

[H.R. 2146, Trade Priorities and Accountability Act of 2015](#)

FLOOR SITUATION

On Thursday, June 18, 2015, the House will consider the House amendment to the Senate amendment to [H.R. 2146](#), *the Trade Priorities and Accountability Act of 2015*, under a [rule](#). The Senate amended the text of the previously-passed House version of H.R. 2146 (the Defending Public Safety Employees' Retirement Act) and approved the amended version by unanimous consent on June 4, 2015. The House amendment is identical to Title I of [H.R. 1314](#), otherwise known as Trade Promotion Authority (TPA), which the House approved by a vote of [219 to 211](#) on June 12, 2015.

SUMMARY

H.R. 2146, as amended by the House amendment, establishes procedures to enhance Congressional authorities in shaping and implementing trade agreements. The legislation establishes Congressional trade negotiating objectives, enhances consultation requirements and information sharing with Congress before, during, and after trade negotiations, and provides the rules for Congressional consideration of trade agreements and their implementing bills.

Major provisions of the bill as follows:

Trade Promotion Authority (TPA)

Trade Agreement Authority—the bill provides the President authority to enter into trade agreements with foreign countries to modify duties or other import restrictions that unduly burden the United States.

Trade Negotiating Objectives—the bill establishes overall trade negotiating objectives of the United States for trade agreements to expand opportunities for U.S. exports and obtain fairer and more open conditions of trade. Some of the major negotiating objectives include:

- Trade in goods - expand opportunities for U.S. exports and obtain fairer and more open conditions of trade, including through utilization of global value chains.

- Trade in services - expand opportunities for U.S. services and obtain fairer and more open conditions of trade, including through utilization of global value chains.
- Trade in Agriculture - to obtain competitive market access opportunities for U.S. agricultural exports substantially equivalent to opportunities afforded foreign exports in U.S. markets and to achieve fairer and more open conditions of trade.
- Foreign Investment – reduce barriers to foreign investment, while ensuring that foreign investors in the U.S. are not accorded greater substantive rights than U.S. investors in the U.S., and secure for U.S. investors rights comparable to those available in the United States.
- Intellectual Property – further promote adequate and effective protection for intellectual property rights through ensuring full implementation of the WTO Agreement on Trade-Related Aspects of Intellectual Property and ensuring that provisions of any trade agreement governing intellectual property rights reflect a standard of protection similar to that found in U.S. law.
- State-Owned and State-Controlled Enterprises - seek commitments that eliminate or prevent trade distortions and unfair competition favoring state-owned enterprises to the extent of their engagement in commercial activity and ensure that such engagement is based solely on commercial considerations.
- Currency – avoid manipulating exchange rates in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other parties to the agreement, such as through cooperative mechanisms, enforceable rules, reporting, monitoring, transparency, or other means, as appropriate.
- Foreign Currency Manipulation - seek to establish accountability through enforceable rules, transparency, reporting, monitoring, cooperative mechanisms, or other means to address exchange rate manipulation involving protracted large scale intervention in one direction in the exchange markets and a persistently undervalued foreign exchange rate to gain an unfair competitive advantage in trade over other parties to a trade agreement.
- WTO and Multilateral Trade Agreements - to achieve full implementation and extend the coverage of WTO multilateral and plurilateral agreements, including expansion and enhancement of the Information Technology Agreement, the Government Procurement Agreement, and other WTO plurilateral agreements.
- Trade Institution Transparency - seek improved transparency in the WTO, in institutions established through other trade agreements, and in other international trade fora.
- Anti-Corruption - obtain high standards and effective domestic enforcement mechanisms that prohibit attempts to use money or other things of value to influence acts, decisions, or omissions of foreign governments.
- Trade Remedy Laws - preserve the ability to rigorously enforce U.S. trade laws, including antidumping, countervailing duty, and safeguard laws.
- Religious Freedom - directs the Administration to take into account conditions relating to religious freedom of any party to a trade negotiation.

Congressional Oversight, Consultation, and Access to Information—the bill requires, in the course of trade negotiations, that that United States Trade Representative (USTR) shall: meet upon request with any Member of Congress; provide access to pertinent documents, including classified materials; and engage in close and timely consultation with all committees of the House and the Senate with jurisdiction over laws that could be affected by a trade agreement. Prior to entry into force of a trade agreement, USTR must keep Congress apprised of measures a trading partner has taken to comply with provisions that will take effect on the date the agreement enters into force.

The bill allows any Member of Congress, who wishes to participate, to be designated as Congressional Advisers on Trade Policy and Negotiations. The USTR will be required to consult

closely and on a timely basis with these Congressional Advisors during the course of trade negotiations. The bill also establishes House and Senate Advisory Groups on Negotiations, sets forth membership requirements for each, and requires that the USTR to consult with and seek advice from the Advisory Groups.

The bill requires the USTR, in consultation with the Chairs and Ranking Members of the Senate Finance Committee and the House Ways and Means Committee, to develop written guidelines on enhanced coordination with Congress, Congressional Advisory Groups, and the public. The bill establishes a Chief Transparency Officer at the USTR to be responsible for consulting with Congress and coordinating transparency policy.

Congressional Notice Requirements and Timeline—the bill stipulates certain timeline requirements in order for a trade agreement to be considered under expedited consideration mechanisms provided in the bill. In order to qualify for TPA consideration, the President must abide by the following timeline:

- Notification 90 days prior to beginning trade negotiations
- At least 60 days before entering into the agreement, the President must publish the text of the agreement on the USTR website
- 60 days prior to signing, release of the agreement text and submission of Advisory Committee reports
- 60 days after agreement is signed, release a list of required changes in law is due
- At least 30 days before formally submitting the trade agreement to Congress, the President must provide to Congress a copy of the final legal text of the agreement and a draft statement of administrative action proposed to implement the agreement

After an implementing bill has been introduced in the House and Senate, the bodies must vote on the bill within 90 days and may consider the bill concurrently to expedite the process.

Limitation on Procedures with Countries not in Compliance with certain Human Trafficking standards—trade authority procedures do not apply to any country in which the minimum standards for the elimination of trafficking are applicable and the government of which does not fully comply with such standards and is not making significant efforts to bring the country into compliance (commonly referred to as a “tier 3” country), as determined in the most recent annual report on trafficking in persons submitted under section 110(b)(1) of the Trafficking Victims Protection Act of 2000.

Treatment of Certain Trade Agreements for Which Negotiations Have Already Begun—concerns the applicability of trade authorities procedures to implementing bills for certain trade negotiations commenced prior to enactment of this Act. For those agreements the bill allows an exception only to the initial 90-day notification prior to initiation of negotiations provided those specific procedures are followed.

Sovereignty—stipulates that the application of any provision of a trade agreement that is inconsistent with U.S. law shall have no effect; that no provision of a trade agreement entered into shall prevent the United States from amending or modifying its laws; and that reports issued by dispute settlement panels will have no binding effect under U.S. law.

Procedures for disapproval of the use of trade authorities procedures—the bill contains a procedural disapproval resolution process by which both chambers of Congress, acting jointly, may

withdraw trade authorities procedures on an expedited basis. Each chamber of Congress may unilaterally withdraw trade authorities procedures for that chamber.

Authorization period for Title I—the bill authorizes presidential trade negotiating authority, as prescribed by the bill, until July 1, 2018. Such authority may be extended until July 1, 2021, if the President submits a request for such an extension and neither the House nor Senate adopts an extension disapproval resolution.¹

BACKGROUND

International trade is a critical component of the U.S. economy, with U.S. merchandise imports amounting to \$2.4 trillion and exports to \$1.6 trillion in 2014. Approximately 96 percent of the world's consumer's reside outside of the United States.² H.R. 2146 attempts to foster a conducive environment for increasing international trade to grow the U.S. economy, by providing a framework for negotiating trade agreements.

Trade Promotion Authority (TPA) — is an authority that Congress grants to the President when negotiating trade agreements that sets certain objectives and procedures for him or her to follow in order for a trade agreement to be given consideration under a certain timeline, without amendment, in the Congress. “More generally, TPA defines how Congress has chosen to exercise its constitutional authority over a particular aspect of trade policy, while affording the President added leverage to negotiate trade agreements by giving trading partners assurance that final agreements can receive consideration by Congress in a timely manner and without amendments.” Trade promotion authority was first enacted on January 1, 1975, and since 1979, has been used for 14 bilateral/regional free trade agreements.³

“The current effort to reauthorize TPA has been motivated, in part, by the engagement of the United States in three sets of trade negotiations: the proposed Trans-Pacific Partnership (TPP) agreement with 11 other countries; the proposed Transatlantic Trade and Investment Partnership (T-TIP) agreement with the 28-member European Union (EU); and the proposed Trade in Services Agreement (TISA) with 22 other trading partners, including the EU. The Obama Administration has fulfilled the notification and consultation requirements under the most recent TPA for each of these sets of negotiations in anticipation that it would be renewed. Some trade partners have suggested that the lack of TPA has slowed progress in the negotiations on the TPP, and without the assurance of TPA, they are reluctant to agree to commitments on more sensitive issues.”⁴

H.R. 2146 is similar to H.R. 1890, which was ordered reported by the Committee on Ways and Means on April 23, 2015. H.R. 2146 is different from H.R. 1890 in that it includes additional trade negotiation objectives relating to foreign currency manipulation, religious freedom, and human trafficking.

¹ See [19 U.S.C. 2192](#) for more information on resolutions disapproving such measures.

² https://www.sba.gov/sites/default/files/articles/US_SBA_WorldOp.pdf

³ See CRS Report, [“Trade Promotion Authority \(TPA\): Frequently Asked Questions.”](#) May 28, 2015, at 1 and 3.

⁴ Id. at 4.

COST

A Congressional Budget Office (CBO) cost estimate is currently unavailable. However, CBO [estimated](#) that H.R. 1890, which included most of Title I of H.R. 1314 (which is identical to the House amendment to the Senate amendment to H.R. 2146) with the aforementioned differences, would cost less than \$500,000 over the 2015 to 2020 period.

STAFF CONTACT

For questions or further information please contact [John Huston](#) with the House Republican Policy Committee by email or at 6-5539.