



# Free Trade Bulletin

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## The Obama Administration's Trade Agenda Is Crumbling

by Daniel R. Pearson

### Introduction

The nation has been living with the Obama administration's trade policy for five years, with relatively little to show for it. In the remaining three years, is the executive branch likely to obtain Trade Promotion Authority (TPA) and successfully conclude the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP)? Although free traders very much want all of this to happen, hard-headed experience indicates it's most likely that the administration will accomplish none of this.

Why such a downbeat conclusion? Debates over the North American Free Trade Agreement (NAFTA) and the Uruguay Round in the 1990s illustrated how very difficult it could be to build support for the negotiation of trade agreements and for the passage of enacting legislation. Building such support requires a firm commitment to the cause of trade liberalization, an understanding of the economics that make open markets so desirable, an eagerness to explain the benefits to those who are undecided, and a willingness to invest a whole lot of political capital to round up the required votes. It's not clear whether any of those conditions currently exist.

### Is the President Sufficiently Committed?

It's important to acknowledge that all recent U.S. administrations have found the politics of international trade to be really quite difficult. For example, George W. Bush generally was seen as a supporter of trade liberalization. Yet, in 2002 he imposed substantial temporary safeguard tariffs against imports of steel products. This decision was driven in large part by political factors relating to the U.S. steel industry, which was in poor financial condition at the time. The Bush administration made a decent recovery from that protectionist start by negotiat-

ing and attaining congressional approval of free-trade agreements with Chile, Singapore, Australia, Morocco, Central American countries and the Dominican Republic (CAFTA-DR), Bahrain, Oman, and Peru. The Bush team also negotiated agreements with Colombia, Panama, and South Korea, but did not succeed in getting Congress to approve them. It's fair to say that negotiating free trade agreements is hard. Building domestic political support for them and achieving their passage in Congress appears to be even harder.

Sensitive to the politics of trade within Democratic constituencies, candidate Obama ran in 2008 as a protectionist, indicating that he wanted to renegotiate the 14-year-old NAFTA agreement. Although he probably wasn't actually in favor of raising tariffs, a substantial portion of his political base—organized labor, environmentalists, anti-globalists—liked his rhetoric and expected him to adhere to that line. But isn't the same thing true of Bill Clinton? Yes, Clinton ran against NAFTA as a candidate in 1992, promising to reopen the agreement to fix it. However, after moving into the Oval Office, he put effort into making sure that the agreement actually became law.

The Clinton administration had some adults in the room. Lloyd Bentsen, the long-term senator from Texas, became secretary of the Treasury. He understood intuitively the importance of NAFTA to the U.S.-Mexico relationship and strongly favored implementing the agreement. Clinton selected Mickey Kantor to be U.S. trade representative. Kantor, an attorney with strong connections to organized labor, helped to reassure blue-collar Americans that their interests would be heard. He was instrumental in making adjustments to the agreement, thus fulfilling the president's pledge. And Vice President Al Gore, in what many believe to be his finest hour (perhaps deserving of a Nobel Peace Prize?), successfully debated Ross Perot on the merits of the NAFTA prior to its consideration by Congress. The Clinton Administration had key officials who were committed to making NAFTA a reality.

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On the other hand, the Obama Administration spent its first term focused on other priorities. Its primary emphasis was on the enforcement of existing trade agreements. For instance, in September 2009 the administration imposed additional duties for a three-year period against imports of tires from China on the theory that they were disrupting the U.S. tire market. This action harmed U.S. consumers and Chinese producers in an effort to provide some benefit to the relatively small number of U.S. workers in the tire industry,<sup>1</sup> but it did nothing to advance the cause of trade liberalization. The administration also established the National Export Initiative (NEI) with the rather mercantilistic goal of doubling U.S. exports within five years, a target that seems unlikely to be reached.<sup>2</sup> The only meaningful accomplishment in the direction of trade liberalization was allowing three free-trade agreements that had been negotiated by the Bush administration (Panama, Colombia, and South Korea) to become law. So far the Obama team has not developed a compelling and economically sound argument on behalf of open global markets. Perhaps no official of cabinet level or higher has the experience, understanding, and commitment required to make a vigorous case in favor of trade liberalization.

Meanwhile, groups that normally support the Obama presidency—labor, environment, and various other NGOs—have been doing a great deal of “community organizing” in opposition to the trade agenda. A February 21, 2014, article in *Inside U.S. Trade* reports that the StopFastTrack.com coalition has collected more than 600,000 petition signatures against legislation to provide fast-track negotiating authority.<sup>3</sup> StopFastTrack.com claims “more than 100 organizations as members, including the AFL-CIO, the Sierra Club, Public Citizen, the American Civil Liberties Union, the Communication Workers of America and the Electronic Frontier Foundation.”<sup>4</sup> Fast track legislation would allow Congress to establish negotiating priorities. It also would enable the administration to present trade agreements to Congress for an up-or-down vote, thus avoiding amendments that might pick the agreement apart piece by piece. Anti-trade lobbying in this election year has been sufficiently effective to induce a large number of members of Congress to express their unwillingness to vote for fast track. Opponents include Senate Majority Leader Harry Reid and House Minority Leader Nancy Pelosi, so the resistance within the president’s own party is really quite strong. It’s fair to say that the administration has allowed itself to get out-organized by its own supporters.

Administration efforts to reach out to anti-trade organizations appear to have been somewhat infrequent and not terribly successful. A February 20, 2014, *Huffington Post* article by Ryan Grim and Zach Carter reports on a February 18 off-the-record discussion between USTR Michael Froman and a group of liberal organizations in a weekly gathering known as “Common Purpose,” which involves “an administration official and representatives of the Democratic coalition, from labor and environmental groups to consumer advocates and online progressive groups.”<sup>5</sup> Anonymous reports from a handful of attendees indicate that Froman made little prog-

ress toward building support for the administration’s trade agenda and may have spawned a backlash. He offered the argument, which also has been made in public settings, that globalization is happening regardless of what the United States does or doesn’t do. By engaging in trade agreements, he said, America has the potential to shape globalization according to U.S. values.<sup>6</sup>

Some NGOs have raised concerns that the TPP and TTIP negotiations are overly secretive and that membership on USTR’s existing advisory committees is overly slanted in the direction of people who work for businesses involved in international trade. To address that issue, Froman proposed to establish a Public Interest Trade Advisory Committee comprised of civil society groups to provide input to USTR. This concept apparently was not warmly embraced. The *Huffington Post* article reports that the Sierra Club declined to serve on such a committee.<sup>7</sup> With respect to Obama’s trade policy, an anonymous participant in the February 18 “Common Purpose” meeting was quoted to have said afterward, “The base of the Democratic Party is in complete opposition.”<sup>8</sup> It’s not clear whether any senior official in the Obama administration would be able to quiet the restless liberal troops, much less persuade them to support an agreement that actually liberalizes trade.

### Cart before the Horse

Without fast track, the administration’s trade agenda is on very shaky ground. It seems inconceivable that the other countries negotiating TPP or TTIP would be willing to complete those packages under circumstances in which Congress would be free to amend them by refusing to approve provisions that are politically sensitive in the United States. Ambassador Froman appears to be interested in completing the TPP negotiations, then using that agreement as bait to get the Congress to vote in favor of fast-track authority. That approach is backward and has a very low probability of working. Officials in other countries are well aware of the history of the Kennedy Round of GATT negotiations in the 1960s. The Kennedy Round was started following passage of the Trade Expansion Act of 1962, which granted five years of authority for the president to negotiate tariff reductions or eliminations. However, that legislation was silent with regard to negotiations on issues other than tariffs.

By the time the Kennedy Round had finished, U.S. negotiators had agreed not only to numerous tariff cuts, but also to two non-tariff changes: a modification to U.S. customs valuation rules; and certain adjustments in U.S. antidumping procedures. Some domestic constituencies were not enamored of those non-tariff provisions. When faced with that opposition, Congress simply decided not to enact the statutory changes required to implement the agreements on customs valuation and antidumping, so the United States didn’t live up to its side of the bargain. Governments that had made concessions in exchange for those U.S. policy reforms were not amused. Immediately it became impossible to get other countries to negotiate with the United States under similarly uncertain conditions. To

rectify that situation, Congress provided a broad grant of negotiating authority—covering both tariff and non-tariff measures—in the Trade Act of 1974. The only free-trade agreement to be implemented since then without fast track was the U.S.-Jordan FTA, which enjoyed widespread support from both political parties and was passed by voice vote in 2001.<sup>9</sup>

### Serious Questions Confronting the Administration

Democratic opposition in the Congress appears to be forcing a delay in considering fast track at least until after the November 2014 election. This administration has provided no precedent in which it has fought and won a similar battle against important parts of its political base. The White House should carefully evaluate whether it wishes to undertake such an uphill challenge later this year on behalf of trade liberalization. Some relevant questions:

- Is the Baucus-Hatch-Camp bill agreeable? If not, what specific fast-track legislation could the administration support?
- If the administration is serious about obtaining fast track, which senior officials would be the ones to make that case with the liberal base? What arguments would they use?
- Who would be the administration’s spokesperson to push back on a consistent basis against the ongoing anti-trade blather that is trumpeted as if it is true?
- Is the White House willing to take the political hit that may accompany a bruising campaign to obtain the needed votes on Capitol Hill? Is gaining fast track more important than maintaining the president’s approval rating?
- Is the president comfortable using a portion of his remaining political capital on behalf of a policy objective that is viewed by many (incorrectly) as primarily benefiting the agricultural and business communities?
- If Democrats do well in the election, would it be easier or harder to enact fast track? (And if Democrats do poorly at the polls . . . ?)
- By the end of 2014 with only two years left in its tenure, will the administration become such a lame duck that it will have insufficient leverage to accomplish its goal of passing fast track?
- Is the administration willing to take the risk that—after trying really hard to obtain it—fast track can’t be achieved? Would this outcome make them look even more feckless and impotent in the eyes of the world?
- How important is the president’s desire to be seen as a global leader who leaves a legacy of progress on international economic policy?
- If fast track is granted late this year, will there be enough time to conclude the TPP and TTIP negotiations prior to when the administration leaves office?
- What, if anything, should be done in the TPP and TTIP negotiations between now and the grant-

ing of fast track? Should they be suspended? Or should the United States attempt to maintain the façade that negotiating authority will be forthcoming in just a few months?

### The Way Forward for Supporters of Trade Liberalization

Those who support further negotiations to liberalize global markets have every right to be disappointed that seven years have elapsed since U.S. negotiators last had fast track authority. The trade-policy tide has been flowing the other way, pushed along by voices that often seem to have little interest in promoting economic growth, and even less interest in presenting arguments that are based on sound analysis. Pro-trade organizations appear eager to engage in a strong and sustained lobbying effort on behalf of the Baucus-Hatch-Camp bill, if it becomes clear that the administration is seriously committed to obtaining fast track. It is to be hoped that 2014 will turn out to be a year of progress. However, that depends almost entirely on decisions that the Obama administration must make.

But what if the decision to press forward never comes? What if the potential to expand trade in the final years of the Obama administration slips away? Then it will be time for proponents of liberalization to take the long view. It should be seen as an opportunity to lay the groundwork for a meaningful trade agenda that could begin to unfold in 2017. Any incoming administration—either Democratic or Republican—is likely to be more inclined toward free trade than the current crew.

It’s unclear whether nations negotiating the TPP would be willing to wait three years until the United States gets its act together. Although possible, it probably is unlikely that they would conclude an agreement without the United States. Assured access to the U.S. market is valuable to many countries, so a version of TPP that doesn’t include the world’s largest economy is worth less to them. Those countries also must deal with their internal politics; their governments might change before any agreement can be finalized. The future of TPP is quite uncertain.

TTIP may have a better chance of surviving an extended hiatus. The term of the new European Commission that will take office later this year will extend well into the next U.S. presidential term. So, if the incoming commissioners like the concept of TTIP, they have a chance of being able to make it happen before they leave office. However, that may be counterbalanced by the European Parliament, which some observers expect to become more populist and anti-trade following the upcoming election in May. The EU’s commitment to TTIP may be strengthened by having a U.S. partner that truly is ready to move forward.

Supporters of trade liberalization should actively make the case for freer trade during the years in which the U.S. government is on the sidelines. Domestic audiences need to hear the positive side of the story. Foreign audiences may benefit by seeing that responsible parties are working to reposition the United States to play a leadership role on global trade policy in the future.

Some basic messages have resonated from the time of Adam Smith and David Ricardo. Among them:

- *All resources are scarce; thus, all have value.* Open and competitive markets do a wonderful job of making sure that scarce resources are put to their best and highest uses. Border restrictions complicate the operation of markets and impose costs on producers and consumers.
- *Comparative advantage still works in the 21st century.* Countries and people are relatively better at doing some things than others. People should be encouraged to focus on things they do well, and then trade to obtain other goods and services.
- *People need to be free to buy from and sell to whomever they choose.* Freedom of commerce is a fundamental human right. Any governmental restriction on that right must only be imposed when essential to serve an important societal objective, and must be structured to minimize limitations to individual liberty.
- *Imports are good.* They help to ensure that consumers are able to benefit from a wide variety of competitively priced items, thus expanding consumer choice and helping to raise living standards. They also provide world-class competition for domestic manufacturers, stimulating innovation and product improvements.
- *Exports also are good.* They are needed in order to pay for desired imports. And, since comparative advantage means that all nations are relatively better at doing some things than others, countries have an obligation to allow their surplus products to be exported so that others will be able to buy them.
- *Both imports and exports create jobs.* Economic activity that doesn't cross borders also creates jobs. All productive economic activity is good. Having more of it is better.

Pro-trade organizations ought to present these and other arguments actively as they work on behalf of liberalization. It would be a mistake to retreat until a more supportive administration appears. There is little doubt that less-thoughtful views would fill the vacuum. Despite the

fact that the pro-trade team is on the side of economic growth and opportunity, it has been losing the contest for people's hearts and minds. It may be tempting to blame the other side for not playing fair, but the more constructive approach is to redouble efforts to help people understand that freer trade is good for the United States and good for the world.

## Conclusion

The administration faces difficult choices. It should promptly sort out whether it is willing to bear the political costs of obtaining fast-track authority. If so, it must put together a credible plan for overcoming substantial opposition and begin to work toward achieving successful votes in Congress. If not, it should advise its partners in the TPP and TTIP negotiations that concluding those agreements will take a long time—likely stretching into the next U.S. administration—thus allowing those countries to make pragmatic decisions about how and whether to proceed.

In short, it is still theoretically possible for the administration to salvage its trade agenda. In practice, however, the political price of trying to do so is most likely to prove too high.

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## Notes

1. Dylan Matthews, "How Obama's Tire Tariffs Have Hurt Consumers," *Washington Post*, October 23, 2012, <http://www.washingtonpost.com/blogs/wonkblog/wp/2012/10/23/how-obamas-tire-tariffs-have-hurt-consumers/?print=1>.
2. Robert J. Bowman, "Is the President's National Export Initiative a Dud?" *SupplyChainBrain*, July 1, 2013, <http://www.supplychainbrain.com/content/blogs/think-tank/blog/article/is-the-presidents-national-export-initiative-a-dud/>.
3. Inside U.S. Trade, "Civil Society, Labor Groups Churn Out Petitions, Letters Against Fast Track," February 21, 2014, [www.insidetrade.com](http://www.insidetrade.com).
4. Ibid.
5. Ryan Grim and Zach Carter, "The Veal Pen Is Becoming a Dangerous Place," *Huffington Post*, February 20, 2014.
6. Ibid.
7. Ibid.
8. Ibid.
9. Carolyn C. Smith, "Trade Promotion Authority and Fast-Track Negotiating Authority for Trade Agreements: Major Votes," Congressional Research Service, January 12, 2011.