

Prosperity Undermined During Era of Fast Tracked NAFTA and WTO Model Trade Agreements

Fast Track was a U.S. procedure established in the 1970s for the negotiation and congressional approval of trade agreements. It delegated to the executive branch various Congressional constitutional authorities, including Congress' exclusive constitutional authority to "regulate Commerce with foreign nations." In particular, Fast Track allowed the executive branch to select countries for, set the substance of, and then negotiate and <u>sign</u> trade agreements – all before Congress had a vote on the matter. Under Fast Track, the executive branch was empowered to write lengthy implementing legislation for each pact with normal congressional committee processes, such as legislative amendments in committee mark ups, circumvented. These executive-authored bills altered wide swaths of U.S. federal law to conform domestic policy to each agreement's requirements. And, once passed, the trade agreements and implementing bills become federal law, and thus pre-empt state law.

Moreover, Fast Track was unique in that it also delegated to the executive branch control of the schedules of the House and Senate with respect to consideration of trade agreements. Fast Track empowered the executive branch to *force* a congressional vote on such implementing legislation and the related agreement within a set amount of time, regardless of the views of congressional leaders. Sixty legislative days after the president submitted to Congress whatever agreement he signed and whatever legislation he wrote, the House of Representatives was required to vote on the package. A Senate floor vote was required no more than 30 days later. Under Fast Track, normal congressional floor procedures also were waived when Congress voted on the final pacts and implementing legislation. All amendments were forbidden and congressional debate was limited to 20 hours. Agreements were passed by simple majority votes, even in the Senate.²

Yet, while Congress was largely excluded from the negotiating process, Fast Track set up private-sector advisory committees that entitled hundreds of business interests to have special access to negotiators and confidential U.S. negotiating documents not available to the legislative branch or the public. In short, the Richard Nixon-conceived Fast Track process³ undermined essential checks and balances between the branches of government that the Founding Fathers wisely built into the U.S. Constitution. The process facilitated a system of "diplomatic legislating" with executive branch trade negotiators able to effectively rewrite swaths of U.S. domestic non-trade policy otherwise under the jurisdiction of the Congress and U.S. state legislatures.

When Fast Track was first established, trade agreements were focused mainly on cutting tariffs and lifting quotas. In contrast, today's "trade" agreements include hundreds of pages of expansive rules to which all signatory countries must conform their domestic non-trade policies. These non-trade provisions limit U.S. federal and state legislators' policy space regarding the regulation of services such as banking, health care and energy; product and food safety; copyright and patent law; and even how American tax dollars may be spent through government procurement. Some of the agreements even allow foreign investors to use World Bank and United Nations tribunals to demand U.S. taxpayer

compensation for domestic environmental, health and other policies that undermine foreign investors' expected future profits. Fast Track enabled the negotiation and expedited passage of 16 agreements, including the 1994 North American Free Trade Agreement (NAFTA), the 1995 World Trade Organization (WTO), and various expansions of the NAFTA model (including the Central America Free Trade Agreement (CAFTA) passed in 2005 by a one vote margin). The last grant of Fast Track expired in June 2007, but Fast Track's extraordinary procedures nonetheless applied to the agreements signed with Korea, Colombia and Panama under the previous authority and passed in 2011.⁴

Many scholars and policymakers believe that Fast Track is an inappropriate mechanism for today's complex international commercial agreements, which directly affect a vast array of people and policies beyond the scope of the simple 1970s tariff-cutting agreements.⁵ Given the scope of today's agreements, concerns have grown in Congress about how Fast Track undermines the balance between the branches of government, empowering the executive branch with enormous power in areas in which the Constitution provides Congress with exclusive authority. In November 2013, more than 150 Democrats⁶ and a sizeable bloc of Republicans⁷ signed letters opposing any attempt to revive Fast Track. A new bill to revive Fast Track in January 2014 was dead on arrival, with only a handful of House Democrats and fewer than 100 House Republicans indicating support.⁸

A more comprehensive rethink of Fast Track is likely to occur if President Obama seeks some form of trade authority. In considering how Fast Track might be best replaced by a new mechanism that provides a more robust role for Congress and for meaningful input from a greater number and diversity of affected parties, it is important to review the economic outcomes of the Fast Track-enabled trade model. Polling shows that increasing numbers of Americans have turned against NAFTA-style agreements. If a more inclusive process helped ensure that new trade agreements provided gains that outweighed the losses for most Americans, U.S. public support for trade agreements might increase.

U.S. Wages Stagnate, Despite Doubled Worker Productivity

- O U.S. wages barely increased in real terms since 1974, the year before Fast Track was first enacted, even as American worker productivity doubled. In 1974, the average hourly wage for American workers in today's dollars was \$19.24, while in 2014 it is up only 7 percent to \$20.56. Over the same period, U.S. workers' productivity more than doubled. Economists now widely name "increased globalization and trade openness" as a key explanation for the unprecedented failure of wages to keep pace with productivity, as noted in recent Federal Reserve Bank research. Even economists who defend status-quo trade policies attribute much of the wage-productivity disconnect to a form of "labor arbitrage."
- Trade agreement investor privileges promote offshoring of production from the United States to low-wage nations. In the past, trade competition came from imports of products made by foreign companies operating in their home countries. But today's "trade" agreements contain various investor privileges that reduce many of the risks and costs previously associated with relocating production from developed countries to low-wage developing countries. Thus, many imports now entering the United States come from companies originally located in the United States and other wealthy countries that have moved production to low-wage countries. For instance, nearly half of China's exports are now produced by foreign enterprises, not Chinese firms. Underlying this trend is what the Horizon Project called the "growing divergence between the national interests of the United States and the interests of many U.S. multinational corporations which, if given their druthers, seem tempted to offshore almost everything but consumption."

American workers effectively are now competing in a globalized labor market where some poor nations' workers earn less than 10 cents per hour.¹⁵

- Manufacturing workers displaced by trade have taken significant pay cuts. Trade affects the *composition* of jobs available in an economy. The aggregate *number* of jobs available can be better explained by fiscal and monetary policy, the impacts of recessions and other macroeconomic realities. The United States has lost millions of manufacturing jobs during the Fast Track era, but overall unemployment has been largely stable (excluding recessions) as new low-paying service sector jobs have been created. Proponents of status quo trade raise the *quantity* of jobs to claim that Fast Tracked deals have not hurt U.S. workers. But what they do not mention is that the *quality* of jobs available, and the wages most U.S. workers can earn, have been degraded. According to the U.S. Bureau of Labor Statistics, about three out of every five displaced manufacturing workers who were rehired in 2014 experienced a wage reduction. About one out of every three displaced manufacturing workers took a pay cut of greater than 20 percent. For the average manufacturing worker earning more than \$47,000 per year, this meant an annual loss of at least \$10,000.
- Trade policy holds back wages even of jobs that can't be offshored. Economists have known for more than 70 years that *all* workers with similar skill levels not just manufacturing workers will face downward wage pressure when U.S. trade policy creates a selective form of "free trade" in goods that non-professional workers produce. When workers in manufacturing are displaced and seek new jobs, they add to the supply of U.S. workers available for non-offshorable, non-professional jobs in hospitality, retail, health care and more. But as increasing numbers of American workers, displaced from better-paying jobs by current trade policies, have joined the glut of workers competing for these non-offshorable jobs, real wages have actually been declining in these growing sectors. Thus, proposals to retool U.S. trade adjustment assistance programs (which help retrain workers who lose their jobs to trade), while welcome, do not address the most serious impact of America's trade policies. The damage is not just to those workers who actually lose jobs, but to the majority of American workers who see their wages stagnate.
- O The bargaining power of American workers has been eroded by threats of offshoring. In the past, American workers represented by unions were able to bargain for their fair share of economic gains generated by productivity increases. But the investor protections in today's trade agreements, by facilitating the offshoring of production, alter the power dynamic between workers and their employers. For instance, a study for the North American Commission on Labor Cooperation the body established in the labor side agreement of NAFTA showed that after passage of NAFTA, as many as 62 percent of U.S. union drives faced employer threats to relocate abroad, and the factory shut-down rate following successful union certifications tripled. 21
- Even accounting for Americans' access to cheaper imported goods, the current trade model's downward pressure on wages outweighs those gains, making most Americans net losers. Trade theory states that while those specific workers who lose their jobs due to imports may suffer, the vast majority of us gain from trade "liberalization" because we can buy cheaper imported goods. But when the non-partisan Center for Economic and Policy Research (CEPR) applied the actual data to the trade theory, they discovered that when you compare the lower prices of cheaper goods to the income lost from low-wage competition under current policies, the trade-related losses in wages hitting the vast majority of American workers outweigh the gains in cheaper goods from trade. U.S. workers without college degrees (63 percent of the workforce) have lost an amount equal to 12.2 percent of their wages, even after accounting for the benefits of cheaper goods. That

means a net loss of more than \$3,400 per year for a worker earning the median annual wage of \$28,000.²²

Powerful sectors obtained protection in NAFTA and WTO-style pacts, raising consumer prices. While our trade policy contributes to downward pressure on U.S. wages, agreements like NAFTA and the WTO also include terms that directly increase the prices of key consumer products, further reducing many Americans' buying power. For instance, special protections for pharmaceutical companies included in the WTO require signatory governments to provide them longer monopoly patent protections for medicines. The University of Minnesota found that extending U.S. monopoly patent terms by three years as required by the WTO increased the prices Americans paid for medicine by over \$8.7 billion in today's dollars. That figure only covers medicines that were under patent in 1994 (when WTO membership was approved by Congress), so the total cost to us today is much higher.²³

Income Inequality Increases in America

- The inequality between rich and poor in America has jumped to levels not seen since the robber baron era. The richest 10 percent of Americans are now taking more than half of the economic pie, while the top 1 percent is taking more than one fifth. Wealthy individuals' share of national income was stable for the first several decades after World War II, but shot up 51 percent for the richest 10 percent and 146 percent for the richest 1 percent between 1974 and 2012 the Fast Track era.²⁴ Is there a connection to trade policy?
- Countries. In the 1990s a spate of economic studies put the theory to the test, resulting in an academic consensus that trade flows had indeed contributed to rising U.S. income inequality. The pro-"free trade" Peterson Institute for International Economics (PIIE), for example, found that nearly 40 percent of the increase in U.S. wage inequality was attributable to U.S. trade flows. In 2013, when the Economic Policy Institute (EPI) updated an oft-cited 1990s model estimate of trade's impact on U.S. income inequality, it found that using the model's own conservative assumptions, one third of the increase in U.S. income inequality from 1973 to 2011 the Fast Track era was due to trade with low-wage countries. The role of trade escalated rapidly from 1995 to 2011 a period marked by a series of Fast-Tracked "free trade" deals EPI found that 93 percent of the rise in income inequality during this period resulted from trade flows. Expressed in dollar terms, EPI estimates that trade's inequality-exacerbating impact spelled a \$1,761 loss in wages in 2011 for the average full-time U.S. worker without a college degree.
- O Changes in technology or education levels do not fully account for American wage pressures. Some have argued that advances in computer technology explain why less technologically-literate American workers have been left behind, asserting that more education rather than a different trade policy is how America will prosper in the future. While more education and skills are desirable for many reasons, these goals alone will not solve the problems of growing inequality. First, as documented in a Federal Reserve Bank paper, inequality started rising as systematic U.S. trade deficits emerged, in the early Fast Track period, far before most workers reported using computers on the job. Second, college-educated workers have seen their wage growth stagnate, even in technologically sophisticated fields like engineering. Thus, addressing trade policy, not only better educating American workers, will be an essential part of tackling rising income inequality.

o **Is it even possible to compensate those losing, rather than change trade policy?** To compensate the "losers" from our trade policy – the majority of Americans facing downward wage pressures – CEPR finds that the government would have to annually tax the incomes of the limited number of "winners" more than \$50 billion and redistribute this sum to middle class families. In contrast, the main compensating program – Trade Adjustment Assistance – was allocated less than \$2 billion in FY2010, its highest funding year ever. Since then, its funding has been slashed 67 percent, barely topping \$0.6 billion in FY2014. The \$50 billion needed to compensate wage losers would thus be over 27 times the highest-ever level of funding for the program. Would such a tax be politically feasible? Even if so, would its economic distortions outweigh supposed "efficiency gains" from Fast Tracked trade deals?

Trade Deficits Soar, Good American Jobs Destroyed

- o Prior to the establishment of Fast Track and the trade agreements it enabled, the United States had balanced trade; since then, the U.S. trade deficit has exploded. The pre-Fast Track period was one of balanced U.S. trade and rising living standards for most Americans. In fact, the United States had a trade surplus in nearly every year between World War II and 1975, when Fast Track was first implemented. But in every year since 1975, the United States has run a trade deficit. Since establishment of NAFTA and the WTO, the U.S. goods trade deficit has more than quadrupled, from \$216 billion (in today's dollars) to \$870 billion – an increase from two percent to more than five percent of national income. ³⁶ From Federal Reserve officials to Nobel Laureates, there is widespread agreement among economists that this huge trade deficit is unsustainable: unless the United States implements policies to shrink it, the U.S. and global economies are exposed to risk of crisis and instability.³⁷ Recent NAFTA-style deals have only exacerbated this risk. In the first two years of the U.S. Free Trade Agreement (FTA) with Korea, implemented in March 2012, the U.S. goods trade deficit with Korea ballooned 50 percent and U.S. exports to Korea fell 5 percent.³⁸ Ironically, some of the biggest deficit increases occurred in the automotive and meat industries – two sectors that the Obama administration had promised would be winners under the deal.³⁹ Using the export-to-job ratio that the Obama administration employed to project gains from the Korea deal, this drop in net U.S. exports to Korea in the FTA's first two years represents the loss of more than 50,400 U.S. jobs.⁴⁰
- o Food imports into the United States are soaring, destabilizing family farmers and posing unchecked safety risks. NAFTA and WTO supporters told American farmers that the pacts would increase exports and thus provide a new path for struggling farmers to succeed economically. U.S. food exports have increased, but not nearly as much as food imports. In 2013, the total volume of U.S. food exports stood just 0.5 percent higher than in 1995, the year that the WTO took effect. In contrast, imports of food into the United States in 2013 towered 115 percent above the 1995 level that marked the dawn of the WTO era. The average annual U.S. agricultural deficit with Canada and Mexico under NAFTA's first two decades reached \$975 million, almost three times the pre-NAFTA level. Smaller-scale U.S. family farms have been hardest hit by the import influx caused by deals like NAFTA and the WTO. About 170,000 small U.S. family farms have gone under since NAFTA and the WTO took effect, a 21 percent decrease in the total number. After the WTO required elimination of various U.S. price support and supply management policies, small farmers were also hard-pressed to survive the increasing year-to-year volatility in prices paid for commodities, making investment and planning more difficult than before the WTO. Current U.S. food trade trends also pose serious risks to food safety, as our current trade agreements both

increase imports *and* set limits on the safety standards and inspection rates for imported foods. WTO and NAFTA required the United States to replace its long-standing requirement that only meat and poultry meeting U.S. safety standards could be imported. Under this standard, only meat from plants specifically approved by USDA inspectors could be imported. But WTO and NAFTA – and the FTAs that followed – required the United States to accept meat and poultry from all facilities in a trade partner country if that country's system was found to be "equivalent," even if core aspects of U.S. food safety requirements, such as continuous inspection or the use of government (not company-paid) inspectors, were not met. 46

- Six million American manufacturing jobs 1 out of 3 have been lost during the Fast Track era. The U.S. manufacturing sector has long been a source of innovation, productivity, growth and good jobs. The U.S. manufacturing sector has long been a source of innovation, productivity, growth and good jobs. By 2014, the United States had just 12 million manufacturing jobs left about 6 million fewer than in 1974 before Fast Track was first established, with less than nine percent of the American workforce in manufacturing for the first time in modern history. The U.S. Department of Labor lists millions of workers as losing jobs to trade since NAFTA and WTO were passed and that is under just one narrow program that excludes many whose job loss is trade-related. Further, studies show that the U.S. economy could have supported an estimated 7 million more manufacturing jobs if not for the massive trade deficit that has accrued under current U.S. trade policy. Some analysts say that technology-related efficiency improvements account for U.S. manufacturing job loss, not trade policy. But both factors play a role. However, Congress actually has a say over trade policy. Many analysts and policymakers of diverse political stripes believe that the rebuilding of the manufacturing sector is important to America's security and economic well-being. Security and economic well-being.
- Offshoring of American jobs is moving rapidly up the income and skills ladder. Alan S. Blinder, a former Federal Reserve vice chairman, Princeton economics professor, and NAFTA-WTO supporter, says that one out of every four American jobs could be offshored in the foreseeable future.⁵³ In a study Blinder conducted with Alan Krueger, fellow Princeton economist and former Chairman of President Obama's Council of Economic Advisers, the economists found the most offshorable industry to be finance and insurance, not manufacturing (with information and professional services also showing high offshoring propensity).⁵⁴ Indeed, according to their data, American workers with a four-year college degree and with annual salaries above \$75,000 are those most vulnerable to having their jobs offshored, meaning America could see its best remaining jobs moving offshore.⁵⁵ Offshoring of consumers' medical and financial information subject to privacy protections under U.S. law also raises concerns about identity theft, private medical information being released, and consumer redress for such violations. If the United States were to implement policies to forbid the offshoring of certain types of jobs to countries that do not provide adequate privacy protections for such confidential health and financial data, the nation might also decrease certain job offshoring. Europe already has such an offshore consumer-data privacyprotection policy in place, showing that it is a workable option.⁵⁶
- O Devastation of American manufacturing is eroding the tax base that supports U.S. schools, hospitals and the construction of such facilities, highways and other essential infrastructure. The erosion of manufacturing employment means there are fewer firms and well-paid workers to contribute to local tax bases. Research shows that a broader manufacturing base contributes to a wider local tax base and offering of social services. With the loss of manufacturing, tax revenue that could have expanded social services or funded local infrastructure projects has declined, while displaced workers turn to welfare programs that are ever-shrinking. This has resulted in the virtual collapse of some local governments. Building trade and construction workers have also

been directly hit both by shrinking government funds for infrastructure projects and declining demand for maintenance of manufacturing firms. Meanwhile, Fast Track-enabled trade agreements could also undermine Americans' access to essential services because they contain provisions that limit the policies federal and state governments can employ to regulate service sectors. For instance, certain provisions of the Trans-Pacific Partnership (TPP), a proposed NAFTA-style deal, could undercut efforts to control medicine costs under Medicare, Medicaid and the Veterans Health Administration.

wto, NAFTA and NAFTA-expansion agreements ban Buy American and forbid federal and many state governments from requiring that U.S. workers perform the jobs created by the outsourcing of government work. "Anti-offshoring" and Buy American requirements, which reinvest our tax dollars in our local communities to create jobs here, are forbidden under the Fast Track-enabled trade agreements' procurement rules. These rules require that all firms operating in trade-pact partner countries be treated as if they were domestic firms when bidding on U.S. government contracts to supply goods or services. That means that we cannot maintain existing Buy American or Buy Local procurement preferences that require government purchases to prioritize U.S.-made goods, or rules that require outsourced government work to be performed by U.S workers. Rather, our current trade pacts promote shipping our tax dollars offshore. And, these agreements' limits on domestic procurement policy could also subject prevailing wage laws – ensuring fair wages for non-offshorable construction work – to challenge in foreign tribunals.

Growth Slows and Inequality, Poverty and Hunger Rise in Poor Countries

The worldwide gulf between rich and poor widened during the Fast Track era. In the early 1990s, proponents of the WTO and NAFTA touted these pacts as keys to reducing poverty in developing nations and creating a more equitable global economic system. That same argument is being raised again today to promote rehabilitation of the beleaguered WTO Doha Round. Longstanding economic theory predicts that trade increases inequality in developed countries – but not in developing countries. However, during the era when the corporate globalization policies enabled by Fast Track were implemented worldwide, income inequality between developed and developing nations, and between rich and poor within developing nations increased.⁶⁴ In 1970, non-oilproducing, less-developed nations earned per capita incomes just above two percent of those earned in more-developed nations. By 2000, they were earning just one percent, signifying a doubling of the income gap between rich and poor nations.⁶⁵ Today, the richest one percent of the world's population owns about half of the world's wealth, while the poorest half of the world's population own merely one percent of the world's wealth. 66 World Bank projections show that the WTO Doha Round, if ever completed, could make matters even worse, with only a few large developing countries likely to gain, while many countries and regions would be likely to suffer net losses. 67 As for within-country income distribution, the top one percent of income earners in large developing countries captured rising income shares after trade liberalization in the 1980s and 1990s, a finding that has sparked an array of studies on the linkage between liberalization and income inequality in developing countries.⁶⁸ One United Nations study concluded that, "in almost all developing countries that have undertaken rapid trade liberalization, wage inequality has increased, most often in the context of declining industrial employment of unskilled workers and large absolute falls in their real wages, on the order of 20-30 percent in Latin American countries."69

- Progress on growth and social development in poor countries slowed during the Fast Track era. Increasing economic growth rates mean a faster expanding economic pie. With more pie to go around, the middle class and poor have an opportunity to gain without having to "take" from the rich often a violent and disruptive process. But the growth rates of developing nations slowed dramatically in the Fast Track period. For low- and middle-income nations, per capita growth between 1980 and 2000 fell to half that experienced between 1960 and 1980. The slowdown in Latin America was particularly extreme. There, income per person grew by 92 percent cumulatively in the 1960-80 period, before the International Monetary Fund (IMF) and World Bank began imposing a package of deregulation, investment, and trade policies similar to that found in NAFTA and the WTO. Since adopting these policies, cumulative per capita income growth in Latin America plunged to 6 percent in the 1980-2000 period. Improvement measured by human indicators in particular, life expectancy, child mortality and schooling outcomes also slowed for nearly all countries in the Fast Track period as compared with 1960-80. Pro-FTA analysts consider these outcomes to have been a significant factor in the numerous Latin American elections where critics of current globalization policies prevailed.
- Poverty, hunger and displacement rose during the Fast Track period. The shares of people living on less than \$2 a day and less than \$1.25 a day (the World Bank's definitions of poverty and extreme poverty, respectively) grew in Sub-Saharan Africa, Eastern Europe and Central Asia over the 1980-2000 period cited above.⁷³ Since then, progress on the U.N.'s Millennium Development Goals of 2000 has proven lackluster. The goal of halving hunger levels in developing countries by 2015 experienced a major setback during the global food crisis of 2007-2008, when a sudden spike in international food prices sparked widespread hunger and food riots in previously food-secure developing countries that had become dependent on food imports due to trade liberalization.⁷⁴ As the price surge hit import-dependent countries, the global number of hungry people topped one billion for the first time in history. 75 The food-import dependency fostered by WTO and NAFTAstyle policies has meant not just a loss of food security for developing countries, but the loss of millions of farming livelihoods. Many farmers displaced by import surges were forced to emigrate to wealthy countries (including the United States) or join swelling urban workforces. An exposé in the New Republic described this impact under NAFTA: "as cheap American foodstuffs flooded Mexico's markets and as U.S. agribusiness moved in, 1.1 million small farmers – and 1.4 million other Mexicans dependent upon the farm sector – were driven out of work between 1993 and 2005. Wages dropped so precipitously that today the income of a farm laborer is one-third that of what it was before NAFTA. As jobs disappeared and wages sank, many of these rural Mexicans emigrated, swelling the ranks of the 12 million illegal immigrants living incognito and competing for low-wage jobs in the United States."⁷⁶
- O Developing countries that did not adopt the WTO-NAFTA-IMF policy package fared better. Nations that chose their own economic mechanisms and policies through which to integrate into the world economy had remarkably more economic success than those that implemented sweeping trade liberalization prescriptions. For instance, China, India, Malaysia, Vietnam, and Chile (and Argentina since 2002) have had some of the highest growth rates in the developing world over the past two decades despite largely ignoring the directives of the WTO, IMF and World Bank. Indeed, today's research concludes that, as countries have turned away from neoliberal policies, average growth rates have returned to or surpassed the levels seen before the influence of the WTO, NAFTA or the IMF. To the contrary, it is often claimed that the successful growth records of countries like Chile have been based on the pursuit of NAFTA-WTO-like policies. But nothing could be farther from the truth: Chile's sustained period of rapid economic growth was based on the liberal use of export promotion policies and subsidies that are now considered WTO-illegal.

ENDNOTES

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