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# Bipartisan Congressional Trade Priorities and Accountability Act of 2015

## *Services and Investment*

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

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### **Recognizing the Benefits of Services and the Need to Eliminate Barriers to Services Trade**

- Explicitly recognizes for the first time that the expansion of services generates benefits for all sectors of the economy and facilitates trade.
- Includes a new call for the negotiation of a plurilateral Trade in Services Agreement with those willing and able to undertake high standard services commitments, as well as to use all other means to expand competitive market opportunities for U.S. services and obtain fairer and more open conditions of trade.
- Continues to direct the reduction or elimination of services trade barriers, including regulatory and other barriers that deny national treatment and market access or unreasonably restrict the establishment or operations of service suppliers.

### **Maintains Balanced Objectives for Investment**

- Continues to direct trade negotiators to reduce or eliminate artificial or trade-distorting barriers to foreign investment and to secure for U.S. investors rights comparable to those that would be available in the United States, including through meaningful procedures for resolving investment disputes.
- Continues to state that foreign investors must not be accorded greater substantive rights in the United States than U.S. investors receive, reflecting recent U.S. trade agreements.
- Ensures that investor-state dispute settlement provisions have strong transparency and procedural protections.

### **Reflecting New Developments in Services Trade and Investment**

- Directs trade negotiators to ensure that trade agreements reflect the increasingly interrelated and multi-sectoral nature of trade and investment activity.
- Recognizes for the first time the growing significance of the Internet as a trading platform in international commerce.
- Instructs the Administration to target barriers to both existing and new services.
- Makes clear that forging fairer and more open conditions of trade includes ensuring the ability of U.S. firms to participate in global value chains.
- Calls for ensuring that electronically delivered goods and services be classified with the most liberal trade treatment possible, with respect to new and existing trade.

### **Covering Digital Trade in Services and Facilitating Cross-Border Data Flows**

- Extensively updates and expands the e-commerce provision in the prior TPA to cover existing and new trade in digital services and Internet-enabled trade in goods and services.
- Directs the Administration to ensure that all trade agreement obligations apply to digital trade in goods and services and to cross-border data flows.
- Directs trade negotiators for the first time to ensure that governments allow cross-border data flows, not require local storage or processing of data, and refrain from instituting other trade-related impediments to digital trade.
- Directs the Administration to obtain commitments that regulations affecting digital trade or cross-border data flows will be least-trade-restrictive, nondiscriminatory and transparent, and promote open markets.

### **Eliminating Forced Localization**

- Adds new negotiating objectives directing the Administration to eliminate and prevent forced localization of facilities, to eliminate related barriers to U.S. services exports, and to ensure that governments not require local storage or processing of data.
- Specifically instructs trade negotiators to eliminate and prevent indigenous innovation measures, including forced localization of intellectual property and other assets.

### **Disciplining State-Owned Enterprises**

- Includes a new negotiating objective directing the Administration to eliminate trade distortions and unfair competition by SOEs, including in the purchase and provision of services, and to ensure that they act based solely on commercial considerations.
- Requires disciplines that eliminate or prevent discrimination and market-distorting subsidies and that promote transparency.

### **Addressing Regulatory Barriers**

- Continues to direct the Administration to reduce or eliminate regulatory barriers to services trade.
- Targets common problems that U.S. service suppliers and investors encounter, including updated provisions that seek greater openness, transparency, and convergence of standards-development processes, and encourages the use of international and interoperable standards.
- For the first time, directs governments to limit collection of proprietary information and protect such information against disclosure.
- Promotes regulatory compatibility through harmonization, equivalence, or mutual recognition.

### **Protecting Intellectual Property**

- Directs negotiators to further promote adequate and effective protection of IPR and to ensure that trade agreements provide a high standard of IP protection similar to that found in U.S. law.
- Targets cyber theft and protects trade secrets with new provisions.
- Provides for strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property, including in a manner that facilitates legitimate digital trade.