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Reporters Memo: What the 2014 Election Results Mean for Trade Policy

Fast Track's Chances Diminished by GOP Senate Sweep; Obama Flexibility on Japan Agriculture Market Access in TPP Reduced; Bipartisan Campaigning Against Status Quo Trade Policy Heightens Public Awareness

The GOP takeover of the U.S. Senate probably reduces the chances that President Barack Obama gets Fast Track at all before his presidency is over or that a deal is completed on the Trans-Pacific Partnership (TPP). There has been a major corporate PR campaign to push the opposite narrative. However, a close look at the interplay of the actual politics and policy on Fast Track and the TPP show that the GOP election sweep may, counterintuitively, actually not promote the corporate trade agenda.

Fast Track: The issue is not who is Senate Majority leader. The fight over trade authority is always won or lost in the U.S. House of Representatives. Recall that second-term Democratic President Bill Clinton lost a bid for Fast Track in 1998 in the GOP-controlled House with 171 Democrats and 71 GOP members voting “no.” (Clinton had Fast Track for only two of his eight years. Indeed, in the past two decades, the only president to obtain Fast Track was President George W. Bush, and winning that five-year grant required a two-year effort at the start of Bush’s first term and a lot of political capital, after which Fast Track passed by one vote in a GOP-controlled House in 2002.)

The reason that the GOP controlling the Senate could make Fast Track’s passage less likely is related to who will now be writing a trade authority bill. The old Fast Track trade authority mechanism faces a significant bloc of GOP House opposition and virtually no House Democratic support. Outgoing Senate Finance Committee Chairman Ron Wyden (D-Ore.) had undertaken an inclusive process to get input to write his own version of trade authority, which he dubbed Smart Track. That process and its outcome could have broken the bipartisan House opposition to the old Fast Track system.

But neither incoming Finance Committee Chair Orrin Hatch (R-Utah) nor the likely GOP Ways and Means Committee leader supports major changes to the old Fast Track authority delegation process. Indeed, the Camp-Baucus-Hatch bill to establish trade authority was finally introduced in January 2014 only because GOP Finance and Ways and Means leaders opposed even modest changes to the actual *authority delegation* process from the 2002 bill. Changes to the actual terms delegating congressional authorities are also opposed by the business lobby. Nor do Hatch or the Ways and Means GOP leaders have the inclination or the relationships to widen the base of support for a bill.

But altering the way in which Congress' authority is delegated, to provide Congress with a more fulsome role throughout the process and with more accountability over negotiators, is necessary to build bipartisan House support for a new delegation of trade authority. Updates to negotiating objectives or the level of transparency required cannot overcome the issues at the core of the House allergy to Fast Track.

A significant bloc of House GOP does not want to delegate more power to Obama, especially as the GOP has been attacking him as the "imperial president" who grabs legislative authority for his own. Tea party activists oppose Fast Track per se and anything that empowers Obama, which leaves GOP lawmakers who support Fast Track exposed to the dreaded tea party primary threat. To make political matter worse, House GOP lawmakers know that even if the GOP votes were available to pass Fast Track on a party line vote, almost no Democrats will vote to give their own president such authority, so any fallout from future trade pacts would be owned solely by the GOP.

As a policy matter, many GOP conservatives think the lump sum delegation of various authorities granted to Congress in the Constitution busts vital checks and balances. (It empowers a president to "diplomatically legislate" by negotiating binding non-trade terms to which U.S. law must be conformed; to sign and enter into a trade pact before Congress approves it; to write legislation not subject to committee mark-up and force a vote on it within 90 days of submission; and to pre-set the rules for floor consideration.)

That is why, when Senate Majority Leader Harry Reid (D-Nev.) indicated no floor time would be provided for Fast Track this year, the Camp-Baucus-Hatch Fast Track bill (introduced Jan. 9, 2014) was already dead on arrival in the House:

- There were literally only a handful of House Democrats who supported the bill: eight out of 201 members. And three of those eight conditioned their "yes" votes on the bill also extending Trade Adjustment Assistance (TAA), which Hatch viscerally opposes.
- The House GOP leadership could not count more than 100 members as "yes" votes on the Camp-Baucus-Hatch bill. They had a bloc of members with solid "no" votes – some of whom signed letters against Fast Track in 2013 – and a large bloc who could not commit to vote "yes." That is why the House GOP leadership never marked up the Camp-Baucus-Hatch bill or moved it toward a floor vote. And that is why House Speaker John Boehner (R-Ohio) said in May he needed to see 50 firm Democrat votes before he would move the bill.

Reid's announcement in January certainly made it more certain that the Camp-Baucus-Hatch Fast Track bill would not be moving. But even without Reid's opposition, Boehner could never find the 50 Democrats he needed to make up for the GOP members he could not count as "yes" votes on the Camp-Baucus-Hatch bill.

And, the House election results do not appear to fix Boehner's math problem. To fully assess what the new House makeup means for Fast Track, the dust will have to settle on the results to see whether it is a wash, slightly harder for Fast Track to pass (e.g., if a number of Fast Track-opposing tea party GOP candidates replaced GOP members who were for Fast Track) or slightly easier (e.g., if a lot of "Wall Street" GOP candidates replaced no-on-Fast-Track Democrats.)

One more way in which GOP control of the Senate complicates the path for trade authority: Hatch also hates TAA while Wyden supported expanding it. Adding TAA to the old Fast Track process does not add new Democratic support, but not having TAA could result in literally no House Democratic support. For instance, the House's leading Democratic Fast Track boosters, U.S. Reps. Ron Kind (D-Wis.) and Gregory Meeks (D-N.Y.) – among the eight House Democrats who supported the Camp-Baucus-Hatch Fast Track bill – said absent a TAA extension, they would not support it.

Thus, not having Wyden as Senate Finance Committee chairman actually decreases the chances that Obama will ever get a delegation of trade authority. But that would not be such a shocker anyway. Since Congress woke up to what Fast Track really means with the Fast-Track passage of the North American Free Trade Agreement (NAFTA) and the World Trade Organization (WTO) almost 20 years ago, Congress has allowed Fast Track to be in effect for only five of the 20 years.

TPP: The election results may also complicate Obama's goal of signing a Trans-Pacific Partnership (TPP) deal. As the TPP misses yet another do-or-die deadline – this time a November date announced by Obama in June that was related to the imminent Asia-Pacific Economic Partnership (APEC) meeting – to get a deal, any deal, the administration might be ready to step back from its position regarding Japan and agriculture market access in the TPP. Except, the demand that the TPP include the zeroing of all agricultural tariff [comes mainly from the Republicans](#), as does the call to throw Japan out of the TPP talks unless Japan concedes to this demand.

Both Parties Competed to Highlight Rejection of Unfair Trade in Competitive Races, Heightening Public Awareness and Further Complicating Obama's Bid for Fast Track: Analysis of the most-watched races of the 2014 elections reveals bipartisan competition to align campaign positions with the American [public's opposition](#) to current U.S. trade policies and the job offshoring they cause. A raft of ads spotlighting the damage caused by status quo trade policies has heightened constituents' anger about damaging trade deals and the expectation that their newly elected representatives will reject the administration's attempt to Fast Track more of the same deals.

Some of 2014's most high-profile races featured both candidates competing to portray themselves as the greater opponent of unfair trade. Republican challengers sought to outdo the fair-trade voting records of Democratic incumbents by proclaiming their own rejection of existing Free Trade Agreements (FTAs), while the incumbents touted their votes against the FTAs and their [opposition to Fast Track](#).

Incumbents who could not themselves claim a fair trade record still campaigned with the trade frame by attacking their opponents on offshoring, voicing opposition to tax policies that incentivize offshoring or citing instances of being "tough on China." Even Senate Minority Leader Mitch McConnell (R-Ky.), with a 100 percent record of supporting unfair trade deals, was obliged to create and air an ad claiming he "fought against unfair foreign trade" after multiple ads attacked him for supporting damaging trade deals and costing American jobs.

Closely watched races in which both candidates vied to portray themselves as a stronger opponent of unfair trade included:

- Minnesota's 8th Congressional District – Nolan vs. Mills: In the closely fought race for Minnesota's eighth district seat – one of the most competitive races in this election cycle – incumbent U.S. Rep.

Rick Nolan (D-Minn.) turned around a likely GOP pick-up after vying with Republican Stewart Mills to declare greater opposition to status quo trade. This race spotlights the difficulty Obama's quest for Fast Track authority will face in the next Congress, as conservative GOP members campaigned against the trade status quo and thus will be expected by their voters to stop more-of-the-same trade policies. In one [ad](#), Mills tried to convert popular rejection of existing FTAs into rejection of incumbents, blaming "politicians like Rick" for "trade deals that reward outsourcers, while killing Minnesota jobs." Nolan, who was not in office during the votes for any existing FTAs, touted his own opposition to unfair deals. Nolan's campaign [website](#) stated that he "has fought against 'fast-tracking' the ongoing TPP trade negotiations, and will continue to stand up for fair trade." Nolan was one of 151 House Democrats to sign a [letter](#) last year against Fast Tracking the TPP. Voters opted for Nolan, who trumped Mills.

- U.S. Senate in Michigan – Peters vs. Land: In the competitive Michigan U.S. Senate race between U.S. Rep. Gary Peters (D-Mich.) and Terri Lynn Land (R), both candidates competed to make known their opposition to unpopular trade deals. Competing against Peters' 100 percent record of opposition to FTAs, Land sought to flaunt her own anti-FTA position, stating in an [ad](#), "My plan will save Michigan jobs by ending unfair foreign trade deals and developing new agreements that open up markets for Michigan exports." Michigan has lost [more than 250,000 manufacturing jobs](#) (about one out of every three) since NAFTA was enacted. Peters' campaign [website](#) touted his own fair trade record, stating, "He has stood up for Michigan manufacturers and opposed any new trade deal that does not require our foreign trading partners play by the same rules as American companies." In the end, Peters beat Land handily although the race had long been deemed a tossup.
- U.S. Senate in Kentucky – McConnell vs. Grimes: Trade loomed large in this headline-grabbing race between McConnell and his Democratic challenger Alison Lundergan Grimes. The Senate Majority PAC launched an [ad](#) that showed video footage of McConnell expressing support for NAFTA, and stated, "Mitch McConnell's been tragically wrong about foreign trade deals. They've cost America over half a million jobs." [Another](#) Senate Majority PAC ad criticized McConnell for "pushing foreign trade deals that send Kentucky jobs to new homes far away." As his numbers plummeted in the early fall, McConnell's campaign ultimately was forced to respond by adopting the same frame used against him, claiming in an [ad](#) that McConnell "fought against unfair foreign trade," despite having cast 20 out of 20 votes in favor of unfair trade since 1991. McConnell beat Grimes after running against his own voting record.

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