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## Suddenly, Stalemate

Since enactment of the Reciprocal Trade Agreements Act of 1934, US policy has centered on opening up the global economy through reciprocal reductions in national trade restrictions. In the postwar period, the focal point for such negotiations, indeed the foundation for postwar trade multilateralism, was the General Agreement on Tariffs and Trade. The tariff reductions of the 1950s culminated in the Dillon Round. The Kennedy Round followed in the 1960s, the Tokyo Round in the 1970s, and the Uruguay Round in the 1980s and early 1990s.

American trade policy over these years was neither pure nor consistent, of course; the United States also led, it must be noted, in crafting the multilateral textile restraint agreements embodied in the Multi-Fiber Arrangement (MFA) of 1973. Still, the nation embarked on recurrent, extended bouts of global leadership on multilateral trade liberalization, and US commitment and energy were critical to the success of the undertaking. Typically the great rounds began when US officials pushed them and ended as executive-branch negotiating authority, periodically renewed by Congress, neared expiration. This 60-year effort to liberalize global trade culminated on 1 January 1995 in the establishment of the World Trade Organization, whose dispute settlement mechanism had been a long-standing US objective—and which has since been exploited by US authorities with considerable success.

How did often fractious domestic political institutions come to support—more or less consistently and with considerable bipartisanship—this leadership role for the United States in the international trade arena? It helped, of course, that the legacy of Smoot-Hawley and World War II

had moved postwar leadership opinion substantially away from protectionism and in favor of trade liberalism. It also helped that opening US markets proved a useful means of buttressing Cold War alliances with countries in Europe and Asia. Nonetheless, forces working for freer trade had to remain constantly on guard against a recurring political danger: that of “capture” of trade policy by concentrated interests threatened by imports. Both E. E. Schattschneider in the 1930s and Mancur Olson in the 1980s highlighted the potent logic of this persistent threat.<sup>1</sup>

## The Trade Policymaking System, 1934-94

In response, Washington developed mechanisms that reduced the vulnerability of trade policy institutions to political pressure from protectionist industries. The primary locus of trade policy was shifted from Congress to the executive branch. The principal means of setting the level of trade barriers was changed from omnibus tariff bills to international negotiations. The most favored nation (MFN) principle generalized barrier reductions negotiated with specific trading partners, and the subsequent binding of tariff levels during GATT rounds had a ratcheting effect, making trade liberalization cumulative. This shift in primary responsibility for trade policy from the legislative to the executive branch was accomplished first with delegation of tariff-setting authority to the president. With tariffs reduced to a fraction of prewar levels, nontariff barriers (NTBs) emerged as the main impediment to trade. Congress responded with the so-called fast-track procedures. With this device, first enacted as part of the Trade Act of 1974, Congress empowered the president (and hence USTR) to negotiate wide-ranging international trade agreements by promising expeditious action on the results: an up-or-down vote, within 90 days, on legislation submitted by the president to implement the agreements. These procedures greatly enhanced the negotiating power of the executive. They also reduced protectionist pressures on individual senators and representatives, because members had to vote on the results of negotiations as a whole, not product by product or sector by sector.<sup>2</sup>

Congressional trade committees and their congressionally nurtured executive-branch counterpart, USTR, worked in concert to balance the interests of industries adversely affected by imports with those of export-oriented producers, typically seen as trade winners. Together these domestic and international changes in the trade policymaking process

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1. See E. E. Schattschneider, *Politics, Pressures, and the Tariff* (New York: Prentice-Hall, 1935), and Mancur Olson, *The Rise and Decline of Nations: Economic Growth, Stagflation, and Social Rigidities* (New Haven: Yale University Press, 1982).

2. See I. M. Destler, *Renewing Fast-Track Legislation*, POLICY ANALYSES IN INTERNATIONAL ECONOMICS 50 (Washington: Institute for International Economics, 1997).

gave successive administrations and their congressional allies the tools to reverse a 150-year pattern of US reliance on high protectionist tariffs and to insulate gains from easy reversal.<sup>3</sup>

This enormously successful system incorporated one major tactical bow to protectionist thinking. It retained the tacit presumption that exports were “good” and imports “bad.” Thus, in GATT negotiations it was considered a “concession” for a nation to reduce a barrier to foreign products. These were to be exchanged for reciprocal market-access “concessions” by trading partners that would facilitate growth in that nation’s export sector. This “benign mercantilism” legitimized trade expansion through its benefits to producer interests, which dominated trade politics, while downplaying the benefits to import users, who were poorly organized and thus politically weaker. Consistent with this emphasis, Congress typically included, in legislation authorizing new negotiations, language to tighten antidumping and other import-regulating laws.

Over the years, executive and congressional leaders became quite adept at managing this system, playing producer interests against one another and responding to pressures to restrict imports with militant efforts to expand exports. Examples include congressional enactment and strengthening of Section 301 (originally included in the Trade Act of 1974), targeting “unreasonable and unjustifiable” foreign barriers to US products, and successive administrations’ market-opening negotiations with Japan and other nations to complement global liberalization talks.

By limiting the agenda to trade barriers here and abroad, thereby excluding most divisive broader questions of social policy, the process remained reasonably bipartisan. Although in recent decades Republicans typically provided stronger support for trade liberalization than did Democrats, particularly in the House of Representatives, Democratic committee and chamber leaders actively backed major trade laws and agreements as they were presented for approval. This bipartisanship was particularly important in promoting continuity when party control shifted in the legislative or in the executive branch. While the Democratic left (and, to a lesser degree, the Republican right) tended to oppose trade liberalization, a pragmatic protrade majority evolved at the political center.

The system faced its most severe test in the 1980s, when a remarkable surge in the value of the dollar drove up the volume of US imports and generated a hitherto unheard-of trade imbalance—attaining 12 digits in dollar terms, with more than \$3 of imports for every \$2 of exports.

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3. For fuller development of the argument, including why these processes have served congressional as well as presidential interests, see I. M. Destler, *American Trade Politics*, 3rd ed. (Washington: Institute for International Economics; New York: Twentieth Century Fund, 1995), and I. M. Destler, “Constituencies, Congress, and U.S. Trade Policy,” in *Constituent Interests and U.S. Trade Policies*, ed. Alan V. Deardorff and Robert M. Stern (Ann Arbor: University of Michigan Press, 1998), 93-108.

Economic imbalance begat political imbalance—and calls for trade protection. This fervor was tempered only by delay in enactment of new trade legislation, giving time for the dollar to fall and exports, predictably, to rebound. As a result, the Omnibus Trade and Competitiveness Act of 1988 included renewal of presidential fast-track authority for the purpose of continuing the most ambitious global negotiation yet, the Uruguay Round. Six years later, in 1994, Congress approved the results of this protracted series of negotiations with strong bipartisan majorities.

As noted in the introduction, the 1990s brought a similar surge in the volume of US imports.<sup>4</sup> There was not a similar upswing in business-based protectionism or congressional trade activism, however, though the steel industry waged a loud campaign in 1998 and 1999. One reason for the muted protectionism was the remarkable health of the US economy, with inflation and unemployment at lows that had not been seen for decades. But a longer-term source, it appears, was the continued internationalization of US industries, including textiles and apparel (long protectionist) and automobiles (becoming more protectionist in the 1980s). In general, most US businesses that might previously have been protectionist now seem either indifferent or conflicted over trade issues or inclined to support further barrier reduction. One must be cautious, however: trade's classic political dilemma cannot be said to have disappeared, though the threat has clearly receded.

Yet fast-track negotiating authority expired in 1994 and has not been renewed. When President Clinton sent Congress a proposal to do so in September 1997, he found the Senate receptive but met with ferocious opposition in the House, notwithstanding the backing of the trade policy committees and the Republican majority leadership in both chambers. Labor made it a "litmus test" issue for Democrats, as it had done on NAFTA and other trade votes in the past. But this time the result was different. Despite an intensive (albeit eleventh-hour) personal campaign, Clinton was able to win the backing of only 21 percent of House Democrats (by the most optimistic vote counts), and he asked that the legislation be withdrawn rather than go down to likely defeat. When House Speaker Gingrich brought it to a vote a year later, in September 1998, motivated in part by the partisan desire to put a squeeze on Democrats caught between labor and protrade constituents, the result was even worse: a 243-180 defeat, with just 29 of 200 House Democrats (14.5 percent) voting in favor.

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4. The ratio of the volume of US merchandise imports to the volume of goods production—a useful indicator of the pressure of imports on US producers—shot up from 30.6 percent in the first quarter of 1996 to 38.6 percent in the last quarter of 1997. On an annual basis, the ratio jumped from 29 percent in 1995 to 37 percent in 1997. This increase is a bit greater, proportionately, than that of the hyper-strong dollar period of the early to mid-1980s. On that earlier period, see Destler, *American Trade Politics*, 205-6.

Under the conditions of trade politics from 1934 to the early 1990s, fast track would surely have sailed through Congress in 1997 or 1998. Protectionism has receded, and the US economy has regained clear international preeminence, with its combination of strong growth and minimal inflation standing in sharp contrast to sluggishness in Europe, recession in Japan, and financial crisis in other East Asian nations. Surely, under the old conditions, a Democratic president would have won bipartisan support for aggressive efforts to further open the global economy that now seemed so congenial to American producers.

But new forces had arisen to complicate the picture.

## The Rise of “Trade and . . .”

What has been new in the 1990s is the rise of issues involving the relationship of trade to other prominent policy concerns. This phenomenon seems driven by the same globalization that has softened American protectionism. The “trade and . . .” issues involve not the balance to be struck *among* US commercial interests, but the proper balance *between* these interests and others that society values. One prominent concern has been the relationship between open trade and human rights, highlighted in annual congressional votes on China’s MFN status. The issues that have most directly affected the recent political debate over presidential trade-negotiating authority, however, involve labor and environmental standards enforced (or not enforced) by US trading partners and the impact that the global trade regime may have on US capacity to strengthen or maintain pro-labor and pro-environmental measures here at home.<sup>5</sup>

The “trade and . . .” issues first rose to prominence in the struggle over the negotiation and approval of NAFTA. In 1991, after labor mounted a campaign against congressional authorization of fast track for NAFTA, the Bush administration won the support of swing voters by promising attention to environmental and labor goals. In 1992, candidate Bill Clinton conditioned his support of the completed NAFTA agreement on the conclusion of labor and environmental side agreements among the three North American nations. In 1993, armed with such side agreements, President Clinton won a dramatic uphill battle for House approval, with important support from mainstream environmental organizations (though labor remained overwhelmingly opposed).

In the short run this was a dramatic victory for trade liberalization. The struggle against NAFTA, however, brought together for the first time a coalition of activist organizations, including grassroots environmental

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5. For a broad historical and contemporary perspective on “social issues” and trade, see Susan Ariel Aaronson, *Redefining the Terms of Trade* (Baltimore: Johns Hopkins University Press, forthcoming).

groups (such as the Sierra Club), the Ross Perot third-party movement, right-wing voices (such as presidential aspirant Pat Buchanan), and Public Citizen, the activist organization founded by consumer champion Ralph Nader. When joined with labor's electoral clout, they constituted a formidable potential barrier to future trade liberalization.<sup>6</sup> Aware of this, and also determined to repair White House relations with these important Democratic constituencies, US Trade Representative Mickey Kantor proposed in mid-1994 to build on the NAFTA precedent: the Uruguay Round implementing legislation should include extension of fast-track authority, but with "labor standards"<sup>7</sup> and "trade and the environment" listed as the fifth and sixth of seven "principal negotiating objectives."

Organized business did not participate in developing this formulation, however, and its reaction was strongly negative. Firms that backed NAFTA had accepted the side agreements reluctantly, fearing either greater regulation if such efforts were successful or the diversion of US negotiating energy to these issues if they were not. Now the administration seemed to be proposing to bring these issues front and center in new global and regional trade negotiations and to elevate their status from side agreements to core provisions of new trade deals. Business aligned behind the contrary view—pressed by many ideologically committed Republicans—that fast-track legislation should explicitly exclude agreements on labor and environmental standards. Compromise proved elusive, and the administration reluctantly dropped fast-track extension from the Uruguay Round implementing bill.<sup>8</sup>

In the years that followed, polarization over this issue intensified. It was obviously in Clinton's interest to bridge the divide between the two sides, and as a "new Democrat" supporting free trade he was well positioned to do so. But in 1995 and 1996, his priority—and that of Vice President Al Gore and Kantor—was building a coalition for reelection. They were most reluctant to challenge organized labor, whose support they deemed crucial, so they met compromise efforts by leaders of the newly Republican House less than halfway. Moreover, this short-run focus on reelection was not complemented by a longer-term effort to make the NAFTA side agreements effective in advancing labor and envi-

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6. Frederick W. Mayer provides a detailed analysis of the rise of this activist coalition, notwithstanding what he concludes was the marginal impact of NAFTA on most of its members. See his *Interpreting NAFTA: The Science and Art of Political Analysis* (New York: Columbia University Press, 1998), chap. 7.

7. The labor language was a slight softening of the "worker rights" negotiating objective in the 1988 act. The environmental language was new.

8. For a detailed treatment of the 1994 events and a broader analysis of the labor standards issue, see Kimberly Ann Elliott, "(Mis)Managing Diversity: Worker Rights and U.S. Trade Policy," *International Negotiation* (forthcoming).

ronmental goals. Moderate environmentalists who supported NAFTA were disillusioned, and some joined the ranks of fast-track opponents.

With his reelection secured, but with Republicans still in control of Congress, Clinton faced a difficult choice: go for fast track largely excluding the “trade and . . .” issues, as supported by Republicans and by business (liberalization’s main constituency), or undertake a serious, inevitably time-consuming effort to craft a new compromise. Initially he did neither—delaying submission of a bill through the spring and summer of 1997.

Critics used the time well, with Public Citizen, the Economic Policy Institute, the Sierra Club, and other groups joining in a strongly critical report marking NAFTA’s third anniversary.<sup>9</sup> And while labor lobbied, business held back, wanting first to “see the fine print” of the president’s proposal. Clinton finally focused on the issue in September, submitting a draft bill with some bows to environmental and labor concerns but mainly excluding them, as business had demanded. The House Ways and Means Committee, voting mainly along party lines, sent to the full House a bill that allowed even less room for addressing these issues. Their champions, not surprisingly, saw this bill as a major step backward from the last major fast-track extension in 1988. The result, as noted above, was a debacle for the president and for trade liberalization.

Other developments during this period also strengthened the political forces fighting what they perceived as the human costs exacted by globalization. The Mexican peso crisis of 1994-95 took the bloom off that economy (and by extension NAFTA), triggering a deep recession that was particularly hard on vulnerable groups. The Asian financial crisis beginning in the summer of 1997 broadened concern about the downside of “free markets,” with millions driven back into poverty by economic contractions that followed in Thailand, Malaysia, Indonesia, and Korea. In 1998 the crisis became global as the Russian ruble collapsed and Brazil came under severe economic pressure.

Critics of globalization were nourished by such developments. In 1997 a coalition of activist nongovernmental organizations (NGOs) launched a virulent campaign against the hitherto obscure Multilateral Agreement on Investment (MAI), on which the member states of the Organization for Economic Cooperation and Development (OECD) had been struggling to reach consensus. Public Citizen posted the then-confidential MAI text on its Web site, and they and others denounced the draft treaty as a secret plot by multinational corporations and their allies, a “license to loot” the

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9. See the joint publication of the Economic Policy Institute, the Institute for Policy Studies, the International Labor Rights Fund, Public Citizen’s Global Trade Watch, the Sierra Club, and the US Business and Industrial Council Educational Foundation, *The Failed Experiment: NAFTA at Three Years* (June 1997) (<http://www.citizen.org/pctrade/nafta/reports/epijoint.htm>).

environment and the economies of vulnerable third-world nations.<sup>10</sup> An overlapping coalition lobbied vociferously (though, in the end, unsuccessfully) to block provision of additional funds to the International Monetary Fund for ongoing financial crisis management.

Behind this sometimes vitriolic rhetoric was a broader phenomenon: the impact of globalization on a range of issues previously considered mainly domestic. As international trade becomes more important to the US economy<sup>11</sup>—and the US economy becomes more intertwined with other economies—globalization’s effects within the United States broaden. Increasingly, the ramifications spread beyond matters that trade policy has traditionally addressed.

Some of these involve the processes by which products are made—how labor is employed, for example, or how the environment is affected. These are processes that nations typically regulate within their borders (though domestic regulations may be subject to international agreements). Now advocates of these regulations see their goals challenged, and sometimes their home laws undermined, by foreign processes and practices reflecting lower standards. They may simply object to importing products made with what they see as abusive labor practices or processes that degrade the environment within the producing country. Or they may also see their own process regulations threatened by less stringent foreign practices that lower production costs.<sup>12</sup> Yet GATT rules establish a strong predisposition against import restrictions based on “production processes and methods” (PPMs).

There are macroeconomic and microeconomic arguments for tolerating national differences on these matters. Since trade balances are driven predominantly by savings-investment balances, mediated by interest and exchange rates, lower labor and environmental standards in less-developed countries may convey advantage to some of their industries (e.g., those that are labor- or resource-intensive), but this will mean comparative disadvantage for their other industries. The net effect will tend to strengthen those industries in advanced countries that use labor more productively and pollute the environment less—just the industries these nations will want to promote.

Nevertheless, low-skilled workers in developed nations will still suffer dislocations as markets reequilibrate. Demand for their labor will be more

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10. See, for example, Mark Vallianatos with Andrea Durbin, “License to Loot: The MAI and How to Stop It” (Washington: Friends of the Earth, 1998).

11. US exports of goods and services rose from 5.5 percent to 11.9 percent of GDP between 1970 and 1997, and imports from 5.4 percent to 13.1 percent (calculated from *Economic Report of the President*, 1999).

12. Dani Rodrik offers a balanced discussion in *Has Globalization Gone Too Far?* (Washington: Institute for International Economics, 1997), esp. chap. 3.

elastic, and their employment rates will be subject to increased volatility.<sup>13</sup> Moreover, sectors that are disadvantaged may not shrink quietly. Firms may seek less stringent environmental regulation (the so-called race to the bottom), lower wages, weaker unions, or trade protection. They may threaten to relocate to countries with lower labor costs in order to combat wage demands. These activities in turn will energize labor and environmental groups that see their interests threatened.

These groups may espouse interests that are in part “protectionist.” Or they may employ arguments that do not withstand empirical scrutiny (for example, the environmental race to the bottom seems elusive in the real world). But their larger concerns are real, and deserve to be taken seriously. It took the better part of a century for the United States and other advanced industrial nations to enact laws and establish norms to ameliorate the negative effects of unbridled capitalism. And just as, for the United States, the *nationalization* of the economy that accelerated after the Civil War undercut state efforts at regulation, so *globalization* today undercuts national efforts to strengthen the social safety net and protect the environment.<sup>14</sup>

In chapters 2 and 3, therefore, we undertake a closer examination of the “trade and . . .” issues by looking at how labor and environmental organizations have been drawn into the trade debate and how their entry has shifted the political terrain.

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13. Rodrik, *Has Globalization Gone Too Far?* Some higher-skilled workers also face increased risk as capital moves more easily across national boundaries and technological advances drive more rapid structural readjustments in both developed and developing economies. In compensation, however, change brings these higher-skilled workers a range of new opportunities. Lower-skilled workers are more likely to suffer enduring losses.

14. Rodrik, in *Has Globalization Gone Too Far?* has enumerated some of the ways this occurs. For a brief discussion of globalization and human rights, including, for example, child labor, see Steve Charnovitz, “The Globalization of Economic Human Rights,” *Brooklyn Journal of International Law* 25, no. 1 (1999): 113–24.