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FAST-TRACK WOULD PRE-APPROVE FORMATION OF SWEEPING TRANSNATIONAL UNION

CRITICAL ALERT

Promoters of fast-track executive authority have relied on semantic obfuscation in an effort to deny the obvious: the President's top priority is obtaining fast-track authority because he knows it will expand his powers and allow him to cement his legacy through the formation of a new political and economic union. If, as promoters amazingly suggest, the President had more powers without fast-track, he would veto it. The authority granted in "Trade Promotion Authority" is authority transferred *from* Congress to the Executive and, ultimately, to international bureaucrats.

The entire purpose of fast-track is for Congress to surrender its power to the Executive for six years. Legislative concessions include: control over the content of legislation, the power to fully consider that legislation on the floor, the power to keep debate open until Senate cloture is invoked, and the constitutional requirement that treaties receive a two-thirds vote. Legislation cannot even be amended.

By contrast, without fast-track, Congress retains *all* of its legislative powers, individual members retain *all* of their procedural tools, and every single line, jot, and tittle of trade text is publicly available before *any* congressional action is taken.

Another obfuscation is the suggestion that TPP doesn't yet exist. To the contrary, it has been under negotiation for six years and lawmakers can enter a closed-door, walled-off chamber to review it. A vote for fast-track is a vote to authorize the President to ink the secret deal contained in these pages—to affix his name on the Union and to therefore enter the United States into it.

Nucor Steel Chairman Emeritus, Daniel DiMicco, warned: "The so-called negotiating objectives in the fast-track bill are merely for show... The President can and does sign the agreement before Congress views or votes on it." Fast-track is the action that empowers the President to put America's name on the deal sitting in that walled-off room—before a page of it has been shared with the public.

In a Ways and Means document on the new Pacific Union being formed by Obama, the Committee hints at some of this union's powers: "if a proposed change to a trade agreement is contemplated [by the TPP Commission] that would require a change in U.S. law, all of TPA's congressional notification, consultation, and transparency requirements would apply." In other words, Ways and Means is intimating that this new secret Pacific Union would function like a third house of Congress, with legislative primacy, sending changes to the House and Senate under fast-track procedures (receiving less legislative procedure than, for instance, Post Office reform). Moreover, this legislative fast-track, Ways and Means implies, is limited to that which requires a "change in U.S. law"—meaning if this President (or the next) argues it is simply an *executive action*, not a *legal action*, the Executive could have a free hand to implement the Commission's decrees without Congress. This is

not merely a loophole; this is purposeful delegation of congressional authority to the Executive and to an international body. The fast-tracked implementing legislation would have the ability to make these delegations binding as a matter of law.

Amendments to specify that Congress retains exclusive legislative authority, and to actively prohibit foreign worker increases, were blocked by fast-track backers.

Fast-track supporters have tried to temper concerns about the formation of this transnational union, and the subsequent Transatlantic Trade and Investment Partnership (TTIP) and Trade in Services Agreement (TiSA) that would also be pre-approved through fast-track, by adding additional “negotiating objectives” via a separate customs bill. The negotiating objectives are not binding, are not meaningfully enforceable, and no individual lawmaker can strike any provision which violates them. Fast-track keeps what congressional authority is left in the hands of the revenues and Rules committees.

Under the Ways and Means “solution,” TPP, TTIP, and TiSA could establish broad goals for labor mobility (allowing Ways and Means to say the negotiating objectives about “requiring” or “obligating” certain changes has not been violated) and the President would then implement those changes through executive action, or change our laws through fast-track.

Negotiating objectives are, by design, not explicit or realistically enforceable. They include such bromides as saying it must be the goal of the White House “to ensure that trade agreements reflect and facilitate the increasingly interrelated, multi-sectoral nature of trade and investment activity,” and “to recognize the growing significance of the Internet as a trading platform in international commerce.”

It stretches the outer bounds of logic to contend that a President who happily disregards the Constitution will be bound to obey a series of broad “negotiating objectives”—especially when those objectives come with a promised surrender of congressional power.

Finally, it must be observed that this is not a “free trade” deal. It is, as Daniel DiMicco explained, a “unilateral trade disarmament” and “the enablement of foreign mercantilism,” whereby we open our markets to new foreign imports and they keep their non-tariff barriers that close their markets to ours. President Obama refuses to answer questions about the impact on unemployment, wage stagnation, and trade deficits. He refuses because the answer is all three will get worse. For instance, a study published in the *Wall Street Journal* showed that—due to barriers to U.S. auto exports—the deal would increase foreign transportation imports over our exports by nearly four-fold.

Americans have seen their sovereignty, economic position, and political power erode. They have seen that power transferred to an elite set who dream of writing rules in foreign capitals, unburdened by the concerns of the ordinary citizen.

To read the trade agreement is to know that, if Congress adopts the fast-track, it will have preapproved a vast delegation of sovereign authority to an international union, with growing powers over the lives of ordinary Americans.

Like the Gang of Eight, like Obamacare, and so much else—the goal is to get it approved before the American people know what’s in it.