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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

GREGG RICHARD, STAFF DIRECTOR
JOSHUA SHEINKMAN, DEMOCRATIC STAFF DIRECTOR

July 2, 2025

The Honorable Jamieson Greer
United States Trade Representative
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508

Dear Ambassador Greer:

I write regarding the Administration's negotiation of trade agreements relating to tariffs imposed through Executive action. In light of your statement that such agreements reached with trading partners may be binding but will not be submitted to Congress for approval, I want to reiterate my longstanding position, espoused by both Republicans and Democrats under the last administration, that binding international trade agreements must be approved by Congress.

During the previous administration, twenty-one bipartisan members of the Senate Finance Committee sent the attached letter to President Biden to make our position clear regarding the negotiation, approval, and implementation of trade agreements like the proposed Indo-Pacific Economic Framework (IPEF):

There is no question that comprehensive free trade agreements that include reciprocal tariff reductions and dispute resolution mechanisms must be approved and implemented by Congress. However, there appears to be a misunderstanding as to whether an agreement like IPEF, which aims to regulate foreign commerce and reshape international trade flows, requires similar approval. It does.

My views have not changed. The Constitution provides Congress with sole authority "to lay and collect . . . duties" and "to regulate commerce with foreign nations," while the President is vested with the "power, by and with the advice and consent of the Senate, to make treaties." This careful and purposeful balance has been eroded over time as administrations of both parties have increasingly used "sole executive agreements" to bind the United States on trade matters without congressional authorization or approval. As the letter to President Biden noted, the use of sole executive agreements to fundamentally reshape international trade relations raises significant legal and constitutional concerns:

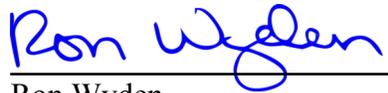
Entering into a significant binding trade agreement necessarily utilizes powers reserved to Congress under Article I, Section 8 of the Constitution. Therefore, attempts to use sole

executive agreements to bind the United States on broad matters of international trade not only interfere with congressional authority under the Constitution, but also limit Congress's domestic lawmaking ability without consent.

Congress further made these views clear when we unanimously passed bipartisan legislation approving the United States-Taiwan Initiative on 21st-Century Trade First Agreement. That bill included a Sense of Congress stating that “Article I, section 8, clause 3 of the Constitution of the United States grants Congress authority over international trade. The President lacks the authority to enter into binding trade agreements absent approval from Congress.”

I urge you to work with Congress on your efforts to negotiate and conclude trade deals. The process for approving and implementing any such agreements must respect Congress's constitutional authority over trade and power to write U.S. law.

Sincerely,



Ron Wyden
United States Senator
Ranking Member, Committee
on Finance

CC:

The Honorable Scott Bessent, Secretary of the Treasury
The Honorable Howard Lutnick, Secretary of Commerce

Attachment:

Letter to President Biden on IPEF (December 1, 2022)

RON WYDEN, OREGON, CHAIRMAN

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JOSHUA SHEINKMAN, STAFF DIRECTOR
GREGG RICHARD, REPUBLICAN STAFF DIRECTOR

United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

December 1, 2022

President Joseph R. Biden, Jr.
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear President Biden:

We write regarding the Indo-Pacific Economic Framework for Prosperity (IPEF) launched by your Administration in May 2022. We support efforts to strengthen our bonds with our allies in the Indo-Pacific and look forward to better understanding your plans to tackle 21st century issues like digital trade and the strengthening of supply chains; your objectives in the clean and fair economy pillars; and the ways in which these efforts might support U.S. workers and U.S. jobs.

As you are aware, the Constitution establishes a careful balance of authority between the Executive and Legislative branches. In no place is this balance more apparent than international trade. The Constitution provides Congress with sole authority “to lay and collect . . . duties” and “to regulate commerce with foreign nations,” while the President is vested with the “power, by and with the advice and consent of the Senate, to make treaties.”

There is no question that comprehensive free trade agreements that include reciprocal tariff reductions and dispute resolution mechanisms must be approved and implemented by Congress. However, there appears to be a misunderstanding as to whether an agreement like IPEF, which aims to regulate foreign commerce and reshape international trade flows, requires similar approval. It does.

We recognize that over time and across administrations of both parties, there has been an uptick in the use of “sole executive agreements” to bind the United States without congressional authorization or approval. But, as we have discussed with prior administrations, the use of sole executive agreements to reshape trade relations confuses *the implementation of an agreement*—which may not require congressional action because no domestic laws need to be altered—and *the ability to enter into a binding agreement* with other sovereign nations without congressional approval.

There are only three constitutional mechanisms for binding the United States to an international agreement: invocation of the Treaty Clause of the Constitution; a “congressional–executive agreement,” which requires approval of the majority of both houses of Congress; and a sole

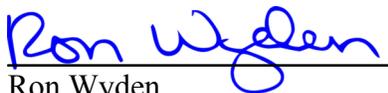
executive agreement covering matters reserved by Article II of the Constitution to the President. Entering into a significant binding trade agreement necessarily utilizes powers reserved to Congress under Article I, Section 8 of the Constitution. Therefore, attempts to use sole executive agreements to bind the United States on broad matters of international trade not only interfere with congressional authority under the Constitution, but also limit Congress's domestic law-making ability without consent.

Recognizing that neither the Administration nor Congress has taken a definitive position on the process for approving and implementing the proposed IPEF, we respectfully urge you to adhere to the following initial requests to facilitate our discussions on that matter:

- First, ensure that the Administration provides robust consultation with Congress. Given that IPEF will address novel issues not included in previous trade agreements and be led in part by agencies not involved in trade negotiations, consultation must exceed even that required by the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (TPA 2015) to build bipartisan support for any final agreement.
- Second, ensure that the Administration provides heightened transparency with stakeholders and the broader public on these initiatives. As noted above, the novel content of this framework calls for providing clear and detailed information to stakeholders about the potential outcomes of any such agreement. Tools such as briefings, town halls, outreach to non-traditional stakeholders, continually updated public summaries, and clear descriptions of U.S. goals and objectives must be deployed to improve transparency beyond that of a traditional trade agreement.
- Third, ensure that your Administration works with Congress to arrive at a common understanding of the appropriate submission, approval, and implementation mechanisms for such a broad-based and important agreement regulating international commerce.

Thank you for your attention to this important matter, and we look forward to continuing this critical work with you and your Administration.

Sincerely,



Ron Wyden
United States Senator
Chairman, Committee on
Finance



Michael D. Crapo
United States Senator
Ranking Member, Committee
on Finance



Debbie Stabenow
United States Senator



Charles E. Grassley
United States Senator



Maria Cantwell
United States Senator



John Cornyn
United States Senator



Robert Menendez
United States Senator



John Thune
United States Senator



Thomas R. Carper
United States Senator



Richard Burr
United States Senator



Benjamin L. Cardin
United States Senator



Rob Portman
United States Senator



Sherrod Brown
United States Senator



Pat Toomey
United States Senator



Catherine Cortez Masto
United States Senator



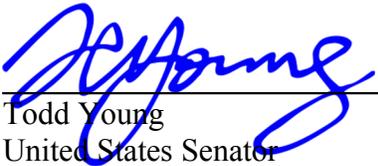
Tim Scott
United States Senator



Bill Cassidy, M.D.
United States Senator



Steve Daines
United States Senator



Todd Young
United States Senator



Ben Sasse
United States Senator



John Barrasso, M.D.
United States Senator

CC: Ambassador Katherine Tai
Secretary Gina Raimondo