

CORPORATE OCCASIONAL PAPER

Congress' Role in Trade Relations

A Special Report for the American Council on Germany

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1. INTRODUCTION

The United States and Germany have had a very close relationship for decades, depending on each other in many ways. Nevertheless, the role of Congress is not fully appreciated in Germany. Most Germans really mean “the administration” when they talk about “the Americans” or “American politics.” Not that many people go through the ordeal of identifying the variety of opinions in Congress – especially when the divisions appear within the parties – and their importance in the political process. This lack of clarity can be found among German businesspeople and politicians, as well as journalists. However, to limit one’s view of U.S. policy and politics to the White House, in my opinion, leads to a misunderstanding of the U.S. political system.

One area which highlights this dilemma is U.S.-German trade policy. From the beginning, trade was an essential part of the relationship between the two countries. But when it comes to competition laws, industrial policy, subsidies, or the liberalization of markets, the attitudes and assumptions differ profoundly. Even though trade relations are negotiated between the United States and the European Union, it could be a costly mistake for Germany to rely too much on the EU, since the United States is the biggest importer of German goods after France. (The EU, its institutions, and its politicians are an essential part of transatlantic trade relations and an issue worth exploring. This report, however, concentrates on bilateral U.S.-German relations and any deficiencies therein.) Trade is also of interest, since globalization brings the topic closer to the average citizen.

This project focuses on Trade Promotion Authority, or TPA (what the administration of George W. Bush calls what was formerly known as fast track), and its way through the House of Representatives. Under fast track, which is an essential element of U.S. trade policy, Congress restricts itself only to approve or reject a negotiated trade agreement, within strict time limits and without amendments. By giving the President fast-track authority, the legislative branch delegates part of its constitutional prerogative to the executive for a limited time. For many years Congress was not unhappy to share the responsibility for the complicated and often controversial trade issues with the executive, always trying to keep the delicate balance in the separation of powers, and at the same time not to lose too much influence.

The Senate’s role will also be mentioned in this report, but in the Upper Chamber the passage of the TPA bill was not as controversial and extraordinary as it was in the House, which was described by **Jeffrey Schott** from the **Institute for International Economics (IIE)** as the “main battleground.” Much more than a vote on a particular trade agreement, TPA is about basic attitudes towards trade. The passage of TPA bill HR 3005 in the House on December 6, 2001, by a single vote (215-214) illustrates the clash of ideas and interests. On July 27, 2002, the House voted on a version coming from the Conference Committee; this time the vote was 215-212 in favor.

In a first step of this project, selected German players were asked about their awareness and perception of trade issues in Congress. Their views were then contrasted with the political “reality”

on Capitol Hill: the mechanisms at work in congressional trade politics, the role of the parties, the administration, special interests, and the constituencies. One goal was to find out if Germans ever appear in the picture and how they may play a role in the decision-making process, if at all. The interviews in the House were conducted with Representatives illustrating the process and the politics behind the passage of this bill, e.g., Republicans voting against their President and his top-priority TPA, Representatives from districts that are known to be anti-trade, one Representative in a key committee position, and one aiming for the Senate. In a last step, the focus was on those people in Washington, D.C., who represent the interests of German industry and the German government, since they are moderating between both sides.

The underlying intention of this project was to come up with a frame of reference to help with identifying future conflicts and help the German players to identify, understand, and deal with the top players in the USA – in trade issues but also beyond.

2. THE GERMAN PERCEPTION

A main source of information for German companies and for coordinating their interests regarding the USA is the **Federation of German Industries (BDI)**, the umbrella organization of German industry, in Berlin. Approximately 3,000 German companies are located in the United States. When representing the interests of individual German companies or industries vis-à-vis the USA, they have to make sure to keep the balance, said trade expert **Alexander Böhme** from the BDI. That is necessary because representation of German industry interests goes via different channels: the BDI office in Washington, D.C., under the name of **Representative of German Industry and Trade (RGIT)** – in connection with the **Association of German Chambers of Industry and Commerce (DIHK)** and the **German Federal Ministry of Economics and Labor** – the European industry federations like Eurofer (steel) or Cefic (chemical industry) and their offices in Washington, D.C., as well as the offices of large individual companies in the U.S. capital. According to Böhme, the latter, however, are used more for lobbying regarding locational factors than trade issues.

The German federations of the textile, the steel, and the chemical industries regularly contact the BDI and its RGIT office, said Böhme. “That is because in the USA these industries are traditionally protectionist and only have to show that they are harmed by imports to activate U.S. protection clauses.” (See tariffs on steel imports, below.) But even though legally it is the EU that has to solve trade problems with the USA, the BDI, which Böhme described as often being more pragmatic and flexible than politicians in Brussels, is looking for partners to cooperate with on both sides of the Atlantic. When there are tensions between the EU and the United States, the U.S. partners of the BDI sometimes send the message: “Watch out, do not overreact in Brussels!” Therefore, in cases like the steel tariffs or the export subsidies for companies in the United States (Foreign Sales Corporations/FSC), the BDI, on behalf of its members, engages in dialogues with the office of the United States Trade Representative (USTR) and members of Congress, among others.

The BDI also cooperates with its U.S. counterparts like the National Association of Manufacturers (NAM) or the National Foreign Trade Council (NFTC). They are interested in this dialogue because many companies in the United States are German or U.S. subsidiaries of German companies. A

topic that, according to Böhme, is becoming of major importance for NAM and similar organizations is foreign direct investment, since it creates jobs. This might become an increasingly important issue for members of Congress as well, Böhme added. He pointed out, though, that each time the BDI or any other group decides to take action, the question first should be: "Is it helpful?" since too much pressure on U.S. players, or too much cooperation with them despite EU attempts to build up pressure, might be counterproductive.

As expected, the **German Steel Federation (Wirtschaftsvereinigung Stahl/WV Stahl)** ranks U.S.-German trade relations very high on its priority list, since the USA is an important export market for German producers. As an example, in 2001, 1.7 million tons of flat rolled steel was exported to the USA. In March 2002, the Bush Administration invoked Section 201 of the Trade Act of 1974 that allows temporary safeguard measures when a domestic industry feels harmed by imports, and imposed tariffs of 8 to 30 percent on 1.2 million tons of these exports for up to three years. As a result, the trade section of the German Steel Federation spent about 70 percent of its time in late summer 2002 dealing with the 201 procedure, primarily via the EU, said **Beate Brueninghaus** from WV Stahl. Other issues of concern are procedures regarding dumping and subsidies violating the rules of the World Trade Organization. The German steel producers also follow trade policy in the U.S. Congress, especially with the new WTO round. They use the press, the Internet, the RGIT office, and, last but not least, **Charles Blum**, the counselor of **Eurofer** in Washington, D.C. The German Steel Federation recognized the connection between the importance of TPA for Bush and the steel tariffs. When the interview was conducted, the Conference Committee version had just been approved in the House and President Bush had signed it into law. According to Brueninghaus, you could tell that the difficult process of securing the bill was over: "The latest set of exceptions to the steel tariffs was more generous than the ones before."

Since labor is an important aspect of U.S. trade politics and the unions play an essential role in the TPA discussion, it was only logical to ask the German unions about their interest in U.S. trade politics and possible effects on Germany. The **German Trade Union Federation (Deutscher Gewerkschaftsbund, DGB)** shows a deep interest in this topic. It closely follows the talks between the German Federal Ministry of Economics and Labor and the EU, since the resulting consensus is the basis for the relationship with the United States, said **Ortrun Gauper** from the section for Economic and Tariff Policy at the Federal Board of the DGB. In trade politics, the DGB cooperates with the Federation of European Unions (FEU) and has two lobbyists in Brussels. The FEU, which organizes a meeting with members of the European Parliament once a month to talk about trade politics, among other topics, is in close contact with its U.S. counterpart, the American Federation of Labor/Congress of Industrial Organizations (AFL-CIO). This is also the channel the DGB uses to follow trade politics in the U.S. Congress. Moreover, the DGB is in touch with the Attaché for Social Affairs at the German Embassy in Washington, D.C.

In the **German Bundestag** it is not the **Foreign Affairs Committee (Auswärtiger Ausschuss)** that concentrates on U.S.-German trade relations, according to one of its staffers, but rather the **Committee on Economic Affairs and Technology (Ausschuss für Wirtschaft und Technologie)**. Trade relations with the USA are rather high on the priority list, said **Reinhold Waldmann**, a staffer on this committee. Its jurisdiction covers not only U.S. trade politics in general (e.g., Helms-Burton), but also the relationship between Germany/EU and the USA (e.g., the steel tariffs). The committee either acts on these topics by parliamentary motion or on its own.

To follow trade politics in the U.S. Congress, the committee uses dailies and press agencies, Waldmann added. “But the trade experts within the parliamentary groups often have personal contacts with members of Congress.” Beyond that, there are no further contacts to key players in the congressional committees and no mutual visits of delegations on a committee level, the staffer explained. At the time of the interview, TPA so far had not been an issue in the Committee on Economic Affairs and Technology. Waldmann expected TPA to become more of an issue in the next Bundestag, after the election in September 2002, as part of the WTO discussion.

Another means of communication between the Bundestag and Congress is the **German-American Parliamentary Group** of the Bundestag. Its members meet their U.S. counterparts once a year at a seminar which is alternately held in different cities in Germany and the United States. Members of the Foreign Affairs Committee and the Committee on Economic Affairs and Technology join these events, said **Thorsten Schulz**, then the assistant of the chairman of the German-American Parliamentary Group, **Volkmar Schultz**. Trade is an increasingly important issue in these annual seminars. The main goal, however, remains the improvement of a general understanding of the two bodies.

The aforementioned experts for trade issues and/or transatlantic relations are rather to be found in the respective parliamentary groups. One of them is **Norbert Wieczorek**, then one of the deputy chairmen of the governing **Social Democratic Party (SPD)** in the Bundestag (he did not run for reelection in September 2002). He had personal contacts with Richard Gephardt and Tom Daschle, among others. Wieczorek explained that even though trade policies are formulated by the administration, it is nevertheless an important issue in the Study Group for World Economics of the SPD parliamentary group which Wieczorek once headed. The deputy chairman stressed the importance of trips to Washington, D.C., to meet members of Congress. “Very often, though, the members of the Bundestag underestimate the importance of the staffers – sometimes the only contacts they get on Capitol Hill.” In Wieczorek’s view, the staffers are excellent partners to cooperate with, since they are highly specialized in various topics.

Regarding TPA, Wieczorek named three different aspects he deemed most important. First, its general importance for international talks, e.g., with the EU – otherwise the imminent danger of Congress blocking or changing the result of the talks afterwards would just be too big, said Wieczorek. Second, he named the domestic salience in the United States, the compensation for affected workers (Trade Adjustment Assistance). Finally, the effect on the EU and Germany, since issues that the Europeans consider important (labor conditions in developing countries, child labor, the environment) are now on the agenda.

In the parliamentary group of the **Green Party (Bündnis 90/Die Grünen)**, coalition partner of the SPD, there are no systematic continual contacts with the key players in trade in the U.S. Congress, said **Helmut Breiderhoff**, an expert for international structural policy. “You rather find personal contacts regarding foreign and security policy, as well as environmental policy.” In general, said Breiderhoff, the Bundestag concentrates more on the U.S. administration’s trade policies (e.g., the dispute settlement process in the WTO, new U.S. agricultural subsidies). The Bundestag also

has to deal with the positions of the members of the EU in trade questions. “You could probably say that international trade does not play the important role in the Bundestag it deserves,” Breiderhoff said. He assumes that TPA and the strengthened position of President Bush do not change U.S. trade politics substantially. He expects liberalization of trade and services whenever it helps the USA and tough protectionism whenever it is deemed necessary domestically. Regarding TPA, the Greens are very interested in its effects on the WTO Doha Round and especially developing countries, but remain skeptical about U.S. promises to consider the problems of those countries. Breiderhoff does not expect U.S.-German trade conflicts to disappear. He does not fear a “showdown,” however – compared to all the goods and services traded, the trade conflicts remain rather small.

In the parliamentary group of the oppositional **Christian Democratic Union/Christian Social Union (CDU/CSU)**, U.S.-German trade relations are considered very important, said **Erich Fritz**, member of the Bundestag and **Chairman of the Foreign Affairs Subcommittee for Globalization and Regionalization**. Besides analyzing the papers on a daily basis, there are contacts using the party’s foundation (Konrad-Adenauer-Stiftung) and the Federation of German Industries (BDI). Moreover, members of the Foreign Affairs Committee and the Committee on Economic Affairs and Technology personally stay in touch with members of Congress, especially with the chairmen of the House Committee on International Relations, Henry J. Hyde (R-Ill.), and the House Committee on Energy and Commerce, Billy Tauzin (R-La.). Fritz praised TPA as a means to spark the WTO talks, as well as the consultations regarding the Free Trade Area of the Americas (FTAA). He hopes that, with President Bush having TPA, future transatlantic trade conflicts like the steel tariffs can be solved more easily.

In the parliamentary group of the liberal party (**Free Democratic Party/FDP**), there is a big gap since the departure of Otto Graf Lambsdorff, who probably knows the U.S. Congress better than most German politicians, let alone members of the Bundestag. The chairman of the FDP parliamentary group, **Wolfgang Gerhardt**, travels to Washington, D.C., once a year, according to his legislative assistant **Roland Werner**. There he meets members of the administration, as well as members of Congress. In Congress, the emphasis is on Senators like Chuck Hagel (R-Neb.), Joseph Lieberman (D-Conn.), and John McCain (R-Ariz.). Members of the Congressional Study Group on Germany are on Gerhardt’s list as well. During the last visit, one of the topics was the tariffs on steel imports. According to Werner, the FDP usually agrees with the trade politics of the USA, since open markets and free trade are essentials of his party. Other members of the FDP parliamentary group visiting the United States often are Deputy Chairmen Rainer Brüderle and Werner Hoyer, who is also the head of the Study Group on International Politics, and Jörg van Essen, executive director and an expert on defense policy. Obviously, there is an emphasis on defense and security issues. Moreover (and that is perhaps an explanation for the dominance of these issues), the above-mentioned FDP members of the Bundestag are among the more senior ones. Werner admitted that the younger members still have to find their places.

3. THE CHANGING ENVIRONMENT FOR TRADE IN CONGRESS

THE trade expert **Schott** pointed out the increasing openness of the U.S. economy: “The amount of trade tripled within just one generation.” Therefore, a broader range of constituencies is affected. In addition, the decision-making process in Congress is determined by an increasing decentralization, said Schott. “Before, the House Ways and Means and the Senate Finance committees dominated the issue – today dozens of committees and hundreds of Representatives are involved in trade.”

Schott describes the result as a process “infected” by interest-group politics.

Schott emphasized that the Republican vote on the TPA bill in the House in December 2001 was the highest trade vote in years among Republicans, showing an amazing cohesiveness of the Republican caucus. 90 percent of the Republicans voted for Bush. According to Schott, there were two strategic options for the Republicans: a narrow victory with the members of their own party or a focus on the Democrats. In other words, to aim mostly at Republican votes plus only the necessary Democratic votes, or a bipartisan approach with concessions for Democrats. After the Bush Administration decided in favor of the first approach, the atmosphere became very partisan.

A **former USTR official** who does not want to be named argued that the partisan approach was not an initial goal but the result of a change in strategy. According to this former member of the administration, this was the Democrats’ own fault: The administration had reached out to individual Democrats and to the minority members in the committees, but – mostly because of the dependence on the unions – the Democrats showed no flexibility. Besides, Bill Thomas (R-Calif.), chairman of the House Ways and Means Committee, cooperated with William Jefferson (D-La.), Cal Dooley (D-Calif.), and John Tanner (D-Tenn.) as co-authors, added the former USTR official.

From a Democratic perspective, this was all show and no substance, since Jefferson and Tanner were not among the senior Democratic members of the committee. Those Democrats who were – like Sander Levin (D-Mich.) or Robert Matsui (D-Calif.), the third-ranking Democrat on the Ways and Means Committee, pro-trader, and one of the Congressmen who secured the passage of Permanent Normal Trade Relations (PNTR) with China– considered this a slap in the face by the Republicans. Dooley was not even a member of Ways and Means. No matter what the real reason was, the effect was very visible: Matsui and other pro-traders, e.g., Democrats in constituencies with high-tech industry, defected.

Schott explained this deep divide with the unusual meaning of TPA: “In contrast to the actual trade agreements, there is nothing to give out, except for promises.” So in this much more political and partisan environment, you have to ask if the Democrats really wanted the TPA bill, because that would mean support for a Republican President. (Republicans acted in a similar way during the administration of President Bill Clinton, who was denied TPA two times, in 1994 and 1997.)

In the Senate, there was much closer cooperation between Democrats and Republicans. The decisive vote in the Senate Finance Committee, where Chairman Max Baucus (D-Mont.) and ranking minority member Charles Grassley (R-Iowa) cooperated, was 18-3 in favor of TPA. Schott’s IIE colleague **I.M. Destler** pointed out that Baucus, who became the committee chairman after the Republicans lost the majority in the Senate, looked for a way to support TPA while protecting himself in a tough reelection campaign in his increasingly Republican state (“The Politics and Economics of Fast-Track,” unpublished manuscript by Destler, I.M., September 11, 2002). As a result, in the Senate version of TPA, the benefits under Trade Adjustment Assistance (TAA) tripled. Destler cites polls which show that popular support for free trade increases enormously when aid to workers is added. In addition, the Senate attached the Craig-Dayton Amendment, introduced by Larry Craig (R-Idaho) and Mark Dayton (D-Minn.). Under this amendment, the restrictions of TPA (only an up or down vote, no amendments) would not apply to parts of any trade agreement concerning changes to anti-dumping, Section 201 safeguards, and other trade remedy laws. It would have enabled Congress to do exactly what TPA is supposed to avoid (voting

for some parts of a trade agreement while voting against other parts) and thus would have effectively removed U.S. anti-dumping laws from the Doha/WTO and FTAA negotiations. The Senate approved the bill by a strong 66-30 margin. The Bush Administration immediately declared the Craig-Dayton Amendment unacceptable and threatened to veto the bill.

These very different versions ended up in the Conference Committee. After more partisan fights (e.g., to decide on the number of conferees and name the chair of the Conference Committee), and with time almost running out, the committee, to the surprise of Destler and other observers, quickly reconciled the differences. Nevertheless, the House vote on this version again was close. The bill was passed on July 27, 2002, at 3:30 a.m. with a three-vote majority (215-212). If James Traficant (D-Ohio) had not been in jail at that time, it would have been just a two-vote majority. A few days later, the Senate approved the conference version as well, with a 64-34 vote.

Schott confirmed what the German Steel Federation had assumed: a direct linkage of TPA and the steel safeguards. “This way Bush bought votes or at least avoided losing them.” The question remains if the price Bush has to pay, such as harming free trade worldwide and problems with the EU, perhaps was too high. “It is hard to say, but TPA was critical for the implementation of Bush’s trade strategy. And he had to get it now, otherwise there was the danger of the Democrats winning the majority in the House in the mid-term elections,” Schott said. In his view, the Farm Bill, which is sometimes mentioned as another example of Bush’s strategy, was different. Here, Bush did not buy votes from Congressmen and Senators representing farm districts or states, respectively; he just wanted to provide a payoff for farmers. Schott explained the difference.

Close to the actual needs of the members of Congress and their staffers is the **Congressional Research Service (CRS)**, which handles approximately 1,500 requests every day. It also publishes reports and memos initiated in the CRS. One reason for the high number of requests is the high turnover among the staffers, said **Raymond Ahearn**, head of the **International Trade and Finance Section** of the CRS. This is especially true for the personal staffers; the turnover of the committee staffers is lower. Therefore the latter have more expertise on average than the personal staffers. If a Representative or Senator has an idea for an amendment, it is usually the CRS which first checks the history of the issue in Congress, if and when a similar amendment was introduced, and by whom. Then the CRS provides the necessary facts to write and justify the amendment, e.g., regarding job losses or gains, jobs depending on foreign direct investment, wages, consistency with WTO standards. Often the staffers ask only for those facts that support their pro- or contra-free-trade position.

4. CONGRESSMEN AND THE VOTE ON TPA

A distinction between two major aspects of the decision-making process in the House needs to be made: the constituency – meaning not only the district itself but also interest groups and lobbies, possibly outside the actual district – and the role of the parties and the administration. The latter section also includes procedural aspects.

a) CONSTITUENCY

The constituency is by far the single most important factor to influence a Congressman’s decision.

Since the pressure from the Republican Party and the administration was very strong in the case of TPA, as Schott and others had pointed out, the Republican House members who voted no must have had a very good reason, i.e., constituency pressure, to defy the party and the President on one of his top political priorities. Indeed, the Representatives whose staffers were interviewed for this report usually were very outspoken as to why they voted against TPA. **Lindsey Graham (R-S.C.)** named the textile industry as the reason for his decision. The economy in his district relies heavily on manufacturing, textiles, and cotton. “South Carolina just is not the state to have a pro-trade position,” said Legislative Director Aleix Jarvis. South Carolina textile tycoon and ardent free-trade opponent Roger Milliken is a friend of Graham’s. According to Jarvis, the loss of jobs in the textile industry within the last five years was higher than the overall loss of jobs in the steel industry.

Jarvis described Graham’s constituency as divided. On the one hand, there are integrated companies that moved jobs outside the district or abroad – these are in favor of free trade. On the other hand, there are the individual production sectors that suffer from trade. “Entire towns disappeared,” said Jarvis. These anti-free-trade forces are stronger in the district. Asked about Graham’s personal position on free trade, Jarvis gave an answer that was typical for the free-trade opponents interviewed for this report: “Graham is not a protectionist.” It is not about being against free trade, but being for fair trade, it is about “abiding the rules.” For example, Graham is very skeptical of the Chinese, whom he describes as “cheaters.” Graham’s situation was a little different because he was running for the Senate seat of retiring Strom Thurmond (and won it) and therefore his perspective already included the whole state. Graham voted against TPA in the December 2001 vote and against the conference version in July 2002.

Robin Hayes (R-N.C.), the owner of a hosiery mill, represents the 8th Congressional District of North Carolina. It is very rural; agriculture and manufacturing dominate. The voters are mainly working class, earning their money in textile mills and apparel-producing factories. They usually have a very bad opinion of trade, said Hayes’ staffer: “If something has the word ‘trade’ in it, it is bad!” TPA is seen as just another way to lose jobs in the United States – a fear to be found especially in the textile workers’ union. North Carolina is known for its textile heritage, and trade strikes deep emotions. Hayes’ staffer said that the constituency, i.e., the textile workers’ union, sent e-mails and letters, got people to Washington, D.C., held press conferences, and organized rallies. The textile industry and the union approached Hayes, saying that the administration needed the votes of the Republican representatives in the “textile districts,” so they wanted to see changes in the bill. On the other hand, there are farmers, the food-processing industry, and the high-tech industry around Charlotte who are pro-trade. The same is true for the tobacco industry because there is not much room for growth in the USA; they look for new markets, e.g., China. In December 2001, Hayes decided to support his President and his party (see below) and voted in favor of the TPA bill. Some observers say that he cast the decisive vote (others say it was Jim DeMint, see below).

For this, he was criticized by the textile industry. The vote harmed Hayes very much and the opposition made it an issue, a congressional source said. In July 2002, Hayes then voted against the final version. Officially, the constituency’s reaction “had no influence on the vote in July. “This time

four other bills were attached, among them a bill regarding trade with Andean countries and Africa,” Hayes’ staffer said, explaining the change of heart. According to the staffer, Hayes’ biggest concern was the Andean trade bill, because granting new access for Bolivia, Colombia, Ecuador, and Peru would mean a threat for the textile industry in his district. It appears that by voting against TPA in July 2002 Hayes secured his victory in the mid-term elections four months later. He was reelected for a third term, but with only 54 percent of the vote.

In the case of **Ralph Regula (R-Ohio)**, the reason for his opposition to TPA and the vote against both versions was obvious: the combined pressure from labor unions, the business community, and environmentalists. “This was hard to resist; Regula had to vote against TPA,” said one of Regula’s staffers. Regula, who calls himself an “advocate of environmental protection,” is also the chairman of the Congressional Steel Caucus. By voting for TPA, he would have voted against the interests of three of the most outspoken elements of his constituency. They obviously consider trade an important issue: Regula received stacks of letters from his constituency regarding trade, said his staffer. Regula has usually voted this way, against the North American Free Trade Agreement (NAFTA) and for the latest tariffs on steel imports. In a letter in September 2002 to voters contacting him with regard to his opposition to TPA in both votes, Regula explained: “My primary concern is that we have seen too many good-paying manufacturing jobs slip away from the 16th Congressional District of Ohio in the wake of previous trade agreements. My fear is that we will eventually lose our manufacturing base that is the cornerstone of the economic and national security of our nation.”

The individual districts can be either politically and economically very diverse or rather homogeneous. A good example is **Steven LaTourette (R-Ohio)**, who, according to his staffer, is probably more constituency-driven than most of his colleagues because his district is evenly divided between Democrats and Republicans. From the Democratic side, there is pressure from steel workers, as well as from the United Auto Workers (UAW), who are usually against free trade. A recent example shows how much pressure certain groups in the constituency can exert. In LaTourette’s district, a large steel company went bankrupt so that retirees lost most or all of their pensions. Another company offered to buy the bankrupt company – but only in exchange for a vote supporting the steel tariffs. Cleveland’s economy has been depressed for 30 years and is just slowly turning around with the help of small business, said the staffer, “And they are opposing free trade.” Especially in diverse districts like LaTourette’s, redistricting can play a major role. In his case, he was happy about the changes because he picked up a Republican area and lost some steel workers.

A shift also occurred in the district of **Joseph Pitts (R-Pa.)**. There are traditional steel towns like Allentown which developed around steel mills and where practically everybody – directly or indirectly – depends on steel. This clientele is still loud, according to a staffer. They represent a smaller voter group, however, because there are fewer and fewer steel workers and therefore fewer and fewer union members. Agriculture is more important today in Pitts’ district, and farmers usually are in favor of free trade. In addition, there are about 20,000 jobs in the steel-consuming industry in the district. This industry, too, usually favors free trade.

A clear example of how even a hard-core anti-trade constituency can change over time, forcing the Representative to carefully balance the interest groups in his district and at a certain point in time adapt his voting behavior accordingly, is the district of **Jim DeMint (R-S.C.)**. “Regarding

opposition from the textile industry, DeMint's district is the worst because Milliken is based here," said a DeMint staffer. The office received many letters from workers and major manufacturers in the textile industry, having experienced or fearing the loss of jobs. The reason DeMint nevertheless voted for TPA in both House votes was, according to the staffer, the Representative's personal pro-trade position and his independence: "DeMint is not being told how to vote; he has a very strong backbone." To satisfy Milliken would not be possible; to vote just to protect his interests would be politically lethal.

Indeed, DeMint has a reputation as being not only strictly against high taxes, but also very much against tariffs and being pro-trade. His voting record shows that, e.g., voting for PNTR with China and against steel quotas in 1999. But another reason DeMint could vote for TPA is a deal he struck. The House Republican leadership sent DeMint a letter pledging not to allow the original version of the bill to reach the floor; it had to have a provision that U.S. knit and woven fabrics have to undergo all dyeing and finishing operations in the United States to get benefits under the Caribbean Basin Trade Partnership Act. This language was added to the bill the House voted on in December 2001. To get his kind of support from the party leadership is certainly a good way to impress institutions like the American Textile Manufacturers Institute (ATMI), the American Apparel and Footwear Association (AAFA), or the South Carolina Textile Manufacturers Association.

Perhaps another reason DeMint could vote against the textile interests is a change in his district's economy, since the traditional textile industry is diminishing and other industries are taking its place. In the case of the 4th Congressional District of South Carolina, it is the BMW plant in Spartanburg with its 4,400 employees and its reliance on free trade. The South Carolina Department of Commerce estimates that, including the suppliers, BMW created 17,000 jobs in the region. This effect is also visible in **Graham's** constituency. Since he was running for the Senate when the interviews were conducted, his perspective was already the state as a whole. Jarvis mentioned several other pro-trade interests in South Carolina, like Fuji and Michelin, their suppliers, and the Port of Charleston.

The Democrats interviewed for this project showed a very similar pattern. **Alcee Hastings' (D-Fla.)** district is heavily Democratic and one of the poorest in Florida. The economy is mostly agriculture (citrus fruit, sugar cane; about 50 percent of all the sugar cane in the USA is grown in Hastings' district!). Aside from some environmental groups, it is the sugar-growing industry that exerts the most pressure. This happens not only on a district level, said Hastings' staffer, since the Florida Sugar Cane League organized lobbying in Washington, D.C., and the American Sugar Alliance became involved as well. In addition, organized labor is strong. So Hastings acted according to former House Speaker Tip O'Neill's classic observation that "All politics is local" and voted with his constituency and against TPA, said his staffer. This is somehow ironic in Hastings' case because he personally is in favor of free trade and voted for fast track before. He is very interested in international and transatlantic relations. He travels to Europe very often, he has been to China six times, and he traveled to Chile as one of the next partners for a U.S. trade agreement. Hastings has an acute interest in trade and was one of two members of the House to travel to Singapore to meet the trade minister, among others. Even though Hastings tried to explain to his constituency again and again that these are not leisure trips, and the reason behind their importance, the media and opponents asked questions about how all this would benefit the district. Hastings listened and actually changed his committee assignment in the 107th Congress from

International Relations to Rules. “You never read about a ‘member of the powerful International Relations Committee,’ whereas in the Rules Committee there are only four Democrats to nine Republicans (107th Congress), so the Democrats on this committee are very influential,” said his staffer.

Regarding the effect of upcoming elections, the answers of **Graham, Hayes, Regula, and Hastings** were surprisingly similar. They all showed a sense of constant vulnerability, stating that the pressure is always there. The interest groups have their position and know that the Representative knows it as well. **DeMint’s** staffer said that once an opponent in the primary election stressed trade and DeMint’s position. DeMint had to increase his campaign spending to be on the safe side and to protect himself. As it turned out, it did not harm DeMint and he won. After that, said the staffer, the issue was not raised again in the district.

The fact that the constituency is not necessarily identical to the district is demonstrated by **Sander Levin (D-Mich.)**. He is a member of the Congressional Steel Caucus; however, he is most visible as a member of the House Ways and Means Committee and the ranking minority member of its Subcommittee on Trade. Auto manufacturing, as well as research and design for the automobile industry, makes up a big part of the district’s economy. Organized labor plays an important role in Levin’s district. In 1993, he sided with labor and voted against NAFTA. And in 2000, when his work was critical for securing PNTR with China, he received harsh criticism from the UAW. The automobile industry, which is in favor of free trade, acted more in its umbrella organization Automotive Industry Action Group (AIAG) and not so much as individual companies to support TPA, said a staffer in Levin’s office. It makes a big difference if interest groups send out letters to all members or specifically to one member, he said – and there were no letters in the latter category to Levin about TPA. This shows that Levin acted mostly as the ranking minority member and on behalf of fellow Democrats opposing TPA (see below).

Levin’s integrated perspective illustrates the concerns of free-trade opponents very well. Today, the discussion of trade is more than talking about tariffs, said his staffer; it is about food safety, agricultural subsidies, intellectual property, competition rules, and investment rules, among other things. “What comes back from the negotiations with other countries changes U.S. law and lowers U.S. standards.” And the labor issue is not just about minimum wage; it is about the right to organize, and abolishing forced and child labor, etc. Groups like the Motion Picture Association of America or companies like Microsoft have a strong interest in intellectual property. Environmental groups, mostly NGOs, have good arguments and are loud, said the staffer. “But usually they are not well funded and therefore not that influential.”

As expected, German concerns do not appear very often in this picture when members of Congress listen to their constituencies regarding trade. But sometimes they do. **Regula’s** staffer said that with regard to the steel tariffs, the office was approached by a U.S. company in the district that needed steel imports and was concerned about the resulting price increase. The company asked Regula to work for exemptions. **Pitts** closely cooperates with Siemens, a large employer in the district. However, in contrast to U.S. companies, there is no grass-roots movement or mobilization of the workers, said the staffer.

A **majority staffer** for the **Ways and Means Subcommittee on Trade** said that there is also a lot of lobbying on the committee level and described it as helpful. “Everybody who is concerned

speaks up; this way you hear from interests you otherwise might not have known about.” Issues like TPA or the tariffs on steel imports have the positive effect of mobilizing consumers, producers, etc., and constituencies that are affected make themselves heard. German interest groups approach the committee, too. For example, the BDI wanted to talk about anti-dumping in the new WTO round, said the staffer. “They wanted to know the Republican position.” **Philip Crane (R-Ill.)** recently spoke with a representative of a German drug company, the staffer gave as an example. But more often EU representatives appear in the committee.

b) PARTY, ADMINISTRATION, AND PROCEDURE

Party affiliation played a major role in the TPA vote. After the administration decided to take the partisan approach, the Republican Party in the House exerted a lot of pressure because it needed every vote. So even Representatives with constituencies strongly opposing free trade were asked to support their party and the President. Up to the vote in December, Commerce Secretary Don Evans, Agriculture Secretary Ann Veneman, U.S. Trade Representative Robert Zoellick, Labor Secretary Elaine Chao, and Secretary of State Colin Powell were among the people lobbying on behalf of the administration. Cass Ballenger (R-N.C.) was invited to a White House dinner, and President Bush asked several Florida Congressmen, including TPA opponents Mark Foley (R-Fla.) and Adam Putnam (R-Fla.), to join him on a flight to Orlando on Air Force One. Zoellick spent a whole afternoon with Robin Hayes, who had announced a vote against TPA. Before the TPA vote, the House passed a bill sponsored by Bill Thomas that would extend and expand Trade Adjustment Assistance (TAA) for workers from about \$400 million to approximately \$2 billion over the next two years to support and retrain workers. The vote was 420-3, even though the partisan strategy that required persuading several anti-trade Republicans to offset the defecting Democrats proved to be anything but certain. Around noon on December 6, the White House asked the House Republican leadership to withdraw the vote to avoid defeat. Only the promises regarding textile and steel, combined with intense pressure and last-minute arm-twisting on the floor, secured the passage of the bill.

Graham, according to his legislative director, told the administration early on that he by no means could vote for TPA and that it could not count on him. He had at least one argument on his side, since he was the first Republican to win the traditionally Democratic 3rd Congressional District of South Carolina since Reconstruction – a seat you do not jeopardize easily as a party. **Regula** also resisted, even though Zoellick, Evans, and even President Bush called to ask for Regula’s vote, said his staffer. Here, perhaps Regula was helped by his extensive experience in the House – in the 107th Congress he was in his 15th term. **Hayes**, who was the first Republican in 24 years to win the district, was nevertheless put under enormous pressure by the Republican leadership in the House and the administration. Hayes knew it was a priority for Bush, so he worked with the administration and Ways and Means Chairman Bill Thomas, said his staffer. Hayes made a list of negotiation objectives, some of which were included in the TPA bill. Hayes described this as a significant step ahead for the textile industry. As explained above, his constituency was not satisfied, though, and in July 2002 Hayes voted along constituency interests and not along party

lines.

LaTourette illustrates another aspect worth considering. Sometimes the vote on rules, which are especially important in the House, can be interesting. LaTourette followed his party leadership and voted in favor of the rules for the TPA bill. Already this early in the process, however, interest groups in LaTourette's district "raised their eyebrows" because Ways and Means Chairman Thomas had attached content to the rules vote, as his staffer describes the reaction of the forces opposing free trade back home. This can be an early warning sign for a Congressman, as well as for the administration, the party leadership, the opposing party, or an opponent in the district, indicating that the stakes are high.

The partisan approach was also clear to see in some of the Democrats' reaction. **Levin**, who according to his staffer usually favors bipartisanship, introduced his own bill (HR 3019) after the administration's, or the "Thomas Bill" (named after the Ways and Means chairman). Levin was trying to come up with a TPA proposal that would suit Democrats as well, but he failed because of the administration's strategy to rely on Democrats as little as possible, according to his staffer. Another issue for Levin was procedure. In the Thomas Bill, Levin was not content with the aspects of congressional oversight. This was another reason for him to introduce his own bill. The Thomas Bill would have given Congress less leverage and would not have been that different from the former fast-track bill, said Levin's staffer. "The administration said, 'With this bill Congress has more say,' but that was not correct – it was sold well by the administration, however." He pointed out that the discussion about the cooperation between the branches and the information policy of the administration already had started only several weeks after passage of the bill in July 2002, thereby proving Levin's point. The Republican **LaTourette** was another Congressman among the ones whose staffers were interviewed who was concerned about this aspect. "Too much power would be taken away from Congress," his staffer said.

c) POSSIBLE EFFECTS ON FUTURE TRADE VOTES

Within the last 10 years, congressional trade politics changed from strictly bipartisan, bicameral, and in cooperation with the executive to partisan and controversial between the two chambers and the legislative as well as the executive branches of government. Asked about the future development of trade issues in Congress, most of those interviewed expect more problems to come. **Levin's** staffer said that today trade has taken on such importance that it is on the front pages of the papers. One reason for that is trade's increasing impact on domestic policies. The narrow margins in the TPA votes show how complicated the issues are. Another prominent example is the U.S. tax system, which has to be changed because of a European complaint about FSC at the WTO and the organization's decision that supports the European position. According to the staffer, a deep-rooted problem that still affects the lawmakers today is the NAFTA decision in 1993. "Neither labor nor environmental groups got what they wanted; both got galvanized."

The staffer also predicted the administration's partisan strategy would turn into a long-term problem because of the gap it widened, blaming the other side: "Levin and others were just labeled protectionists or isolationists. The Democrats are not going to forget the way they were treated." The issues are not resolved but just glossed over. On the other hand, individual trade agreements

are easier to pass than TPA, since pros and cons are easier to identify and judge. The staffer described the upcoming trade agreements with Singapore and Chile as a test of this assumption.

LaTourette's staffer expects a trend towards increased pressure by interest groups and more ideology. "Trade will be a 'checklist' kind of issue for the interest groups looking at members of Congress and their votes." But it will not be so much a partisan as a regional issue. Representatives and Senators from California and Texas are mostly for free trade (Republicans as well as Democrats) because of the high-tech industry, whereas the members from Ohio, Michigan, or Illinois ("the Rust Belt") are against free trade. This is a view that is shared in **Hayes'** office. "Trade became more partisan under Clinton because of the scandal surrounding him, since it's a question of trust – but in general it's more a question of region," said the staffer. He, too, expects more and more trade and political barriers to come down in the future. "No matter what our view is, this trend is going to continue." One result, he thinks, is a stonger focus on the role of Congress and the President. The staffer sees a hightened awareness of the manufacturing and the agricultural sector. Agriculture was told that free trade brings many advantages, but today many ask if this is really true, said the staffer. "Agriculture is watching very closely."

Asked about the Representatives' most likely voting behavior on trade agreements presented to them under TPA, the staffers were reluctant to be tied down to a clear answer. But in some of the cases – especially with a constituency strongly opposing free trade – the probability of a no was high, depending on the specific agreement, the issues, and, for the Democrats, the administration. For Representatives with a constituency opposing free trade, Hayes' staffer summed it up well: "The question simply is: 'What does it do for our industry sectors in the district and for the district as a whole, or is this another trade agreement that puts us at a disadvantage?'"

5. THE REPRESENTATIVES OF GERMAN INTERESTS IN D.C.

The people representing German industry and the German government in Washington, D.C., understand their work mostly as a listening post or an early warning system. One example that was mentioned several times was the Sarbanes-Oxley Act and its possible effects on Germany. **Robert Bergmann**, President of **RGIT**, said that there are approximately 3,000 German companies in the USA. "In contrast to the ranking No. 1 and No. 2 foreign investors in the United States, Great Britain and the Netherlands, respectively, with their large oil companies, the majority of German companies are medium-sized," said Bergmann. Inevitably, RGIT identified TPA as one of the big issues in 2001/02. "The NAM established a TPA task force and handed out buttons reading 'Vote for TPA!'" Bergmann pointed out.

In the opinion of **Gert Gerecht** – who is employed by the **Federal Ministry of Economics and Labor** but mostly working under the auspices of the BDI in the **RGIT** office in Washington, D.C. – the bitter fight for TPA shows how powerful the traditional industry is in the United States. "And they are still using the same arguments: that free trade is unfair, that foreign countries are endangering U.S. jobs, and they are stressing patriotism." One source of misunderstanding between

the United States and Germany stems from a different attitude towards trade, said Gerecht. Whereas the United States very often protects ailing industries by protectionist measures like tariffs and quotas, the German attitude is to increase subsidies but not harm free trade. Gerecht received many inquiries from the Federal Foreign Ministry and the Federal Ministry of Economics and Labor in Berlin. It was different with the German Bundestag, however. After Lambsdorff's and now Wiczorek's departure, there is hardly anyone in the Bundestag who maintains continual communication with a large number of Representatives and Senators and has a feel for the behavior of the individual members of Congress, as well as the two chambers, and therefore has the ability to make predictions, said Gerecht.

The **German Embassy** in Washington, D.C., names the U.S. administration as the first to address in most cases. It follows the plans of the administration and the legislative process closely – for example, the attempt of the Bush Administration to get access to airline data for security reasons. In that case, the Embassy cooperated not only with Deutsche Lufthansa, but also with U.S. airlines. In a USTR hearing in 2002 regarding exemptions for the tariffs on steel imports, the law firm hired by a German steel exporter and the Embassy took along a U.S. producer of safes which relies exclusively on imports of that German firm as a witness. In Congress, the Embassy stays in touch with the staffers of the most important committees and with the Representatives and Senators in those regions where you find many German companies, e.g., North Carolina, South Carolina, and Alabama. Moreover, the districts of the steel-processing industry are very important, because members of Congress are willing to exert pressure on the administration when jobs in their districts are in jeopardy.

When it comes to trade, the Embassy pays regular and close attention to those members of Congress who have a strong interest in U.S.-German relations – some of them, of course, because of their interest in the Holocaust. Some of these Congressmen are especially critical when it comes to companies that are considered the “heirs” of their predecessors during the Nazi era. It has happened that members of Congress threaten to block or restrict the German companies' business in the USA. The Embassy considers it part of its work to make sure that it is not becoming popular in the United States to knock Germany. Therefore, the Embassy is involved in a constant dialogue with the administration and members of Congress. Equally important for the Embassy is a continual dialogue of all the different actors in transatlantic relations, like the members of Parliament, business, and NGOs – particularly in times when relations are tense.

Gerecht stressed the importance of having a positive approach to solving U.S.-German problems and not blocking communication because of disagreements. In **Bergmann's** view, misunderstandings between the USA and Germany today escalate faster because the lid of the Cold War, which kept arguments down, is gone. “U.S.-German disputes as part of the relationship make up only approximately 5 percent, but the aggressiveness in these cases can be contaminating and spoil the relationship as a whole.”

Whereas the representatives of the German government and German industry see themselves not as

lobbyists but rather as listening posts, **Charles Blum**, head of **International Advisory Services** in Washington, D.C., specializes in lobbying. He represents the European steel industry, organized in **Eurofer**, but also U.S. steel companies (some of them foreign-owned) and steel manufacturers. This \$40 billion industry looked at TPA as an indicator of the current atmosphere. According to Blum, this bill was very important for Eurofer because the administration “bought” votes from Republicans in difficult districts with strong Democratic challengers, and they in return were helped with the steel tariffs. Blum feels that it is important to “keep out people like Craig and Dayton.” He thinks that the European steel companies, most of which were still partly state-owned and heavily subsidized in the late 1980s, changed not only their character but also their attitude. “Within the last 10 years, they got more and more involved, they got more interested in the USA and its legislative process.” This, according to Blum, is also true for the EU in general. He cites its Trade Commissioner, Pascal Lamy (the counterpart of Zoellick), as an example of the increasing importance of paying closer attention to the USA’s legislative process. As a result, Lamy spends approximately half of his time on Capitol Hill when visiting Washington, D.C., said Blum.

Blum describes his long-term strategy as reforming the image of the European steel industry. “Senator Rockefeller still gives the same speech today as back in the mid-’80s about the state-owned, subsidized European industry!” For this reason, Blum recommends a “door-to-door approach,” not a broad million-dollar public-relations effort. “It’s not so much about spending money, but about spending time and improving the understanding.” One way, according to Blum, is to create milestones, e.g., to make the opening or expansion of a plant, and thereby creating new jobs, an event worth inviting Congressmen and/or Senators. As another example, Blum described a fundraiser for Sander Levin, a guided tour through a Thyssen plant near Detroit he organized in 1999. According to Blum, Levin learned that the plant used German steel because one of its customers, Chrysler, demanded it, and that Thyssen USA is one of the biggest buyers of U.S. steel. “Fundraising away from D.C. is very powerful – and there is nothing wrong about it,” said Blum. Germany should take advantage of the number and size of German companies in the United States. “With approximately 31,000 employees in the USA, Thyssen is much bigger than the single biggest U.S. steel company.” For Blum, there was nothing wrong with the EU putting together a list of those members of Congress whose districts would suffer most from EU import restrictions in retaliation for the steel tariffs. Pressure and stubbornness of the EU are important because the United States is seen as having “problems with the rule of law,” said Blum. “They (the United States) think it’s always them that are treated unfairly.”

6. CONCLUSION

With TPA, the U.S. President has fast-track authority again – the first time since 1994. In the United States, in Europe, and also in Germany, you could hear sighs of relief in the business community and among politicians. The authorization expires in 2005, and Congress can grant an extension until 2007. But the history of the TPA bill shows that by focusing just on these results, one might overlook a long, difficult, and controversial legislative process. The Craig-Dayton Amendment originating in the Senate was killed at the last minute, and the DeMint Amendment had to be offset by adding certain textile provisions to the final version of the bill.

The narrow passage of TPA is an indicator for upcoming disagreements and problems, and thereby gives the observer an idea of future U.S. trade policy. The approach of the Bush Administration to secure passage of TPA (the heavy pressure put on members of their own party by asking many of them to vote against their constituencies' interests and the alienation of the Democrats supporting a bipartisan trade consensus dating back several decades) in any case seems to be a strategy that cannot be used very often without causing serious harm. Again, it is not yet clear if the price for the Bush Administration and possibly the U.S. economy as a whole might have been too high.

According to the staffers interviewed, however, this is not only about the administration's strategy, but also about a general trend. One can assume that in congressional trade politics in the future, there will be more partisanship, less willingness to compromise, more tensions between the two chambers of Congress as well as between the legislative and the executive branches, and more involvement of interest groups. Fast track once was invented because the sum of all constituency interests in the United States is not necessarily identical to the well-being of the nation as a whole. Ironically, today even the process to escape this dilemma by granting fast-track authority has become very difficult. It is important to remember that the Bush Administration almost failed. One could argue that without the events of September 11, 2001, and Bush suddenly being a "wartime President," the anti-trade Republicans would not have supported TPA and the partisan strategy would have been a dead end.

For many of the German players in trade interviewed for this report in summer 2002 (many of them supporters of free trade), TPA nevertheless was not an issue or at least not a very important one. There was no real sense that failure of TPA was imminent and the effects this could have on Germany. The German Bundestag showed the largest deficits, even according to its own experts. Since Otto Graf Lambsdorff, Karsten Voigt, Karl Lamers, and Norbert Wieczorek left, there is a void in the Bundestag regarding a continuous relationship with the legislative branch in the United States. In my view, the members of the Bundestag have to improve communication with members of Congress. Not every move on Capitol Hill has to be documented and analyzed. If competent and well-informed members or staffers of the German Bundestag conclude in time that a process or development in Congress is not worth following up on, it does not constitute a problem. But lack of these competent observers and the tendency to ignore this deficiency does. This, in my view, is alarming.

German industry is a step ahead. Through the BDI in Berlin, its RGIT employees in Washington, D.C., the representatives of their respective European federations, the German Embassy, and the offices of individual companies in Washington, D.C., the German industries have access to a wide range of information. Judging from the interviews with selected players, the industries seem to be more interested in U.S. trade policies than the Bundestag, even though not necessarily in trade issues from a congressional perspective. They seem to get involved on an issue-by-issue basis whenever they are affected. A high awareness of the role Congress plays in international trade and a high level of involvement and cooperation with its U.S. counterpart can also be found in the German labor movement. That the industry as well as the unions are well informed is probably partly due to their

dual approach, using the EU and/or bilateral contacts, depending on the issue.

In my view, this report shows a discrepancy between the significance of international trade for Germany on the one hand and German awareness of Congress' role in implementing U.S. trade policy on the other hand. It seems to me that the problem is not a lack of information or resources but a lack of interest or willingness to get involved. My assumption is that the role of Congress, its decision-making process, its members, and their constituencies is underestimated or misunderstood in other policy areas as well. Not only in times of transatlantic tensions, Germany should have an interest in establishing and maintaining steady and comprehensive communication with the United States on all levels. Keeping these communication channels open all the time, no matter what, for me makes the difference between tensions and a crisis.



The views expressed in ACG Corporate Occasional Papers are those of the author.