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Master's Thesis of Public Administration

**A Study on the Reauthorization of the
Trade Promotion Authority in 2015
- Implications for U.S. Trading Partners -**

**2015 무역촉진권한의 입법에 관한
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Graduate School of Public Administration

Seoul National University

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Abstract

A Study on the Reauthorization of the Trade Promotion Authority in 2015 - Implications for U.S. Trading Partners -

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Trade Promotion Authority (“TPA”) – formerly known as “fast track” – was reauthorized in June 2015 after heated debates in the U.S. Congress. TPA is a political mechanism by which Congress delegates its authority to the President for the purpose of negotiating and entering into certain preferential trade agreements. The most recent TPA expired in July 2007, and it had not been granted to the President in the ensuing eight years. This study suggests that TPA was reauthorized in 2015 through the interaction and compromise between the two important actors in U.S. trade policy, the Executive and Congress, regarding an overarching trade agreement - the Trans-Pacific Partnership (“TPP”). The Obama Administration aimed to establish new trade governance through 21st century trade agreements represented by TPP. Structural factors, such as the rise of China and the economic crisis in the United States in 2008 played an important role in shaping the strategy of the Obama Administration. The U.S. Congress had conflicting interests in TPA as well as TPP. It had motives for expanding free trade while minimizing the negative impacts that trade agreements could have on U.S. industries and workers. In the legislative process of TPA-2015, therefore, the Administration and Congress each had to compromise to a certain degree, which led to changes in the contents of

TPA-2015. The critical changes of TPA-2015 are summarized as the expanded trade negotiating objectives, the strengthened role of Congress in trade negotiations, and the increased transparency and accountability during and after trade negotiations.

The substance of TPA-2015 and its legislative process have important implications for U.S. trading partners. By incorporating key priorities and interests of the U.S. Congress with respect to trade negotiations, TPA-2015 provides some clues on the future trade negotiating objectives of the U.S. government. In addition, newly introduced procedural requirements in TPA-2015 are likely to affect the substance and timeline of trade negotiations in which the United States engages and thus may also influence U.S. trading partners in the negotiation process. Finally, the dynamic legislative process of TPA-2015 shows the growing influence of other stakeholders, including industries, labor unions and civic groups, on trade negotiations, and this trend is likely to continue.

Keywords: Trade Promotion Authority (TPA), Congress, Executive, trade negotiations, Trans-Pacific Partnership (TPP), U.S. trading partners

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1. Introduction

1.1. Background and Purpose of Study

The Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (“2015 Act”), legislation to grant Trade Promotion Authority (“TPA”) – formerly known as “fast track¹” - to the President of the United States, was enacted on June 29, 2015. It is not surprising that a bill to reauthorize TPA was controversial in the United States. After the most recent TPA expired in July 2007, TPA had not been granted to the President in the ensuing eight years. On April 16, 2015, a bill to renew TPA was introduced in both the Senate and the House of Representatives.² The Senate bill, with three amendments, was joined with legislation extending Trade Adjustment Assistance (“TAA”) and passed by the Senate on May 22, 2015. However, the legislation combining TPA and TAA was defeated in the House of Representatives on June 12, 2015. The House voted again on TPA alone and passed this measure on June 18, 2015. This legislation also passed the Senate on June 24 and was signed by President Barack Obama on June 29, 2015.

TPA is a political mechanism by which Congress delegates its authority to the President for the purpose of negotiating and entering into certain preferential trade agreements (“PTAs”). According to Hal Shapiro, TPA is a peculiarly American institution, reflecting the unique challenge of making trade policy in a system where power is divided between the Executive and Legislative branches (Shapiro, 2006). Under TPA, by expedited legislative procedures for limited

1 The current version of Trade Promotion Authority has its origin in the Trade Act of 1974. The authority delegated to the President was called “Fast Track Authority” in the Trade Act of 1974. The authority was renamed “Trade Promotion Authority” in its renewal in the Trade Act of 2002. Both terms will be used in this thesis.

2 Before the introduction of a bill in 2015, a similar bill to renew the expired TPA (“Bipartisan Congressional Priorities Act of 2014”) had been introduced in January 2014 (113th Congress), but it never became law. More detailed information on this issue appears in Chapter 4 of this study.

periods of time, the President could negotiate trade agreements with other countries and implement international trade agreements that require changes in U.S. law. However, under TPA, Congress sets the overall direction of trade negotiations, as well as more specific negotiating objectives. TPA also establishes a series of procedural requirements, including notification and consultation, applicable to the President. Legislation to authorize TPA is often regarded as the product of conflict and compromise, after years of disagreement between Congress and the President. This is mainly because the U.S. Constitution gives Congress the authority to regulate foreign trade³, while it gives the power to make international treaties to the President by and with the advice and consent of the Senate⁴. As relations between the Executive and Congress changed over time, so too did the balance of power between the two branches over the regulation of foreign trade. The Reauthorized Trade Promotion Authority of 2015 (“TPA-2015”) retains certain features of previous versions, including the strengthened power of Congress in the trade negotiation process.

In 2015, not only the Obama Administration, but also a substantial number of countries paid close attention to the efforts of the U.S. Congress to pass a bill to reauthorize TPA. In particular, eleven Pacific Rim countries which were negotiating with the United States on the Trans-Pacific Partnership (“TPP”) - Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam – carefully monitored the legislation process, as TPP would likely be the first agreement signed and ratified under TPA-2015. The resurrection of TPA also had additional significance for U.S trading partners, as the 2015 Act would regulate ongoing and future trade negotiations of the U.S. in terms of substance as well as procedure. On January 23, 2017, newly-elected U.S.

³ U.S. Const. art. I, §8, cl. 3.

⁴ U.S. Const. art. II, §2, cl. 2.

President Donald Trump signed an Executive Order formally the U.S. from TPP, TPA-2015 remains important for both TPP member countries and other U.S. trading partners. The logic behind this argument is that the Trump administration already began renegotiation of existing U.S. free trade agreements (“FTAs”), such as the North American Free Trade Agreement (“NAFTA”), which are subject to TPA-2015. In addition, some experts, including former U.S. Trade Representative Michael Froman, predict that TPP will survive after all⁵. It is important for potential partners in trade negotiations with the U.S. to understand TPA-2015 how it differs from the former TPA, and what brought about the changes to TPA-2015.

This study aims to explain why TPA was resurrected and what accounts for the substantive and procedural changes in TPA-2015. The study focuses on the political dynamics among key actors during the legislative process and then tries to identify the major implications of TPA-2015 regarding trade negotiations for U.S. trading partners. After first examining the main contents of TPA and key changes in TPA-2015, the dynamic interactions between Congress and the Administration are analyzed as a critical factor which influenced passage of the 2015 Act and changes in TPA-2015. By explaining how interactions between the two policymakers affected the renewal of TPA in 2015 and the key changes in the 2015 Act, this study seeks to contribute to an understanding of TPA-2015 and its substantive and procedural implications for U.S. trading partners. The results of this study may prove useful for trade authorities throughout the world, as they prepare for potential trade negotiations with Washington.

⁵ For example, Jeffrey Schott of the Peterson Institute for International Economics (PIIE) suggests that the TPP may rise from the dead, with a new name and slightly altered provisions (Schott, 2017). Similarly, Former USTR Michael Froman predicted at a symposium in Japan that “TPP will make its way into effect, in one form or another.” (March 21, 2017)

1.2. Scope and Method of Study

This thesis starts its argument from the premise that structural factors, such as domestic and international economic conditions, affect the formation of policy goals. Policy changes occur as a result of the interactions between major actors in the course of making efforts to achieve their policy goals. With respect to the scope of the analysis, this study pays close attention to the two most influential actors, the U.S. Congress and the Executive. In analyzing their respective goals and the dynamic interactions between them, TPP is treated as an important background. As the first agreement concluded and signed under TPA-2015, TPP was necessarily related to the reauthorization of TPA-2015; this point will be developed further in the following chapter.

This study also analyzes in detail the text of the 2015 Act. Critical changes in TPA-2015 are divided into two categories: changes in the substance of trade negotiation and changes in procedural requirements imposed on the President. The changes in the substance of trade negotiation are examined by analyzing the trade negotiating objectives of TPA-2015. Trade negotiating objectives are an essential part of the legislation granting TPA. In exchange for delegating its authority to regulate international trade to the Administration, Congress directs the Administration to pursue specific goals in trade negotiation. In addition, TPA requires the President to notify and consult with Congress before, during, and upon completion of trade negotiations. The changes in procedural requirements will be examined by scrutinizing the notification and consultation mechanism of TPA-2015 as compared to TPA-2002.

With regard to research methodology and data collection, this thesis relies mainly on an in-depth case study of the discussions and interactions that occurred between the two policymaking institutions of the United States government before and after the enactment of TPA-2015. The principal resources for analysis are those between 2013 and 2015, the most critical period for TPA-2015 legislation.

In the course of the case study, various sources are cited, including news articles, academic journals, statements and official remarks of the President and important members of Congress. Given the basic nature of historical investigation, additional resources, such as letters, transcripts of hearings, and press releases are also used extensively. Analysis of the provisions of the 2015 Act to reauthorize TPA mainly depends on a review of the research literature. Considering the fact that there has not yet been sufficient academic research on TPA-2015, official records and documents of Congress, such as reports by the Congressional Research Service (CRS) are frequently referred to in this study. Legal study of specific provisions of the 2015 Act are paralleled by the research literature. The legal study focuses on the key differences between the legislation reauthorizing TPA-2002 and TPA-2015.

This thesis is comprised of five parts. Chapter 1 introduces the research question of this study – how TPA was reauthorized by Congress in 2015 and what are the key features of TPA-2015 in terms of its substantive and procedural aspects -- and describes the purpose, scope and method of the study. Chapter 2 discusses the history of U.S. trade policy, as well as previous studies of TPA and explains the analytical framework of this study. Chapter 3 analyzes the main contents of TPA and key changes in TPA-2015 through research on the key provisions of the 2015 Act, in particular the trade negotiating objectives and procedural requirements. Chapter 4 explains how the political dynamic between the two branches affected the renewal of TPA and important changes in TPA-2015. The substance and process of negotiation of the Trans-Pacific Partnership (TPP) and the linkage between TPP and TPA are also considered. Finally, Chapter 5 and 6 summarize key findings of the study and the major implications of TPA-2015 for U.S. trading partners, while acknowledging the limitations of this study.

2. Literature Review and Analytical Framework

2.1. Overview of U.S. Trade Policy

As the distribution of power between Congress and the Executive is prescribed in the U.S. Constitution, U.S. trade policy has been greatly influenced by changes in the dynamic relationship between the two institutions. Most studies on the history of U.S. trade policy have found that the dynamics between the Executive and Congress have changed drastically with the Reciprocal Trade Agreements Act (RTAA) of 1934 and the Trade Act of 1974 (Hwang Junho, 2003). This section summarizes how U.S. trade policy has changed over time, focusing on the three periods classified by the aforementioned two Acts.

2.1.1. The 1st period: Before 1934

From the 19th century to the early 1930s, the U.S. Congress practically led U.S. trade policy⁶. The Smoot-Hawley Tariff Act of 1930 was representative and proof of the active participation of Congress in trade policy-making. At that time, the main instrument of trade policy was the tariff. The Smoot-Hawley Act greatly increased U.S. tariffs and is considered the most protectionist trade legislation in U.S. history. Congress enacted this law with the aim of protecting domestic industry, which faced severe difficulties with the onset of the Great Depression. However, the decline in U.S. imports, due to tariff increases, triggered retaliatory tariff measures from trading partners, which exacerbated the Great Depression. In the end, Congress transferred much of the authority for trade policy, including the power to set tariff levels, to the Executive.

2.1.2. The 2nd period: 1934-1974

The U.S. Congress, witnessing the deterioration of the trade environment in the Great Depression, enacted the Reciprocal Trade Agreements Act of 1934,

⁶ “Trade Promotion Authority (TPA) and the Role of Congress in Trade Policy”, by Ian F. Fergusson, Congressional Research Service Report, June 15, 2015

regarded as the first free trade legislation in U.S. history. The RTAA enabled the transfer of authority for trade policy from Congress to the Administration, but the transferred authority was limited in some respects. First, the President was given the authority to cut tariffs in trade negotiations without consulting Congress; however, the authority was limited to reductions not exceeding 50% of existing tariffs, and the Executive's authority was limited to three years. In addition, the RTAA delegated authority to the Administration to initiate negotiations for tariff reduction, when enacting or amending future trade laws, but established a limitation in advance on the bargaining powers of the President.

As Congress delegated some of its trade policy authority to the President, the U.S. trade policy-making process underwent major changes (Choi Byung-sun, 1999). First, U.S. tariffs were converted into 'bargaining tariffs' with the enactment of RTAA, which could be changed according to the results of trade negotiations led by the Administration within the pre-established level of tariff cuts set by Congress. Second, Congress began to delegate its trade negotiating authority regularly to the President after the RTAA. Third, Congress became able to effectively respond to domestic protectionist pressure. Even if some interest groups that were disadvantaged by the outcome of the trade negotiations complained to Congress, it could resist this pressure, by asserting its position that it did not have the power to intervene or overturn the outcome of trade negotiations completed by the Executive.

By 1945, the Roosevelt Administration, which took the initiative in trade negotiations based on the delegation of authority in RTAA, was able to cut tariffs on 64% of all items by an average of 44%. In short, the enactment of RTAA expanded global trade, directly as well as indirectly, and liberalized trade all over the world.

2.1.3. The 3rd period: 1974-Present

In the 1970s, the international free trade regime led by the United States faced a significant crisis, as the economic, political, and institutional foundations

supporting that free trade regime began to collapse. As the economic development of France, Germany and Japan accelerated in the late 1960s, the relative status of the U.S. economy gradually weakened. Protectionist sentiments became prevalent among U.S. companies, as the export growth of U.S. products declined, while imports from foreign countries increased significantly. Extensive demands for protection brought modifications to the legislative trend of allowing more autonomy to the President in trade negotiations. In other words, Congress expressed its intention to participate in the process of making trade policy.

Against this background, the Trade Act of 1974 redefined the relationship between Congress and the Executive in terms of trade policy (O'Halloran, 1994). Although the 1974 Trade Act gave the Executive new trade negotiating authority, the role of Congress also increased dramatically, not only during trade negotiations but also in the implementation of trade agreements. First, Congress gave the President the authority to cut tariffs by up to 60% and to enter into trade agreements that would eliminate non-tariff barriers. After the Trade Act of 1974, international trade negotiations now needed the approval of Congress, unlike formerly, when Presidents were able to reduce tariffs by proclamation. In addition, Congress adopted the pre-negotiation system, whereby the Executive should consult with Congress and with domestic producers before and during trade negotiations. Congress also obligated the Administration to respond swiftly against unfair trade practices of foreign countries and facilitated the relief of damage caused by imports.

The most significant feature of the 1974 Trade Act was the introduction of "fast track". With the introduction of this expedited procedure, Congress granted the Administration broad trade authority covering tariff and non-tariff barriers, while at the same time it devised a mechanism to monitor or control the Executive's authority. Congress tried to control trade negotiations before, during and after the negotiation process by including provisions in the 1974 Trade Act that

required the Administration to consult with Congress. On the other hand, Congress gave up part of its ability able to amend the outcome of trade negotiations conducted by the Administration and began to determine only whether or not to pass it. The new U.S. trade structure, initiated with the introduction of the fast track procedure, has evolved into the current Trade Promotion Authority procedure with slight modifications. Table 1 shows the history of requests and grants of TPA by and to the Presidents since 1934.

< Table1 > Congressional Trade Agreements Authority Requested by and Granted to Presidents

President	Requested Authority	Received Authority	Legislative Authority- Public Law	Negotiations Under or Concluded (Date signifies conclusion)
Roosevelt	Yes	Yes	Reciprocal Trade Agreements Act of 1934. Renewed 1937, 1940, 1943 and 1945	Bilateral reciprocal tariff agreements with various countries
Truman	Yes	Yes	Trade Agreements Extension Act of 1948, renewed in 1949 and 1951	General Agreements on Tariffs and Trade (GATT) negotiations: Geneva Round (1947); Annecy Round (1949); Torquay Round (1951)
Eisenhower	Yes	Yes	Trade Agreements Extension Act of 1953.	GATT Negotiations: Geneva Round (1959); Dillon Round (1962)
Kennedy	Yes	Yes	Trade Expansion Act of 1962	Kennedy Round
Johnson	Yes	Yes	Trade Expansion Act of 1962	Kennedy Round (1967)
Nixon	Yes	No	Trade agreements authority lapsed from July 1, 1967, to January 3, 1976. Nixon resigned on August 9, 1974	
Ford	No	Yes	Trade Act of 1974	Tokyo Round
Carter	Yes	Yes	Trade Act of 1974	Tokyo Round (1979)
Reagan	Yes	Yes	Trade Agreements Act of 1979, Trade and Tariff Act of 1984	Uruguay Round; U.S.-Israel FTA (1985); U.S.-Canada FTA (1988)

Bush I	No	Yes	Omnibus Trade and Competitiveness Act of 1988	Uruguay Round; North American Free Trade Agreement (1993)
Clinton	Yes	Yes	Omnibus Trade and Competitiveness Act of 1988, renewed 1993. Authority lapsed from April 15, 1994, to August 6, 2002	Uruguay Round (1994) Jordan (2002) (not considered under TPA)
Bush II	Yes	Yes	Bipartisan Trade Promotion Authority Act of 2002. Authority lapsed from July 1, 2007, to June 28, 2015	World Trade Organization (WTO) Doha Round; FTAs with Chile (2003), Singapore (2003), Australia (2004), Morocco (2004), Dominican Republic-Central America (2005); Oman (2006), Peru (2007), Colombia (2011), Korea (2011), Panama (2011).
Obama	Yes	Yes	Bipartisan Congressional Trade Priorities and Accountability Act of 2015	Doha Round; Trans-Pacific Partnership (TPP); TransAtlantic Trade and Investment Partnership (T-TIP); Trade in Services Agreement (TISA)

Source: Modified and updated from the original table in “Trade Promotion Authority and the Role of Congress in Trade Policy,” CRS Report, June 15, 2015

2.2. Literature Review on TPA and U.S. Trade Policy

2.2.1. Literature Review on TPA

The previous studies on TPA largely fall into three categories: historical, legal and political analyses. From the historical point of view, the background and motive for the delegation of authority – why TPA was introduced – has been analyzed by many scholars. As Shapiro points out, TPA is the product of an evolutionary process of rebalancing and refining the responsibilities of the President and Congress in international trade policy (Shapiro, 2006). As discussed earlier, the initial delegation of authority from Congress to the President took place with the enactment of the Reciprocal Trade Agreements Act of 1934 (“RTAA”). The RTAA authorized the President to reduce tariffs within guidelines established by Congress. In this respect, RTAA was important in that Congress, for the first time, explicitly delegated to the President expanded authority concerning trade agreements. By its delegation of authority, Congress was able to reduce political pressure it often faced from special interests (Destler, 2005; Pastor, 1980). The RTAA’s transfer of authority to set tariffs from Congress to the President was an important factor in the expansion of free trade policy in the United States (Baik Chang Jae, 2015). Although the delegation of authority began in 1934, the current version of TPA has its roots in the Trade Act of 1974 (“1974 Act”). The 1974 Act expanded the scope of authority delegated to the President, allowing the President to enter into international trade agreements that affected both tariffs and non-tariff barriers (Wright, 2004). The prevailing view is that Congress introduced a special, fast-track procedure to the process of legislating the outcome of trade negotiations on non-tariff barriers (“NTBs”) for the reason that the implementation of trade agreements on NTBs required modifications to domestic laws and regulations, unlike trade negotiations on tariff barriers (Kim Dong-Hun, 2009).

Theories on the legal necessity for the delegation of authority focus on the

type of trade agreements presented to Congress after the 1960's. For example, Harold Koh notes that approval mechanisms applied to trade agreements before 1974, by Congressional-Executive agreement or 'sole' Executive agreement, exhibited policy defects in the 1965 United States-Canada auto pact and the Kennedy Round of GATT negotiations (Koh, 1992). He argues that the fast track procedure offered a device which both authorized and limited the President's discretion in negotiations. Similarly, VanGrasstek explains that fast track procedure was introduced because the approval mechanism, as a form of Executive agreement and which was widely used before, was inapplicable to trade agreements with respect to NTBs (VanGrasstek, 1997). VanGrasstek points out that controversies on NTBs at the late phase of the Kennedy Round resulted in Congress not granting authority to the President. Other theories conclude that fast track is a device to facilitate negotiations with foreign countries (Destler, 1992), or to prevent the implementing bill of a trade agreement from becoming a "Christmas tree" bill, adorned with protectionist measures for the sake of specific industries (Snow & Brown, 1997). All of these theories are somewhat limited, in that they reflect a single aspect of the background of the introduction of TPA.

On the other hand, TPA has been analyzed as an embodiment of the dynamic relations between Congress and the President in foreign trade policy. Since the 1970s, trade policy has been recognized as a policy area where Congress is more actively involved than in any other area of foreign policy. This is mainly due to the fact that trade policy is at the intersection of international policy and domestic policy (Spitzer, 1993). Since the fast track procedure was created by the 1974 Act, Congress and the Administration have both competed and cooperated in the process of making trade policies. The competition between the two branches over trade policy has played an important role in dividing responsibilities and accountability between Congress and the Administration in pursuing a trade policy which promotes the national interest of the United States (Choi Byung-Sun, 1999).

Nivola's theory of "Good Cop, Bad Cop" clearly shows the cooperative relation between the Legislative and Executive branches in the process of trade negotiations. He explains that the Administration acts like a "good cop," by including a clause to promote free trade in the agreement, while Congress behaves like a "bad cop," by seeking to correct the unfair practices of trading partners and to protect U.S. products (Nivola, 1990). From the point of view that focuses on the distribution of power between the two branches, the initial delegation of authority by RTAA in 1934 represents the transfer of more power from Congress to the President. Similarly, the introduction of fast track procedure by the 1974 Act is evidence of Congress beginning to recover its authority regarding trade negotiations. According to O'Halloran, the 1974 Act redefined the relationship between Congress and the Administration in terms of trade policy-making by setting a new standard for the level and scope of authority delegated to the President and by devising Congressional instruments to oversee the delegated authority (O'Halloran, 1994).

While previous theories and literature provide useful frameworks to interpret the background, nature and impact of TPA, the details of the substance and significance of TPA itself have been overlooked for many years. For example, Son Tae Woo points out that there are few studies that examined the contents of TPA, because most previous research discussed the reauthorization of fast track procedure and the enhanced power of the President in negotiating with foreign countries (Son Tae Woo, 2006). However, the details of TPA and the factors which led to major changes in the legislation to renew TPA are also worthy of analysis; they provide significant policy implications for U.S. trading partners and assist international trade authorities in predicting the future direction of U.S. trade policy. The main contents of TPA and the factors contributing to the transformation of TPA as an institution will be analyzed in this study.

2.2.2. Literature Review on the Determinants of U.S. Trade Policy

Considering the fact that TPA itself is a generic trade policy as well as an important trade institution of the United States, a review of the previous literature on U.S. trade policy will be helpful in understanding the intent of the TPA-2015 legislation. Previous research on U.S. trade policy-making has analyzed the origin or determinants of U.S. trade policy from diverse standpoints. First, there is a view that structural or external factors, such as changes in the world economy, trade order, or relative economic power, determine a country's trade policy. For example, Kindleberger identified a close causal relationship between the international free trade order and U.S. hegemony after World War II. He argues that the post-war free trade order was created and maintained by the supremacy of the United States. The status of the U.S. as the hegemonic power in this order determined Washington's trade policy (Kindleberger, 1973). However, research which focuses on the structural factors has limitations, in that it cannot explain the specific decision-making process of trade policy.

On the other hand, studies that emphasize domestic political dynamics have focused on the interests of domestic social forces and policymakers. The "social coalitional approach" interprets U.S. trade policy as a result of the struggle between diverse social coalitions. In other words, each coalition has a particular interest in trade policy and U.S. trade policy is determined by the outcome of political conflicts. There are also a number of studies that analyze the influence of trade-related interest groups. Many scholars have pointed out the politics of interest groups as the cause of protectionist trade policy. For example, Schattschneider analyzed the legislative process of the Smoot-Hawley Tariff Act. The nature of trade policy, concentrating the benefits in few people, but distributing the cost among many people, and politics among interest groups gave rise to the disaster of the Smoot-Hawley Tariff Act, the worst protectionist law in U.S. history

(Schattschneider, 1963). Notwithstanding the strength of the theory in explaining the complicated dynamics of policy formation, this theory has its weakness; it cannot explain the different trade policies in the Administration, where the demands of interest groups remain the same.

In addition, some studies have paid attention to the role of the state in formulating foreign economic policies. From this perspective, the state can avoid the pressure of social forces and pursue foreign economic policies independently, by reorganizing the institutions and power structures, or by redefining the nature of the issues (Baik, 1994). While each of the theories presented above can explain some aspects of the determinants of U.S. trade policy, each has limitations in analyzing the reasons for or background of particular trade legislation. The analytical framework of U.S. trade policy-making process presented by Baik Chang-Jae integrates several variables and explains the relationship between them. According to this model, structural, institutional and demand variables at a particular time affect social groups and policy makers, and policy outcomes are derived from the process as their preferences, resources and strategies change (Baik, 2015). However, this model is weak in explaining the complicated decision-making process of a particular policy. To analyze the process of policymaking in detail, a more policy-oriented approach is necessary. In the case of TPA-2015, careful consideration of the important players and critical issues in the legislative proceedings should be considered alongside each other.

2.3. Analytical Framework

This study aims to examine how and why the substance of TPA-2015 changed, mainly focusing on the conflict, compromise and interaction between Congress and the Administration. Many previous studies analyzed changes in U.S. trade policy, with attention to the dynamic relations between Congress and the

Administration. This is natural, considering the fact that the power to regulate international trade is divided between these two institutions in the United States. In addition, Trade Promotion Authority has made the political dynamics between the two branches even more complicated. On the other hand, it is important to understand the background which influences the development of the policy goals of each actor. An analysis of the external factors, such as international economic conditions or domestic political contexts, may provide a useful framework to understand the motives and interests of each policy participant. External factors include changes in the global economic order and international trade system, as well as the economic and political conditions of the national economy.

The global and domestic economic conditions or changes around the time that TPA-2002 expired should be seen as a structural factor that can help us to understand the background of the interests and motivations of each policy actor. During the first decade of this century, the trade deficit of the United States continuously worsened, while the economic status of China increased significantly. The global financial crisis of 2007 and 2008 confirmed this new economic order and the United States had to find effective ways to deal with the rise of China (Lee Seungjoo, 2015). Domestically, on the other hand, the public's negative perception of free trade agreements has grown. In 1993, during the signing and ratification of the North American Free Trade Agreement ("NAFTA"), public concern over free trade agreements rose to the surface in American society. As the trade deficit of the U.S. increased and domestic economic conditions deteriorated, anti-trade sentiment also grew. These concerns and frustrations over free trade agreements reached their peak prior to the U.S. Presidential election in November 2016.

In these political and economic circumstances, influential stakeholders in U.S. trade policy – Congress and the Executive – developed their own interests and pursued their strategies to achieve their policy goals. For example, the Obama Administration had a policy goal of establishing a new trade regime, as a means to

cope with the rise of China and to recover U.S. initiative in system of international trade (Lee, 2015). In Trade Acts, Congress had to reconcile two conflicting demands of major social forces -- the expansion of free trade policy and the minimization of the negative effects of free trade agreements. Additionally, interests and preferences of other important actors in trade policy, such as industries, labor unions and civic groups influenced the interaction between the two key stakeholders. Specifically, most U.S. industries formed a policy coalition supporting free trade in tandem with the Administration and the Republicans while labor unions and civic groups established a coalition against free trade in cooperation with many Democrats. As articulated in “advocacy coalition framework” by Sabatier (1986), policy change -- the enactment of TPA-2015 -- was made through conflict, compromise and interaction between coalitions in the process of adjusting their goals and strategies.

As a critical momentum that triggered the enactment of TPA-2015, this study will focus on the negotiation of the Trans-Pacific Partnership and its influence on the legislative process as well as the substance of TPA-2015. The relevance of the analysis of the TPP negotiations to the reauthorization of TPA-2015 can be summarized as follows. First, U.S. engagement in TPP almost coincides with the eight-year period without TPA, after TPA-2002 expired in July 2007. Since the expiration of TPA-2002, the U.S. government has been involved in several trade negotiations, including the TPP, the Transatlantic Trade and Investment Partnership (TTIP) and the Trade in Services Agreement (TiSA). Among these, TPP was a leading trade agreement in terms of its negotiation progress and political significance. Second, the close connection and interdependence of TPA and TPP was clearly stated by policy participants. For example, John Podesta, the White House special adviser, said that the lack of TPA made it hard to conclude TPP⁷.

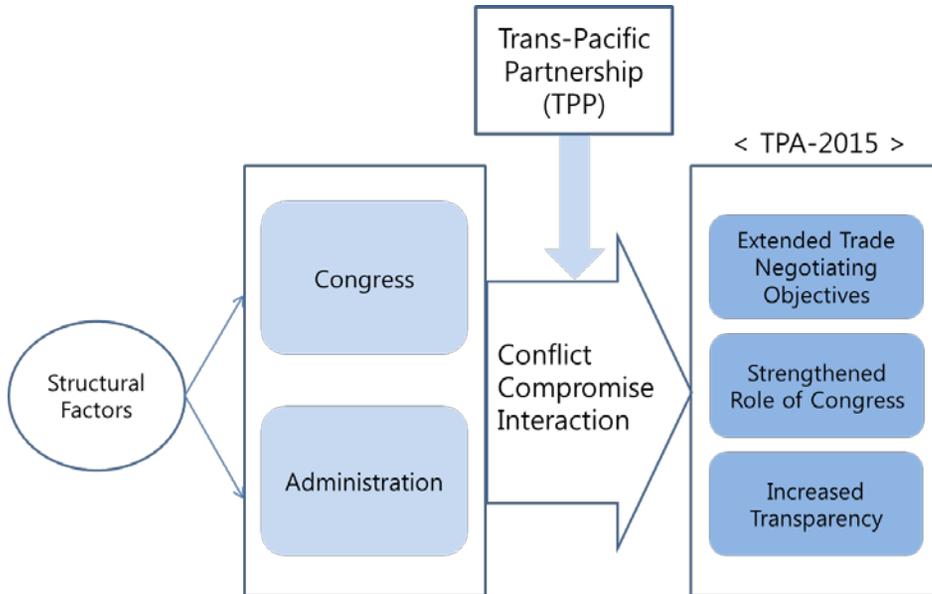
⁷ “White House Adviser Says TPP, Other Deals Hard To Conclude Without TPA,” Inside

Since TPA was institutionalized, the linkage between trade agreements and TPA was gradually strengthened. The TPA-2015 and TPP were no exception to this trend; the strategies of each policy participant and interactions between key stakeholders in the process of TPP negotiations greatly influenced the reauthorization of TPA in 2015. Third, unlike the usual practice of the Administration for securing TPA prior to the initiation of trade negotiations, the Obama Administration began the TPP negotiation first, in the absence of TPA, and then tried to obtain the trade authority (Cho Soohyun & Lim Haeran, 2015). In this process, negotiations on TPP and the new TPA interacted with each other. The substance and procedure of the TPP negotiation emerged as a major hurdle for the passage of TPA, and the contentious issues regarding TPP negotiation were reflected in the contents of TPA-2015, after the interplay between the Administration and Congress. This can be interpreted as a “policy feedback” where enacted policies shape or affect the political behavior of diverse stakeholders and eventually lead to transformations in subsequent policymaking (Pierson, 1993; Sabatier & Weible, 2014). In this case, an enacted specific trade policy -- the TPP -- reshaped the political behavior of primary stakeholders such as Congress, and close interactions among these stakeholders influenced the formulation of original policy -- the TPA.

In summary, this study aims to demonstrate that TPA-2015 was legislated as the Obama Administration endeavored to establish a new trade regime, represented by TPP, in collaboration with Congress under changing international and domestic economic conditions. This study also seeks to explain that the conflict and compromise between the Obama Administration and Congress in the legislative process of TPA-2015 resulted in critical changes in TPA-2015: extended trade negotiating objectives, the strengthened role of Congress, and increased

transparency. Figure 1 below shows the analytical framework of this study.

<Figure1> Analytical Framework



3. The Overview of TPA and Changes in TPA-2015

3.1. History of TPA

As explained in Chapter 2, the delegation of trade authority by Congress to the President began in 1934 with the enactment of the RTAA, but the current institution of Trade Promotion Authority had its origin in the fast track procedure introduced in 1974. Fast track authority was initially granted to the Executive for a five-year period in 1974 and has been continuously extended. Since 1974, it has been renewed five times: in 1979, 1984, 1988, 1993 and 2002. The authority was renewed with relatively little difficulty in the Trade Acts of 1979 and 1984 and in the Omnibus Trade and Competitiveness Act of 1988 (Shapiro, 2006). The fast track authority granted by the 1988 Act expired on April 1, 1993 but was extended through April 15, 1994 for the purpose of completing the Uruguay Round of GATT negotiations. This extension was possible because there was strong support for the Uruguay Round in Congress.

After fast track expired in 1994, Congress did not grant new authority to the President until 2002. Two reasons may explain the gap of eight years in trade authority. First, although the Republican leadership and the Clinton Administration both supported fast track authority, they disagreed on the negotiating objectives, especially those for labor and environmental issues. The Republicans wanted more limited coverage than President Clinton and many Democrats did. Another reason is that there were no major trade negotiations underway at the time; the 1999 WTO Ministerial meeting in Seattle failed to launch a new round of negotiations.⁸

In 2001, President George W. Bush requested renewal of fast track authority and Congress resurrected the authority under a new name, “Trade Promotion Authority,” in the Bipartisan Trade Promotion Authority Act of 2002 (P.L. 107-210).

⁸ “Trade Promotion Authority (TPA) and the Role of Congress in Trade Policy”, by Ian F. Fergusson, CRS Report, June 15, 2015

The legislative process of TPA-2002 was extremely controversial; Shapiro describes it as “the divisive battle to renew fast track” (Shapiro, 2006). The votes in Congress were along party lines, with Republicans supporting the bill and Democrats opposing it. The structure of TPA was similar to previous trade authority, but it included updated labor and environmental provisions and created an enhanced mechanism for Congressional consultation and oversight. In 2005, President Bush requested a two-year extension of TPA in accordance with the Trade Act of 2002, and it was extended until June 30, 2007. After the expiration of TPA-2002 in 2007, TPA did not draw much attention until President Obama requested reauthorization of TPA in July 2013.

3.2. Main Contents of TPA

It has been noted that Congress tried to incorporate its policy goals in the legislation to authorize TPA. These policy goals of Congress may be summarized as follows. First, Congress established the priorities and negotiating objectives of trade policy in TPA. Second, in the process of trade negotiation, Congress mandated that the Administration notify and consult with Congress on a regular basis. Third, TPA defined specific conditions for the President to enter into certain trade agreements and procedures for the approval of each bill implementing the trade agreements. Fourth, Congress devised a mechanism that limits the trade agreement authority granted to the President (Shapiro, 2006).

From the perspective of trade negotiations, the main contents of TPA can be divided into substantive and procedural aspects. The substantive aspects of TPA include trade negotiating objectives, which were frequently debated in Congress. The discussion usually revolved around the expanded scope of trade negotiating objectives (Kim, 2016). Since 1974, U.S. trade negotiating objectives have been revised and expanded by Congress to reflect a changing trade environment. TPA-

2002 set forth trade negotiating objectives in three categories: (1) overall objectives; (2) principal objectives; and (3) other priorities⁹. The negotiating objectives begin with the overall direction trade negotiations are expected to take and then develop more specific goals. Principal objectives are the most politically important set of objectives¹⁰. The principal objectives of TPA-2002 included reducing trade barriers and distortions, protecting foreign investment and intellectual rights, encouraging transparency, establishing fair regulatory practices, combating corruption, ensuring that countries enforce their environmental and labor laws, and providing for an effective dispute settlement process.

The procedural requirements of TPA, such as consultative, notification, and reporting requirements, were designed to improve transparency in trade negotiations and to maintain the role of Congress in formulating U.S. trade policy. For example, with regard to the consultative and notification procedure, the President is required to provide notice of the intention to enter into trade negotiations at least 90 calendar days prior to commencing those negotiations. In addition, the President must consult with the House Ways and Means, Senate Finance, other relevant committees and Congressional Advisory Groups (CAG) on the negotiations. In connection with the signing of a trade agreement, the President must report any potential changes in U.S. trade remedy laws to the Committee on Ways and Means of the House of the Representatives and the Committee on Finance of the Senate at least 180 calendar days before the actual signing. Operating on the premise that the President negotiated the trade agreement in accordance with the provisions of TPA, three more conditions must be met for implementation of the trade agreement. First, the President shall notify Congress of his intention to sign a trade agreement at least 90 calendar days prior to signing.

⁹ The Bipartisan Trade Promotion Authority Act of 2002 (P.L. 107-210)

¹⁰ “Trade Promotion Authority (TPA): Frequently Asked Questions,” by Ian F. Fergusson and Richard S. Beth, CRS Report, July 2, 2015

Second, the President shall provide Congress with a description of those changes to existing laws that the President considers will be required within 60 days after signing the agreement. Finally, after signing the agreement, the President shall submit four documents to Congress, on a day in which both Houses of Congress are in session: 1) a copy of the final legal text of the agreement, 2) a draft of an implementing bill, 3) a statement of any administrative action proposed to implement the trade agreement and 4) supporting information, such as an explanation of how the implementing bill and proposed administrative action will change or affect existing law. The implementing bill submitted to Congress is enacted when it passes both chambers and is then signed by the President

3.3. Key Changes in TPA-2015

3.3.1. Overview

The 2015 Act is comprised of 11 Sections which include Trade Negotiating Objectives, Trade Agreements Authority, Congressional Oversight, Consultations, Access to Information, Treatment of Certain Trade Agreements for Which Negotiations Have Already Begun, etc. Compared with TPA-2002, a Section on Sovereignty, as well as on Congressional Oversight, Consultations, and Access to Information were added in the 2015 Act. Table 2 below shows the overall structure of the 2015 Act.

< Table 2 > Table of Contents of the 2015 Act

Section	Title
101	Short Title
102	Trade Negotiating Objectives
103	Trade Agreements Authority

104	Congressional Oversight, Consultations, and Access to Information
105	Notice, Consultations, and Reports
106	Implementation of Trade Agreement
107	Treatment of Certain Trade Agreements for Which Negotiations Have Already Begun
108	Sovereignty
109	Interests of Small Business
110	Conforming Amendments
111	Definitions

According to the overview of the 2015 Act prepared by the Ways and Means and Senate Finance Committees, TPA-2015 differs from former TPAs in several respects. First, TPA-2015 updated and modernized existing negotiating objectives to reflect today’s economic challenges. Second, the 2015 Act introduced new and expanded provisions to strengthen the consultation mechanism for the Administration with Congress and the public before, during, and after trade negotiations. Third, new and revised provisions were added in the 2015 Act ensuring that Congress reinforces its role to oversee trade negotiations and implementing bills. Another important feature of the 2015 Act created a new mechanism to 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.¹¹

To sum up, TPA-2015 retains certain traits distinguishing it from the previous TPAs, although the basic structure and key provisions of TPA-2015 are similar to those of TPA-2002. The key characteristics of TPA-2015 in terms of substance and procedures are set forth below. Based on these two categories,

¹¹ “Overview of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015,” by the Ways and Means Committee and Senate Finance Committee, April 16, 2015

substance and procedure, changes in trade negotiating objectives and in procedural requirements will be analyzed in the following sections.

- **Negotiating Objectives:** Existing trade negotiating objectives, including those for labor, environment, investment and IP, were upgraded and emerging trade agenda items, such as provisions concerning State-Owned Enterprises (SOEs), e-Commerce, global value chains (GVCs) and regulatory coherence, were newly incorporated.
- **Procedural Requirements:** The role of Congress to oversee, be involved, and control the negotiating process and implementation of trade agreements was strengthened and procedural transparency was improved.

3.3.2. Changes in Trade Negotiating Objectives

While TPA-2015 retains the structure of negotiating objectives established in TPA-2002, it incorporates new and emerging trade agenda items which were not addressed in previous legislation. Provisions on state-owned enterprises (SOEs), digital trade in goods and services and localization policies were added as principal negotiating objectives. This section analyzes some of the important changes updated or added in trade negotiating objectives, focusing on the principal objectives¹².

¹² Legislative backgrounds of changes in trade negotiating objectives were analyzed based on the Congressional Research Service Reports (“TPA: Frequently Asked Questions,” and “Trade Promotion Authority and the Role of Congress”), the Overview of the BCTPA of 2015 (April 16, 2015) and the press release on the introduction of a TPA bill by House Ways and Means Committee (“Hatch, Wyden and Ryan Introduce Trade Promotion Authority Legislation,” April 16, 2015).

First, a provision on digital trade in goods and services and cross-border data flows was set out in TPA-2015 (§102(b)(6)). The provision stipulates that electronically delivered goods and services are treated no less favorably than products delivered in physical form. The provision mandates that governments do not impede digital trade, restrict cross-border data flows, or require local storage or processing of data. This section does allow domestic regulations, required by legitimate policy objectives, that are the least restrictive on trade, non-discriminatory and transparent, and promote an open market environment. This provision is regarded as reflecting the recent increase in trade in digital services. The Congressional overview of the 2015 Act emphasizes that the new provision aims to facilitate digital trade, including protections for cross-border data flows, and recognizes the significance of the Internet in international trade.

Second, new and updated provisions to improve regulatory practices were introduced in TPA 2015 (§102(b)(7)). This objective seeks to reduce or eliminate the use of governmental regulations, such as discriminatory certification requirements or non-transparent health and safety standards, to hinder market access for U.S. goods, services, or investment. It also pursues more transparency and participation by affected parties in the development of regulations, consultative mechanisms to increase regulatory coherence, regulatory compatibility through harmonization or mutual recognition, and convergence in the standards-development process.

Third, a negotiating objective on State-Owned Enterprises (SOEs) was introduced in TPA 2015 (§102(b)(8)). This provision seeks commitments that eliminate or prevent trade distortions and unfair competition favoring state-owned enterprises to the extent of their engagement in commercial activity and ensure that

such engagement is based solely on commercial considerations. As international trade has expanded, and more U.S. firms operate in overseas markets, creating a “level playing field” in foreign markets has become increasingly important. U.S. firms recognize that they often face unfair competition with state-owned or state-influenced firms in foreign countries. The provision on SOE’s addresses this discrimination. It is noted that some TPP countries, e.g., Malaysia, Singapore, and Vietnam, have a significant number of SOEs; further, the provision on SOEs may pertain to future negotiations, potentially including those with other countries which have large SOE sectors, such as China and India.

Fourth, the principal negotiating objective regarding local barriers to trade was newly added in TPA-2015 (§102(b)(9)). This objective aims to eliminate and prevent measures, including indigenous innovation measures, that require U.S. producers and service providers to locate facilities, intellectual property, or other assets in a country as a condition for market access or investment. This provision addresses concerns that localization measures can create trade distortions and may be used for protectionist purposes, although localization can also be motivated by privacy and security concerns. Localization barriers are also addressed in the negotiating objective of foreign investment by provisions to restrict or eliminate performance requirements or technology transfers in the establishment or operation of U.S. investments abroad.

Fifth, TPA-2015 also updated principal negotiating objectives on labor and the environment (§102(b)(10)). According to the Congressional overview, the 2015 Act updated provisions on labor and environment, reflecting the United States’ most recent trade agreements. This provision requires trading partners to adopt, maintain, and not to waive or derogate measures implementing internationally recognized core labor standards in a manner affecting trade and investment and

multilateral environmental agreements to which the U.S. is a party. There are the same dispute settlement provisions and remedies as for other enforceable obligations.

Sixth, the controversial issue of currency manipulation was addressed to a certain degree in TPA-2015 (§102(b)(11)). The currency provision directs that trade partners avoid manipulating exchange rates, such as through cooperative mechanisms, enforceable rules, reporting, monitoring, transparency, or other means, as appropriate. Although attempts by some members of Congress to introduce an enforceable currency provision in TPA-2015 failed¹³, the 2015 Act elevated the topic of currency manipulation to a principal negotiating objective.

Lastly, a new negotiating objective was added to promote human rights (§102(b)(21)). This provision seeks to ensure implementation of trade commitments and obligations by strengthening good governance, transparency, the effective operation of legal regimes, and the rule of law of trading partners of the United States. The objective will be achieved through “capacity building” and other appropriate means, which are important parts of the broader effort to create more open democratic societies and to promote respect for internationally recognized human rights.

3.3.3. Changes in Procedural Requirements

In a broad sense, the basic procedural requirements of TPA were maintained in TPA-2015. However, as in the case of trade negotiating objectives, TPA-2015 also expanded the Congressional oversight mechanisms of the previous TPA (Kim, 2016). New provisions include the requirement for creating a transparency officer

¹³ More detailed explanation on the currency provision issue appears in Chapter 4 of this study.

at USTR and releasing the text of trade agreements 60 days before signing them. TPA-2015 also strengthened Congressional consultations with USTR and allowed any Member of Congress to participate in negotiating rounds. For instance, TPA-2015 strengthened Congressional oversight on trade negotiations by expanding reporting requirements on the effects of trade agreements and tightening entry-into-force procedures, as well as clarifying the scope of implementing bills. There are three elements to the procedural changes in TPA-2015: 1) a strengthened consultative mechanism with Congress and the public, 2) extended withdrawal authority of Congress, and 3) increased transparency.¹⁴

To begin with, the Administration's obligation to consult with Congress and the public was strengthened significantly and the role of Congress during the negotiations was extended. For example, a new provision in TPA-2015 states that the USTR, upon request of any Member of Congress, shall provide access to pertinent documents, including classified materials, relating to the negotiations (§104(a)(1)(B)). Within 120 days of enactment, the USTR is also required, in consultation with the Chairs and Ranking Members of the Senate Finance Committee and the House Ways and Means Committee, to develop written guidelines on enhanced coordination with Congress (§104(a)(3)(A)). The guidelines are to ensure timely briefing with any Member of Congress and the sharing of detailed and timely information with any Member of Congress, and Congressional or Committee staff with proper security clearances as appropriate, in light of Member or Committee responsibilities. On the other hand, in accordance with subsection 104(b), any Member of Congress may be designated as a Congressional adviser on trade policy and negotiations. In the course of trade negotiations, USTR shall consult closely and on a timely basis with these Congressional advisers. TPA-

¹⁴ Trade Brief No.28, Institute for International Trade of Korea International Trade Association (KITA), April 24, 2015

2015 also established the House and Senate Advisory Groups on Negotiations. Subsection 104(c) sets forth requirements for USTR to consult with and seek advice from these Advisory Groups and provides mechanisms for coordination with Members of Congress not on the Advisory Groups. Each member of the Congressional advisory groups shall be accredited by the USTR, on behalf of the President, as an official adviser to the U.S. delegation in negotiations. Furthermore, TPA-2015 established procedures for consultations with the public. According to subsection 104(d), the USTR shall, not later than 120 days after the date of enactment, develop written guidelines on public access to information regarding negotiations, in order to facilitate transparency, encourage public participation, and promote collaboration in the negotiation process. The guidelines shall include procedures that provide for rapid disclosure of information in forms that the public can readily find and use, and that provide frequent opportunities for public input through Federal Register requests for comment, and other means. TPA-2015 reinforced the procedure for the Administration to consult with Congress and the public. During the legislative process, Congress touted that these new and expanded provisions in TPA-2015 would empower Congress and ensure that it plays a meaningful role in trade negotiations¹⁵. It should also be noted, however, that the expanded consultative mechanism with Congress and the public may slow down the progress of trade negotiations and may influence U.S. trading partners in unexpected ways.

In addition, TPA-2015 introduced a new mechanism, called the Consultation and Compliance Resolution, to remove expedited procedures for a trade agreement, when the agreement does not meet the requirements of TPA. TPA already had a system of procedural disapproval, in which both chambers of Congress, acting

¹⁵ “Hatch, Wyden and Ryan Introduce Trade Promotion Authority Legislation,” Press release by House Ways and Means Committee, April 16, 2015

jointly, may withdraw trade authority procedures on an expedited basis, if the President failed or refused to notify Congress or consult in accordance with the 2015 Act (§106(b)(1)). Added to the existing disapproval resolution, the new Consultation and Compliance Resolution is a procedural mechanism by which each chamber of Congress may unilaterally withdraw trade authority procedures for that chamber (§106(b)(3)(4)). TPA-2015 specifies when a trade agreement is deemed not to meet the requirements of TPA. According to subsection 106(b)(1)(B)(ii), it is noncompliance when the President has failed or refused to notify or consult in accordance with this Act if 1) the President has failed or refused to consult in accordance with sections 104, 105 and 106, or, 2) guidelines under section 104 have not been developed or met, or, 3) the President has not met with the House Advisory Group on Negotiations or the Senate Advisory Group on Negotiations, or, 4) the agreement or agreements fail to make progress in achieving the purposes, policies, priorities, and objectives of this Act. CCR procedure was in the midst of a controversy, when a bill to renew TPA was drafted. The Republican and Democratic leadership disagreed over a specific procedure of CCR; as a result, the introduction of a bill in Congress was delayed for a considerable period of time¹⁶. With the introduction of the TPA bill, Congress had created a new mechanism, CCR, to enhance the accountability of the Executive in the process of trade negotiations and a strong, comprehensive tool for Congress to exercise control of negotiations. Although it is not expected that CCR or the disapproval resolution procedure would often be used (Kim, 2016), the role of Congress to oversee and control trade negotiations is strengthened with this new mechanism.

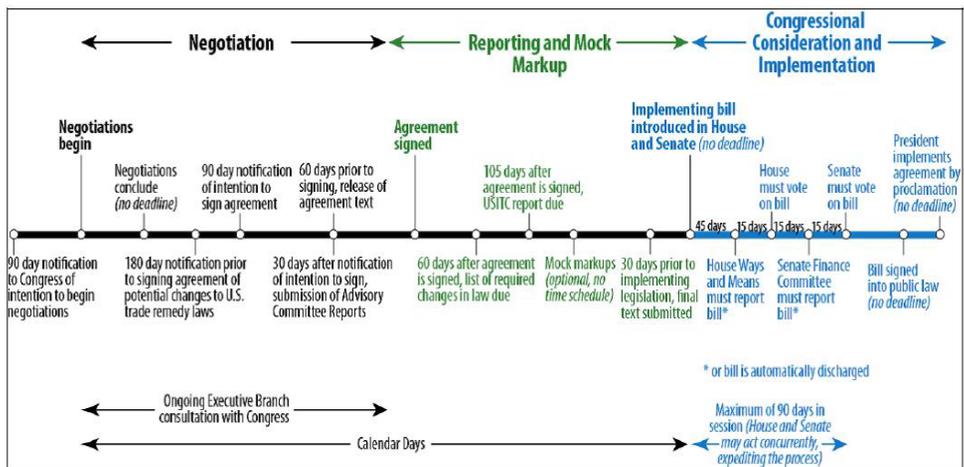
Lastly, new provisions to increase the transparency of trade negotiations were included in TPA-2015. For example, the President, at least 60 days prior to

¹⁶ “Bridging the Hatch-Wyden Divide Over Trade Promotion Authority,” by Daniel J. Ikenson, CATO Institute, April 15, 2015

signing an agreement, must publish the text of the agreement on a publicly available Internet website of the Office of the United States Trade Representative (§106(a)(1)(B)). In addition, at least 30 days before formally submitting the trade agreement to Congress, the President must provide to Congress a copy of the final legal text of the agreement and a draft statement of administrative action proposed to implement the agreement (§106(a)(1)(D)). In previous TPAs, only after signing the agreement was the President required to submit to Congress the final legal text, a draft of an implementing bill, a statement of administrative action, and supporting information. Another notable change in procedural requirements is that TPA-2015 created a Transparency Officer in the Office of the USTR. Subsection 104(f) states that there shall be in the Office (of the USTR) one Chief Transparency Officer. The Chief Transparency Officer shall consult with Congress on transparency policy, coordinate transparency in trade negotiations, engage and assist the public, and advise the USTR on transparency policy. All these new measures are expected to improve the transparency in trade negotiations to a considerable level¹⁷. Enhancing transparency during and after trade negotiations has become much more important in the United States, but some of the requirements, such as releasing the text of the agreement, may also affect the trading partners of the United States.

¹⁷ Trade Brief No.28, Institute for International Trade of Korea International Trade Association (KITA), April 24, 2015

<Figure2> Congressional Timeline under TPA-2015



Source: CRS, 2015

3.3.4. Summary

While TPA-2015 evolved from TPA-2002, it still maintains the basic structure and principal provisions of the former TPA. On the basis of the analysis above, the key characteristics of TPA-2015 can be summarized as the following three elements. First, TPA-2015 expanded trade negotiating objectives of the United States in the direction of incorporating new and non-traditional trade agendas. New trade agenda items include provisions on digital trade in goods and services, SOEs, currency, regulatory practices, and human rights. Policymakers, including Congress, have become more attentive to non-traditional trade issues beyond tariff barriers. Although these new negotiating objectives aim to eliminate disguised or hidden trade barriers, some issues are controversial in U. S. trading partners. For example, attempts to insert an article which prohibits or discourages currency manipulation in a trade agreement might face vehement opposition in other countries. Second, TPA-2015 enhanced the role of Congress to oversee, consult, and control trade negotiations to a great extent. Considering the history of TPA, this development is not new. Since the fast track procedure was introduced in

1974, Congress has consistently sought to strengthen its authority in trade negotiations (Hwang, 2009). In the case of TPA-2015, Congressional access to information on trade negotiations has greatly improved. While Congressional involvement in trade negotiations can be increased, this kind of information sharing can affect the negotiation itself and cause some unexpected, mostly negative, influences on U.S. negotiating partners. Third, procedural instruments were introduced in TPA-2015 to increase transparency and accountability during and after trade negotiations. Since TPA was introduced, efforts to increase transparency have continued. TPA-2015 further elevated these efforts and it is expected that this measure enhance the Administration's accountability in trade negotiations.

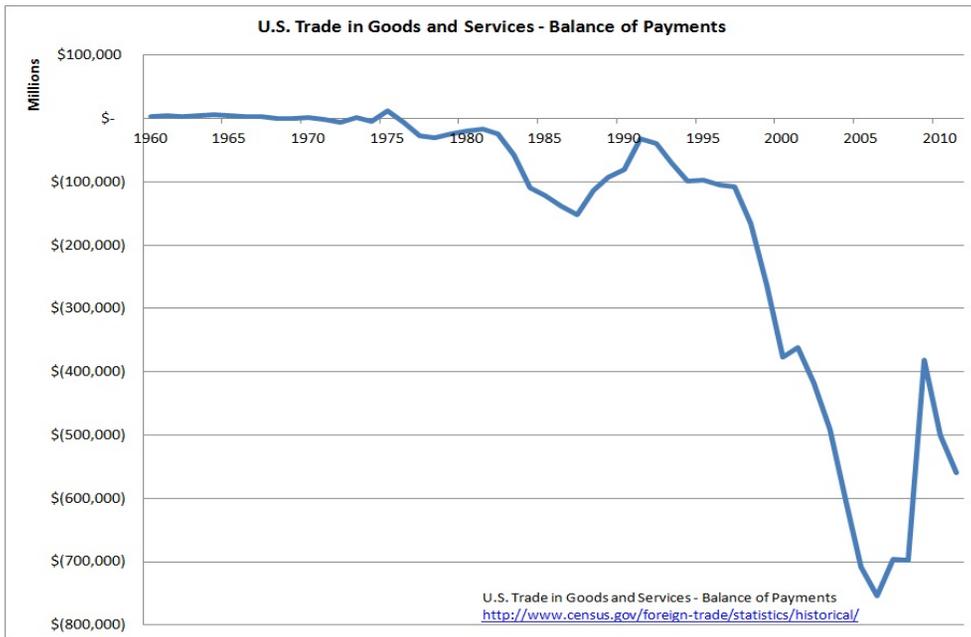
4. The Dynamics of the Renewal of TPA-2015

4.1. Global and Domestic Political Economic Conditions

TPA-2002 expired in July 2007. The period when TPA was not granted to the President is roughly in line with the Obama presidency. In the aftermath of the global financial crisis in 2007 and 2008, the world economies were facing the greatest economic downturn since the Great Depression. After his election as President in November 2008, Barack Obama's top priority was to solve the economic crisis as soon as possible. Accordingly, trade policy was conducted as a means to create jobs and to mitigate the growing U.S. trade deficit (Lee, 2015).

As seen in Figure 3, the U.S. trade deficit increased significantly since the early 2000s. Around 2005, the U.S. trade deficit reached \$ 800 billion, about half of which was from trade with China. In 2009, when global trade volume shrank sharply due to the economic crisis, the United States recorded a trade deficit of \$ 500 billion, of which \$ 225 billion was with China (See Figure 4). In other words, the decisive part of the U.S. trade deficit was the asymmetric trade relationship between the United States and China, and this growing trade imbalance could inevitably lead to conflicts. Furthermore, while the hegemony of the United States in the global economy was in relative decline, China had begun to increase its political and financial clout, especially in Asia, by means of its dramatic economic growth (Cho Soohyun & Lim Haeran, 2015). Accordingly, the U.S. government and the American public began to see the rise of China as a threat to the United States. The policy goal of responding effectively to the rise of China has become an important element of both U.S. foreign strategy and trade policy.

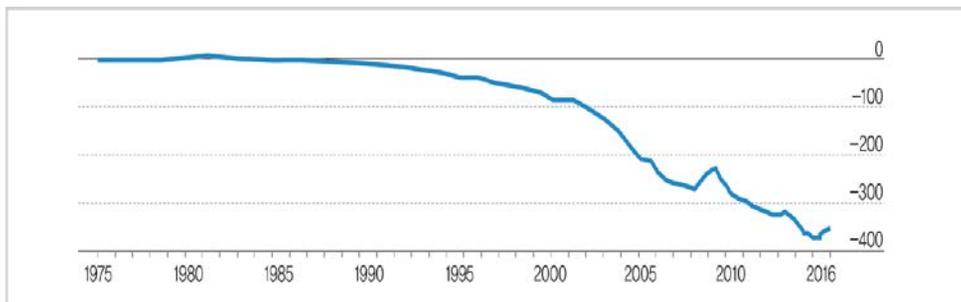
<Figure3> Trends of U.S. Trade Deficit



Source: US Census Bureau Foreign Trade Division (2013)

<Figure4> Trends of U.S. Trade Deficit with China

(Billion USD, by year)



Source: Haver Analytics (2017)

Another important external factor is that global trade governance began to change. The recent trend of the global trade order can be summarized as the decline of a multilateral approach, as represented by the World Trade Organization, and the

rise of bilateral, regional and mega-regional approaches as an alternative (Baik, 2015). The Doha Development Agenda (DDA) has been stalled from the beginning. Expectations for the conclusion of these multilateral negotiations have now almost disappeared, and major agenda items have been excluded from the negotiations (Schwab, 2011). The active participation in bilateral FTAs during the Bush administration and the pursuit of mega-FTAs in the Obama administration can be understood in this context.

On the other hand, it should be noted that in terms of U.S. domestic politics, public opinion in the U.S. became unfavorable towards the trade liberalization. According to a poll by the Pew Research Center in the 2000s, public opinion on trade liberalization and trade agreements suggested an overall ambivalence. In 2009, 43% of the American public thought FTAs were a “good thing” while 32% thought they were a “bad thing” for the United States. However, in 2010, the percentages were reversed, as 44% of the public viewed FTAs as a “bad thing, while only 35% regarded them as a “good thing” (Cooper, 2010). Moreover, despite the high level of support for free trade in 2009, the number of Americans who responded that free trade would reduce jobs was 53% and only 13% of the respondents said it would increase jobs. As the adverse effects of trade liberalization, such as unemployment, industrial hollowing out, and low wages, began to draw public attention, the voices against free trade, mainly from labor unions and civic groups, grew louder. These changes led to the politicization of trade issues. As pressure from interest groups and social forces began to influence the elections, trade emerged as a highly controversial issue in elections. In his 2008 Presidential campaign, Barack Obama announced that he would take a tough stance with U.S. trading partners on fair trade. In his re-election campaign in 2012, he emphasized that he would continue to pressure on China on trade (Lee, 2015).

The positions of Republicans and Democrats on trade policy have been

continuously polarized. While the Republicans showed almost doctrinaire support on free trade, the Democrats were strongly opposed to a policy of unconditional opening. To prevent the adverse effects of free trade, the Democratic Party emphasized Trade Adjustment Assistance and demanded that U.S. trading partners adhere to fair trade and high standards for labor, the environment, and human rights. As the political positions of the two parties on free trade became more polarized, the passage of trade legislation such as TPA became more difficult. This trend was evident in the enactment of TPA-2002 and TPA-2015. However, it does not mean that the Democratic Party turned to extreme protectionism. It is almost impossible to return to extreme protectionism, where dependence on trade has increased sharply and production and trade have become globalized. Therefore, interest groups that were not favorable to free trade, including labor unions and some civic groups, have raised new concerns about the social effects of trade; these include labor, the environment, human rights, investment protection, and intellectual property rights (Baik, 2015).

4.2. Dynamics Before the Legislative Process of TPA-2015

4.2.1. Before the First Official Request for TPA by the President

To President Barack Obama, who was inaugurated amid a global financial crisis, economic recovery was the top priority of his policy agenda. In his first term, the Obama Administration pursued its trade policy with the aim of increasing U.S. exports¹⁸. The Obama Administration's specific trade policy in his first term included cooperating with Congress to pass implementing bills of bilateral FTAs with Korea, Colombia and Panama, as well as continuing negotiations on the Trans-Pacific Partnership (Meltzer, 2012). Expediting the ongoing negotiations on

¹⁸ "National Export Initiative Fact Sheet", International Trade Administration, <http://www.trade.gov/nei/nei-fact-sheet.asp>

TPP was also emphasized as a trade policy during President Obama's second term. In fact, the pursuit of negotiations on TPP was deemed an exception to President Obama's protectionist disposition. When he was a U.S. Senator, Barack Obama supported protectionism in thirteen out of sixteen votes on trade issues (Cooper, 2010). Therefore, to explain the Obama Administration's active involvement in TPP, external factors that have been identified should be considered.

As noted earlier, the Obama Administration had to respond effectively to the rise of China and its growing influence in the Asia-Pacific region while Washington's economic dependence on Beijing continued to increase. The Administration seized on this mega-regional trade initiative as a part of a broader strategy to re-engage with the Asia-Pacific region and to contain China's growing influence in that region (Capling and Ravenhill, 2011). However, the Obama Administration's containment policy on China cannot fully explain the background for TPP. The United States had to find ways to coexist with China, at least economically. Considering the rapidly increasing trade volume between the two countries, Sino-U.S. relations had incentives for cooperation as well as competition. Furthermore, as the multilateral approach to trade declined and bilateral FTAs showed some adverse effects, mega-FTAs emerged as an alternative. Under these circumstances, the Obama Administration aimed at establishing new trade governance through TPP and tried to integrate China into this new economic order on a long-term basis (Lee, 2015; Schott, 2012).

If TPP was the first step in the Administration's plan of founding a new trade regime, securing TPA was a prerequisite for achieving that goal. Notwithstanding the general expectation of obtaining TPA prior to participation in TPP negotiations, President Obama did not request Congress to grant TPA until 2013. The initial strategy of the Administration to achieve its policy goal was to maintain a cautious approach on trade issues. The axiom that "trade divides Democrats and unites

Republicans” helps account for President Obama’s reluctance to push for the reauthorization of TPA. He avoided a fight with and between Congressional Democrats at that time. Moreover, he thought that if he first brought Congress a new kind of trade agreement that overcame all the defects of past deals, then Democrats would have no basis to oppose TPA (Ikenson, 2015). Another factor may have played an important role in the President delaying his request for TPA. In his first term, President Obama concentrated on the passage of pending FTAs with Korea, Colombia, and Panama in Congress and he may have abstained from raising a divisive trade issue in the middle of the ratification process for those FTAs.

Congress also had conflicting interests in TPP and TPA as well. As a vehicle for dealing with certain social forces or satisfying diverse interest groups, Congress had its own motives for expanding free trade while minimizing the potential negative effects that free trade agreements could bring to U.S. industries and workers.

Considering the economic and geopolitical importance of the trade pact, it was no surprise that Congress has taken a strong interest in TPP negotiations since 2008. Members of Congress have expressed differing views on the negotiations through letters and consultations with the Administration and with stakeholder groups¹⁹. Members of Congress also represented different views on what constitute “high-standards” in areas such as worker rights, intellectual property rights, protection for pharmaceuticals, and investor rights. In addition, some Members of Congress expressed an interest in broadening the negotiations to include issues such as exchange rates, which the Administration acknowledged as important but

¹⁹ For example, in February 2009, 54 House members sent a letter urging President Obama to halt negotiations on TPP (Inside U.S. Trade, February 27, 2009) On the other hand, in October 2009, then Finance Committee Chairman Max Baucus and Ranking Member Chuck Grassley sent a letter to President Obama urging him to successfully conclude negotiations on the TPP.

preferred to address through other venues.²⁰ The polarized positions on TPP were mostly partisan, although there were some exceptions.²¹

The different perspectives of Members of Congress on TPP were almost in line with their views on TPA. On the one hand, the leaders of the House and Senate committees with jurisdiction over trade issues made clear that the reauthorization of TPA was necessary for the successful conclusion of TPP and, at the same time, that TPA should precede completion of TPP. On March 7, 2012, at the Senate Finance Committee hearing on 2012 Trade Policy Agenda, then Senate Finance Committee Chairman Max Baucus and Ranking Member Orrin Hatch urged Ron Kirk, the U.S. Trade Representative, to request TPA from Congress, instead of focusing first on concluding the TPP negotiations.²² In 2013, they urged cabinet members to request TPA from Congress. On March 19, 2013, at the Senate Finance Committee hearing on the President's 2013 Trade Agenda, Chairman Baucus called for the introduction of a TPA bill by June. At the same hearing, Ranking Member Hatch argued that the lack of TPA was one reason why it was still unclear whether the TPP talks would deliver on their ambitious promise; at the same time, he emphasized that a formal request from the Administration for TPA was needed, although Congress could develop TPA legislation without the support and input of the White House²³.

Meanwhile, other Members of Congress, who were mostly skeptical on trade issues, focused more on the substance of TPP and began to link it with the

²⁰ "The Trans-Pacific Partnership (TPP) Negotiations and Issues for Congress," by Ian F. Fergusson et al, CRS Report, March 20, 2015

²¹ For example, unlike the skeptical attitudes of other Democrats toward trade issues, members of the New Democrat Coalition sent a letter to President Obama supporting the Administration's active engagement in TPP (March 11, 2009).

²² Statements by Senator Max Baucus and Orrin Hatch at the Full Committee Hearing, Senate Finance Committee, March 7, 2012

²³ Statements by Senator Max Baucus and Orrin Hatch at the Full Committee Hearing, Senate Finance Committee, March 19, 2013

discussion on TPA. Their concerns were twofold. First, they raised the lack of information as a major hurdle for Congress to engage more actively in TPP. On May 23, 2012, Ron Wyden, then Chairman of the Senate Finance Subcommittee on Trade, publicly criticized the Office of the USTR, stating that it was handling the TPP negotiations with unnecessary secrecy.²⁴ Similarly, when President Obama made his first request for TPA in July 2013, 151 House Democrats sent a letter to the President in November, 2013, expressing their unwillingness to support TPA, due to the continued lack of adequate Congressional consultation in many areas of the trade pact.²⁵ They also raised serious concerns in regard to the ongoing TPP negotiations, in that the agreement was not fully addressing significant issues which they were interested in, such as currency manipulation, human rights, labor, environment, and SOEs. The currency provision was the most controversial issue. At a press conference held on March 20, 2013, Sander Levin, House Ways and Means Committee Ranking Member urged the Obama Administration to discuss rules on currency manipulation in the TPP negotiations and stated that Congress must discuss the currency issue in the context of renewing Trade Promotion Authority²⁶.

4.2.2. The First Official Request for TPA by President Obama

The Administration's cautious approach on TPA began to change in early 2013. Its initial strategy proved to be unrealistic in some ways. For one, concluding TPP without TPA was impossible, in that TPP participants, other than the U.S., were unlikely to put their last best offer on the table without TPA (Meltzer, 2015). Indeed, some TPP members, including Japan, Canada, and Chile stated that they

²⁴ Statement for the Record by Senator Ron Wyden On Introduction of the "Congressional Oversight Over Trade Negotiations Act," May 23, 2012

²⁵ A letter to President Obama by 151 House Democrats, November 13, 2013

²⁶ "Levin Pushes For Currency Discussion In TPP, EU FTA, TPA Deliberations," Inside U.S. Trade, March 22, 2013

would not finalize TPP until Congress passed TPA (Lincicome, 2015). On March 19, 2013, Demetrios Marantis, Acting U.S. Trade Representative, told the Senate Finance Committee that the Administration was ready to begin work with Congress on issues regarding the renewal of TPA²⁷. The statement by the Acting USTR reflected the Administration's judgment that the negotiations on TPP had advanced to a point where the Administration could start the discussion on the renewal of the TPA. On July 30, 2013, realizing the importance of securing TPA for the conclusion of the Asia-Pacific trade deal, President Obama himself officially requested Congress to reauthorize TPA.²⁸

Notwithstanding the President's request, a bill to reauthorize TPA was not introduced in Congress until January 2014. Many Democrats on the Senate Finance and House Ways and Means Committees complained about the process to draft a bill to renew TPA. In the Senate, fellow Democrats felt uneasy about the fact that Senate Finance Committee staff, including aides to Chairman Baucus, had not been willing to discuss in detail the priorities and legislative language of a TPA bill. Similarly, House Democrats felt that they were not sufficiently part of the process for developing the bill²⁹. While efforts by the bipartisan leaderships on drafting a TPA bill continued, 151 House Democrats publicly declared that they would not support outdated fast track for TPP. In their November 13 letter to the President, House Democrats, led by Representatives Rosa DeLauro and George Miller, demanded that a new TPA include a stronger role for Congress in shaping trade agreements. They asserted that they were deeply troubled by the Administration's

²⁷ Testimony of Ambassador Demetrios Marantis at a Hearing before the Senate Committee on Finance on The President's 2013 Trade Policy Agenda, Senate Finance Committee, March 19, 2013

²⁸ Remarks by the President on Jobs for the Middle Class, White House, July 30, 2013 (<https://obamawhitehouse.archives.gov/the-press-office/2013/07/30/remarks-president-jobs-middle-class-073013>)

²⁹ "House, Senate Committee Democrats Uneasy About Emerging Fast-Track Bill," Inside U.S. Trade, November 8, 2013

lack of adequate consultations with Congress on TPP, especially since TPP presents major concerns for domestic policy authorities.³⁰ On January 9, 2014, in the midst of discontent and opposition among some Members, Senate Finance Committee Chairman Max Baucus, Ranking Member Orrin Hatch, and House Ways and Means Committee Chairman Dave Camp finally introduced a bipartisan bill to renew TPA (H.R.3830) (S.1900).³¹ However, this bill was never considered in both chambers and automatically died when the 113th Congress ended on December 16, 2014.

What are the reasons for this failure? Three factors explain why the Baucus-Hatch-Camp bill failed.

First, certain political variables negatively affected the enactment of a TPA bill. On the one hand, the nomination of Senate Finance Committee Chairman Max Baucus to be U.S. Ambassador to China made the future of a TPA bill uncertain. His departure was confirmed in February, 2014 and it dealt a heavy blow to the legislation, because he was a major Democratic champion of renewing TPA. Senator Wyden, who took over the Chairman's gavel, had a more careful approach to TPA than Chairman Baucus. The fact that there were midterm elections in 2014 also influenced the legislation. The political dynamics of midterm elections could hamper the smooth legislation process. As November 4, 2014, Election Day approached, there was less chance for controversial legislation to be passed by Congress.³²

Second, President Obama was not as fully committed to his trade agenda as the Republican leadership expected, although his active engagement was indispensable to garner support from House Democrats. The Republican leadership,

³⁰ A letter to President Obama by 151 House Democrats, November 13, 2013

³¹ "Baucus, Hatch, Camp Unveil Bill to Bring Home Job-Creating Trade Agreements," press release by Senate Finance Committee and House Ways and Means Committee, January 9, 2014

³² "Analysis: Obama's nod to trade leaves tough work ahead in Congress," by Krista Hughes, Reuters, January 29, 2014

including Senate Finance Committee Ranking Member Orrin Hatch, House Ways and Means Committee Chairman Dave Camp, and House Speaker John Boehner had continually pushed for President Obama to lead the TPA issue. On April 3, 2014, at a House Ways and Means Committee hearing, Chairman Camp reiterated the longstanding Republican demand that full engagement by the President himself and his entire Administration was necessary to get TPA done.³³ In the same month, Ranking Member Hatch, in remarks at the Center for Strategic and International Studies, criticized President Obama's lack of political commitment to renewing TPA and called for the President's active engagement and support for a TPA bill.³⁴

Lastly, and probably most important, the Obama Administration failed to address serious concerns over TPP negotiations raised by lawmakers who were unfavorable to TPP and TPA. As mentioned earlier, Members of Congress who were skeptical on trade issues expressed two major concerns regarding the ongoing TPP negotiations. The first issue was insufficient consultation with Congress in the course of the Administration's negotiations on TPP. The discontent and dissatisfaction over the limited information on TPP negotiations was clearly expressed by 151 House Democrats in their November 13 letter to the President. Likewise, in a meeting with President Obama on February 4, 2014, House Democrats conveyed the message that there was serious opposition to TPA among Democrats and that they wanted more consultations and a greater role for Congress in TPP. The second issue was about the substance of TPP. Among many issues raised by the lawmakers, the most divisive was whether to include enforceable measures in TPP to prevent currency manipulation. In spite of the continued demands, mainly by Democrats, for the currency provision in TPP, the Administration, including the USTR and Treasury Secretary, avoided an outright

³³ Transcript of the Hearing before the House Ways and Means Committee on President Obama's Trade Policy Agenda, April 3, 2014

³⁴ Keynote Address by Senator Orrin Hatch at Center for Strategic and International Studies Conference on Making Trade Work for America, April 8, 2014

answer on the issue, reiterating the general response that fighting currency manipulation was a priority for the Obama Administration. Accordingly, a group of House Democrats kept warning that TPP, as well as TPA, could not pass in Congress, unless TPP included the currency measures.

4.2.3. The Second Official Request for TPA by President Obama

Senator Ron Wyden became the new Chairman of the Senate Finance Committee on February 12, 2014, succeeding Max Baucus. At that time, the House Democratic leadership, including Minority Leader Nancy Pelosi, kept signaling that there was strong opposition among House Democrats to the pending TPA bill (H.R.3830) (S.1900).³⁵ However, they also held open the possibility that the legislation could gain more support from Democrats if sufficient changes were made to the bill. On April 9, 2014, Chairman Wyden announced his plan to amend the pending TPA bill to increase public transparency and the role of Congress in trade negotiations.³⁶ Along with procedural issues, Wyden also emphasized that modern trade agreements should reflect a new trade agenda, such as digital trade and rules on SOEs. In the process of crafting a new TPA bill, Chairman Wyden tried to incorporate the demands and recommendations of House Democrats; however, this effort delayed the amendment process, because the Republicans strongly opposed some controversial issues, such as enforceable currency provisions. As time passed, the chances for passage of the pending bill in the 113th Congress steadily diminished. The political dynamic of the midterm elections on November 4, 2014 made enactment even harder.

The political structure of the U.S. Congress changed as a result of the midterm elections in November, 2014. The Republican Party gained a Senate

³⁵ “Pelosi comes out against fast track bill,” by Vicki Needham, The Hill, February 12, 2014

³⁶ Speech by Senate Finance Committee Chairman Ron Wyden To The American Apparel And Footwear Association delivered, April 9, 2014

majority for the first time since the 109th Congress and also added 7 more seats in the House of Representatives (See Table 3). Although this change in the political composition of Congress could have meant that more time would be needed for the two parties to compromise over the language of the TPA bill, it definitely contributed to the creation of a favorable atmosphere in Congress with regard to trade issues, including the reauthorization of TPA.³⁷ Senate Finance Committee Ranking Member Orrin Hatch was expected to become the next Chairman of the Committee and the change in chairmanship could play an important role in the progress of TPA renewal, considering the pro-trade disposition of Senator Hatch.³⁸ In late 2014, staffs of the bipartisan leadership with jurisdiction over trade restarted their work on the pending TPA bill.

< Table3 > Changes in the Political Composition of Congress

		Party			Total
		Democratic	Independent	Republican	
Senate	113 th	53	2	45	100
	114 th	44	2	54	100
House	113 th	201	0	234	435
	114 th	194	0	241	435

Source: Retrieved from <https://ballotpedia.org>

In his State of the Union address on January 20, 2015, President Obama, now facing changed political circumstances, again requested that Congress reauthorize TPA.³⁹ As a matter of fact, 2015 was the last chance for President Obama to

³⁷ “Implications of the 2014 Congressional Elections for US Trade Policy,” by Scott S. Lincicome, White & Case, November 25, 2014

³⁸ “Hatch Expected To Be Next Finance Chairman, Lists TPA As Top Priority,” Inside U.S. Trade, November 5, 2014

³⁹ “Remarks of President Barack Obama – State of the Union Address As Delivered,”

conclude the Asia-Pacific trade deal as well as to obtain the trade authority. It was evident that the political dynamics of the 2016 U.S. presidential election would negatively impact the pending trade agenda.

4.3. Dynamics of the Legislative Process of TPA-2015

4.3.1. The Passage of a TPA Bill in Gatekeeping Committees

On April 16, 2015, a bill to reauthorize TPA (H.R. 1890; S.995) was introduced in the Senate by Senate Finance Committee Chairman Orrin Hatch and Ranking Member Ron Wyden, and in the House of Representatives by House Ways and Means Committee Chairman Paul Ryan. The Senate bill (S.995) was reported out of the Senate Finance Committee by a vote of 20-6 on April 22, 2015. In the markup session of the Senate Finance Committee, an amendment offered by Senator Robert Menendez was added. This amendment prohibited expedited Congressional consideration of trade agreements with any country in the most egregious category (Tier 3) of a State Department report on human trafficking.⁴⁰ This amendment drew attention because Malaysia, a member of TPP, was included in the list of Tier 3 countries.⁴¹ On April 23, 2015, a similar bill was reported by the House Ways and Means Committee by a vote of 25-13. This bill (H.R. 1890) was slightly different from S.995, because House Ways & Means Committee Chairman Paul Ryan opted not to include the Menendez provision, out of concern that it would complicate ongoing TPP negotiations.⁴² On the other hand, with the passage of the TPA bill, the Senate Finance Committee and the House Ways & Means Committee also approved three other trade bills that would extend Trade

White House, January 13, 2016

⁴⁰ “Senate panel approves trade bill,” by Vicki Needham, The Hill, April 22, 2015

⁴¹ “Malaysian Trafficking May Doom Pacific Trade Deal,” by Josh Rogin, Bloomberg, May 8, 2015

⁴² “Ryan Omits Human Trafficking Amendment, Says It Could Complicate TPP,” Inside U.S. Trade, April 24, 2015

Adjustment Assistance (TAA), renew trade preference programs – the Generalized System of Preferences and the preference programs for sub-Saharan Africa and Haiti - and a customs bill that included a number of trade enforcement provisions.

4.3.2. The Passage of a TPA Bill in the Senate

On May 6, 2015, Senate Majority Leader Mitch McConnell kicked off the process for Senate floor consideration of the TPA bill. Technically, McConnell made a motion to proceed to an unrelated, House-passed, revenue bill (H.R. 1314) that served as a “shell,” to which TPA was then added. Under Article 1, Section 7 of the U.S. Constitution, revenue bills such as the TPA bill, must originate in the House of Representatives.. However, Senate Republicans and Democrats disagreed on a procedural issue, which was whether to combine the TPA bill with three other trade bills that had been passed by the Senate Finance Committee on April 22, 2015. The Democrats wanted to combine the four trade bills into one piece of legislation, in order to guarantee that they all became law, but the Republicans did not like this approach. After heated discussions to resolve a deadlock over the TPA bill, the two parties finally reached an agreement on the procedural issue on May 13, 2015.⁴³ The Senate decided to consider the customs bill and the preference bill as stand-alone measures, before proceeding to a vote on the combined TPA-TAA bill. Among these bills, the customs bill was controversial, because it contained enforceable provisions on currency manipulation. The legislation to reauthorize TPA and extend TAA (H.R. 1314) was passed by the Senate on May 22, 2015, by a vote of 62-47.

During consideration on the Senate floor, 213 amendments were offered by Senators, including several amendments to add enforceable currency provisions to the TPA bill. Among the 213 amendments, 11 were proposed on the floor, but the Senate approved only two amendments to the TPA bill. The first was an

⁴³ “Senate Democrats Relent on Trade,” by Russell Berman, *The Atlantic*, May 13, 2015

amendment on the currency issue, submitted by Senate Finance Committee Chairman Orrin Hatch and Ranking Member Ron Wyden. The second was an amendment by Senator James Lankford that added religious freedom as an overall negotiating objective.

4.3.3. The Passage of a TPA Bill in the House of Representatives

Passage of the TPA bill in the House of Representatives was more dramatic than in the Senate. It was predicted that House passage would not be easy, because the two Parties expressed serious differences over the substantive and procedural issues regarding the extension of TAA. Since the Senate passed a TPA-TAA package bill, the House had to pass both bills. The procedure employed -- “division of the question,” -- requires separate votes on each component, but approval of both to pass.⁴⁴ On June 12, the House voted on H.R. 1314, a combined bill of TPA and TAA. The House passed the bill to reauthorize TPA by a vote of 219-211, with 28 Democrats joining 191 Republicans in support of the bill. However, the renewal of TAA was rejected in the House by a vote of 126-302, and thus the entire measure was defeated. The rejection of TAA was ironic, because the majority of Democrats, who were traditional supporters of the TAA program, voted against it, in order to block the passage of a TPA bill, for the reason that their demands were not reflected in the TAA bill.⁴⁵ The biggest disagreement between Republicans and Democrats concerned the Medicare offset provision in the TAA bill. The Democrats strongly opposed the Medicare offset measure, which was supposed to supplement the budget for TAA by cutting the Medicare budget from 2024. Instead of the Medicare offset, the Republican and Democratic leadership had reached a compromise to supply the funding for TAA, by increasing penalties for taxpayers who failed to file

⁴⁴ “Trade Promotion Authority (TPA): Frequently Asked Questions,” by Ian F. Fergusson and Richard S. Beth, CRS Report, July 2, 2015

⁴⁵ “A Big Win for Big Labor,” by Russell Berman, The Atlantic, June 12, 2015

correct tax forms with the Internal Revenue Service.⁴⁶

After the defeat of June 12, 2015, President Obama and the Republican leaders in Congress agreed on a strategy of having the House and Senate pass a standalone TPA bill, followed by separate legislation extending the TAA program. On June 18, 2015, the House voted again on a standalone TPA bill, with an amendment identical to the Senate version attached to H.R. 2146 (an unrelated pension bill for firefighters and other public safety officials). The pension bill (H.R. 2146) was chosen as a “shell” to which TPA was added; this expedited the Senate procedure, because the bill had already passed the House (May 12) and the Senate (June 4). This standalone bill to renew TPA, which did not include a TAA extension, passed the House by a vote of 218-208, with 28 Democrats supporting the bill. Since this bill (H.R. 2146) was different from what the Senate had passed in May (H.R. 1314), the upper chamber had to take its own vote on the new TPA standalone bill. The House-passed standalone TPA bill was sent back to Senate and approved by the Senate on June 24, 2015, by a vote of 60-38. On a same day, the Senate passed the bill to extend TAA, and the following day, June 25, 2015, the House also passed the TAA bill. President Obama signed both of the trade bills on June 29, 2015, and a bill to reauthorize TPA finally became law (P.L. 114-26).

⁴⁶ “Pelosi Signals To Dems They Should Vote ‘No’ on TAA, Despite Offset Fix,” Inside U.S. Trade, June 10, 2015

5. Implications for U.S. Trading Partners

5.1. Expanded Scope of Trade Issues

Trade negotiating objectives stipulated in the 2015 Act give us a clue to the Congressional priorities in U.S. trade policy (KITA, 2015). As reviewed in Chapter 3, TPA-2015 includes new trade agenda items, such as disciplines on digital trade in goods and services, State-Owned Enterprises (SOEs), currency exchange, regulatory practices, and human rights. The newly added trade negotiating objectives as a whole reflect main concerns and interests of U.S. industries, especially in emerging sectors such as e-commerce, entertainments and financial services. This trend indicates that the U.S. government is trying to take a leading role in formulating new trade rules in rising sectors. U.S. trading partners, therefore, can anticipate what U.S. priorities in trade negotiations will be through the analysis of its trade negotiating objectives stipulated in TPA-2015. It is expected that U.S. trading partners can be better prepared for trade negotiations with Washington on such emerging sectors, if they understand correctly U.S. domestic regulations in such sectors. This is because U.S. trade negotiation teams usually make their draft proposal on any specific trade issue based on U.S. domestic regulations on that issue.

Another interesting point is that many of these new trade negotiating objectives are already incorporated in the text of the TPP agreement before the passage of the 2015 Act. According to the TPP member countries, this 21st-century trade agreement includes new disciplines on non-traditional trade issues which had recently emerged or not addressed in the past.⁴⁷ These trade rules include disciplines on the digital economy, SOEs, small and medium enterprises (SMEs), regulatory coherence and capacity building. New trade rules included in the

⁴⁷ “Summary of the Trans-Pacific Partnership Agreement”, Office of the United States Trade Representative, October 2015

chapters of the TPP agreement almost coincide with the newly added trade negotiating objectives in the 2015 Act, which means that the negotiation of the TPP may have affected the substantial changes in the negotiating objectives of TPA-2015. During the seven years of TPP negotiation⁴⁸, the U.S. trade negotiation team represented by the USTR closely consulted Members of Congress and congressional staff regarding the substance of the negotiation (CRS Report, 2015). Through this interaction many of congressional priorities and concerns were incorporated in the text of TPP agreement although not formally embedded yet in TPA statutes. Therefore, it was foreseen that Congress may wish to establish new negotiating objectives to reflect 21st-century trade policy in any renewal of TPA, including such issues under negotiation in TPP as SOEs, regulatory coherence and digital technology (CRS Report, 2015). As analyzed in Chapter 4, the close relationship between new trade agenda items in the TPP agreement and new negotiating objectives of TPA are explained by the interaction between the U.S. Congress and the Administration. The concerns and discontent of Members of Congress about the substance of the TPP negotiation delayed the passage of 2015 Act, and conflicts and compromises between the two policy actors eventually reshaped the TPP negotiation as well as negotiating objectives of the TPA-2015. Accordingly, for U.S. trading partners, it is becoming more important to fully understand the complex dynamics between these two actors over trade issues because it may bring significant changes to the substance of trade negotiations.

At the same time, trading partners should pay close attention to potentially controversial trade issues becoming trade negotiating objectives of the United States. For example, a provision that prohibits or discourages currency manipulation in a trade agreement was one of the most contentious issues in the enactment of TPA-2015, as well as in the negotiation process of TPP. Many

⁴⁸ The United States joined the TPP negotiation in 2008, and the negotiation was concluded in October 2015.

Members of Congress and U.S. business representatives, including the automobile industry, urged the Administration to insert enforceable currency provisions in the text of TPP agreement and TPA-2015. Although enforceable provisions on currency manipulation were not included in TPA-2015, this issue can be raised again by lawmakers at any time when the TPA is extended or reauthorized in the U.S. Congress. If trading partners have important stakes or interests in such contentious issues, they may need to actively convey their opinions to the U.S. policy authorities beforehand. Inclusion of enforceable provisions that discourage currency manipulation in trade agreements, for instance, may significantly influence the monetary policies of U.S. counterparts in trade negotiations. To prevent or reduce the negative impacts of such a provision, U.S. trading partners should be more attentive to the discussions on currency issue in the U.S. and consult with the U.S. trade authorities as well as financial authorities on that issue.

5.2. Procedural Requirements that May Affect Trade Negotiations

To increase transparency and accountability with respect to trade negotiations, TPA-2015 introduced many new procedural requirements for the Executive when it conducts trade negotiations with foreign countries. These new requirements include the creation of a Transparency Officer at USTR, release of the text of trade agreement 60 days before signing it, strengthened mandatory consultations with Congress and the public. Though newly introduced measures are apparently domestic obligations applying to the President of the United States, some of these measures may influence U.S. trading partners as well. For example, parties involved in trade negotiation with the United States now need to prepare the text of a trade agreement 60 days before signing it, which means that they are under the constraint of such a timeline. Participants in the negotiation, therefore, have to finish their work, in this case finalizing the text of a trade agreement,

earlier than before. Previously, the texts of trade agreements were usually released when the parties signed the agreement. In some cases, pressing timeline may force the parties involved into making unexpected concessions, which can become a controversial issue within their countries. Accordingly, U.S. trading partners should consider the potential impact of new procedural requirements in TPA-2015, such as the possibility of domestic controversy, on their ongoing or future trade negotiations with the United States.

Increased transparency in the process of trade negotiations may also unleash some unexpected effects and changes to the domestic trade regime of U.S. trading partners. As noted above, the new TPA requires the USTR to closely consult with Members of Congress and share more information with the public regarding trade negotiations. In the course of consultation and information sharing with various stakeholders, it is highly probable that the substance of trade negotiations would be partially disclosed to Congress and the public. This disclosure of information may become a controversial issue and lead to similar requests for information sharing within the societies of U.S. trading partners. The controversy and criticism in the U.S. and other member countries caused by the release of draft TPP texts by Wikileaks before the conclusion of the TPP negotiation shows such a possibility. Trading partners, hence, should be aware of potential domestic demands and be prepared for sharing detailed information about trade negotiations. It is also possible that such demands would be developed into more extensive requests for the improvement of overall trade governance in those countries. In this regard, the increased transparency in trade negotiations required by TPA-2015 may provide a chance for improving the transparency of trade policymaking in other countries as well.

Similar with the changes in the trade negotiating objectives of TPA-2015, the changes in procedural requirements of the 2015 Act were significantly influenced by the TPP negotiation. As noted in Chapter 4, Members of Congress who were

unfavorable to the renewal of TPA expressed their concerns on the insufficient consultations and the lack of transparency of the Administration in the course of the TPP negotiation. Moreover, it was not just Congress that criticized the secrecy of the negotiation process of TPP. Many NGOs, labor unions and civic groups demanded more transparent negotiation process while publicly denouncing the government's monopolization of the information regarding the developments of the TPP negotiation (Jasper, 2015). The linkage between procedural transparency of the TPP negotiation and TPA-2015 grew bigger as the lawmakers further associated it with the passage of the 2015 Act. After the failure of the Administration's first attempt to renew TPA in 2014, therefore, the Office of the USTR stepped up its efforts to share information with Congress and other stakeholders on the negotiation status of TPP through official as well as unofficial meetings with Members of Congress and other stakeholders. In this context, it was foreseeable that the procedural requirements the Executive should observe in the course of trade negotiations would be strengthened in the reauthorized TPA. For the conclusion of TPP and enactment of a new TPA, it was inevitable for the Obama Administration to accept some of the demands by Congress to strengthen the role of Congress in trade negotiations and increase procedural transparency of the negotiation. Such a compromise between the two actors were incorporated in newly added procedural requirements of TPA-2015, including the creation of a Transparency Officer at USTR and expanded mandatory consultations with Congress. These changes give a clue to U.S. trading partners about the future shape of trade governance. As appeared in the negotiation process of TPP, it is evident that the expectation of the public on more transparent trade governance rose, and therefore the system needs to be adjusted to the higher expectation. The U.S. upgraded its trade governance to a certain extent through the legislation of TPA-2015, and there is a possibility that similar changes would be raised and discussed in other countries as well.

5.3. Growing Influence of Other Stakeholders than the Executive

The enactment process of TPA-2015 shows that the influence of stakeholders other than the Executive on U.S. trade negotiations is continually growing. The most notable change in this respect was made in the role of Congress in trade negotiations. As reviewed in Chapter 2, the U.S. Congress began to recover its authority regarding trade negotiations when it introduced the fast track procedure in 1974. Accordingly, the role of Congress in trade negotiations has gradually increased whenever the TPA has been extended or reauthorized since 1974. However, despite the increased role of Congress in trade negotiations, concerns were recently raised, both in Congress and outside the legislature, over the limited role of Congress in effectively monitoring and overseeing trade negotiation processes. These concerns were explicitly expressed during the negotiation process of TPP. Many lawmakers criticized the trade authorities of the U.S. for not sharing sufficient information about the TPP negotiation with Congress. This criticism and skepticism were eventually unleashed important changes in TPA-2015, including the strengthened role of Congress and measures to increase transparency. The strengthened role of the U.S. Congress in trade negotiations signals to U.S. trading partners that Congressional priorities and interests will be more likely to be raised and addressed in future trade negotiations with the United States. This means that trading partners must be better prepared for the negotiation with the United States because they may need to deal with more diverse and controversial issues raised by Members of Congress.

Although less explicit than that of Congress, it is evident that the influence of other stakeholders on trade negotiations is growing as well. A representative stakeholder group in this respect is U.S. businesses. As pointed out above, many of the newly added trade negotiating objectives of TPA-2015 reflect main interests

and concerns of U.S. industries. Though the influence of business sectors on trade negotiations was by no means small in the past, it is even bigger now as the global trading system has become more complex and trade issues have evolved over the years. Their power and influence became clearer in the course of TPP negotiation as well as in the legislative process of TPA-2015. The stance of each business sector on renewing TPA coincided with their positions on TPP negotiations as a whole. In fact, many U.S. companies that supported TPP agreement lobbied Congress for the passage of a controversial TPA bill because it was linked to the conclusion of the TPP. For example, donations made by the corporate members of the US Business Coalition for TPP played an important role in the Senate passage of a TPA bill.⁴⁹ These corporate members include giant multinational corporations such as Goldman Sachs, Pfizer and Procter & Gamble. The growing influence of business groups gives implication to the U.S. trading partners that it may be indispensable to garner sufficient support from U.S. businesses for the conclusion and ratification of trade deals.

Another stakeholder that is exercising greater influence on U.S. trade policy in recent days is labor unions or civic groups working in various sectors. For example, labor unions, such as the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), explicitly opposed the reauthorization of TPA in order to block the passage of the Pacific Rim trade pact in Congress, which, in their view, falls short of addressing important issues including currency manipulation and environmental standards.⁵⁰ The legislative process of TPA-2015 shows that strong opposition by specific groups can indeed hinder the passage of the Trade Act. In fact, it is noted that the rejection of the TAA bill in the House of Representatives on June 12, 2015 was affected by lobbying of the AFL-CIO to

⁴⁹ “Here’s how much corporations paid US senators to fast-track the TPP bill”, by C. R. Gibson and T. Channing, *The Guardian*, May 27, 2015

⁵⁰ “AFL-CIO head Richard Trumka explains why labor unions hate Obama’s trade deal”, by Danielle Kurtzleben, *Vox*, April 20, 2015.

block the passage of a TPA bill.⁵¹ In addition, it is undeniable that criticism of NGOs and civic groups on the secrecy of trade negotiations, including TPP, played a certain role in the strengthening of procedural requirements to increase transparency of trade negotiations in TPA-2015. Accordingly, U.S. trading partners now should pay more attention to various stakeholders in the United States, since their positions and opinions on U.S. trade negotiations can influence the trade negotiation itself as well as the substance of trade legislation such as TPA.

5.4. Issues for the Extension of TPA-2015

The existence of TPA is a critical matter for the U.S. counterparts under trade negotiations because TPA enables the expedited consideration of implementing legislation of U.S. trade agreements in Congress. As the TPA-2015 was scheduled to expire June 30, 2018, President Trump officially requested for a three-year extension of TPA in March 20, 2018. In spite of domestic as well as international controversy regarding recent trade measures taken by President Trump, such as the increase of tariff on specific foreign products, TPA was extended for three more years. The extension did not face much difficulty in Congress because the 2015 Act already provides high possibility of the extension by setting relatively easy requirements. In accordance with the 2015 Act, if the President requests for the extension of TPA, it will be automatically extended for additional three years unless the majority of one legislative chamber of Congress, either the House or Senate, passes an extension disapproval resolution before July 1.⁵² However, adoption of such a resolution was considered highly unlikely under the situation with the President's party controlling both chambers as it is now.⁵³

⁵¹ "A Big Win for Big Labor," by Russell Berman, *The Atlantic*, June 12, 2015

⁵² "Extending Trade Promotion Authority", J.J. Schott, *Trade & Investment Policy Watch*, PIIIE, July 17, 2017

⁵³ "Trump Requests Extension of Trade Negotiating Authority", Sandler, Travis &

While the extension of TPA-2015 was relatively easy for President Trump, there were also voices against the extension of TPA. Certain civic groups and labor unions argued that Congress should regain its constitutional authority regarding trade negotiations, which had been delegated to the Administration through TPA, by adopting a disapproval resolution.⁵⁴ They asserted that Congress should end the current TPA to prevent a renegotiated NAFTA agreement considered under the fast-track procedure in Congress. They viewed the NAFTA as a ‘bad’ trade deal and thus argued that the U.S. withdraw from the NAFTA agreement. Concerns were raised within the U.S. Congress as well. For example, some Republicans have voiced their concern that the Trump Administration has not fully adhered to the negotiating objectives in the TPA-2015 with respect to some of the proposals it has put forward in the NAFTA talks.⁵⁵ Furthermore, leaders of the New Democrat Coalition, which have been usually favorable to trade issues, expressed frustration about trade policy of the Trump Administration. They criticized the current Administration for now showing serious commitment to consulting with Congress on trade issues, taking punitive measures against the U.S. allies and hurting American consumers and workers through unilateral trade actions.⁵⁶ Although the current Administration still retains TPA, it needs to reflect on concerns raised during the discussion on TPA extension because they can be raised again when any trade deal is considered in Congress.

The extension of TPA-2015 gives significant implication to U.S. trading partners, too. While there was domestic controversy surrounding the extension of TPA-2015, the extension can be an opportunity for some U.S. trade counterparts to conclude and ratify their trade agreements with the United States. For example,

Rosenberg Trade Report, March 23, 2018

⁵⁴ “Congress Can Stop the NAFTA Redo by Nixing TPA Renewal”, by L. Greenley, The New American, March 22, 2018

⁵⁵ “Trump Requests Extension of Trade Negotiating Authority”, Sandler, Travis & Rosenberg Trade Report, March 23, 2018

⁵⁶ *Ibid.*

when the renegotiation of NAFTA and KOREA-US FTA is concluded, the final text of these agreements should get approval from the U.S. Congress for the ratification. As noted in earlier chapters, approval process is much faster and easier when the President retains TPA because Congress decides whether to approve it or not without any modifications to the agreement. Therefore, countries under trade negotiation with the United States now, such as Canada, Mexico and Korea, should take advantage of the extension of TPA. At the same time, U.S. trading partners should pay attention to the domestic discussion and debate transpired during the extension of TPA-2015 because some of the arguments and criticism can emerge again when the implementing legislation of concluded U.S. trade agreements are considered in Congress.

6. Conclusion

It has been over three years since TPA was reauthorized for the President of the United States after eight years of hiatus. The 2015 Act granted TPA to the President until June 30, 2018 and the TPA-2015 was extended until June 30, 2021. In addition, recent trade measures by President Trump, such as increasing tariffs on foreign steel and aluminum products and automobiles, reinforced the importance and influence of U.S. trade policies on global trade and investment flows. Many U.S. trading partners are paying more attention to the changes in U.S. trade policies than before, focusing on the potential impact of its trade measures on international trade. Under these circumstances, it is becoming critical to understand correctly the trade institution of the United States.

This study suggests that TPA was reauthorized in 2015 through the interaction and compromise of the two important policy actors in U.S. trade policy, the Executive and Congress, regarding an overarching trade agreement - the Trans-Pacific Partnership. The Obama Administration aimed to establish new trade governance through 21st century trade agreements represented by TPP. Certain structural factors, such as the rise of China and the economic crisis in the United States in 2008 played an important role in shaping the strategy of the Obama Administration. Consideration on multiple structural factors, including the global economic conditions and domestic political contexts, is a differentiated feature of this study from the previous studies, which mostly paid attention to the political dynamics between Congress and the Executive. On the other hand, the U.S. Congress had two conflicting interests on TPA as well as TPP. It had motives for expanding free trade while minimizing the negative impacts that trade agreements could bring to the U.S. industries and workers. In the legislative process of TPA-2015, therefore, the Administration and Congress had to compromise to a certain degree, which eventually appeared as changes in the contents of TPA-2015. The

critical changes of TPA-2015 are summarized as the expanded trade negotiating objectives, the strengthened role of Congress in trade negotiations, and the increased transparency and accountability during and after trade negotiations. All three elements of these changes in TPA-2015 reflect discussions and criticism which occurred in the United States during the negotiation process of the TPP.

The substance of TPA-2015 and its legislative process have important implications for U.S. trading partners. It first tells them what the key priorities and interests of the U.S. Congress are with respect to trade negotiations. It may also give some clues on the future trade negotiating objectives of the U.S. government. Second, newly introduced procedural requirements in TPA-2015 may affect the substance and timeline of trade negotiations in which the United States engages. U.S. trading partners should be aware of the possibility of trade negotiations being influenced by the procedural requirements of TPA and prepared for its potential impact on trade negotiations. Third, a dynamic legislative process of TPA-2015 shows the growing influence of other stakeholders on trade negotiations. Considering the recent public sentiments regarding free trade and expansion of the scope of trade agendas, this trend is likely to continue.

Unlike most previous studies on TPA, which focused on why TPA was reauthorized under certain circumstances, this study explains why TPA was reauthorized in 2015 and how the dynamics between important stakeholders influenced the substance of TPA-2015 as well. In addition, it elucidates the legislation process of TPA-2015 and changes in a new TPA based on the analysis on a specific trade negotiation, TPP, which is understood as a policy feedback. Substantial and procedural issues raised during the negotiation process of TPP considerably influenced the timing of the enactment of TPA-2015 and eventually led to important changes in the substance of TPA-2015. This study also highlights relevant policy implications of the enactment of TPA-2015 for U.S. trading partners, providing clues in their preparation for potential trade negotiations with

the United States. However, this study has limitations, in that it does not analyze the full spectrum of stakeholders involved in U.S. trade policy. Further studies on the roles and influences of other important stakeholders, such as labor unions, civic groups and industries on the renewal of TPA may provide interesting and important implications on the formulation of trade policy in the United States.

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국문초록

2015 무역촉진권한의 입법에 관한 연구

미 교역상대국에 대한 함의를 중심으로

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글로벌행정 전공
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무역촉진권한(TPA)이 2015년 6월 논란 속에 미 의회를 통과하였다. 무역촉진권한은 미 의회가 특혜무역협정의 협상과 체결을 목적으로 미 대통령에게 그 권한을 위임하는 정치적 기제이다. 가장 최근의 무역촉진권한은 2007년 7월 만료되었으며 이후 8년간 미 대통령에게 부여되지 않았다. 본 논문은 미 무역정책의 가장 중요한 이해관계자인 의회와 행정부가 역사적 무역협정인 한태평양경제동반자협정(TPP)을 둘러싸고 갈등과 타협을 하는 과정에서 2015년에 무역촉진권한이 부활하였음을 제시한다. 우선, 오바마 행정부는 TPP로 대표되는 21세기 무역협정의 체결을 통해 새로운 무역질서를 구축하고자 했다. 중국의 부상과 2008년 미 금융위기 등 구조적 요인들이 오바마 행정부의 전략 수립에 중요한 역할을 했다. 한편, 미 의회는 TPA와 TPP 모두에 대해 두 가지 상반되는 이해관계를 가지고 있었는데, 자유무역을 확대하려는 동기와 함께 무역협정이 미 산업과 노동자에게 미치는 부정적 영향을 최소화해야만 했던 것이다. 따라서 2015년 TPA의 입법과정에서 행정부와 의회는 서로 타협을 해야 했으며, 이는 결국 2015년 TPA의 내용에 상당한 변화를 가져왔다. 2015년 TPA에 나타난 주요 변화로는 무역협상 목표의 확대, 무역협상에 있어 의회의 권한 강화, 무역협정의 체결 전후에 있어 투명성과 책임 증진 등을 들 수 있다. 2015년 TPA의 내용과 그 입법과정은 미 교역 상대국에도 중요한

시사점을 지닌다. 2015년 TPA는 무역협상에 관한 미 의회의 정책 우선순위와 이해관계를 포함하고 있으며, 이를 통해 미 정부의 향후 무역협상목표를 엿볼 수 있게 한다. 2015년 TPA를 통해 새롭게 도입된 절차적 요건들은 미국이 참여하는 무역협상의 내용과 시한에 영향을 미칠 전망이다, 따라서 협상에 참여하는 미국의 협상 상대국에도 영향을 미칠 가능성이 높다. 마지막으로, 2015년 TPA의 입법과정에서 산업계, 노동조합, 시민단체 등 기타 이해관계자들의 영향력이 점차 증대되고 있음이 나타났으며, 이러한 현상은 당분간 지속될 것으로 보인다.

주요어: 무역촉진권한 (TPA), 의회, 행정부, 무역협상,
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