



ML Strategies Update

FOLLOW US ON TWITTER: [@MLStrategies](https://twitter.com/MLStrategies)

ML Strategies, LLC
701 Pennsylvania Avenue, N.W.
Washington, DC 20004 USA
202 296 3622
www.mlstrategies.com

FEBRUARY 5, 2015

Trade Policy Update

Ambassador Michael Froman, the United States Trade Representative, was the witness at hearings last week by the Senate Finance Committee and House Ways and Means Committee on “President Obama’s 2015 Trade Policy Agenda.” In his [testimony](#), Ambassador Froman, who serves as the Administration’s chief negotiator for global trade agreements, said that “Done right, trade policy unlocks opportunities for Americans. Done right, trade policy promotes not only our interests, but also our values.”

Trade has been identified as a prime area for potential bipartisan cooperation over the next two years – or more accurately cooperation between congressional Republicans and the White House.

Senate Finance Committee Chairman Orrin Hatch (R-UT), said that “This year we are truly at the precipice of opportunity. The only question is whether both parties in Congress and the Administration can work together to put in place the necessary tools to seize this opportunity. I certainly think we can...”, while Speaker of the House John Boehner (R-OH) has recently said that approval of Trade Promotion Authority (TPA) was “certainly likely.”

Major Policy Issues

Trade Promotion Authority

Congress last approved TPA in 2002, giving then-President George W. Bush “fast track authority” to negotiate free trade agreements that would be sent to the Senate for an up-or-down vote with no amendments. That TPA agreement expired in 2007 (though it stayed in effect for agreements then under negotiation until 2011) and has not been renewed.

Legislation to grant President Obama fast-track authority was introduced early last year by Senator Max Baucus (D-MT) and Senator Orrin Hatch (R-UT), who were, respectively, the Chairman and Ranking Member of the Senate Finance Committee at the time. Senator Baucus later resigned to become the U.S. Ambassador to China, and Senator Hatch is now the Chairman of the Finance Committee. In the House, the legislation was introduced by Rep. Dave Camp (R-MI), who was the Chairman of the House Ways and Means Committee but has since retired. He was not joined by Rep. Sandy Levin (D-MI), the Ranking Member of the Ways and Means Committee in the previous and current Congress. Mr. Levin said that he did not view the legislation as meeting the needs of a rapidly globalizing economy. He and many other Democrats have concerns about labor and environmental protections and want to see them addressed in TPA. Representative Paul Ryan (R-WI), the new Chairman of the Ways and Means

Committee and former vice presidential candidate, supports TPA, and recently said that with regard to trade, “we’ve got a pretty ambitious agenda in front of us. But that’s because this area is full of potential.”

Chairman Hatch is said to be planning a late-February introduction date for a TPA bill, along with Senate Finance Committee Ranking member Ron Wyden (D-OR) and Chairman Ryan.

Trade advocates will be watching this year to see whether TPA, crucial to passage of the Free Trade Agreements discussed below, will finally be enacted this Congress.

Free Trade Agreements

The Obama Administration continues to negotiate the Trans-Pacific Partnership (TPP), a free trade agreement between Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States, and Vietnam. The Administration had hoped to conclude negotiations on TPP last year but was unable to do so. TPP ministers will meet by the end of the month and are expected to agree on the final technical-level details of the trade agreement, although Chairman Hatch is said to have urged the Administration to not finalize negotiations until Congress passes TPA. It is expected that once Congress passes TPA legislation, there will be a move toward swift conclusion of TPP.

Also undergoing negotiation by the U.S. Trade Representative (USTR) is the Transatlantic Trade and Investment Partnership (TTIP), a proposed free trade agreement between the U.S. and the European Union (E.U.). In 2011, the Obama Administration worked with European leaders to establish a working group to identify policies and measures to increase trade and investments between the U.S. and the E.U. Negotiations on TTIP began in 2013, with final negotiations not expected until 2016 or even later in the next presidential administration. The next round of talks is to be held in Brussels early this month.

United States Trade Representative Michael Froman has said that congressional approval of Trade Promotion Authority (TPA) is not imperative to a successful conclusion of TPP and TTIP negotiations. However, his international negotiating partners, particularly in the Asia-Pacific region, have argued that they cannot bring their best offer to the table without TPA.

A number of issues have been negotiated, and continue to be negotiated, on these free trade agreements, including: Intellectual Property protection and royalty payments, particularly for the entertainment and pharmaceutical industries; E-commerce, on issues such as privacy and information sharing; provisions on Investor-State Dispute Settlement (ISDS), which gives companies the ability to sue a foreign government; financial regulation; labor rights; the environment; and agriculture, on issues such as export subsidies and food safety.

Environmental Goods Agreement

Accounting for 86 percent of global trade in environmental goods, the United States, Australia, Canada, China, Costa Rica, the European Union, Hong Kong, Japan, South Korea, New Zealand, Norway, Singapore, Switzerland, and Taiwan began negotiations on the proposed Environmental Goods Agreement (EGA) in July 2014. The EGA would reduce tariffs on 54 environmental goods. The EGA product coverage is still being negotiated, but would cover technologies related to renewable and clean energy generation, air pollution control, water and wastewater treatment, solid and hazardous waste treatment, and environmental monitoring and analysis.

Trade in Services Agreement

The Trade in Services Agreement (TiSA) was launched in April 2013 and is exclusively focused on service industries, including telecommunications and technology to distribution and delivery services. Accounting for 75 percent of the global \$44 trillion services market, 23 economies are participating in TiSA.

Customs Reauthorization

Legislation to reauthorize and modernize U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement was introduced in the Senate in 2013, but the measure never moved out of committee. Although

noncontroversial, reauthorization has not become a priority issue, but it could present an opportunity for the Republican majority and the White House to find common ground.

Low-Value Duty Threshold

Legislation to increase the low-value (*de minimis*) threshold for duties on shipments entering the U.S. from the current \$200 to a new threshold of \$800 was introduced in the House and Senate last Congress, although neither measure made it out of committee. The Senate measure was introduced by Senator Wyden and Senator John Thune (R-SD), the new Chairman of the Senate Commerce Committee in the 114th Congress, likely giving this issue new life in the 114th Congress.

Trade Adjustment Assistance

The current Trade Adjustment Assistance (TAA) program, providing job training to workers facing job displacement as a result of foreign trade, was set to expire on December 31, 2014, but a one-year extension was included in the Consolidated and Further Continuing Appropriations Act (“Cromnibus”) of 2015. Renewal of TAA is thought by many to be a likely candidate for inclusion in TPA legislation, with Democrats pushing for a long-term extension.

Export-Import Bank Reauthorization

The current authorization for the Export-Import Bank of the United States expires on June 30, 2015. Legislation to reauthorize the Bank was introduced by Rep. Stephen Fincher (R-TN) on January 28, 2015 with 57 cosponsors. The reauthorization bill reduces the Bank’s lending cap from \$140 billion to \$130 billion, and would also institute an audit of the Bank’s activities. House Financial Services Committee Chairman Jeb Hensarling (R-TX) has opposed reauthorization of Ex-Im.

Miscellaneous Tariff Bill

The last Miscellaneous Tariff Bill (MTB), which provides duty relief on manufacturing inputs that are not domestically available, expired at the end of 2012. Although former House Ways and Means Committee Chairman Camp introduced an MTB in July 2013, the measure did not move forward in the previous Congress. In the 114th Congress, the House Ways and Means Committee and Senate Finance Committee will need to restart the MTB process, vetting duty suspensions for thousands of imported products.

In the meantime, legislation was recently introduced by Senators Rob Portman (R-OH) and Claire McCaskill (D-MO) that would allow U.S. companies to directly petition the U.S. International Trade Commission (ITC) for duty suspension on inputs. Similar versions of this measure died in committee in 2012 and 2013. Under the Portman-McCaskill legislation, companies could submit their proposals directly to the ITC. Once the commission reviews and accepts the proposal, it would be sent to Congress for final approval. The bill would authorize the new process to be used for three rounds of duty suspensions, in 2015, 2018 and 2021. A press release from Senator Portman can be found [here](#).

Generalized System of Preferences Reauthorization

The Generalized System of Preferences (GSP) provides non-reciprocal, duty-free tariff treatment to certain products from designated developing and least-developed beneficiary countries. First authorized in 1974 and last renewed in 2011, the GSP expired in July 2013. With certain obstacles now cleared, such as the opposition of now-retired Senator Tom Coburn (R-OK) and the termination of Russia’s participation in the program by President Obama, there is increased optimism that the program will be renewed in the 114th Congress.

African Growth and Opportunity Act Reauthorization

The African Growth and Opportunity Act (AGOA) will expire on September 30, 2015, making reauthorization a likely priority for action this year. AGOA is a non-reciprocal trade preference program offering duty-free treatment to U.S.

imports of certain products from sub-Saharan African countries. In August 2014, Ambassador Froman launched the Administration's reauthorization efforts ahead of a meeting that month between President Obama and 50 African leaders. More recently, Ambassador Froman, in remarks at a policy event in Washington, urged Congress to move quickly on renewal of AGOA, saying that waiting until a date closer to the program's expiration would create uncertainty and disruption among businesses participating in the program. The ambassador also called for an expansion of the list of eligible products under AGOA.

Tax Treaties

The U.S. currently has tax treaties with more than 60 nations, many of which limit double taxation. Although the Senate traditionally approves them without controversy, no new tax treaties have approved since 2010, primarily due to objections by Senator Rand Paul (R-KY) over his concerns that such treaties infringe upon the privacy of Americans by making it easier for governments to share financial information about American citizens. Last year, the Senate Committee on Foreign Relations approved tax treaties with Chile, Hungary, Switzerland, Luxembourg, Poland, Spain, and the Organisation for Economic Cooperation and Economic Development, an international organization comprised of 34 nations and focused on economic progress and trade. The treaties are supported by the business community and most Republicans, so there will likely be a push by the new Republican majority in the Senate to approve them under their watch, although Senator Paul could continue to block them if he so chooses.

* * *

View ML Strategies professionals.

Boston · Washington www.mlstrategies.com