Fast track authority gives presidents substantial agenda setting powers. First, it gives the president the power to decide whether a proposal will be debated and voted before other projects. Second, because it forces the legislature to make a decision on a bill or proposal within a certain number of days.

As mentioned above, the details regarding fast track authority vary across countries. In general, fast track authority can be classified depending on whether Congress has to vote on the bill for it to become law, or if the bill becomes law if Congress does not act within a certain number of days.

Among the countries where urgent bills need congressional approval is Colombia (art. 163, Colombia Constitution), the closest to Chile, as the legislature has to approve or reject the urgent bill within 30 days (for each chamber). The key element in Colombia is that there is no reversion point if the legislature does not act within that time (Nolte 2003).[[1]](#footnote-1) In Colombia, the president can attach the urgent label to any kind of bill, even the annual budget. In Brazil, if Congress does not make a decision over the urgent bill win 45 days, Congress comes to a halt until it votes on the bill (art. 64, Brazil Constitution).

In other three countries (Uruguay, Ecuador, and Paraguay), the specific details of fast track authority confer the President greater power because if Congress does not act within a certain number of days, the bill immediately becomes law. This type of urgency increases significantly the legislative powers of the president, as it allows her to change the status quo with a “law” without any congressional action. However, these countries do have some institutional mechanisms that attempt to control the presidential power. In Uruguay, the president cannot label urgent some bills like the budget, as well as bills that need the support of three fifths or two thirds of the chamber to become law. Furthermore, only one bill at a time can be declared urgent and, more significantly, each chamber can reject the “urgency” label by a vote of three fifths of the membership.

In Ecuador, the 1998 constitution constrains the president in that he can only label as urgent bills related the economy, and one bill at a time. Congress has 30 days to modify, approve or reject the urgent bill. Otherwise, it becomes law.

Paraguay has the most permissive prerogatives for the president. The 1992 Constitution gives the president latitude to declare urgent any type of bill, at any point during the legislative process. Each chamber has 30 days to make a decision. Otherwise, the bill becomes law.

The U.S. also grants its president with fast track authority on one issue, international trade agreements. Under this authority, international trade agreements are considered under “expedited legislative procedures” (CRS:2015). In this way, the chambers suspend their ordinary legislative procedures: once they reach the floor, agreements can be debated for a limited period of time, cannot be amended and have to be approved within a certain period of time. On its part, the president needs to commit to consult with the relevant committees during the negotiation process and to notify Congress 90 days before signing an agreement. The idea behind fast track authority in these agreements is to increase the leverage of the president when negotiating such agreements: other countries know that whatever agreement they reach, it will be approved fast and unamended. The expedited legislative procedures under fast track were first included in the Trade Act of 1974, and modified a few times after that.[[2]](#footnote-2)

An important element in this fast track authority is that it is subject to time limits. In 1974, Congress granted the president this authority for five years, ending in January 1980. Congress renewed this authority various times, interrupting it for 8 years from 1994 until the Trade Act of 2002, in which a Republican majority granted fast track authority to president George W. Bush. This authority expired in 2007, although it remained in effect until 2011 for those agreements that were already under negotiation. Obama requested the renewal of fast track authority immediately after that, but it was only granted it in 2015.

The literature analyzing president’s fast track authority in the US tries to understand the conditions under which Congress delegates this authority on the President. On hand, some scholars argue that legislators prefer to delegate trade authority on the president because the president is better able to resist the pressures from interest groups. Thus, legislators tie their hands and insulate themselves from these lobbying efforts.

We derive conditions under which Congress grants trade policymaking authority to the President in order to achieve more efficient outcomes. We also show that in the presence of partisan conflict and divided government, the members of the majority party in Congress may have incentives to constrain the President's use of delegated authority, thereby forcing the President to accommodate partially their protectionist pressures. As a consequence, divided government may be associated with higher levels of protection.

Proponents of the presidential dominance hypothesis argue that Congress 4

hasdelegatedmuchofitsauthoritytosettradepolicytothePresident. Evenif legislators retain some constraints over executive action, they are unwilling or unable to use their power. This hypothesis has been formulated in various ways. For example, I. M. Destler argues that legislators realize that they are unable to resist the protectionist pressures of special interest groups. Thus, they choose to bind their hands by delegating policymaking authority to the President (or an executive broker), who is less susceptible to protectionist pressures. This delegation of authority insulates Congress from interest group demands and

allows legislators to shift the blame for the negative side-effects of trade 5

liberalization. The policy predictions of this model are consistent with the observation that U.S. tariff rates peaked when Congress set tariffs item by item

With a very detailed description of the constitutional powers of the Latin American presidents, Garcia Montero argues that the more power presidents have to force the debate and vote on her proposals, the greater the role and influence of president in the legislative process. Garcia Montero creates a typology that classifies presidents in Latin America depending on the president’s fast track powers. She emphasizes the differences in the institutional design among the different countries, situating Colombia and Brazil as the least powerful, and Paraguay as the most.

In an article explaining the different powers of Presidents, Colomer and Negretto (2003)

In an article analyzing Chile’s relationship between Congress and the president, Nolte (2003:51) argues that fast track authority in Chile does not give the president an important power to determine the fate of her initiatives. He claims that in Chile an urgent bill still needs congressional support to become law, so the size and discipline of the president’s congressional majority is more important than her institutional prerogative to declare bills urgent. He also emphasizes that the President has no mechanism to sanction Congress if the latter does not act within a certain number of days.

Nolte: Hay que subrayar que el éxito de los proyectos de ley del presidente chileno depende en prime- ra instancia, y a fin de cuentas, de la mayoría parlamentaria con la que cuenta. Durante el gobierno del presidente Aylwin, el tiempo promedio del trámite legislativo de los proyectos de ley que tenían urgencia no distó mucho de los proyectos que no la tenían. Tampoco hubo casi diferencia entre la tasa de éxito de las iniciativas legislativas presidenciales con y sin urgencia (sumando los diferentes grados de urgencia). La urgencia es un instrumento para señalar priori- dades y organizar el trabajo parlamentario. En este sentido sí parece funcionar, ya que la tasa de éxito de las iniciativas presidenciales aumentó de acuerdo al grado de urgencia con que fueron calificados los mismos.

1. We are reaseraching the case of Colombia, although it is not clear whether urgency means a close rule. [↑](#footnote-ref-1)
2. The first bill passed under these procedures was the Trade Agreement Act of 1979 (resulting from the Tokyo Round of the GATT) [↑](#footnote-ref-2)