside US Trade*, October 24, 1997, 1.

going to have to vote, there's no reason to take a position," noted Matsui.⁷¹ Gingrich also met with the president for almost two hours. In the end, according to one observer, "The Speaker said, 'Let's go for it.'" On October 29, the Republican leadership scheduled a fast-track vote for November 7, the day the House hoped to adjourn.

The Final Push

The House fast-track vote was only nine days away. These days were characterized by intense arm-twisting by the Clinton administration and Speaker Gingrich. Passage of the legislation required 218 votes; Gingrich hoped to produce 150 Republicans for fast track, but internal GOP counts had the party evenly split, 93–93.⁷² To gain more Republican support, the Speaker cut deals ranging from agreeing to make fund-raising appearances to lowering Mexican tariffs on exported wine.⁷³ The Clinton administration also made a broad array of commitments in exchange for votes, many of them outlined in an amendment drafted by the House Ways and Means chairman. Archer's draft included 18 specific provisions, ranging from enforcing an antidumping suspension agreement for Mexican tomatoes (crucial for the Florida delegation) to agreeing to a new section 301 provision that would address trade barriers to US agricultural exports.

The administration dispatched the entire cabinet to Capitol Hill to lobby for fast track. USTR Barshefsky spoke individually with more than 350 members of the House. The president also brought UN Ambassador Bill Richardson back to Washington to press his former House colleagues. Dozens of corporate CEOs walked the halls of Congress seeking votes. ALOT reported that it spent about \$5.5 million in television and radio advertisements and lobbying between Labor Day and the end of the fast-track campaign. "It was a sale like I've never seen before," said Representative Sonny Bono (R-CA).⁷⁴

As the battle continued, the media was generally pro-fast track. The *New York Times*, the *Washington Post*, *Los Angeles Times*, *Chicago Tribune*, and the *Boston Globe* all backed the legislation, as did many other major

71. Matsui, quoted in John E. Yang and Helen Dewar, "House Sets Trade Authority Vote for Nov. 7; Deadline May Clarify Legislators' Positions on 'Fast Track' Power," *The Washington Post*, October 30, 1997, A10.

72. David Rogers, "Gingrich Says GOP Right Will Torpedo Fast Track Without Deals on Other Bills," *The Wall Street Journal*, November 3, 1997, C27.

73. Juliet Eilperin and Jim Vande Hei, "Despite Yanking Fast Track Vote, GOP Vows to Deliver on Promises to Members," *Roll Call*, November 17, 1997.

74. Bono, quoted in Guy Gugliotta, "Wheeling and Dealing and Keeping Score on the 'Fast Track'; Legislators Put Promises from Clinton in Writing," *The Washington Post*, November 26, 1997, A17.

newspapers. *USA Today* summed up the general consensus: “To keep the US economy, jobs and stocks on the fast track, Clinton needs fast-track authority to bring trade barriers down.”⁷⁵ Labor’s concerns were acknowledged, but generally viewed as outweighed by the benefits of free trade. “Many overseas workers are exploited, it’s true,” a *Washington Post* editorial remarked, but “economies that are open to trade and foreign investment grow more quickly and lift their populations out of poverty more quickly than economies that are closed.”⁷⁶ Fast track also had the support of almost every major academic economist and dozens of former high-level public figures. Former national security adviser Brent Scowcroft wrote in the *Washington Post*, “If America does not lead on international trade, it will be harder to lead on security and political issues. . . . Fast-track authority is essential to being able to lead on trade.”⁷⁷

Despite such support and the administration’s lobbying efforts, fast-track proponents had a hard time lining up votes for the measure. Some members told stories about plants in their districts that had been forced to close because of foreign competition. Labor’s efforts had paid off, with more than a million pieces of mail sent to union households and months of visits to representatives by the end of the fast-track battle.

A week before the vote, Gingrich told a group of business representatives that if fast track were voted on that day, it would lose by 50 votes. If business did not raise the intensity of their lobbying campaign, Gingrich said, they should not bother to seek his assistance “for the next couple years.”⁷⁸ Over the next six days, fast-track supporters narrowed the gap to victory. On November 5, GOP leaders could count 112 Republicans committed to fast track—an increase, but still short of the goal of 150 Republican votes. “We have a long, uphill struggle,” said Republican Whip Tom DeLay of Texas. “If they [the White House] want to win it, they’re just going to have to work very hard to deliver 70 Democrats.”⁷⁹ On November 6, however, White House allies could only count 42 backers out of 206 Democrats—one in five.⁸⁰ When November 7 arrived, the president and the Speaker believed they still lacked the necessary support. Gingrich rescheduled the vote for Sunday, November 9, and Clinton and Gingrich continued their efforts.

75. “To Keep the Economy on Fast Track, Let Clinton Trade,” *USA Today*, September 11, 1997, 14A.

76. “The Fast-Track Fight” (editorial), *The Washington Post*, September 12, 1997, A24.

77. Brent Scowcroft, “Say Yes to Fast Track,” *The Washington Post*, October 19, 1997, C9.

78. Gingrich, quoted in “House, Senate Gearing Up for Votes on Fast Track Bills Next Week,” *Inside US Trade*, October 31, 1997, 1.

79. DeLay, quoted in Hitt and Davis, “Lobbying Pace Quickens on Fast Track,” B18.

80. Bob Davis and Greg Hitt, “White House Scrambles to Avert Defeat in House of Fast-Track Trade Measure,” *The Wall Street Journal*, November 7, 1997, A3.

The Mexico City Provision

In the lead-up to the vote, some Republicans attempted to leverage their fast-track support to bolster other controversial positions. For example, in exchange for their fast-track votes, a group of Republicans wanted the administration to drop certain statistical techniques from the 2000 national census. The Census Bureau planned to estimate part of the population using a method known as sampling, which would account for those missed by other methods. House Republicans believed that statistical sampling could cost them seats when congressional districts were next redrawn.

In addition, a group of between 6 and 10 conservative House Republicans led by James Talent (R-MO) pressed Clinton to reinstate the so-called Mexico City provision, which banned US aid to international health organizations that offered or recommended abortion services. Enacted under President Reagan, it had been repealed by executive order during Clinton's first term. House Democrats on both sides of the debate, including fast-track supporter Robert Matsui, strongly warned the administration not to trade away the Mexico City provision, and President Clinton publicly declared that the issue was not linked to the passage of fast track. Though the census controversy was resolved, conflict over abortion remained. "I think in the end we could have passed the bill if the Mexico City thing had been resolved," the president would say. "But I simply couldn't do that."⁸¹

Fast Track Is Withdrawn

A few minutes before midnight, on November 9, 1997, House Speaker Gingrich called the White House to say that fast track was still short of the majority needed for passage. According to one observer, only 154 Republicans and as few as 41 Democrats supported fast track (Shorrocks 1997). At 1:15 A.M., President Clinton called Gingrich and asked him to cancel the vote scheduled for the next morning. By pulling the bill, Clinton avoided the potential embarrassment of losing a high-profile House vote. But not all observers agreed with the president's decision; some were convinced that if the vote had been held as planned, the administration would have picked up the needed additional support and fast track would have passed. "Some members will 'do the right thing' if necessary but don't want to commit in advance," said one fast-track proponent.

Some pundits branded the end of the 1997 fast-track effort the first failure of a free trade measure in six decades. With four of five House Democrats against it, the *Wall Street Journal* noted that President Clinton had been dealt "the biggest legislative blow since Republicans killed his health-

81. Statement by President Clinton, November 10, 1997.

care plan in 1994.⁸² However, not everyone saw the cancellation of the vote in such dramatic terms—the event received only scant coverage on two of the three major broadcast networks, and the third, NBC, failed to mention it at all.⁸³

AFL-CIO President John Sweeney welcomed the news, calling the decision to pull the bill “the first bit of blue sky working Americans have seen in US trade policy in many years.”⁸⁴ The *New York Times* called the defeat of the trade bill “labor’s biggest legislative victory in years.”⁸⁵ Richard Gephardt argued that the collapse of fast track demonstrated that any new attempt must take fuller account of labor and environmental issues. “The real question before us now is whether we connect our values of environmental quality, worker and human rights to our economic policy,” he said. Representative Barney Frank (D-MA) had already declared that he and other liberals “will not agree to a continuation of public policies in this country and elsewhere which exalt the mobility of capital and do nothing to provide some offset for the inequality that is exacerbated thereby.”⁸⁶

Some had assumed that President Clinton would ultimately prevail. As White House point man Jay Berman puts it, “There were people who thought fast track was one of these issues where at the end of the day the president always wins—so why don’t we leave it to the end of the day? And this time it proved to be the exception. Leaving it to the end of the day proved to be one of its fatal flaws.”

Ultimately, business interests outspent labor more than 2 to 1 in the fast-track campaign. Editorials were consistently pro-fast track, and the president and the Republican leadership were behind it. “[It] was the political equivalent of the world champion Chicago Bulls playing a pick-up street team,” said one fast-track opponent. “[But] the street team won” (Choate 1998, 63).

The 1998 Vote

Though the White House hoped to wait and deal with fast track in the spring of 1999, Republicans announced that a vote would take place in the

82. John Harwood and Jackie Calmes, “Gephardt, Fresh from Victory in Trade Scrap, Flexes His Muscles for More Battles with Clinton,” *The Wall Street Journal*, November 12, 1997, A24.

83. John F. Harris and Peter Baker, “Clinton Neglected to Sell ‘Fast Track’ to US Public,” *The Washington Post*, November 12, 1997, A4.

84. Aaron Zitner, “Clinton Is Set Back as Fast-track Vote Is Deferred; Deal-making Fails to Line up a House Majority,” *The Boston Globe*, November 11, 1997, A7.

85. Abramson with Greenhouse, “The Trade Bill,” A1.

86. Gephardt, quoted in Alison Mitchell, “Clinton Retreats on Trade Power; Prospects Slight,” *The New York Times*, November 11, 1997, A1; Frank, quoted in David Broder, “Fast Track: The Fiasco . . .,” *The Washington Post*, November 16, 1997, C7.

fall of 1998—when it would fail again. Many observers say that House Speaker Newt Gingrich brought the issue to the floor six weeks before an election knowing that it would be defeated but also knowing that it would create dissension among the Democrats. The administration withheld its support, and Democrats criticized the vote as intended to drive a wedge in their party ranks and to portray the president as weakened by the scandal involving Monica Lewinsky. Some analysts noted that times had changed since the Clinton administration collaborated with Gingrich to pass NAFTA in 1993.

The September House vote opposing fast track was 243 to 180, with 71 Republicans joining 171 Democrats to defeat the proposal. Only 29 Democrats supported the bill. “Today’s exercise on this legislation soils our national trade policy with the mud of partisan politics,” said Robert Matsui, one of the staunchest Democratic defenders of free trade. “It is rather an attempt to embarrass members of my party.”⁸⁷ President Clinton issued a written statement: “Now was clearly the wrong time to vote on [fast track]. At a time when we need to forge a new consensus on trade, Congress has chosen partisanship over progress.”⁸⁸ Debate over trade would continue, as seen in the collapse of the Seattle WTO ministerial in 1999.

The divisive nature of the fast-track fights and the growing politicization of trade led some trade advocates to wonder if fast track was worth the trouble. Perhaps, some argued, resources would be better used to push for specific trade agreements instead of a seemingly abstract, procedural measure. For example, in 2000 the House voted to grant China permanent normal trade relations (PNTR), 237 to 197 (with the support of 73 Democrats), and business mobilized powerfully behind the legislation. Moreover, one of the brokers of the deal that ensured its passage was a Democrat who opposed fast track in 1997, Representative Sander Levin of Michigan. In 2001, also without fast track in place, Congress passed implementing legislation for the US-Jordan Free Trade Agreement (FTA).⁸⁹ Interestingly, that FTA was the first US trade agreement to include a set of labor and environmental provisions directly in its body, making them subject to dispute resolution procedures. Some who questioned the necessity for fast track also pointed out that talks had already begun on the Free Trade Area of the Americas (FTAA) without its renewal. “There is a great deal of mistrust and fear on all sides of the fast-track question,” says

87. Matsui, quoted in Finlay Lewis, “House Defeats Fast-Track Trade Bill,” *The San Diego Union-Tribune*, September 26, 1998, C1.

88. Clinton, quoted in Alan Fram, “House Rejects GOP Effort to Expand President’s Trade Powers,” *Associated Press Newswires*, September 25, 1998.

89. The House of Representatives passed the US-Jordan Free Trade Agreement (HR 2063) on July 31, 2001, and the Senate followed on September 24, 2001. President Bush signed the implementing bill on September 24, 2001.

one observer. “In the absence of a specific agreement, people tend to vote their worst fears. They believe that unless they tightly constrain the president, their views will not be represented. That fear is a powerful force.”

A Victory? Trade Promotion Authority

In January 2001, Republican George W. Bush became president of the United States. Soon thereafter, his administration launched an effort to secure fast track, renamed “trade promotion authority” or TPA. In the wake of the September 11, 2001, attacks on New York and the Pentagon, the administration argued that the United States should “counter terror with trade.” “Congress needs to enact US trade promotion authority so America can negotiate agreements that advance the causes of openness, development and growth,” wrote USTR Robert Zoellick in a *Washington Post* op-ed. “The terrorists deliberately chose the World Trade towers as their target. While their blow toppled the towers, it cannot and will not shake the foundation of world trade and freedom.”⁹⁰ Observers also noted that the Bush administration methodically sought to win converts to TPA by increasing tariffs on imported steel and Canadian softwood and by approving larger subsidies for US farmers. Though foreign trade partners objected to such policies, nine more steel caucus members would vote for TPA than had voted for fast track in 1998 (Bergsten 2002, 86).

The new chairman of the House Ways and Means Committee, Bill Thomas (R-CA), said he would work to create bipartisan TPA legislation. However, in his search for negotiating partners Thomas bypassed the senior committee Democrats—Charles Rangel and Sander Levin (both of whom had backed China PNTR but opposed fast track in 1997), as well as free trader Robert Matsui. Instead, he turned to more junior protrade Democrats—not all of them committee members—a move that alienated Democratic Party leaders. Rangel, Levin, and Matsui sent out a “Dear Colleague” letter declaring that “Thomas’ ‘Bipartisan Compromise’ Is Neither.”⁹¹ However, the committee passed Thomas’s bill 26 to 13, with 24 Republicans and 2 Democrats approving it. It included labor and environmental standards in the negotiating goals for the administration, but these goals were not binding—that is, putting such standards in trade agreements was not required. With a Republican now in the White House, business did not believe that labor and the environment would be a priority for trade negotiators and did not hesitate to lobby on TPA’s behalf. Labor unions continued to oppose TPA.

90. Robert Zoellick, “Countering Terror with Trade” (op-ed), *The Washington Post*, September 20, 2001, A35.

91. Charles Rangel, Sander Levin, and Robert Matsui, “Dear Colleague” letter, September 26, 2001; reprinted in *Inside US Trade*, September 28, 2001.

The House vote on the Bipartisan Trade Promotion Authority Act was scheduled for December 6, 2001. The outcome was uncertain, and many predicted that TPA would not pass. In fact, on the day of the vote, the White House told Republican leaders that the bill should be withdrawn to avoid defeat. But House Republicans pressed on, and TPA went to the floor. As time ran out, there were more votes against the act than for it; the vote was held open while Republican members were pressured to change their positions. As Democrats shouted to end the voting, Representative Jim DeMint (R-SC) switched his vote to “yes” in return for a promise to restrict apparel imports from Caribbean and Andean nations in order to bolster textile manufacturers in his district. That protectionist promise so angered Ways and Means Committee Chairman Thomas that he threateningly waved a red “no vote” card (he ultimately voted “yes,” however). The House passed TPA by a one-vote margin (215–214), with only 21 Democrats supporting the bill. The free trade Democrat Robert Matsui voted “no” on TPA, arguing that Congress needed greater input on trade negotiations.⁹²

The Senate approved its own version of TPA in May 2002 more decisively, 66 to 30; 41 Republicans were joined by 24 Democrats and an Independent in supporting the bill, while 5 Republicans and 25 Democrats opposed it. The House and Senate versions differed substantially, however, especially over Trade Adjustment Assistance for US workers who lost their jobs as a result of imports. The Senate version included more worker unemployment benefits than the House bill, as well as a new innovation: health care benefits. In a second vote in June 2002, the House voted to take its version to conference with the Senate, also by a one-vote margin (216–215) with support from only 11 Democrats.

In the end, the compromise version of trade promotion authority expanded the Trade Adjustment Assistance program: It increased worker eligibility and financing to partially cover lost wages, lost health insurance, and job retraining for trade-dislocated workers. Thomas agreed to about \$1.2 billion a year in benefits (the original Senate version’s expansion of TAA had been broader). Thomas had hoped to give laid-off workers a tax credit they could use to buy individual insurance policies, but Democrats secured language allowing workers to access state-run insurance pools or their former employers’ plans.⁹³ Senate Finance Committee Chairman Max Baucus (D-MT), the Democrat who led the Senate negotiations, said the bill “to a large degree protects American workers who may lose their jobs as a consequence of trade,” and would therefore “help to restore some

92. Juliet Eilperin, “Trade Bill Passes House by One Vote; Bush Closer to Obtaining More Negotiating Power,” *The Washington Post*, December 7, 2001, A1.

93. Michael M. Phillips, “Leading the News: Houses Passes Fast-Track Bill, But Margin of Victory Is Slim,” *The Wall Street Journal*, July 29, 2002, A3.

lost American confidence in trade agreements.”⁹⁴ Some observers believe that the absence of such TAA reform was one reason why earlier fast-track efforts had failed. But even with expanded benefits, AFL-CIO President John Sweeney declared that TPA “will cost millions of family-supporting jobs at a time when America’s workers are already struggling.”⁹⁵

In addition to enhancing assistance for laid-off workers, the final version of TPA imposed more structure than past fast-track laws on the president’s interactions with Congress before entering into trade agreements. It created a new Congressional Oversight Group that would develop guidelines for consultations with the administration and serve as advisers to the negotiators. Baucus and Majority Leader Daschle signaled to USTR Robert Zoellick that they wanted the new Congressional Oversight Group to play an important role in trade negotiations, insisting that it have a good deal of access to negotiating documents and attend negotiating sessions.⁹⁶

Dropped from the final version of the bill, at the administration’s insistence, was the Senate version’s Dayton-Craig amendment. Both Republicans and Democrats fought to keep Dayton-Craig, which would have allowed Congress to amend any trade deal that altered US antidumping or countervailing-duty laws. The administration had already agreed to discuss antidumping issues in the new round of WTO talks. However, through the fight for the amendment, the Senate sent a strong signal that it wanted antidumping laws to remain unchanged.

In a 3:30 A.M. vote on July 27, 2002, after an intense night of lobbying from the Bush administration, the House narrowly passed the Bipartisan Trade Promotion Authority Act, 215 to 212. Fast track had expired eight years earlier. Although USTR Robert Zoellick and Ways and Means Committee Chairman Bill Thomas continued to present the bill as a bipartisan consensus, the evidence of a near party-line split was hard to miss. Republicans voted for the bill 190 to 27, while Democrats opposed it 183 to 25.

Less than a week after the House vote, the Senate, in a 64 to 34 vote, approved the conference report for a trade package that included extending fast track. President Bush signed the legislation a few days later, saying that the measure would enable his administration to work on trade agreements with Chile, Singapore, and Morocco and to negotiate a Free Trade Area of the Americas, the 34-nation plan to integrate most North and

94. Baucus, quoted in Edward Alden, Michael Mann, and Frances Williams, “Bush Poised for Win in Fast-Track Trade Pact Battle,” *The Financial Times*, July 27, 2002, 8.

95. AFL-CIO press release, “Statement by AFL-CIO President John J. Sweeney on Passage of Fast Track Trade Legislation in the US House of Representatives,” July 27, 2002. Available at www.aflcio.org.

96. See letter from Tom Daschle and Max Baucus, September 9, 2002; reprinted in *Inside US Trade*, September 13, 2002.

South American economies into a single free trade block.⁹⁷ Trade promotion authority would be automatically renewed until June 2007, unless either house passed a disapproval resolution before June 2005. A senior European trade official responded to the renewal of fast track/TPA, “It is excellent news. It means the US can engage fully again.”⁹⁸

Some celebrated TPA’s passage as the beginning of a new era for US trade policy—“a victory for the American economy,” as President Bush put it. “Open trade is not just an economic opportunity, it is a moral imperative,” Bush said.⁹⁹ Others noted that Democratic support for trade in the House had hit an all-time low. While 102 House Democrats had supported NAFTA in 1993, only 25 had supported the so-called bipartisan trade promotion authority act in 2002 (see table 5.1). “This is not the type of authority which facilitates a broadly bipartisan trade policy,” said Sander Levin, the ranking Democrat on the House Trade Subcommittee, before the 2002 House vote. “Another narrow vote will not be a victory for US trade policy, but instead will mean trouble for each new trade agreement because all of the same issues and debates will be repeated” (quoted in Shapiro and Brainard 2003).

Negotiation Analysis of the Case

The success of organized labor in opposing the renewal of fast track in 1997 is, at first glance, surprising. Fast track was supported both by President Clinton and by the Republican leadership in Congress. Powerful business interests, which had a major stake in seeing the drive to liberalize international trade continue, outspent labor 2 to 1 in the lobbying campaign preceding the canceled vote. How then did the unions manage to torpedo fast track? The answer lies in their early, energetic organization to oppose the legislation, as well as their skill in shaping the process.

Element #1: Organizing to Influence

In deciding how to engage in the debate over fast track, organized labor confronted a classic negotiating dilemma: Was it better to work to shape

97. The White House, Office of the Press Secretary, “Remarks by the President at Signing of the Trade Act of 2002,” August 6, 2002.

98. Quoted in Edward Alden and Guy de Jonquières, “A Deal, at Last—Trade Promotion Authority Represents an Important Boost for Free Trade,” *The Financial Times*, August 1, 2002, 14.

99. President George W. Bush, remarks at the signing of the Trade Act of 2002, Washington, DC, August 6, 2003; Bush, quoted from May 7, 2001, in White House press release, Shannon, Ireland, June 26, 2004.

Table 5.1 Trade votes in Congress

Vote	House of Representatives																							
	Fast track, 1991 ^a			NAFTA, 1993			GATT Uruguay Round, 1994			Fast track, 1998			Trade promotion authority, 2001			Trade promotion authority, 2002								
	R	D	I	Total	R	D	I	Total	R	D	I	Total	R	D	I	Total	R	D	I					
Yes	140	91	—	231	132	102	—	234	121	167	—	288	151	29	—	180	149	21	—	215	190	25	—	215
No	21	170	1	192	43	156	1	200	56	89	1	146	71	171	1	243	23	189	2	214	27	183	2	212
Present	—	—	—	—	—	—	—	—	—	—	—	—	3	—	3	—	—	—	—	—	—	—	—	
Not voting	4	4	—	8	—	—	—	—	—	—	—	—	6	3	—	4	1	—	5	5	2	—	7	

Vote	Senate																	
	Fast track, 1991 ^a			NAFTA, 1993			GATT Uruguay Round, 1994			Trade promotion authority, May 2002			Trade promotion authority, August 2002					
	R	D	I	Total	R	D	I	Total	R	D	I	Total	R	D	I	Total	R	D
Yes	36	23	—	59	34	27	61	35	41	76	41	24	1	66	43	20	1	64
No	5	31	36	10	28	38	11	13	24	24	5	25	—	30	5	29	—	34
— = 0																		
D = Democrat																		
I = Independent																		
R = Republican																		

a. For the sake of clarity and comparison, the literal “yes” and “no” votes on fast track 1991 have been reversed. House Resolution 101 would have barred extension of fast-track procedures; therefore, a “no” vote was a vote supporting fast track.

Sources: *Congressional Quarterly Almanac* (various issues); Baldwin and Magee (2000, 7).

the legislation into something acceptable, thereby running the risk of allowing momentum to build behind an unacceptable proposal, or to mobilize early in direct opposition? After first trying to shape fast track, labor shifted to outright opposition of the legislation. When business interests delayed their mobilizing efforts until it was too late, labor prevailed.

The AFL-CIO's "Rapid Response" campaign was a key component of labor's strategy to influence Congress. The unions leveraged their traditional strength in grassroots organizing to direct the rank and file to oppose fast track. The results were impressive: numerous letters to Congress (160,000 from steelworkers alone), phone calls, and rallies. Organized labor also made skilled use of advertising. Though business outspent labor, the timing and targeting of labor's advertising—for example, focusing on 13 undecided House members—arguably rendered it more effective.

Element #2: Selecting the Forum

Despite being motivated to delay or prevent further trade liberalization, labor leaders also recognized the potential benefits of including workers' rights and labor standards on the international trade agenda. The traditional global forum for advancing labor's interests was the International Labor Organization, a single-issue UN agency with little US support for its conventions and essentially no enforcement authority. Should labor issues be successfully moved into the trade arena, improvements in labor standards could be linked to trade liberalization and increased market access. Commitments would also be enforceable under the WTO dispute settlement system. In the words of the AFL-CIO's Thea Lee, labor could then use the "leverage of trade agreements to obtain promises from trading partners to improve their [labor] laws."

Labor's strategy was similar to the approach taken by US knowledge-based industries to put intellectual property onto the Uruguay Round agenda. These industries recognized that the World Intellectual Property Organization (WIPO), a sister agency of the ILO in the UN system, had neither the scope nor the enforcement authority to advance their interests. Business and labor wanted their respective concerns on the trade agenda for the same reason: to increase leverage. At the same time, business vigorously argued that labor (and environmental) issues had no place in trade agreements.

Element #3: Shaping the Agenda

The parties involved in the fast-track debate were engaged in a monumental battle to shape the agenda of future trade negotiations. The debate hinged, in part, on whether labor and environmental issues belonged in trade talks. As a condition for granting fast-track authority, organized

labor and their Democratic allies sought to require the administration to negotiate labor and environmental provisions in future trade agreements. Republican opponents and business groups sought to prevent the expansion of the trade agenda to encompass these issues.

The debate over fast track was an inevitable consequence of the tensions created by this peculiar mechanism and its history. To appreciate these tensions, we need to understand the deal structure implicit in the fast-track process. Fast track was developed in order to give the US administration credibility in international trade negotiations by preventing the ratification problems that had emerged after the Kennedy Round. After making commitments on nontariff barriers in the Kennedy Round trade talks, the administration was embarrassed when Congress refused to pass enabling legislation. In order to avoid future difficulties of this sort, the administration asked Congress to grant it the authority to negotiate agreements that would be ratified by an up-or-down vote held on a strict schedule. In return for giving up its ability to amend or delay the legislation needed to implement trade agreements, Congress received increased overview and consultation privileges during the negotiation process.

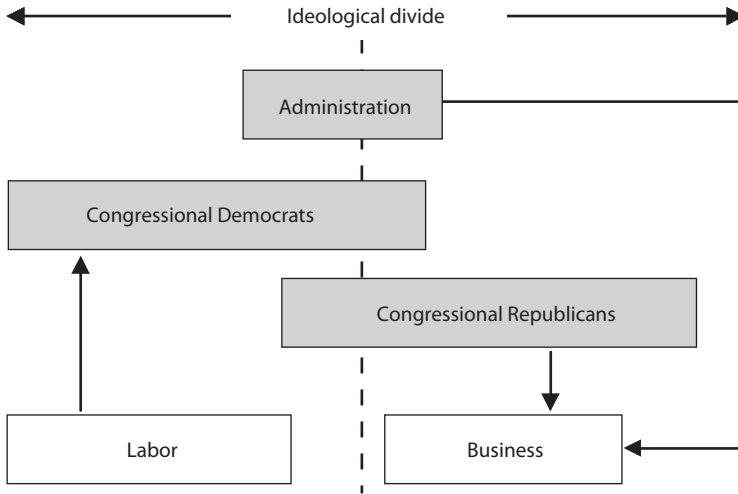
But the arrangement created a classical negotiating problem: the principal-agent dilemma. When the principal (here, Congress) sends an agent (the administration) out to negotiate an agreement, how can the principal be sure that the agent will represent his or her best interests? If the principal does not trust the agent, the relationship becomes even more charged.

Element #4: Building Coalitions

“Organized labor” is, of course, far from monolithic. Therefore, building an internal coalition in favor of defeating fast track was an early priority for those union groups that stood to bear the burden of increased trade liberalization. Representatives of traditional industrial unions such as the Teamsters, Steelworkers, UAW, textile and apparel workers, and Oil, Chemical and Atomic Workers, built a core coalition and then gradually gathered broader support before taking the issue to the AFL-CIO Executive Committee. This strategy enabled them to overcome opposition from some members of the Executive Committee staff and to override concerns on the part of AFL-CIO leaders about directly opposing a Democratic administration.

The unions then focused on building a coalition in Congress to oppose fast track. Here, too, the choice of the battleground was not accidental. While the unions had influence in the Clinton administration, this influence was not sufficient to kill fast-track renewal efforts. President Clinton was pushing a broad liberalization agenda that included negotiating new trade agreements in the Americas, Asia, and Europe. Although some Clinton administration officials opposed moving forward with fast track

Figure 5.1 The ideological divide on fast track

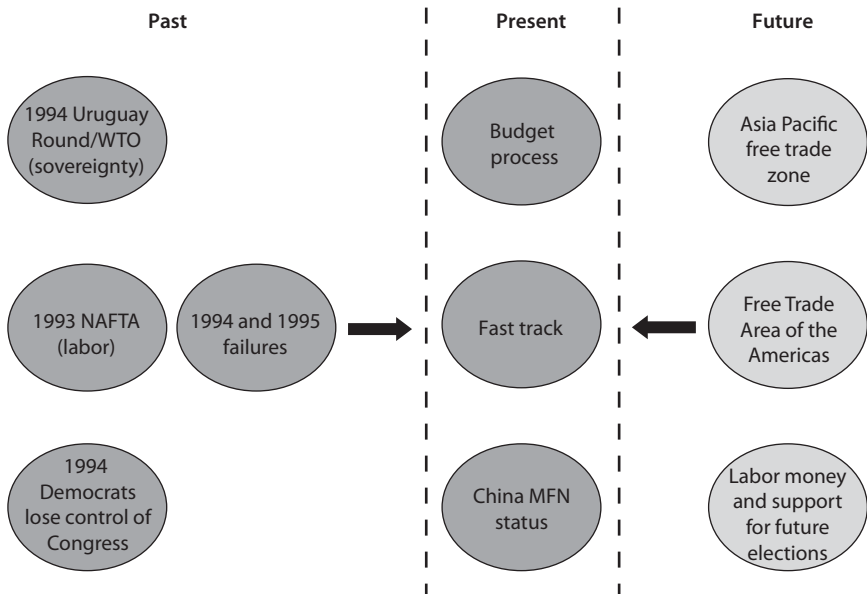


because they feared it would jeopardize other legislative priorities, a critical mass of support for working to win its renewal ultimately formed.

As illustrated in figure 5.1, Congress was a very different story. There, organized labor could expect strong support from its traditional allies, including key members of the Democratic leadership such as Minority Leader Richard Gephardt. They also could fight a public, grassroots campaign to influence undecided members. Furthermore, members of Congress tended to be responsive to labor unions that were well represented in their own districts. At the time, the labor movement provided almost 50 percent of the PAC funding for Democratic members of Congress. This financial support translated into willingness on the part of many Democrats to defer on issues that labor defined as high priority. In short, the history of financial support for Democrats and experience in grassroots organizing enabled labor to hold its own against business lobbying.

In addition, the Democratic leadership in Congress relied on well-established patterns of deference—that is, the tendency of groups to fall in line behind recognized leaders—to solidify opposition to fast-track renewal. For example, Gephardt’s “Dear Colleague” letter to his fellow Democrats firmly rejected any fast-track proposal that failed to include labor and environmental protections. Gephardt’s motives were complex; he was not only a staunch supporter of organized labor but also harbored presidential ambitions that could not be realized without solid union support. Active and early opposition to fast track by Gephardt and other key Democrats such as House Minority Whip David Bonior translated into broader opposition in Congress, as many members deferred to the Democratic leadership on these issues.

Figure 5.2 Linkages in fast-track renewal



MFN = most favored nation

Finally, organized labor succeeded in mobilizing other interest groups to oppose fast track. Key members of the coalition included environmental groups that wanted to see environmental standards included in trade agreements, antiglobalization groups such as Public Citizen, and more conservative economic nationalists such as Pat Buchanan.

To counter this force, the Clinton administration sought to create a winning coalition to pass fast track, relying heavily on congressional Republicans. This effort failed, in part because of the lack of trust among the parties, but also because the Republicans asked business interests to delay their lobbying efforts in order to try to pressure the Clinton administration on the content of the fast-track bill.

Element #5: Leveraging Linkages

Negotiations over fast-track renewal in 1997 were tightly linked to an array of other trade negotiations—past, present, and future. As figure 5.2 illustrates, the administration wanted fast track in order to pursue a range of future negotiating initiatives, including a Free Trade Area of the Americas.

The 1997 renewal effort also was linked to previous (failed) efforts to renew fast track in 1994 and 1995. Critically, the 1997 fast-track debate occurred in the shadow of the battles over NAFTA and the implementing

legislation for the Uruguay Round. Congress approved NAFTA under fast-track provisions in the face of tremendous opposition by organized labor. The result was residual bitterness in the labor movement, especially because NAFTA was viewed to have resulted in significant union job losses. Efforts by the Clinton administration to negotiate NAFTA side agreements on labor and environmental issues had done little to assuage the unions' sense of defeat. "No more NAFTAs" became a rallying cry for those organizing to oppose fast track. The grim warning of the AFL-CIO pamphlet cited above fell on receptive ears: "Fast Track brought us NAFTA. . . . Now big corporations want to extend the NAFTA deal to other countries."

The 1997 effort to renew fast track also became linked to concurrent negotiations over the 1998 federal budget and the annual renewal of China's most favored nation trading status. Because the Clinton administration needed Democratic support to pass the budget, it decided to delay a vote on fast track. Yet the budget process itself alienated Democrats, who perceived that the administration had worked too closely with Republicans and had curbed funding for traditional Democratic priorities. Moreover, the administration was aware that Democrats in Congress didn't want to side with business and the Republicans on both the China issue and fast track; and because China was the priority, it wanted the vote on China's MFN status to be held first.

Element #6: Playing the Frame Game

By using anger at NAFTA and the fear of job loss, organized labor framed the debate in ways that were compelling to its constituents and their representatives in Congress. While the administration sought to argue that the choice was between making progress and disengaging from the rest of the world, the unions argued that trade agreements should protect workers as well as investors. The appeal to pocketbook issues proved decisive for the audiences that the AFL-CIO sought to influence.

Element #7: Creating Momentum

In this case, organized labor was trying to prevent momentum from building toward passage of fast track. That organized labor chose to fight fast track rather than take on specific trade agreements was no accident. The choice reflected labor's sophisticated understanding of fast track as key to the administration's strategy for building momentum toward US acceptance of new international trade agreements. This understanding arose, in part, from labor's failure to oppose NAFTA—whose success, in turn, rested on prior congressional fast-track renewal.

The key insight is that trade agreements negotiated by the administration under fast track are very difficult to defeat in Congress. Because fast track prohibits amendments and imposes a strict time frame for a vote, it blunts the most commonly used tools that single-issue groups use to delay, water down, or defeat legislation in Congress. It thus limits the ability of unions, environmental organizations, and other groups to influence trade agreements. For this reason, labor concluded that it was essential to fight the battle early over fast track and not to wait for “the next NAFTA.”

Organized labor also benefited from the administration’s miscalculations in attempting to create momentum behind fast track (the decision to wait on submitting proposed fast-track language to Congress, followed by a premature push for a vote). As just mentioned, the administration decided to put fast track on hold until after Congress had voted on the 1998 budget and China’s MFN status. The resulting delay from the spring to the fall of 1997 gave fast-track opponents a full summer to organize. At the same time, business was restrained from mobilizing by the Republican leadership, who sought to retain leverage with the administration in negotiating the final language of the bill.

Once the bill was introduced in the fall, business and Republican leaders in Congress began to press hard for a vote. Such pressure, they believed, would force the administration to make deals with undecided members so that the legislation would pass. This strategy backfired when it became evident that there was not enough time to overcome the resistance that had built up against fast track. The resulting decision to cancel the vote and withdraw the legislation illustrates an enduring negotiation lesson: Action-forcing events do force action—but not necessarily the desired action.

Conclusion

The 1997 failure was, of course, not the end of the story. In August 2002, the Bush administration succeeded in achieving TPA. By renaming fast track “trade promotion authority,” the administration reframed what was at stake, focusing not on moving a bill quickly through Congress but on something more positive: promoting trade. In addition, through bipartisan negotiations, Congress succeeded in reforming Trade Adjustment Assistance, providing additional aid to US workers displaced by trade liberalization. Nevertheless, TPA passed in the House by the narrowest of margins, and the close votes underscore the continuing deep partisan divide over fast track. Some believe that such extreme polarization will enable special interest lobbies to exert disproportionate influence over future trade debates. It remains to be seen if a new approach to fast track will emerge that can command bipartisan common ground.