

## **Written Evidence - Professor Stephanie Rickard (UST0005)**

I am submitting this written evidence in a personal capacity. My evidence is in response to question number 7, "The United States Congress will scrutinise the US Government's negotiations with the UK and any final deal. What do you think will be the key issues for Congress and legislators in the US? How will the influence of US legislators be felt in the course of these negotiations?"

1. The US Constitution gives Congress jurisdiction over foreign commerce. However, Congress has delegated authority over trade negotiations to the president. In 2015, Congress once again authorized the president to negotiate trade agreements on behalf of the United States through Trade Promotion Authority (TPA). This tool is often referred to as "fast track" authority.
2. Fast track authority expedites the legislative process for trade agreements. Trade agreements that require changes to US law must go through Congress. Trade Promotion Authority requires Congress to vote a trade agreement up or down, without making any amendments to it. This rule helps to ensure that a trade agreement does not unravel when it is brought to Congress for approval. A simple majority in both the House and the Senate are required for passage.
3. The fast track authority currently granted to the president by Congress expires on July 1, 2021. Trade agreements signed before this date can proceed through Congress via the fast track procedure. Agreements already under negotiation before this date may also be eligible for expedited legislative scrutiny.
4. Congress may vote to renew fast track authority and extend it beyond July 1, 2021. However, there is no guarantee this will happen. In 2015, Congress was almost evenly split over TPA; it passed in the House by a vote of 219 to 211. Renewal of fast track authority may depend on the results of the 2020 congressional and presidential elections.
5. The President can negotiate trade agreements without fast track authority. However, any such agreement will be subject to greater legislative scrutiny. In recent decades, only one trade agreement has been negotiated and approved by Congress without TPA: the uncontentious US-Jordan bilateral trade agreement.

6. Congress formally influences the content of trade agreements via its power to vote agreements up or down. Presidents know they have to get Congress' approval of an agreement and therefore anticipate potential objections from Congress. Discussions with Congress members often take place before a formal vote in order to ensure their support for an agreement.
7. Formal votes on trade agreements reflect the importance of political parties. In an analysis of Congressional votes on trade agreements from 1988-2004, I find strong partisan effects. Republicans were more likely to vote for trade agreements than Democrats, on average. In the Senate, which tends to be more supportive of trade agreements than the House, 62% of Democrats voted for trade agreements and more than 80% of Republicans did. Democrats who voted in favour of trade agreements also tended to vote for assistance for workers made worse off by trade via the Trade Adjustment Assistance program.
8. In recent years, the trade policy positions of US political parties have been in flux. The Republican party now includes both free-trade business interests and populist protectionists. As a result, legislators' votes on trade may more closely reflect the economic interests of their constituents than their political party's increasingly divided positions. In an analysis of Congressional votes on trade agreements, I find evidence that legislators are more likely to vote for a trade agreement if their constituencies contain more high-skill workers. Congress members representing net-importing districts are more likely to vote against trade agreements, all else equal.
9. Members of Congress consider the economic interest of their constituents when voting on trade agreements. Legislators who represent rural districts with large agricultural interests are likely to be particularly concerned with food standards and sanitary and phytosanitary (SPS) measures, which are perceived to be barriers to US products entering the UK market. Demands for greater UK market access for US agricultural products may have particular resonance with a Republican-led administration because many rural, agricultural districts tend to vote Republican.
10. Congress also exerts formal influence on trade agreements by defining their trade objectives in TPA legislation. In order to qualify for fast track treatment, any trade agreement negotiated by the president must meet the objectives outlined by Congress in the

legislation granting the president fast track authority. The 2015 TPA legislation identifies several key issues for consideration in new trade agreements, including digital trade in goods and services and cross-border data flows.

11. Congress also has significant informal influence over trade negotiations. As part of TPA, Congress requires the executive branch to consult with Congress prior to and during trade negotiations. TPA also allows for, but does not require, a mock mark-up of draft implementing legislation for a trade agreement. In theory, this process gives Congress a voice in the process and an opportunity for legislators to suggest amendments to the agreement.
12. The informal influence of Congress has been weaker under the current administration than in previous administrations. For example, no mockup was done for the USMCA implementing legislation.
13. The election in November 2020 may change the political landscape in the United States. Donald Trump was elected president after a campaign that was more hostile to existing trade policy than any US presidential campaign had been since the 1930s. The Trump administration has pursued much more protectionist policies than any of its modern predecessors.

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