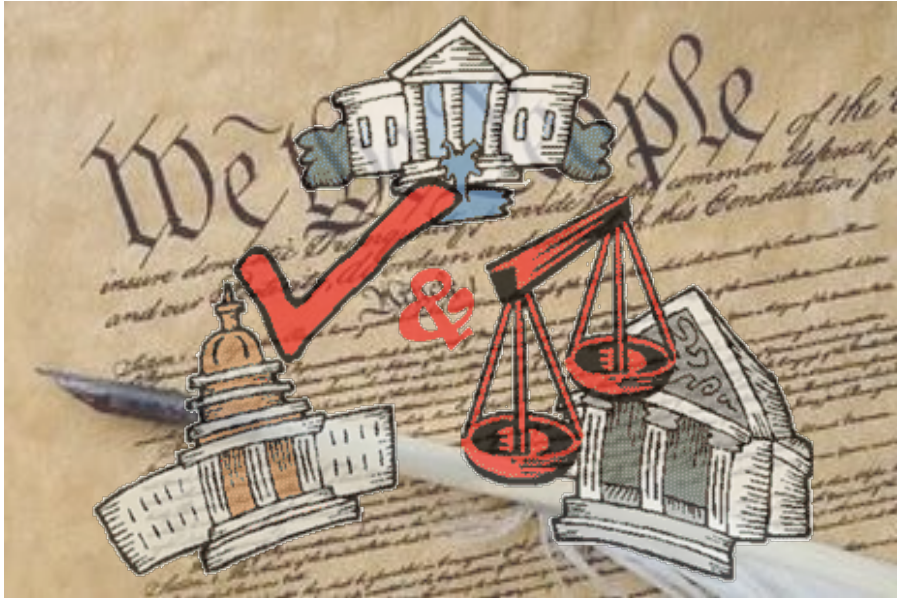


Fast Track Trade Authority: Usurping the Constitution



The Constitution

Article I, Section 8: "The Congress shall have power... to regulate commerce with foreign nations," among other duties and responsibilities.

Trade Authority

Congress has instructed the Executive Branch throughout U.S. history regarding trade negotiations via bills constituting "trade authority." "Fast Track" is the sixth historical version of trade authority and gives away the most. It sunsetted in 2007, thus it is not in force today.

Trade Promotion Authority is being sought by President Obama as a means to railroad new trade agreements through congress on an up or down vote. Congress should debate trade bills under the **"regular order,"** not unique Fast Track procedures.



Overturning Non-Trade Laws

Over 80% of modern "trade" agreements are about topics other than tariffs and quotas. Unelected trade officials negotiate changes other federal, state and local laws. Examples include financial regulation, copyrights, patents, immigration, food safety, energy policy, labor and government procurement.

By delegating authority in one lump sum, a large swaths of Congress' constitutional authority is turned over to trade negotiators who then negotiate non-trade policies. Those non-trade provisions often include those Congress previously rejected or overrule those previously approved.

Passage embeds these changes in U.S. law into a treaty that requires the 100 percent approval of all other signatory nations before Congress can revoke or change their content.

The President's Use of the Authority

The President has taken over Congress' constitutional trade regulation role. The Executive determines what countries to negotiate with and what is negotiated with little or no legislative participation.

Congress should debate trade bills under the REGULAR ORDER, not Fast Track.

What are the Problems?

- Choice of countries to negotiate with is delegated to President.
- The President negotiates the actual agreement while prohibiting Congress' ability to be involved with negotiating. Congress lists "negotiating objectives, but they are not binding, not enforceable, and are oft ignored by the executive branch negotiators.
- Enabling executive branch signature before Congress votes on the pact.
- Enabling the executive branch to write implementing legislation without Congressional input.
- Allows only 45 days for House committees to discharge the President-written legislation.
- Requires a House floor vote 15 days after the bill is discharged from committees.
- Allows only 20 hours of debate in each House.
- Forbids any amendments to the President's implementing bill.
- Eliminates several floor procedures, including Senate unanimous consent, normal debate and cloture rules, and the Senate filibuster.
- Requires only a simple majority vote in each House for enactment, violating the Article II treaty clause.

END GLOBAL GOVERNANCE

National Jrnl, 10/25/10, Interview with Rep. Boehner

NJ: Related to this, it's often been said by those closest to you that you respect and admire and believe in **regular order**. What does that mean to you and how much institutional value do you place on placing **regular order** at the center of House procedures and House reforms?

Boehner: Yeah, I do, absolutely. The House is the body closest to people. That's by design. We're the ... the crucible, the testing ground for new ideas and new policies. And the institutions of the House that have grown up over 200 years of trial and error are the best way to test those ideas and policies. We don't need five members sitting behind a closed door writing a bill, like they did with the "stimulus" or

John Feehery, Roll Call, 1/8/13

Will the 113th Congress mark the return of **regular order?**

Some conservatives and The Wall Street Journal have decried a broken congressional process in which most deals are concluded behind closed doors. Speaker of the House John Boehner promised his colleagues a more open process and that he was through negotiating with President Obama.

I am a big fan of regular order. When I worked for Denny Hastert (R-Ill.), he too promised a return to **regular order** after legislators were fed up with the dictatorial leadership style of Newt Gingrich.

Fred Malek, Roll Call, 11/13/14

Recently, Speaker John A. Boehner, and incoming Majority Leader Mitch McConnell, avoided the mistake of spiking the ball in the end zone, despite their resounding victory.

They came out sober and business-like; it was exactly what the American people needed to see. Their job will be difficult, but there is a path forward and it is obvious: **regular order**.

Editorial, Las Cruces Sun-News, 1/9/15

There are encouraging signs in the Senate, where new Majority Leader Mitch McConnell has vowed a return to "**regular order**," meaning bills are shaped in committee, then debated and amended on the floor. There is no question the obstruction of former Leader Harry Reid contributed greatly to the gridlock in Congress.