

A Note to Conservatives on Trade Agreements

Senator Cruz entirely understands the widespread suspicion of the President. Nobody has been more vocal in pointing out the President's lawlessness or more passionate about fighting his usurpation of congressional authority.

Senator Cruz would not and will not give President Obama one more inch of unrestricted power.

There have been a lot of questions and concerns about the ongoing Pacific trade negotiations. Many of those concerns, fueled by the media, stem from confusion about Trade Promotion Authority (TPA) and the proposed Trans-Pacific Partnership (TPP). Let's unpack the issues one by one.

What are TPA and TPP?

TPA stands for Trade Promotion Authority, also known as "fast track". TPA is a process by which trade agreements are approved by Congress. Through TPA, Congress sets out up-front objectives for the Executive branch to achieve in free trade negotiations; in exchange for following those objectives, Congress agrees to hold an up-or-down vote on trade agreements without amendments. For the past 80 years, it has proven virtually impossible to negotiate free-trade agreements without the fast-track process.

TPP stands for Trans-Pacific Partnership. TPP is a specific trade agreement currently being negotiated by the United States and 11 other countries, including Canada, Japan, Australia, and New Zealand. China is not a negotiating partner. There is no final language on TPP because negotiations are still ongoing and have been since late 2009. Neither the Senate nor the House has voted yet on the TPP. There will be no vote on TPP until the negotiations are over and the final agreement is sent to Congress.

Some Key Facts:

- Neither the Senate nor the House has voted yet on the TPP.
- Congress is the only entity that can make U.S. law and nothing about TPP or TPA could change that.
- TPA gives the Congress more control up-front over free trade agreements.
- TPA mandates transparency by requiring all trade agreements

(including TPP) to be made public for at least 60 days before the Congress can act on them.

Does TPA give up the Senate's treaty power?

No. Under the Constitution, there are two ways to make binding law: (1) through a treaty, ratified by two-thirds of the Senate, or (2) through legislation passed by a majority of both Houses of Congress. TPA employs the second constitutional path, as trade bills always have done. It has long been recognized that the Constitution's Origination Clause applies to trade bills, requiring the House of Representatives' involvement.

Does the United States give up Sovereignty by entering into TPP?

No. Nothing in the agreement forces Congress to change any law. TPA explicitly provides that nothing in any trade agreement can change U.S. law. Congress is the only entity that can make U.S. law, and Congress is the only entity that can change U.S. law. Nothing about TPP or TPA could change that.

Does Senator Ted Cruz support TPP?

Senator Cruz has not taken a position either in favor or against TPP. He will wait until the agreement is finalized and he has a chance to study it carefully to ensure that the agreement will open more markets to American-made products, create jobs, and grow our economy. Senator Cruz has dedicated his professional career to defending U.S. sovereignty and the U.S. Constitution. He will not support any trade agreement that would diminish or undermine either.

Does Senator Ted Cruz support TPA?

Yes. Senator Cruz voted in favor of TPA earlier this year because it breaks the logjam that is preventing the U.S. from entering into trade deals that are good for American workers, American businesses, and our economy. Ronald Reagan emphatically supported free trade, and Senator Cruz does as well. He ran for Senate promising to support free trade, and he is honoring that commitment to the voters.

Free trade helps American farmers, ranchers, and manufacturers; indeed, one in five American jobs depends on trade, in Texas alone 3 million jobs depend on trade. When we open up foreign markets, we create American jobs.

TPA also strengthens Congress' hand in trade negotiations, and provides

transparency by making the agreement (including TPP) public for at least 60 days before the Congress can act on any final agreement. Without TPA, there is no such transparency, and the Congress' role in trade agreements is weaker.

Is TPA Constitutional?

TPA and similar trade authority has been upheld by the Supreme Court as constitutional for more than 100 years.

Does TPA give the President more authority?

No. TPA ensures that Congress has the ability to set the objectives up-front for free trade agreements.

Trade Promotion Authority has been used to reduce trade barriers since FDR. When Harry Reid took over the Senate, he killed it. History demonstrates that it is almost impossible to negotiate a free-trade agreement without TPA. Right now without TPA, America is unable to negotiate free-trade agreements, putting the United States at a disadvantage to China, which is taking the lead world-wide. It is not in America's interests to have China writing the rules of international trade.

Moreover, Obama is going to be president for just 18 more months. TPA is six-year legislation. If we want the next president (hopefully a Republican) to be able to negotiate free-trade agreements to restart our economy and create jobs here at home then we must reinstate TPA. With a Republican president in office, Senate Democrats would almost certainly vote party-line to block TPA, so now is the only realistic chance.

How can Senator Cruz trust Obama?

He doesn't. Not at all. No part of Senator Cruz's support for TPA was based on trusting Obama. However, under TPA, every trade deal is still subject to approval by Congress. If the Obama Administration tries to do something terrible in a trade agreement, Congress can vote it down. And most congressional Democrats will always vote no—because union bosses oppose free trade, so do most Democrats—which means a handful of conservative congressional Republicans have the votes to kill any bad deal. That's a serious check on presidential power.

Isn't TPP a "living agreement"?

That particular phrase—a foolish and misleading way to put it—is found in the “summary” portion of one particular section of the draft agreement. That section allows member nations to amend the agreement in the future, expressly subject to the approval of their governments. Thus, if some amendment were proposed in the future, Congress would have to approve it before it went into effect.

But isn't TPA a secret agreement?

No, it is not. The full text of TPA (fast track) is public. What the Senate just voted for was TPA, not TPP.

Right now, the text of TPP is classified. That is a mistake. **Senator Cruz has vigorously called on the Obama administration to make the full text of TPP open to the public immediately.** The text being hidden naturally only fuels concerns about what might be in it. Senator Cruz has read the current draft of TPP, and it should be made public now.

Critically, under TPA, **TPP cannot be voted on until after the text has been public for 60 days.** Therefore, everyone will be able to read it long before it comes up for a vote.

Couldn't Obama use a trade agreement to grant amnesty to illegal immigrants?

No. There is one section of TPP that concerns immigration, but it affects only foreign nations—**the United States has explicitly declined to sign on to that section.**

Moreover, **Senator Cruz introduced a TPA amendment to expressly prohibit any trade deal from attempting to alter our immigration laws.** [LINK to release: http://www.cruz.senate.gov/?p=press_release&id=2324]

Two Republican Senators (Lindsey Graham and Rand Paul) blocked the Senate's consideration of that amendment, but the House of Representatives has agreed to include that language in the final text of the trade legislation. Thus, assuming the House honors that public commitment, federal law will explicitly prohibit any trade deal from impacting immigration.

And, regardless, no trade agreement can change U.S. law; only Congress can change U.S. law.