

LIMITS



On Power and the Use of Coercion

Beware of the Trans-Pacific Partnership and Fast-Track

by John R. Hendrickson

The American economy continues to suffer from slow economic growth, persistent unemployment, and stagnant wages. The middle class of our society is especially suffering from the impact of the Great Recession and the current fiscal crisis marked by the escalating \$18 trillion debt. “Where once wages rose inexorably in America and the middle class seemed ever to expand, we read today about income inequality, the growing gap between rich and poor, and wage stagnation,” wrote Patrick J. Buchanan.¹ Part of the reason for this economic decline is the destruction of American manufacturing over the course of several decades. As Congress debates the Trans-Pacific Partnership (TPP) and providing President Barack Obama with fast-track trade authority, the consequences of TPP and

fast-track must be understood by both policymakers and the public. In my June *INSTITUTE BRIEF*, I outlined some of the economic concerns with TPP and how so-called “free-trade” agreements in the past have actually hurt the American economy

In his landmark book, *Suicide of a Superpower: Will America Survive to 2025?* Pat Buchanan argues that free-trade agreements and the huge trade deficits have done more harm to our nation. As Buchanan argues:

What have been the consequences for our country of these trade ‘imbalances’? The deindustrialization of our national life and the loans to pay for them. A loss of millions of the best jobs Americans ever had. A medium

wage and family income that have been stagnant for a decade. A steep decline in the global purchasing power of the dollar. A loss of national dynamism.²

The massive trade deficits result in “millions of manufacturing jobs lost and tens of thousands of factories closed, but also millions of manufacturing jobs that were never created, and tens of thousands of factories that did not open here, but did open in Mexico, China, and other Asian countries,” stated Buchanan.³ This is the consequence of so-called “free-trade” deals that open American markets to foreign goods and result in other countries that literally cheat by currency manipulation and using other mercantilist policies

continued on page 2

LIMITS
June 2015
Volume 20, Number 2
Public Interest Institute
Dr. Don Racheter, President
John Hendrickson, Editor

LIMITS is one of our quarterly membership newsletters, arriving in March, June, September, and December. It consists of short articles and essays on protection of human rights by limiting the powers of government.

LIMITS is published by Public Interest Institute at Iowa Wesleyan College, a nonpartisan, nonprofit, research and educational institute whose activities are supported by contributions from private individuals, corporations, companies, and foundations. The Institute does **not** accept government grants.

Permission to reprint or copy in whole or part is granted, provided a version of this credit line is used: "Reprinted by permission from LIMITS, a quarterly newsletter of Public Interest Institute."

The views expressed in this publication are those of the authors and not necessarily those of Public Interest Institute.

If you have an article you believe is worth sharing, please send it to us. All or a portion of your article may be used. The articles in this publication are brought to you in the interest of a better-informed citizenry, because IDEAS DO MATTER.

A Publication of: Public Interest Institute at Iowa Wesleyan College, 600 North Jackson Street, Mount Pleasant, Iowa 52641-1328.

If you wish to support our efforts, please donate by sending a check to us at the above address.

If you wish to donate by credit card, please go to our website: www.LimitedGovernment.org.

PII is a 501 (c) (3) non-profit organization and all contributions are tax deductible.

E-Mail: Public.Interest.Institute@LimitedGovernment.org

Phone: 319-385-3462

Fax: 319-385-3799

Copyright 2015

Beware of the TPP and Fast-Track by John R. Hendrickson (continued from page 1)

such as value-added taxes. The solution to this problem is to protect the American home market from such unfair trade practices by utilizing a tariff. As Senator Jeff Sessions (R-AL) argues:

Job loss by U.S. workers means reduced consumer demand, less tax revenue flowing into the Treasury, and greater reliance on government assistance programs. It is important that Congress fully understand the impact of this very large trade agreement and to use caution to ensure the interests of the people are protected. Furthermore, the lack of protections in TPA [trade promotion authority or fast-track] against foreign subsidies could accelerate our shrinking domestic manufacturing base. We have been getting out-negotiated by our mercantilist trading partners for years, failing to aggressively advance legitimate U.S. interests, but the proponents of TPA have apparently not sought to rectify this problem. TPA proponents must answer this simple

question: will your plan shrink the trade deficit or will it grow it even wider?⁴

The economic impact of TPP is not the only concern, but also its impact on constitutional government and American sovereignty. The constitutional question arises over President Obama's request for fast-track trade authority, which would provide him with power to negotiate TPP without much Congressional oversight. Article 1, Section 8, of the United States Constitution grants Congress the power "to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."⁵ Congress also has the power to enact tariffs if it so desires, and to check the executive branch when it comes to treaties with foreign nations.

Granting President Obama fast-track power would result in Congress abdicating its responsibility in regard to debating and reviewing the TPP agreement. Senator Jeff Sessions (R-AL) argues:

TPA [trade promotion authority or fast-track] eliminates Congress' ability to amend or debate trade implementing legislation and guarantees an up-or-down vote on a far-reaching international agreement before that agreement has received any public review. Not

continued on page 3

only will Congress have given up the 67-vote threshold for a treaty and the 60-vote threshold for important legislation, but will have even given up the opportunity for amendment and the committee review process that both ensure member participation. Crucially, this applies not only to the Trans-Pacific Partnership (TPP) but all international trade agreements during the life of the TPA. There is no real check on the expiration of fast-track authority: if Congress does not affirmatively refuse to reauthorize TPA at the end of the defined authorization (2018), the authority is automatically renewed for an additional three years so long as the President requests the extension. And if a trade deal (not just TPP but any trade deal) is submitted to Congress that members believe does not fulfill, or that directly violates, the TPA recommendations — or any laws of the United States — it is exceptionally difficult for lawmakers to seek legislative redress or remove it from the fast track, as the exit ramp is under the exclusive control of the revenue and Rules committees. Moreover, while the

President is required to submit a report to Congress on the terms of a trade agreement at least 60 days before submitting implementing legislation, the President can classify or otherwise redact information from this report, limiting its value to Congress. Is TPA designed to protect congressional responsibilities, or to limit Congress' ability to do its duty?⁶

One of the major problems of American government is the surrendering of Congressional power to the executive branch and its numerous regulatory agencies. Rick Manning, President of Americans for Limited Government, wrote:

In essence, TPP would give this and future Presidents unprecedented authority to add countries to it and change the terms Congress ratified, after the fact, effectively ending Congress' role in the treaty-making process forever. Should TPP be ratified, no nation would choose to subject itself to the Congressional ratification process through a bilateral deal when they could garner the economic benefits of a trade deal with the stroke of a President's pen.⁷

Phyllis Schlafly, President of Eagle Forum, wrote that “fast-track consolidates power in the executive branch and eliminates Congress' constitutional power to amend or even debate trade legislation.”⁸

TPP will also erode the sovereignty of the United States just as previous trade agreements have done through international organizations such as the World Trade Organization (WTO), among others. As Senator Sessions warns:

... TPP is a ‘living agreement.’ This means the President could update the agreement ‘as appropriate to address trade issues that emerge in the future as well as new issues that arise with the expansion of the agreement to include new countries.’ The ‘living agreement’ provision means that participating nations could both add countries to the TPP without Congress' approval (like China), and could also change any of the terms of the agreement, including in controversial areas such as the entry of foreign workers and foreign employees. Again: these changes would not be subject to congressional approval. This has far-reaching implications: the Congressional Research Service reports that if

continued on page 4

**Beware of the TPP and
Fast-Track
by
John R. Hendrickson
(continued from page 3)**

the United States signs on to an international trade agreement, the implementing legislation of that trade agreement (as a law passed later in time) would supersede conflicting federal, state, and local laws. When this occurs, U.S. workers may be subject to a sudden change in tariffs, regulations, or dispute resolution proceedings in international tribunals outside the U.S. Promoters of TPA should explain why the American people ought to trust the Administration and its foreign partners to revise or rewrite international agreements, or add new members to those agreements, without congressional approval. Does this not represent an abdication of congressional authority?⁹

The “living agreement” provision of TPP is the most alarming. Phyllis Schlafly explains why this provision is so dangerous:

The text of TPP emphasizes that it is a ‘living agreement.’

Translated out of bureaucratese code language, that means the text of TPP can be changed in major and minor ways by executive action after Congress passes the document. The TPP could, for example, add additional countries, such as Communist China, which for years has been cheating America coming and going.¹⁰

In addition “TPP and other trade agreements surrender American sovereignty to foreign bodies like the World Trade Organization’s court system, which has full jurisdiction in all trade disputes.”¹¹ In the end not only is Congress surrendering and abdicating its powers and responsibilities to the executive branch, it will also result in a loss of sovereignty:

Like previous trade agreements, TPP would bar Country of Origin Labeling (COOL) laws so American won’t know where the food they are eating is coming from. The TPP would even allow foreign courts to overrule U.S. federal and state courts. This will be true for labor, environmental, tax, as well as COOL laws.¹²

“Why should we trust the Obama administration and

its foreign partners to rewrite international agreements without Congressional approval? Is Congress simply giving its constitutional authority to global busybodies?” asked Schlafly.¹³ It is difficult to believe that so many Republicans who are supporting President Obama’s TPP agreement and granting him fast-track authority were criticizing him in the past for his abuse of executive power.

As Senator Jeff Sessions (R-AL) explained in regard to the many unknowns of TPP:

Proponents of the Trans-Pacific Partnership want us to fast-track it before we know what’s in it. They want us to trust that enforcement will occur, even though it has not in the past. They want us to trust that the President won’t utilize this broad new avenue to expand foreign worker programs, even though his record demonstrates that he will. They want us to trust that this time is different. One of the most important areas TPP proponents ignore is the issue of non-tariff barriers. The barriers to U.S. exports in this century are increasingly not conventional tariffs, but non-tariff barriers like currency manipulation, backdoor taxes, and a variety of state-sanctioned

obstacles to market entry. Under the TPP, the U.S. will lower its tariffs but competitor industries will retain their substantial non-tariff barriers. This is what Nucor Steel's Chairman Emeritus, Daniel DiMicco, means when he talks about 'unilateral American trade disarmament' and the 'enablement of foreign mercantilism.' In other words, poorly-negotiated trade deals, instead of opening new markets for our industries, tilt the playing field even further in their competitors' direction. The result is not freer global trade, but more mercantilist market domination.¹⁴

Another concern with TPP is that it may provide an opening for further immigration. As Senator Sessions explains:

There are numerous ways TPA could facilitate immigration increases above current law — and precious few ways anyone in Congress could stop its happening. For instance: language could be included or added into the TPP, as well as any future trade deal submitted for fast-track consideration in the next 6 years, with the clear intent to

facilitate or enable the movement of foreign workers and employees into the United States (including intracompany transfers), and there would be no capacity for lawmakers to strike the offending provision. The Administration could also simply act on its own to negotiate foreign worker increases with foreign trading partners without ever advertising those plans to Congress. In 2011, the United States entered into an agreement with South Korea — never brought before Congress — to increase the duration of L-1 visas (a visa that affords no protections for U.S. workers).¹⁵

Senator Sessions argues that fast-track authority "provides avenues for the Administration and its trading partners to facilitate the expanded movement of foreign workers into the U.S..."¹⁶ In addition, "the President has already subjected American workers to profound wage loss through executive-ordered foreign worker increases on top of existing immigration levels," argued Senator Sessions.¹⁷ This is another example of President Obama's broad use of executive power over policies that should be the responsibility of Congress, as Senator Sessions explains:

The President has circumvented Congress on immigration with serial regularity. But the TPA would yield new power to the executive to alter admissions while subtracting congressional checks against those actions. This runs contrary to our Founders' belief, as stated in the Constitution, that immigration should be in the hands of Congress. The Supreme Court has consistently held that the Constitution grants Congress plenary authority over immigration policy.¹⁸

It is clear that TPP and granting President Obama fast-track authority is a dangerous policy on many levels. TPP and fast-track will not only lead to the further decline of manufacturing, but it will also result in job loss, continual trade deficits, and continuing to leave the nation weak in terms of its industrial core, which represents concerns for national security. TPP also does not solve the problem of currency manipulation being practiced by many nations such as China and Japan and it also undermines American sovereignty to global institutions. Further, if Congress decides to grant fast-track authority, it will result in Congress abdicating

continued on page 6

Beware of the TPP and Fast-Track by John R. Hendrickson (continued from page 5)

its constitutional powers to the executive branch.

As Pat Buchanan wrote, “what the nation needs is not only a rejection of fast-track, but also a trade policy that puts country before profit, workers before Wall Street, and America first.”¹⁹ As Senator Sessions states:

Our government must defend the legitimate interests of American workers and American manufacturing on the world stage. The time when this nation can suffer the loss of a single job as a result of a poor trade agreement is over... Our job is to raise our own standard of living here in America, not to lower our standard of living to achieve greater parity with the rest of the world.²⁰

Endnotes:

¹Patrick J. Buchanan, “Obama’s Republican Collaborators,” *Buchanan.org*, April 21, 2015, <<http://buchanan.org/blog/obamas-republican-collaborators-1509>> accessed on April 21, 2015.

²Patrick J. Buchanan, *Suicide of a Superpower: Will America Survive to 2025?* Thomas Dunne Books, New York, 2011, pp. 14-15.

³Patrick J. Buchanan, “On a fast track to national ruin,” *Human Events*, May 8, 2015, <<http://humanevents.com/2015/05/08/on-a-fast-track-to-national-ruin/>> accessed on May 8, 2015.

⁴Senator Jeff Sessions, “Critical Alert: Top Five Concerns with Trade Promotion Authority,” Office of United States Senator Jeff Sessions, Alabama, May 4, 2015, <<http://www.sessions.senate.gov/public/index.cfm/news-releases?ID=955DBDEC-E383-4401-AC3C-4E5EE06E99D1>> accessed on May 12, 2015.

⁵United States Constitution, Article 1, Section, 8, <http://www.archives.gov/exhibits/charters/constitution_transcript.html> accessed on May 12, 2015.

⁶Senator Jeff Sessions, “Top Five Concerns with Trade Promotion Authority.”

⁷Rick Manning, “Trade authority for Obama will cut Congress out of the picture,” *Investor’s Business Daily*, May 6, 2015, <<http://license.icopyright.net/user/viewFreeUse.act?uid=MTkzMTQ0NDM%3D>> accessed on May 7, 2015.

⁸Phyllis Schlafly, “Let’s get on a pro-American track,” *Creators Syndicate*, May 12, 2015, <<http://www.creators.com/print/conservative/phyllis-schlafly/lets-get-on-a-pro-american-track.html>> accessed on May 12, 2015.

⁹Sessions.

¹⁰Schlafly.

¹¹Claudia Tenney and Brian O’Shaughnessy, “Selling out the Constitution and Main Street on Trade,” *The Washington Times*, May 1, 2015, <<http://www.washingtontimes.com/news/2015/may/1/claudia-tenney-and-brian-oshoughnessy-selling-out/>> accessed on May 7, 2015.

¹²Ibid.

¹³Schlafly.

¹⁴Senator Jeff Sessions, “Critical Alert: White House Refuses to Answer Even the Most Basic Questions About Its Global Trade Pact,” Office of United States Senator Jeff Sessions, Alabama, May 12, 2015, <<http://www.sessions.senate.gov/public/index.cfm/2015/5/critical-alert-s>> accessed on May 12, 2015.

¹⁵Senator Sessions, “Top Five Concerns with Trade Promotion Authority.”

¹⁶Ibid.

¹⁷Ibid.

¹⁸Ibid.

¹⁹Buchanan, “Obama’s Republican Collaborators.”

²⁰Senator Jeff Sessions, “Top Five Concerns with Trade Promotion Authority.”

John R. Hendrickson is a Research Analyst with Public Interest Institute.

The Full Dinner Pail by John R. Hendrickson

The Grand Old Party (GOP) has changed since its founding. One change that has occurred is the Republican Party’s stance on trade policy. Today a solid majority of Republicans are supporters of the doctrine of free trade. This was not the case for most of the GOP’s history as Republicans became the champions of protectionism. In fact the principle of protectionism was a sacred pillar of the Republican Party. This philosophy was carried over from the Federalist and Whig economic programs of Alexander Hamilton and Henry Clay. Abraham Lincoln, the first Republican to be elected President, championed a protective tariff. A tariff was used both for revenues and to

protect the American economy from Europe.

The political economy of the Republican Party, as Calvin Coolidge described, was shaped by the Federalists and Whigs:

The party now in power in this country, through its present declaration of principles, through the traditions which inherited from its predecessors, the Federalists and the Whigs, through their achievements and through its own, is representative of those policies which were adopted under the lead of Alexander Hamilton.¹

This philosophy also consisted of a commitment to sound money as exemplified by the gold standard, low levels of taxation and regulation, balanced budgets, and a commitment to property rights and economic liberty. These principles along with the protective tariff defined the political economy of the Republican Party. The doctrine of protectionism was not just putting “America first,” but also protecting the entire economy and labor by preserving manufacturing and solid wages for workers.

During the late 19th century, Ohio’s William McKinley became the chief defender of both “protection and the gold standard.”² Coolidge argued that McKinley’s policies brought forth a period of economic prosperity owing to trade

protection and strengthening the gold standard. As Coolidge stated:

He [McKinley] at once revised the tariff and strengthened the law establishing the gold standard. Prosperity immediately returned. There was not only a domestic market but immense exports. The foreign trade increased more under the first term of McKinley than it had ever increased in any other four years.³

Coolidge also noted that “when all these things were done, the time was ripe for the great economic and industrial development of our country”:

It was this situation, this opportunity, that called forth William McKinley. Taking up again the work of Hamilton and Clay, because commercial problems necessarily had been laid aside for the solution of the more fundamental problems of freedom, McKinley re-established their principles, and under his leadership the government readopted their policies.⁴

The result of McKinley’s policies as Coolidge noted was the “application of his principle of a protective tariff, which furnished the initial opportunity

for laying down of the greatest industries of America and the development of her entire resources.”⁵ Coolidge believed, just as McKinley argued, that protectionism benefited not just business, but the farmer and laborer as well. “Cheap goods meant cheap men,” stated Coolidge.⁶ The rallying cry of protectionism in the GOP came under the slogan the “Full Dinner Pail,” which was utilized by William McKinley during his presidential campaigns and by later Republican presidential candidates including Calvin Coolidge. The “Full Dinner Pail” represented economic prosperity, high wages, and a sound economy.

During the 1920s, tariff policy followed the McKinley course under President Warren G. Harding, Calvin Coolidge, and Herbert Hoover. The Fordney-McCumber Tariff Act became the major tariff legislation of the Harding and Coolidge administrations. Even during his post-presidency Coolidge continued to defend the policy of protection:

The greatest asset of our whole economic system is its effect upon commerce, agriculture, industry, the wage earner, and the farmer, and practically all our producers and distributors, is our incomparable home market. It has always been a fundamental principle of the

Republican Party that this market should be reserved in the first instance for the consumption of our domestic products... Our only defense against the cheap production, low wages, and low standard of living which exist abroad, and our only method of maintaining our own standards, is through a protective tariff. We need protection as a national policy, to be applied wherever it is required.⁷

The “Full Dinner Pail” platform of McKinley, Harding, and Coolidge resulted in a period of economic expansion and growth, which benefited not only business, but the middle class. As columnist and former Republican presidential candidate Patrick J. Buchanan wrote:

Protectionism is the structuring of trade policy to protect the national sovereignty, ensure economic self-reliance, and “prosper America first.” It was the policy of the Republican Party from Abraham Lincoln to Calvin Coolidge. America began that era in 1860 with one half of Britain’s production and ended it producing more than all of Europe put together.

continued on page 8

**Public Interest Institute
at Iowa Wesleyan College
600 North Jackson Street
Mount Pleasant, IA 52641-1328**

NONPROFIT ORGANIZATION
U.S. POSTAGE PAID
MAILED FROM ZIP CODE 52761
PERMIT NO. 338

**The Full Dinner Pail
by
John R. Hendrickson
(continued from page 7)**

Is this a record to be
ashamed of?⁸

The America-first trade policy of protectionism through tariffs was not only a constitutional way of protecting national sovereignty, but also putting the economic health of the nation first. The policy of protectionism was often debated within Republican circles, but it was a policy that many took seriously as a key component to an overall successful economic program.

As Robert Lighthizer, who served as a trade representative in President Ronald Reagan's administration, wrote:

Conservative statesmen from Alexander Hamilton to Ronald Reagan sometimes supported protectionism and at other times they leaned toward lowering barriers. But they always understood that trade policy was merely a tool for building a strong and independent country with a prosperous middle class.⁹

Republicans would be wise to remember such American conservative statesmen who followed in the footsteps of Hamilton, Lincoln, McKinley, Harding, and Coolidge, who placed America first above anything else.

*John R. Hendrickson is a
Research Analyst with Public
Interest Institute.*

Endnotes:

¹Calvin Coolidge, "Our Heritage from Hamilton, Address on the Anniversary of the Birthday of Alexander Hamilton, Before the Hamilton Club, at Chicago," January 11, 1922, in *The Price of Freedom: Speeches and Addresses by Calvin Coolidge*, Charles Scribner's Sons, New York, 1924, p. 109.

²Calvin Coolidge, "William McKinley: At the Convention of Spanish War Veterans, Saunders Theatre, Harvard University, Cambridge, April 17, 1923," in *The Price of Freedom: Speeches and Addresses by Calvin Coolidge*, Charles Scribner's Sons, New York, 1924, pp. 304-305.

³Ibid., p. 305.

⁴Ibid., pp. 307-308.

⁵Ibid., p. 308.

⁶Ibid.

⁷Calvin Coolidge, "The Republican Case, The Saturday Evening Post, September 10, 1932," in *Calvin Coolidge: A Documentary Biography*, edited by David Pietrusza, Church & Reid Books, 2013, p. 348.

⁸Patrick J. Buchanan, "Bush's Black List?" *Buchanan.org*, June 5, 2008, <<http://buchanan.org/blog/pjb-bush%e2%80%99s-black-list-1004>> accessed on November 18, 2014.

⁹Robert E. Lighthizer, "Grand Old Protectionists," *New York Times*, March 6, 2008, <http://www.nytimes.com/2008/03/06/opinion/06lighthizer.html?_r=0&pagewanted=print> accessed on November 18, 2014.