



The 21st Century Trade Agreements and Market Access Act

For too long, U.S. trade policy has simply not served the interests of a majority of Americans and has led to public demand for change. While exports are starting to rise, the gains sought from export promoting trade agreements have not compensated for the market share lost by domestic producers as a result of these agreements. Over the last decade in terms of dollar value of national goods exports, the U.S. has dropped from first place to third place, behind China and Germany.

While pundits and economic elites often frame the debate as being between free trade or protectionism, Americans know that, when it comes to supporting new trade deals, the choices are much more complex. The rules of trade agreements, and the processes for negotiating these rules, matter. Congress has the constitutional authority to regulate trade and commerce with foreign nations. However, for the past several decades, Congress has often delegated this authority to the executive branch to select trading partners, negotiate, and sign new trade deals before Congress votes on the matter. Since trade negotiations can create binding policies in several areas with public interest, such as the environment and natural resources, food safety, intellectual property rights, financial, investment and procurement policies, and even risk contradicting U.S. laws, reforms to update the policymaking process are warranted.

The Trans-Pacific Partnership (TPP) represents the most significant opportunity to update trade policy for the 21st Century, and to learn from the mistakes of NAFTA and other trade deals negotiated under "Fast Track." The "21st Century Trade Agreements and Market Access Act" would delegate new authority to the Administration to negotiate new trade deals while re-asserting the role of congressional oversight on the substance of negotiations. The legislation would also require additional compliance reporting and streamline trade and export promotion activities to enable more U.S. producers, ranchers, and small businesses opportunity to reach new markets. Controversies surrounding recent FTAs, challenges to important U.S. consumer and environmental laws, and the jobs lost as a result of some of these FTAs, especially in the manufacturing sector, have once again highlighted the importance of public and congressional participation in any future trade agreements.

Legislation:

The legislation would require the following reports be submitted to Congress, in some cases amongst other parties, regarding potential and existing trade agreements:

1. A report submitted by the President on the country (or countries) for which the Administration seeks to negotiate a trade agreement with or is currently in the process of negotiating a trade agreement, including on the country's human rights record,

enforcement of international labor rights and environment laws, and other fair trade practices.

2. A report submitted by the USITC with respect to prospective trade negotiating partners on market access assessments including export opportunities and challenges, as well as the tariff and non-tariff barriers identified by U.S. producers, and information on the purchasing power of a potential trading partner.
3. An annual report by the USTR on the progress of commitments a trade agreement partner makes or on upcoming deadlines for commitments, along with subsequent effects of these commitments.

In addition, the 21st Century Trade Agreements and Market Access Act would reform the trade policymaking process by enhancing congressional consultations during negotiations and setting binding negotiating objectives that would have to be met and verified by Congress before an administration signs the agreement.

Finally, the legislation would address flaws in government export promotion agencies identified in a Government Accountability Office (GAO) report requested by Senator Brown by providing the Trade Promotion Coordinating Committee (TPCC) greater authority to align resources and activities with high-potential export opportunities for American workers, farmers, and businesses.

Section-by-Section Overview

Section 1 Short Title

Identifies the bill as “The 21st Century Trade Agreements and Market Access Act.”

Section 2 Definitions

Defines key terms, including

“core labor rights” as the International Labour Organization conventions dealing with freedom of association; the elimination of all forms of forced or compulsory labor; the effective abolition of child labor; and the elimination of discrimination with respect to employment and occupation.

“Multilateral Environmental Agreements” as any international agreement intended to protect, or has the effect of protecting, the environment or human health.

Section 3 – Report by the President on Prospective U.S. Trade Negotiating Partners

Requires the President to submit to the Committee on Finance and the Committee on Ways & Means and make available to the public a report on the foreign country with which it seeks to negotiate a trade agreement, including on the following criteria: form of government; compliance with standard international labor and human rights laws; compliance with multilateral environmental agreements; a track record on intellectual property rights and flexibilities; government transparency; national security risks; and currency manipulation.

Section 4 – Report by the ITC on Market Access Opportunities

Requires the ITC to identify, for countries with which the U.S. seeks to negotiate, the market access opportunities for U.S. exporters, including the tariff and nontariff barriers of the countries and estimate of per capital and median income and population of each country.

Section 5 – Report by the USTR on Market Access Commitments under Trade Agreements

Requires the USTR to identify the status of market access commitments undertaken by a trading partner, including existing discriminatory barriers, the elimination of which would likely offer U.S. job and economic growth opportunities. It also requires USTR to describe actions taken by the trading partner to eliminate these barriers.

Section 6 – Sense of Congress on Improving Process for Trade Negotiations

Expresses the sense of the Congress that for expedited procedures for the consideration of bills to implement trade agreements, certain processes should be followed including required consultations with Congress that exceed past consultations; binding negotiating objectives being met; and a requirement that a trade agreement be approved by Congress prior to the signing of the trade agreement.

Section 7 – Inclusion of Certain Provisions in Trade Agreement

Requires that implementing bills of new trade agreements meet certain standards with regard to (1) labor; (2) environment and public safety standards; (3) food and product health and safety standards; (4) services; (5) investment; (6) government procurement; (7) intellectual property; (8) agriculture; (9) trade remedies and safeguards; (10) state-owned enterprises; (11) dispute resolution, enforcement provisions, and currency; (12) exceptions for national security; and (13) federalism.

Sets forth a point of order with respect to expedited consideration of a bill to implement a trade agreement that does not meet these standards.

Section 8 – Improved Coordination of Export Promotion Activities

Provides the Trade Promotion Coordinating Committee (TPCC) greater authority to assess current export promotion programs prior to export agencies submitting budget proposals to the Office of Management and Budget; maximizes partnerships among export agencies; and improve outreach to small and medium-sized businesses about export promotion resources.

Section 9 – Effective Deployment of Resources to the U.S. and Foreign Commercial Service

Directs the Commerce Secretary to conduct an assessment of export markets and re-assign U.S. Commercial Service personnel to carry out this assessment.

Section 10 – Strengthened Commercial Diplomacy to Increase U.S. Exports

Directs the Secretary of State to order U.S. ambassadors to develop country-by-country commercial diplomacy plans to increase U.S. exports.