

ISSUE BRIEF

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Trade Promotion Authority and Economic Freedom

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Earlier this year, legislation was introduced to give President Obama Trade Promotion Authority (TPA) that would put new trade agreements on the fast track to congressional consideration.¹ Under TPA, the President could negotiate agreements with other countries that would then be submitted to Congress for an up-or-down vote with no amendments.

Many who have commented on this proposed legislation, officially titled the Bipartisan Congressional Trade Priorities Act of 2014, appear to have only a limited understanding of the benefits of trade, focusing primarily on liberalizing other countries' laws to boost U.S. exports. This is well and good, but it ignores the massive benefits that accrue to U.S. businesses and consumers when the U.S. liberalizes its own laws, lowering prices here and boosting manufacturing efficiency.

Advancing Economic Freedom. Some proponents of TPA seem to think that its purpose is to open other countries' economies. For example, according to Senator Max Baucus (D-MT), "Why do we need this bill? For several reasons. First, we have to level the playing field with our international competitors. The United States is already open to trade, but too often, our trading partners are not."²

This view is prevalent on Capitol Hill. But the following current U.S. policies suggest that there is more to the story:

- High tariffs on imported shoes and clothing, which have been called America's most regressive tax, cost Americans billions of dollars per year.³
- Costly U.S. restrictions on sugar imports are the modern version of the Molasses and Sugar Acts, which contributed to the American Revolution.
- U.S. anti-dumping laws reduce competition and increase the price of inputs used by U.S. producers.⁴
- Mandatory "Buy American" laws force governments at the federal, state, and local levels to use domestically produced products even when lower-priced imports are available, leading to higher taxes and/or larger budget deficits.
- Obsolete shipping restrictions such as the Merchant Marine Act of 1920 (also known as the Jones Act) and the Passenger Vessel Services Act of 1886 require ships moving from one U.S. port to another to be U.S.-made, U.S.-owned, and U.S.-crewed, thereby artificially increasing cargo transportation costs.

Trade negotiators should not be in a position of defending U.S. barriers. The U.S. should instead work to reduce both foreign and U.S. protectionism. From a practical standpoint, previous trade agreements have created an environment that allowed

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legislators to bring down U.S. trade barriers that would otherwise probably still be in place.

Baucus further stated that “TPA will call for countries to adopt and maintain core labor standards and environmental commitments—not just enforce their own laws as they stand. The bill will direct [the U.S. Trade Representative] to back those commitments with the same strong dispute settlement and remedies that apply to commercial commitments. The bill ensures that parties to U.S. trade agreements cannot manipulate their currency.”

Prior TPA bills have included similar provisions largely as an attempt to attract support from environmental, labor, and protectionist interest groups who are unlikely to support trade in general. There is no reason Congress needs to perpetuate this approach in pursuit of support that will never materialize.

Those directions might be appropriate in legislation titled “Trade Discouragement Authority,” but if the goal of TPA is to promote trade, the last thing lawmakers should do is empower governments to impose new tariffs as a result of labor, environmental, or currency policies.

Objections from Opponents. Opponents of TPA can be misguided as well.⁵ For example, according to a letter from several Republican legislators to President Obama: “Under Fast Track [TPA], the executive branch is empowered to sign trade agreements *before* Congress has an opportunity to vote on them, and then unilaterally write legislation making the pacts’ terms U.S. federal law.”⁶

In fact, TPA explicitly requires that Congress vote on trade agreements before they can take effect. Without TPA, it is possible that those agreements might never even be negotiated. As Edwin Meese III, President Reagan’s Attorney General, explained while addressing the constitutionality of trade promotion authority: “It is extremely difficult for any U.S. President to negotiate significant trade deals if he cannot assure other nations that Congress will refrain from adding numerous amendments and conditions that must then be taken back to the negotiating table.”⁷

Other opponents of TPA simply oppose trade. For example, Teamsters president James P. Hoffa criticized TPA by alleging: “America lost nearly 700,000 jobs because of NAFTA [the North American Free Trade Agreement].”⁸ In reality, during the 20 years since NAFTA took effect, private-sector employment in the United States increased by 21,656,000.⁹ There has never been a credible study documenting net job losses as a result of NAFTA or any other U.S. trade agreement. Certainly, some specific jobs are lost when Americans are given the freedom to spend their money on products made in other countries, but just as certainly, other jobs are created. The billions of dollars Americans spend on imports wind up being used in other countries to buy U.S. exports or to invest in the U.S. economy, creating jobs in the U.S.¹⁰

Most trade agreements presented to Congress have passed by large margins. A look at cumulative votes on free trade agreements shows a total victory

1. News release, “Baucus Statement on the Need to Renew Trade Promotion Authority,” U.S. Senate Committee on Finance, January 16, 2014, <http://www.finance.senate.gov/newsroom/chairman/release/?id=0019d286-c5a6-4035-96c6-23c47914827b> (accessed January 21, 2014).
2. Ibid.
3. Edward Gresser, “The Rebirth of Pro-Shopper Populism: Affordable Shoes, Outdoor Apparel, and the Case for Tariff Reform,” *Progressive Economy*, June 2011, http://www.outdoorindustry.org/pdf/Tariffs_Taxation.pdf (accessed January 23, 2014).
4. Daniel Ikenson, “A Tariff Reduction Plan for U.S. Jobs,” *The Wall Street Journal*, September 10, 2011, <http://online.wsj.com/article/SB10001424053111904716604576546910548548544.html> (accessed January 23, 2014).
5. Some of the most far-fetched claims are compiled at <http://www.stopfasttrack.com/> (accessed January 24, 2014).
6. Walter B. Jones et al., letter to President Barack Obama, November 12, 2013, <http://jones.house.gov/sites/jones.house.gov/files/11.12.13%20Fast%20Track%20Letter.pdf> (accessed January 24, 2014).
7. Edwin Meese III and Todd F. Gaziano, “Why Trade Promotion Authority Is Constitutional,” Heritage Foundation *Legal Memorandum* No. 4, November 28, 2001, <http://www.heritage.org/research/reports/2001/11/why-trade-promotion-authority-is-constitutional>.
8. News release, “Hoffa: Fast-Track Bill Will Take Congress, Public Out of Process,” PR Newswire, January 9, 2014, <http://www.prnewswire.com/news-releases/hoffa-fast-track-bill-will-take-congress-public-out-of-process-239495161.html> (accessed January 22, 2014).
9. U.S. Bureau of Labor Statistics, “Employment, Hours, and Earnings from the Current Employment Statistics Survey (National),” December 2013 to January 2014, <http://data.bls.gov/timeseries/CE50500000001> (accessed January 21, 2014).
10. Derek Scissors, Charlotte Espinoza, and Terry Miller, “Trade Freedom: How Imports Support U.S. Jobs,” Heritage Foundation *Background* No. 2725, September 12, 2012, <http://www.heritage.org/research/reports/2012/09/trade-freedom-how-imports-support-us-jobs>.

margin of nearly two to one in the U.S. House of Representatives and an even greater margin of support in the Senate. Most recently, once President Obama let Congress vote on trade agreements with Colombia, Panama, and South Korea, the combined vote was 840–447 in the House and 226–70 in the Senate.

Beneficial trade agreements negotiated under previous TPA legislation include NAFTA and agreements with countries including Chile, Singapore, and most recently Colombia, Panama, and South Korea. The “largest tax cut in the history of the world” was negotiated through the Uruguay Round trade agreement under TPA.¹¹ Those agreements were not perfect, but they encouraged global trade liberalization and economic growth.

A Balanced Approach. Although protectionists oppose TPA, this does not mean that free trade advocates should blindly support the legislation without first making sure that it does not backtrack on previously enacted trade promotion laws.

Congress has given Presidents from Franklin Roosevelt to George W. Bush the authority to negotiate trade agreements. As with these prior laws, any

new TPA legislation should give the President the tools to reduce trade barriers and increase economic freedom—but not to negotiate agreements that have the opposite result.¹²

Evaluate Trade Agreements Separately. The proposed Trans-Pacific Partnership, the Transatlantic Trade and Investment Partnership, and similar agreements offer great opportunity if they are done right—and downside risks if they are not. Decisions on those agreements should be made separately from a decision on TPA. The first step is to pass a positive TPA. Later, Congress can evaluate whether U.S. trade negotiators have delivered a good agreement.

To paraphrase President Ronald Reagan, the goal of free trade agreements should be to unite people around the world in a bond of mutually beneficial exchange. Before giving TPA to President Obama and his successor, Congress should make sure that the proposed legislation facilitates this goal.

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11. Ira Stoll, “Obama’s Best Hope for Aura of JFK Is a Final Push on Free Trade,” *New York Sun*, November 18, 2013, <http://www.nysun.com/editorials/obamas-best-hope-for-aura-of-jfk-is-a-final-push/88492/> (accessed January 23, 2014).

12. Bryan Riley and Anthony B. Kim, “Advancing Freedom: Key Objective of Trade Promotion Authority Renewal,” *Heritage Foundation Issue Brief* No. 3912, April 16, 2013, <http://www.heritage.org/research/reports/2013/04/advancing-trade-freedom-key-objective-of-trade-promotion-authority-renewal>.