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RANKING MEMBER

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 14, 2012
Re: Hearing: U.S. Trade Strategy: What's Next for Small Business Exporters?

On May 16, 2012 at 1:00 p.m., the Committee on Small Business will meet in Room 2360 of the Rayburn House Office Building to receive testimony concerning the trade policy initiatives of the Administration and their effect on small business exporters. Specifically, the Committee will hear from the Office of the United States Trade Representative (USTR) on the status of current trade negotiations and the overall strategy to open new markets for United States goods and services. In addition, the Committee will receive recommendations directly from small businesses on how to best increase exports and create new local jobs.

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 barriers.

Nearly every small business is affected by these trade agreements. Whether they directly export a product, import a component part, or sell foreign merchandise, global trade influences their business operation and competitiveness. According to United States Census data, total international trade in United States' goods and services was over $4.7 trillion dollars in 2011, up from $2.5 trillion in 2000.[1] In addition to those firms that are directly involved in international trade, numerous other small firms can benefit from 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.

USTR is the primary agency responsible for developing, negotiating, coordinating and monitoring international trade policy with foreign nations.[2] USTR has the Office of Small Business, Market Access and Industrial Competitiveness that is specifically responsible for coordinating trade policy with the small business community.[3] In 2011, the President signed trade agreements with Colombia, Panama and Korea, after five years of negotiations.[4] The International Trade Commission (ITC) estimated the three trade agreements will result in

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[1] http://www.census.gov/foreign-trade/Press-Release/current_press_release/.
[2] http://www.ustr.gov/about-us/mission.
[3] http://www.ustr.gov/trade-topics/small-business.
[4] http://www.ustr.gov/trade-agreements/free-trade-agreements.

over $13 billion in new United States exports.[5] Looking forward, USTR is working on a variety of initiatives to open new markets for small business exporters, including the Trans-Pacific Partnership (TPP), strengthening trade enforcement, and negotiating other bilateral agreements.

II. Trade Agreements In Place

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 post-World War II international trade organization to help govern and facilitate international trade.[6] The WTO consists of 153 countries, which represent almost 90 percent of international trade.[7] It provides a framework to reduce tariff and non-tariff barriers, enhances transparency, removes discriminatory practices, strengthens protection of 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 provisions through the Doha Round[8] since 2001; there is no clear path to a conclusion of this round.[9] 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.

Currently, the United States has FTAs with 19 countries.[10] The FTA with Panama is scheduled to be implemented later this year.[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. In addition, the USTR is currently negotiating another multilateral FTA denominated as the Trans-Pacific Partnership (TPP), consisting of eight nations along the Pacific Rim.[12]

III. Importance of Trade Agreements to Small Businesses

As already stated, 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.[13] Given the 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

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[5] The calculation is derived from adding the estimates from the individual ITC reports on the Colombia, Panama and Korea FTAs. The reports are *available at* http://www.usitc.gov/research_and_analysis/free_trade_agreements.htm.
The ITC is an independent Federal agency that provides objective analysis and reports to the President, USTR and Congress regarding matters of tariff, international trade and U.S. competiveness. The ITC also administers the Harmonized Tariff Schedule.

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

[7] WORLD TRADE ORGANIZATION, ANNUAL REPORT 6 (2011) *available at* http://www.wto.org/english/res_e/booksp_e/anrep_e/anrep11_chap1_e.pdf (hereinafter "WTO Report").

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

[9] WTO Report, *supra* note 7, at 11. 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.

[10] 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, and Colombia. http://www.ustr.gov/trade-agreements/free-trade-agreements.

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

[12] The TPP negotiations currently include: Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, and Vietnam. Other countries have requested joining the negotiations, including Canada, Japan, Mexico and China. http://www.ustr.gov/tpp.

[13] 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.

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 Bureau of the Census identified 269,269 small businesses that exported in 2009.[14] That number of exporters accounts for only one percent of the small businesses (27.5 million) in the United States.[15] Of the small business exporters, 45 percent have less than 20 employees and 68 percent have less than 100 employees.[16] Moreover, 58 percent export to only one market, and 83 percent export to between one to four countries.[17]

In 2010, 41 percent of United States goods exported went to FTA countries. 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.[18] The chart below illustrates the trade balance of manufactured goods with the FTA countries and non-FTA countries.[19]

U.S. MANUFACTURED GOODS TRADE BALANCE, NAICS

Billions of U.S. Current Dollars

Year-To-Date Data from Jan - Jan

Country	2005	2006	2007	2008	2009	2010	2011	2011 YTD	2012 YTD
WORLD	-541.4	-558.5	-532.2	-456.3	-319.5	-414.4	-449.0	-36.4	-40.1
North America	-42.7	-40.3	-42.3	-11.4	6.0	-4.9	11.8	0.4	1.7
South America	-3.6	8.2	26.9	49.7	48.0	64.0	70.7	6.0	5.8
Brazil	-6.2	-3.0	3.5	10.7	12.6	18.8	21.1	1.6	1.1
EU27	-117.9	-114.8	-108.8	-99.9	-61.2	-84.1	-107.3	-7.1	-8.7
Asia	-403.9	-446.6	-457.6	-455.8	-366.4	-445.1	-485.2	-39.3	-44.5
China	-205.1	-238.4	-264.1	-277.1	-240.1	-292.8	-319.3	-25.6	-28.4
Japan	-86.9	-92.5	-87.6	-81.4	-50.7	-67.8	-72.3	-5.8	-6.9
Other Asia	-111.8	-115.7	-105.8	-97.2	-75.6	-84.6	-93.6	-8.0	-9.3
Middle East	15.6	23.8	30.6	41.8	31.7	32.8	39.2	2.2	4.5
Rest of World	9.7	10.0	17.6	18.4	22.2	22.7	21.0	1.4	0.9
FTA, TOTAL	-37.8	-32.8	-25.9	21.2	26.1	21.0	49.8	2.9	5.4
NAFTA	-42.7	-40.3	-42.3	-11.4	6.0	-4.9	11.8	0.4	1.7
CAFTA	-0.5	1.7	4.1	6.3	1.9	0.9	2.9	0.6	0.2
Chile	0.6	-0.6	1.7	5.8	5.1	5.4	8.2	0.5	0.9
Peru	-2.5	-2.5	-0.7	0.9	1.3	2.3	3.2	0.1	0.2
Australia	8.5	9.4	10.2	12.7	11.7	12.8	16.9	1.1	1.5
Singapore	5.9	7.7	8.4	13.5	7.1	11.8	13.0	0.8	1.0
Israel	-7.0	-8.2	-8.0	-8.3	-9.2	-9.9	-9.3	-0.8	-0.5
Oth MidEast	-0.3	-0.0	0.6	1.8	2.3	2.6	3.1	0.2	0.2
NON-FTA	-503.5	-525.8	-506.3	-477.5	-345.6	-435.5	-498.8	-39.3	-45.4

[14] BUREAU OF THE CENSUS, PROFILE OF U.S. EXPORTING COMPANIES, 2008 -2009 Exh. 1(a) (2011), *available at* http://www.census.gov/foreign-trade/Press-Release/edb/2009/edbrel.pdf (hereinafter "Census Export Profile").
[15] http://www.sba.gov/sites/default/files/sbfaq.pdf.
[16] Census Export Profile, *supra* note 14, at 6.
[17] Census Export Profile, *supra* note 14, at 3.
[18] http://trade.gov/fta/.
[19] http://www.nam.org/Statistics-And-Data/Trade-Data/Landing.aspx.

Total exports of United States' goods and services reached $2.1 trillion dollars in 2011 or nearly 14 percent of the United States gross domestic product.[20] According to the ITC, those exports helped support nearly 10 million jobs, including about 4 million small business jobs.[21] The ITC also 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.[22] The benefits of exporting are clear; however, the majority of small businesses in the United States do not export.

IV. Policy Initiatives for FY2012

FTAs with Panama, Colombia and Korea have passed Congress and are close to full implementation. The Administration and Congress have turned their focus on other trade initiatives that could affect small businesses. Some of the initiatives include the TPP negotiations, the granting of permanent normal trade relations (PNTR) with Russia, the reauthorization of Trade Promotion Authority, the establishment of the Trade Enforcement Center, and the proposed reorganization of federal trade agencies.

Trans-Pacific Partnership

The TPP is a regional (rather than a bilateral) free trade agreement being negotiated among Australia, Brunei, Chile, Malaysia, New Zealand, Peru, Singapore, Vietnam and the United States.[23] The TPP framework builds off the goals of traditional trade agreements to reduce tariff and non-tariff barriers, strengthen IP, and provide fair labor standards, while also including new language to harmonize regulatory systems and to protect digital technologies.[24]

USTR is currently in the 12th round of TPP negotiations and plans to finalize an agreement by the end of 2012.[25] This agreement will help more small businesses enter or expand their exports in the rapid growing Asia-Pacific market. Exports of goods and services to the TPP countries totaled $775 billion in 2010, or a 25 percent increase from 2009.[26]

Permanent Normal Trade Relations (PNTR) for Russia

In December 2011, the WTO, which requires all member nations to grant each other normal trade relations (NTR), invited Russia to join the organization after an 18-year accession process.[27] NTR essentially prohibits one country from using discriminatory practices against a foreign country if it does not use those practices against all nations.

For the United States to comply with WTO rules, Congress must amend Title IV of the Trade Act of 1974 and remove Russia from certain conditions set in the so-called "Jackson-Vanik" amendment.[28] The act denies NTR to non-market economies that restrict the rights of freedom-of-emigration for their citizens.[29] Russia is currently identified under Jackson-Vanik as a country that falls within the parameters of the amendment. Removal of this condition would grant Russia PNTR with the United States. Without PNTR, domestic exporters could be subject to higher tariffs in Russia.

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[20] The calculation comes from comparing the amount of goods and services exported as enumerated in the Census Foreign Trade, *supra* note 1, and the gross domestic product as calculated by the Bureau of Economic Analysis of the Department of Commerce. http://www.bea.gov/national/xls/gdplev.xls.

[21] ITC, SMALL AND MEDIUM-SIZED ENTERPRISES: CHARACTERISTICS AND PERFORMANCE xiv (2010), *available at* http://www.usitc.gov/publications/332/pub4189.pdf.

[22] *Id.* at xi.

[23] http://www.ustr.gov/about-us/press-office/fact-sheets/2011/november/outlines-trans-pacific-partnership-agreement.

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] http://www.wto.org/english/news_e/news11_e/acc_rus_16dec11_e.htm.

[28] 19 U.S.C. § 2432.

[29] *Id.*

Trade Promotion Authority (TPA)
TPA, also known as fast-track, allows the President to negotiate trade agreements with foreign countries, and then have them considered by Congress with a simple up-or-down vote. TPA was created by the Trade Act of 1974 to provide the President flexibility in negotiating trade agreements, and has been renewed multiple times.[30] The latest TPA expired on July 1, 2007, and without TPA, any negotiated trade agreements will go through the standard legislative process and be subject to amendments.[31] That legislative process, including amendments, undermines the terms of the agreement reached between the countries when they negotiated the trade pact.

Trade Enforcement Center
Unfair trade practices are one of the most important issues for small businesses. Foreign competitors can use a variety of tactics to obtain a competitive advantage against a domestic industry. Common forms of illegal trade include non-tariff barriers, dumping goods at below production cost, IP theft, and tariff evasion. The negotiated trade agreements provide a strong framework to help protect intellectual property and minimize theft.

In February 2012, President Obama issued an executive order establishing the Interagency Trade Enforcement Center to monitor and enforce trade laws.[32] The office is located in the Office of the USTR and will work with the United States Department of Commerce and other agencies to enhance foreign market access for domestic exporters and enforce unfair trade practices.[33]

Trade Agency Reorganization
In January 2012, President Obama announced his plan to reorganize multiple federal agencies to promote competiveness, exports and American business.[34] Generally, the plan would consolidate six agencies into one new department. The agencies include: the United States Department of Commerce, the Small Business Administration, USTR, the Export-Import Bank, the Overseas Private Investment Corporation, and the United States Trade and Development Agency.[35] The plan would require Congressional approval, but some have expressed strong concerns with the overall reorganization.[36]

V. Conclusion

Small businesses rely heavily on the negotiated trade agreements to remove barriers and grow their exports. This hearing will provide an opportunity for members of the Committee to examine the Administration's trade strategy to ensure that small businesses have the resources needed to compete in the global economy.

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[30] The original practice of TPA started in the 1930s through the Reciprocal Trade Agreements Act of 1934 which was in response to the high tariffs enacted in the Smoot-Hawley Act. 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. Section 2101 of the Trade Act provide that Division may be known as the Bipartisan Trade Promotion Authority Act of 2002 (BTPAA).
[31] *Id.*
[32] Exec. Order No. 13,601, 77 Fed. Reg. 12,981 (March 5, 2012).
[33] *Id.*
[34] http://www.whitehouse.gov/the-press-office/2012/01/13/government-reorganization-fact-sheet.
[35] *Id.*
[36] Both Senate Finance Chairman Max Baucus (D-MT) and House Ways and Means Chairman Dave Camp (R-MI) voiced concerns about including USTR in the reorganization plan, as it may interfere with USTR's mission to open new markets and create new jobs. http://waysandmeans.house.gov/News/DocumentSingle.aspx?DocumentID=275042.