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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, Subcommittee on Agriculture, Energy and Trade
From: Committee Staff
Date: January 24, 2014
Re: Hearing: "Small Business Trade Agenda: Status and Impact of International Agreements"

On January 28, 2014 at 10:00 a.m., the Subcommittee on Agriculture, Energy and Trade will meet in Room 2360 of the Rayburn House Office Building to receive testimony regarding international trade negotiations conducted by the Office of the United States Trade Representative (USTR) and their effect on small firms. Specifically, the Committee will hear from the USTR on the status of trade negotiations and how to best increase exports and create new jobs in the United States.

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 barriers 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 (FTA), 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 a limited amount of 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. According to United States Census data, total international trade in goods and services was roughly $4.9 trillion dollars in 2012, up from $2.5 trillion in 2000.[1] Of that total, exports accounted for nearly $2.2 trillion, a new all-time high.[2] According to the International Trade Commission (ITC), those exports helped support nearly 10 million jobs, including about 4 million small business jobs.[3] In addition to those firms that are directly involved in international trade, numerous other small firms benefit from

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[1] http://www.census.gov/foreign-trade/statistics/historical/gands.pdf.
[2] *Id.*
[3] UNITED STATES INTERNATIONAL TRADE COMMISSION, SMALL AND MEDIUM-SIZED ENTERPRISES: CHARACTERISTICS AND PERFORMANCE xiv (2010), *available at* http://www.usitc.gov/publications/332/pub4189.pdf (hereinafter "ITC Characteristics and Performance").

increased international trade opportunities, including component providers to manufacturers that export, banks that provide export financing, or retailers that import goods for sale to American consumers.

The Office of the USTR is the primary agency responsible for developing, negotiating, coordinating and monitoring international trade policy with foreign nations.[4] Within USTR, the Office of Small Business, Market Access and Industrial Competitiveness is specifically responsible for coordinating trade policy with the small business community.[5] In 2011, the President signed trade agreements with Colombia, Panama and Korea, after five years of negotiations.[6] Currently, USTR is working on a variety of trade agreements to open new markets for small business exporters, including the Trans-Pacific Partnership (TPP), the Transatlantic Trade and Investment Partnership (TTIP), and ongoing World Trade Organization (WTO) negotiations regarding services and information technology.

II. Background on International Trade Agreements

The foundation of trade agreements and policies begins with the WTO. Originally called the General Agreement on Tariffs and Trade (GATT), the WTO was created to serve as the post-World War II international trade organization to help govern and facilitate international trade.[7] The WTO consists of 159 member countries, which represent almost 97 percent of the total value in international trade.[8] It provides a framework to reduce tariff and non-tariff barriers, enhances transparency, removes discriminatory practices, strengthens protection of intellectual property (IP), and establishes 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 Round[9] since 2001, but currently there is no clear path to its conclusion.[10]

As the 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.[11] 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. As already mentioned, USTR is currently negotiating the TPP, consisting of twelve nations near the Pacific Rim.[12] In addition, USTR recently launched negotiations with the European Union (EU) on a comprehensive trade and investment partnership, denominated as TTIP, aimed at reducing tariffs and harmonizing standard and non-tariff barriers between the United States and EU member nations.[13]

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[4] http://www.ustr.gov/about-us/mission.

[5] http://www.ustr.gov/trade-topics/small-business.

[6] http://www.ustr.gov/trade-agreements/free-trade-agreements.

[7] http://www.wto.org/english/thewto_e/whatis_e/what_we_do_e.htm.

[8] WORLD TRADE ORGANIZATION, ANNUAL REPORT 9 (2013), *available at* http://www.wto.org/english/res_e/booksp_e/anrep_e/anrep13_e.pdf.

[9] Doha Round is a common reference for the ongoing WTO negotiation that was launched in Doha, Qatar in 2001.

[10] *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.

[11] 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.

[12] 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/tpp.

[13] The TTIP negotiations would include the 28 current EU members: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg,

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 domestic rules regulating international trade.[14] Given their limited personnel resources, it becomes difficult, if not impossible, for small businesses to navigate the tariff and non-tariff barriers established across the globe 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 otherwise 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 account for nearly 98 percent of all exporters.[15] The ITC calculated that small businesses who exported averaged 37 percent revenue growth from 2005-2009 compared to a decline of seven percent for non-exporting firms.[16] Despite the available growth opportunities, the majority of small businesses in the United States do not export. Currently, only one percent of small businesses (27.9 million) export.[17]

Of the number of identified small business exporters, 39 percent have less than 20 employees and 55 percent have less than 100 employees.[18] Moreover, 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.[19] In 2010, 41 percent of United States goods exported went to FTA countries.[20] More significantly, exports to countries with which the United States has a FTA are growing at a faster rate than the rest of the world.[21] Reductions in tariffs, non-tariff barriers, and regulations will enable more small firms to export, thereby growing their businesses and creating new jobs.

IV. Policy Initiatives at USTR

There are a broad variety of trade initiatives led by USTR that policymakers may consider in the 113th Congress. Some include: the TPP trade agreement, the TTIP initiative, the reauthorization of Trade Promotion Authority (TPA), and ongoing WTO negotiations regarding services and information technology. 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 international markets.

A. TPP

Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom. http://www.ustr.gov/about-us/press-office/press-releases/2013/february/statement-US-EU-Presidents.

[14] The export of certain items is monitored and regulated to protect national security and intellectual property. In order to export these items (such as computer chips, high tech software, and defense equipment), the government requires companies to obtain export licenses before engaging trade with certain countries. To obtain a license, small businesses must navigate multiple federal agencies, a process that can take months to complete. This burdensome and time-consuming process may harm the ability of the small business to complete their export sale for goods requiring such licenses.

[15] BUREAU OF THE CENSUS, PROFILE OF U.S. EXPORTING COMPANIES 2010-2011 Exh. 1(a) (2013), *available at* http://www.census.gov/foreign-trade/Press-Release/edb/2011/edbrel.pdf (hereinafter "Census Export Profile").

[16] ITC Characteristics and Performance, *supra* note 3, at xi.

[17] This number was calculated by dividing the list of identified exporters (295,594) by the total estimated number of small businesses. http://www.sba.gov/sites/default/files/FAQ_Sept_2012.pdf.

[18] Census Export Profile, *supra* note 15, at 11.

[19] *Id.* at 35.

[20] http://trade.gov/fta/.

[21] *Id.*

The TPP is a regional (multilateral) FTA being negotiated among Australia, Brunei, Chile, Malaysia, New Zealand, Peru, Singapore, Vietnam, Canada, Mexico, Japan, and the United States.[22] The TPP framework builds off the goals of traditional trade agreements to reduce tariff and non-tariff barriers, strengthen IP protection, and provide fair labor standards. The TPP also will include new language to harmonize regulatory systems and protect digital technologies.[23]

USTR recently completed the 19th round of TPP negotiations.[24] Exports of goods to the TPP countries totaled nearly $658 billion in 2012,[25] which according to the Administration's calculation, would help create or support over 3.5 million jobs in the United States.[26] This agreement will help more small businesses enter or expand their exports in the rapidly growing Asia-Pacific market.

B. TTIP

On December 16, 2013, the United States and the European Union (EU) completed the third round of TTIP negotiations.[27] 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.[28] The aim of the agreement is to increase the $459 billion in United States exports to the EU in 2012, which is estimated to support 2.4 million jobs in the United States.[29] If the terms of the TTIP are negotiated correctly, some of the increase should redound to small businesses.

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 latest TPA expired on July 1, 2007.

Absent TPA, approval of any negotiated trade agreements must go through the normal legislative process and would be subject to amendments. Amendments undermine the terms of the agreement reached between the countries when they negotiated the trade pact. Other countries, naturally, would be chary about entering into an agreement subject to legislative alteration.[31]

D. WTO Negotiations Regarding Services and Information Technology

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[22] http://www.ustr.gov/about-us/press-office/fact-sheets/2011/november/united-states-trans-pacific-partnership .

[23] *Id.*

[24] http://www.ustr.gov/19th-TPP-Round-Summary.

[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, available at* http://www.ustr.gov/sites/default/files/AnnualReport%20Final2013.pdf.

[27] http://www.ustr.gov/about-us/press-office/press-releases/2013/December/Readout-TTIP-third-round-update.

[28] http://www.ustr.gov/about-us/press-office/fact-sheets/2013/june/wh-ttip.

[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.

With no clear path for the completion of the Doha Round, the USTR has stated[32] its intention to start separate negotiations on the International Services Agreement (ISA) and the Information Technology Agreement (ITA). Both proposals would require congressional approval before full implementation.

The ISA is a separate agreement being negotiated by a group of WTO countries[33] designed to remove trade barriers for service exporters. The ISA framework is based on the foundation of the WTO General Agreement on Trade in Services,[34] while updating the agreement to reflect the rapid expansion in services, resulting from new innovative services and technologies, including Internet-based services, such as cloud computing. The United States is the largest exporter of services, accounting for over $600 billion in 2011.[35] Modernizing this agreement should provide new export opportunities and IP protection for a variety of small businesses.

The USTR also is negotiating an update to the 1996 ITA. The ITA was designed to reduce tariffs and protect IP for certain information technology products.[36] The current list of products has not been updated since 1997 and does not reflect the growth of innovative technology products of the 21st century,[37] such as tablets and other wireless devices. Updating the list of eligible products will create new export opportunities for small technology companies.

V. Conclusion

As has been demonstrated, trade policy can provide additional incentives for small businesses to increase their involvement in international trade. Small businesses that engage in trade are growing and creating jobs. This hearing will offer an opportunity for members of the Committee to examine how the current international trade negotiations can help spur exports and increase small firms' competitiveness in the global economy.

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[32] http://www.ustr.gov/sites/default/files/01152013%20ARK%20letter%20to%20Speaker%20Boehner_0.pdf.
[33] Participating countries are: Australia, Canada, Colombia, Costa Rica, European Union, Hong Kong China, Israel, Japan, Mexico, New Zealand, Norway, Pakistan, Peru, Republic of Korea, Switzerland, Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, and Turkey.
[34] http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm6_e.htm.
[35] http://www.ustr.gov/trade-topics/services-investment/services.
[36] Products include: computers and computer peripheral equipment, electronic components including semiconductors, computer software, telecommunications equipment, semiconductor manufacturing equipment, and computer-based analytical instruments. http://www.ustr.gov/trade-topics/industry-manufacturing/industry-initiatives/information-technology.
[37] *Id.*