
❖ SPC&B Update ❖

A Newsletter for Clients of Sharretts, Paley, Carter & Blauvelt, P.C.

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TPP Update



Undoubtedly you have heard about the ongoing negotiation of the Trans-Pacific Partnership (TPP), which is a proposed regional free trade agreement (FTA) among 12 countries: Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States, and Vietnam. Japan is the most recent country to join the negotiations.

Since negotiation started in 2010, there have been seventeen rounds of talks, and the eighteenth is scheduled to begin in Malaysia next month. So far, fourteen out of twenty-nine chapters are considered substantially complete. The chapters are: Sanitary and Phytosanitary (SPS), Customs, Cross-Border Trade in Services, Telecommunications, Temporary Entry, Government Procurement, Labor, Cooperation and Capacity Building, Competitiveness and Business Facilitation, Development, Small and Medium Enterprises, Regulatory Coherence, Initial and General Definitions Chapter and Administrative and Institutional Provisions Chapter.

After the conclusion of the seventeenth round of talks, held in May 2013, all parties reported significant progress across a range of areas, including services, government procurement, sanitary and phytosanitary standards, trade remedies, labor and dispute settlement. "Successful" advances were also reported in such areas as technical barriers to trade, e-commerce, and rules of origin, investment, financial services, intellectual property, transparency, competition and environment.

Meanwhile, TPP ministers are expected to continue to engage in the coming months to find solutions to outstanding sensitive issues. There are still several key issues in the negotiations that must be resolved before a final deal can be reached. For example, the United States and Peru are seeking to negotiate bi-lateral market access packages with TPP countries with whom they do not already have a free trade agreement, while the other TPP parties generally favor a more cohesive multi-lateral approach. There has also been some talk of the possibility of not allowing full inclusion for sensitive products in a final deal, which would prevent some manufacturers in a TPP country from incorporating inputs and other raw materials made in another TPP country.

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Another potential roadblock is Vietnam's strong desire to obtain substantial tariff preferences for its apparel and footwear exports to the United States. At the last meeting in Lima, the United States proposed modest changes to an initial "short-supply" list of yarns and fabrics to be subject to a more flexible rule of origin under a final TPP agreement. Yarns, fibers and fabrics on the short-supply list would be subject to a cut-and-sew rule of origin, meaning they could be imported from third countries to a TPP participant for assembly into apparel that would qualify for tariff cuts under TPP: that amounts to an exception from the general yarn-forward rule that the U.S. initially proposed, which requires every component of a qualifying apparel item, starting with the yarn, to be made within the TPP region. Last week, a letter, signed by 81 U.S. lawmakers, urged key U.S. negotiators to support strong textile provisions, including the yarn-forward rule of origin. Chief negotiators from Vietnam, Mexico, Malaysia, Peru, Canada and Australia are willing to look at this new proposal, but the chances for its success are not clear.

The proposed Trans-Pacific Partnership Agreement would be a significant FTA for the United States, and could eventually become the platform for a broader Asia-Pacific free trade area, an area that encompasses 40% of the world's people and over half of global production. Based upon trade flows and trade value, TPP would be the largest U.S. FTA. Due to the great diversity among the TPP participants, there may be challenges in achieving a comprehensive agreement, but the successful conclusion of TPP could be of great economic significance.

If you would like to be kept up to date on the TPP's progress, please contact Gail Cumins at gcumins@spcblaw.com or Donna Shira at dshira@spcblaw.com or call us at 212-425-0055.
