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# Bipartisan Congressional Trade Priorities and Accountability Act of 2015:

## *Preserving U.S. Sovereignty*

*Prepared by the staffs of the Ways and Means Committee and Senate Finance Committee*

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### **No Direct Effect on U.S. Law**

- New provisions affirm that trade agreements cannot change U.S. law without Congressional action, nor prevent the United States from changing its law in the future.
- New provision confirms that U.S. law prevails in the event of a conflict.

### **Only Way to Change U.S. Law is Through Congressional Action**

- Congress retains the ultimate authority to vote for – or reject – the final trade agreement.
- TPA confirms that trade agreements have no direct effect, and the Administration cannot unilaterally change U.S. law.

### **TPA Remains a Congressional Rulemaking Prerogative**

- Congress can disqualify agreements from eligibility for special procedures through procedural disapproval resolution process.
- If the House Committee on Ways and Means or the Senate Finance Committee determines that the President has not met the conditions prescribed by TPA, either Committee would trigger a Consultation and Compliance Resolution.
- This new mechanism would remove expedited procedures for a trade agreement if, in the judgment of either the House or Senate, that agreement does not meet the requirements of TPA.
- Each House of Congress retains the right to withdraw TPA through exercise of its normal rulemaking authority.

### **Congressionally-Mandated Objectives**

- The Act directs the Administration to pursue Congressional trade prerogatives through Congressionally-mandated negotiating objectives.
- The Act includes a privileged disapproval resolution if the Administration fails or refuses to notify or consult with Congress or if the agreement fails to make progress in achieving the purposes, policies, priorities, or objectives of TPA.

### **More Robust Consultation and Access to Information Requirements**

- The Administration must consult closely with Congress before, during, and after the negotiations.
- Before initiating negotiations, the Administration must submit written notice and consult at least 90 days prior to entering into negotiations.
- Statutorily require the Administration to publish detailed and comprehensive summaries of the specific objectives that trade negotiators are seeking in trade negotiations, and keep such summaries updated as negotiations continue.
- The Administration is required, throughout the negotiations and immediately prior to initialing the agreement, to consult with Congress.
- The Administration must consult, upon request, with any Member of Congress and provide access to the classified negotiating texts of *all* trade negotiations to any Member of Congress upon that Member's request, who may view the texts with personal staff (provided that staff has obtained the appropriate security clearance)..

- Establishes, for the first time in law, that the text of a completed trade agreement must be public for at least 60 days before the President signs it.
- Requires the President to submit to the committees of jurisdiction the final, legal text of a trade agreement and a draft of its Statement of Administrative Action at least 30 days before the President submits an implementing bill to the Congress. This new requirement ensures Congress has time to review how the Administration plans to implement the agreement even before an implementing bill is submitted.
- The Administration, prior to bringing a trade agreement into force, is required to consult with Congress concerning the measures a trading partner has taken to come into compliance with the agreement.

### **Clarifies Scope of Authority**

- TPA includes provisions to ensure that implementing bills include “only such provisions as are strictly necessary or appropriate to implement” trade agreements.
- Any commitments that are not disclosed to the Congress before an implementing bill is introduced are not to be considered part of the Agreement approved by Congress and have no force of law.
- TPA clarifies that agreements must be concluded within the TPA time frame and that substantial modifications or additions after that date are not eligible for approval under TPA.

### **Legal Scholars Support TPA**

- When Congress last considered TPA, Reagan Attorney General Ed Meese wrote, “The concern some lawmakers have expressed, that TPA would somehow diminish American sovereignty, is misplaced. If anything, the opposite is true.”
- In 1994, Judge Robert Bork wrote, “The sovereignty issue, in particular, is merely a scarecrow. Under our constitutional system, no treaty or international agreement can bind the United States if it does not wish to be bound. Congress may at any time override such an agreement or any provision of it by statute.”