

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-6315

Memorandum

To: Members, Committee on Small Business
From: Committee Staff
Date: May 18, 2015
Re: Hearing: "Across Town, Across Oceans: Expanding the Role of Small Business in Global Commerce"

On May 20, 2015 at 11:00 am, the Committee on Small Business will meet in Room 2360 of the Rayburn House Office Building to convene a hearing to examine the ongoing negotiations for various free trade agreements, the Trade Priorities and Accountability Act of 2015 (TPA), and the impact of United States trade policy on small businesses. The Committee will receive testimony concerning the hurdles that small businesses face in entering the international trade arena, and what fundamental steps should be taken by policymakers to increase exports and expand the role of United States small businesses in global markets.

I. Background

The United States has a variety of trade agreements in place that affect how small businesses compete and operate in the global economy. These policies are negotiated to: reduce both tariff and non-tariff barriers¹ in foreign markets; create new market opportunities for domestic exporters; and strengthen trade enforcement and intellectual property protection (IP). Examples of these policies include free trade agreements (FTAs), bilateral investment treaties (BIT), trade preference programs, and multilateral trade agreements. These agreements play a critical role in determining whether a small business is able to compete in the global market, because small firms have limited resources and personnel to comply with foreign requirements that act as trade barriers.

International trade policy affects nearly every type of small business. Whether a business directly exports an agricultural commodity, imports a component part, or sells foreign merchandise, global trade influences its operations and competitiveness. International trade in goods and services was nearly \$5.2 trillion dollars in 2014, up from \$2.5 trillion in 2000.² Exports accounted for nearly \$2.4 trillion and have more than doubled

¹ Non-tariff barriers elude fixed definitions, but may be broadly defined as government laws, regulations, policies, or practices that either protect domestic goods and services from foreign competition, artificially stimulate exports of particular domestic goods and services, or fail to provide adequate and effective protection of intellectual property rights. <https://ustr.gov/sites/default/files/2014%20NTE%20Report%20on%20FTB.pdf>.

² <http://www.census.gov/foreign-trade/statistics/historical/gands.pdf>.

since 2003.³ According to the United States International Trade Commission (ITC), those exports helped support nearly 10 million jobs, including about 4 million small business jobs.⁴

The Office of the United States Trade Representative's Office (USTR) is responsible for developing and coordinating international trade, commodity and direct investment policy, and overseeing negotiations with other countries.⁵ Within USTR, the Office of Small Business, Market Access and Industrial Competitiveness is specifically responsible for the development of policy relating to tariff and non-tariff barriers affecting industrial goods, including negotiation, implementation, monitoring and enforcement of bilateral, regional, plurilateral and multilateral trade agreements.⁶ Currently, the USTR is negotiating a regional, Asia-Pacific trade agreement, known as the Trans-Pacific Partnership (TPP) agreement, and the Transatlantic Trade and Investment Partnership (T-TIP) with the European Union (EU), with the objective of shaping higher standard, broad-based regional pacts.⁷

II. Background on International Trade Agreements

The foundation of trade agreements and policies begins with the World Trade Organization (WTO). Originally called the General Agreement on Tariffs and Trade (GATT), the WTO was created to serve as the international trade organization tasked to deal with the rules of trade between nations at a global level.⁸ In 2013, Laos and Tajikistan completed their accession processes, bringing the WTO's total membership to 159.⁹ The WTO is specifically intended to operate as a forum to reduce tariff and non-tariff barriers, enhance transparency, remove discriminatory practices, strengthen protection of IP, and establish a process to settle trade disputes through consultation and tariff remedies. The countries that are members of the WTO have been negotiating new trade policies through the Doha Round¹⁰ since 2001, but currently there is no clear path to its conclusion.¹¹

As these negotiations continue, the United States and other nations have moved forward with other efforts to reduce trade barriers through the negotiations of bilateral and multilateral trade agreements outside of the WTO framework. Examples of these policies include FTAs, BITs, trade preference programs, and multilateral trade agreements.

Currently, the United States has FTAs with 20 countries.¹² The specifics of the individual agreements vary, but they all aim to reduce tariff and non-tariff barriers, thereby improving the likelihood of increased trade between the countries. USTR is currently negotiating the TPP with 11 other like-minded countries that share a commitment to concluding a high-standard, ambitious agreement.¹³ In addition, USTR is negotiating the T-TIP

³ *Id.*

⁴ ITC, SMALL AND MEDIUM-SIZED ENTERPRISES: CHARACTERISTICS AND PERFORMANCE xiv (2010) [hereinafter "ITC Characteristics and Performance"], available at <http://www.usitc.gov/publications/332/pub4189.pdf>.

⁵ <https://ustr.gov/about-us/about-ustr>.

⁶ <https://ustr.gov/about-us/organization>.

⁷ <https://ustr.gov/trade-agreements/free-trade-agreements>.

⁸ https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact1_e.htm.

⁹ WORLD TRADE ORGANIZATION, ANNUAL REPORT 8 (2014), available at https://www.wto.org/english/res_e/booksp_e/anrep_e/anrep14_e.pdf.

¹⁰ The Doha Round is a common reference for the ongoing WTO negotiation that was launched in Doha, Qatar in 2001.

¹¹ *Id.* at 21. The main barriers to the conclusion of the Doha Round involve persistent differences between developed and developing countries regarding agricultural subsidies, non-tariff barriers, and protection of domestic service industries.

¹² The countries are: Israel, Canada, Mexico, Jordan, Singapore, Chile, Australia, Morocco, Bahrain, Dominican Republic, El Salvador, Honduras, Nicaragua, Guatemala, Costa Rica, Oman, Peru, South Korea, Panama, and Colombia.

<http://www.ustr.gov/trade-agreements/free-trade-agreements>.

¹³ The TPP negotiations currently include: Australia; Brunei Darussalam; Chile; Malaysia; New Zealand; Peru; Singapore; Vietnam; Canada; Mexico; Japan; and the United States. <http://www.ustr.gov/tpa>.

with the EU; the goal of which is to boost economic growth in the United State and the EU and add to the more than 13 million American and EU jobs already supported by transatlantic trade and investment.¹⁴

III. Importance of Trade Agreements to Small Businesses

Small businesses face a variety of trade barriers that limit their ability to compete in the export market, including higher tariffs, anti-competitive technical standards, and complex export controls that hamper international trade. Given the limited resources, it becomes tedious for small businesses to navigate the tariff and non-tariff barriers established from country to country in order to export goods and services. As a result, small businesses rely heavily on negotiated free trade agreements to lower tariffs, remove non-tariff barriers, and streamline the process of conducting international trade.

The most recent data from the Bureau of the Census identified 295,594 small business exporters in 2011, which accounts for nearly 98 percent of all exporters. The ITC calculated that small businesses who exported averaged a 37 percent revenue growth from 2005-2009 compared to a decline of seven percent for non-exporting firms.¹⁵ Despite the fact that the majority of United States exporters are small businesses, small firms only comprise of 33 percent of the United States economy's exporting value.¹⁶

Of the number of identified small business exporters, 39 percent have less than 20 employees and 55 percent have less than 100 employees.¹⁷ Of the small firms with less than 20 employees, 55 percent export to one market, and only 29 percent export to between one to four countries.¹⁸ In 2014, 47 percent of United States goods exported went to countries with which the United States a FTA.¹⁹ Strikingly, the United States holds a trade surplus in manufactured goods with FTA partners totaling \$55 billion in 2014.²⁰ Reductions in tariffs, non-tariff barriers, and regulations will enable more small firms to export, thereby growing their businesses and creating new jobs.

IV. Congress' Role in United States Trade Agreements

The 114th Congress is exceptionally important to future United States trade relations. The Trade Priorities and Accountability Act of 2015 (TPA), the TPP trade agreement, the T-TIP initiative, and ongoing WTO negotiations regarding services and information technology are key trade issues that will be fiercely debated. If implemented, these efforts would reduce tariff and non-tariff barriers for small businesses located in the United States and increase the probability that they will take advantage of growing international markets.

A. TPP

The TPP is a regional (multilateral) FTA being negotiated among Australia, Brunei, Chile, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, Vietnam, and the United States.²¹ The overarching

¹⁴ The TTIP negotiations would include the 27 current EU members: Austria; Belgium; Bulgaria; Cyprus; Czech Republic; Denmark; Estonia; Finland; France; Germany; Greece; Hungary; Ireland; Italy; Latvia; Lithuania; Luxembourg; Malta; Netherlands; Poland; Portugal; Romania; Slovakia; Slovenia; Spain; Sweden; and the United Kingdom.
<https://ustr.gov/about-us/policy-offices/press-office/fact-sheets/2013/june/wh-ttip>.

¹⁵ ITC Characteristics and Performance, *supra* note 3, at xi.

¹⁶ https://www.sba.gov/sites/default/files/FAQ_March_2014_0.pdf.

¹⁷ Census Export Profile, *supra* note 15, at 11.

¹⁸ *Id.* at 35.

¹⁹ <http://trade.gov/fta/>.

²⁰ *Id.*

²¹ <https://ustr.gov/trade-agreements/free-trade-agreements/trans-pacific-partnership/tpp-issue-issue-negotiating-objectives>.

goal of the TPP is to unlock opportunities for American businesses to support job creation and wage growth.²² The TPP will accomplish these objectives by providing: greater market access; stronger labor standards and environmental commitments; improved transparency and consistency of government regulations; and a solid intellectual property rights framework.²³

Ambassador Michael Froman testified before the House Ways and Means Committee that the contours of the TPP agreement are coming into focus and the United States has made important progress in the negotiation process.²⁴ Exports of goods to the TPP countries totaled nearly \$658 billion in 2012,²⁵ and successful completion of the TPP agreement, according to the Administration's calculation, would potentially expand annual United States exports by \$124 billion.²⁶ This agreement will help more small businesses enter or expand their exports in the rapidly growing Asia-Pacific market.

B. T-TIP

In June of 2013, President Obama and EU leaders announced plans to launch negotiations on the T-TIP.²⁷ Negotiators have expressed their intention to stay on pace with three negotiating rounds a year.²⁸ Bilateral trade between the United States and EU accounts for one-third of the world's total trade in goods and services, and nearly half of the global gross domestic product; the aim of the agreement is to strengthen this partnership that already supports \$1 trillion in annual two-way trade, nearly \$4 trillion in investment, and 13 million direct jobs.²⁹

C. TPA

TPA, also known as fast-track, allows the President to negotiate trade agreements with foreign countries; then have them considered by Congress with a simple up-or-down vote without amendments or other regular legislative order. TPA was created by the Trade Act of 1974 to provide the President flexibility in negotiating trade agreements; and this fast-track authority has been renewed multiple times.³⁰ The last TPA expired on July 1, 2007.

Failure to pass TPA will greatly debilitate the probability that any negotiated trade agreements will be ratified by congress through the normal legislative process because the agreements would be subject to amendments. Amendments undermine the terms of the agreement reached between the countries when they negotiated the trade pact. Furthermore, countries party to the ongoing trade talks are unlikely to offer their best terms at the negotiating table if they are not confident that the agreement will be approved by Congress.³¹

²² *Id.*

²³ *Id.*

²⁴ <https://ustr.gov/about-us/policy-offices/press-office/speechestranscripts/2015/january/statement-united-states-trad-0>.

²⁵ This number was calculated by adding the total annual exports of United States goods for 2012 for the 11 other TPP members. <http://www.census.gov/foreign-trade/balance/>.

²⁶ THE UNITED STATES TRADE REPRESENTATIVE, ANNUAL TRADE STRATEGY 2 (2014), available at <https://ustr.gov/sites/default/files/2014%20Trade%20Policy%20Agenda%20and%202013%20Annual%20Report.pdf>.

²⁷ *Id.*

²⁸ *Id.* at 3.

²⁹ *Id.*

³⁰ The original practice of TPA started in the 1930s through the Reciprocal Trade Agreements Act of 1934, which was enacted in response to the high tariffs enacted in the Smoot-Hawley Tariff Act of 1930. Since then, TPA has been renewed multiple times. The most recent TPA was enacted by the Trade Act of 2002, Pub. L. No. 107-210, Div. B, §§ 2101-13, 116 Stat. 933, 993-1022.

³¹ Legislative procedures exist in the United States House and Senate that can limit or foreclose amendments. However, such procedures are disfavored because they undermine the open debate that is the hallmark of the American legislative process.

V. Conclusion

As the evidence suggests, engagement in international trade is a cornerstone of a strong and expanding 21st century economy and the negotiations the United States is currently undertaking will be some of the most comprehensive trade agreements in history. This hearing will examine the Trade Priorities Advancement Act and the effect of United States trade policy on small business. The hearing will also offer an opportunity for members of the Committee to hear directly from small businesses about how the ongoing international trade negotiations will influence their operations and growth.