

No Chapter Closed But TPP-9 Claims “Important Progress” In San Diego

After nine days of intensive negotiations held in San Diego from July 2-10, 2012, the nine countries involved in the Trans-Pacific Partnership (TPP) agreement (Australia, Brunei, Chile, Malaysia, New Zealand, Peru, Singapore, the United States and, Vietnam) claimed to have recorded “important progress” in some of the topics under discussion.

“This week’s talks made further substantial progress across the chapters, reflecting significant preparatory work done by each of the TPP countries since the previous negotiating round in Dallas in May,” TPP chief negotiators said at the conclusion of their discussion.

However, unlike the previous round in Dallas where negotiators managed to close the small and medium enterprises’ chapter, this time members were only able to announce “significant progress” in chapters such as customs, cross-border services, telecommunications, government procurement, competition policy, and cooperation and capacity building.

In addition, negotiators claimed to have substantially moved their work ahead on issues related to rules of origin, investment, financial services, and temporary entry; progress that will help move forward toward the conclusion of 25-plus chapters under negotiations. That being said, negotiators failed to report progress on issues considered as most controversial in the negotiations, issues such as investor state, state owned enterprises for market access for goods.

Intellectual property rights (IPR) ranks among these tough subjects. At the beginning of this round the US tabled a new proposal in IPR, concerning particularly copyright limitations and exceptions. The proposal will obligate parties to seek to achieve an appropriate balance in their copyright systems in providing copyright exceptions and limitations for purposes such as criticism, comment, news reporting, teaching, scholarship, and research, the USTR said. However, observers familiar with the IPR discussion said this was nothing new. The proposal, they claimed, was largely based on the Computer & Communications Industry Association (CCIA) – an association of computer product vendors and communications firms lobbying for free trade and open markets – proposal on IPR. Nevertheless, the TPP-9 will take this new language back to their capitals for review.

The nine TPP countries will pause for the summer and reconvene their discussion in the fall. No face to face intersessionals will be scheduled in the meantime but TPP members vow to stay in close contact before they gather again for their 14th round of negotiations in Leesburg, Virginia from September 6-15, 2012. There, debates are expected to resume on all issues at stake, including the ambitious tariff packages they are seeking to conclude in the areas of industrial goods, agriculture, and textiles markets.

Canada & Mexico

During this round, USTR also notified Congress of its intent to include both Mexico and Canada into TPP negotiations. The notifications were sent on July 9 and 10, respectively and automatically triggered a 90-day consultation period with the US Congress on objectives related to both newcomers.

As a result, Mexico and Canada will not be able to take part of the 14th round of negotiation in Leesburg due to the 90-day consultation period. However both are expected to continue holding consultations with current TPP Members in the meantime and will be invited to sit at the negotiating table once current TPP members successfully conclude their domestic procedures.

In the letter sent to Congress, US Trade Representative, Ron Kirk, said Canada's participation to the TPP increases the economic significance of the agreement which is aimed to expand to include additional countries throughout the Asia-Pacific region.

"We have conducted in-depth discussions with Canada about the standards and objectives that the TPP countries are seeking, particularly in those areas where the standards or objectives are higher than those that exist in NAFAT [North American Free Trade Agreement]," Kirk said. "Canada has assured us of its willingness to negotiate on these issues and its preparedness to achieve these high standards together with the TPP countries."

Canada is already the US's most significant export market with total exports reaching 337 billion US dollars (\$262B for industrial products, US\$19B for agriculture products and \$56B of services) in 2011. These exports were up 180% from 1993 immediately prior to the entry into force of NAFTA, the letter reminded.

Observers expect Mexico and Canada to formally join the negotiations at the same time, most probably during the December Round. The current TPP nine Members do not expect the newcomers' entry to delay the negotiations as they are closely kept up to speed.

Services Plurilateral: Members to Start New Phase in Talks

The group of countries involved in the services plurilateral agreement – the so-called Really Good Friends of services (Australia, Canada, Colombia, Costa Rica, European Union, Hong Kong, China, Israel, Japan, Mexico, New Zealand, Norway, Pakistan, Peru, Republic of Korea, Switzerland, Taiwan, Turkey and the US) released a joint statement on July 5 announcing that they will enter a new phase of talks toward a services agreement that they ultimately hope can provide the foundation for multilateral consensus on services liberalization.

"The services discussion is one of the most constructive and productive activities happening in Geneva right now – a hopeful counterpoint to recent years of impasse in the Doha talks – and it is good news that they are moving forward," said the US Trade Representative Ron Kirk

The "Real Good Friends" said they plan to move their exploratory discussions to a new phase aimed at clearly defining the contours of an ambitious agreement on trade in services which will capture a substantial part of the liberalization achieved in other services negotiations and bring it to the multilateral system.

The agreement they advocate in their statement, should:

1. "Be comprehensive in scope, including substantial sectoral coverage with no *a priori* exclusion of any sector or mode of supply;
2. Through negotiation, include market access commitments that correspond as closely as possible to actual practice and provide opportunities for improved market access; and
3. Contain new and enhanced rules developed through negotiations."

The group plans to intensify its work after the summer break and begin working on the mechanics for achieving its objectives and encourage other WTO countries to join the coalition which currently includes 20 Members. Emerging countries such as Brazil, India, China and South Africa have up to now refused to take part of the services plurilateral talks.

Upcoming Events

- TPP Round XIV, September 6-15, 2012, December, 2012 (TBC)
- Trade Facilitation Negotiating Group, July 9-12, 2012
- CETA, Week of July 15, 2012; September, 2012
- WTO General Council, July 25-26, October 3-4, December 19-20, 2012
- APEC Leaders Summit, September 2-9, 2012, Vladivostok, (Russia)
- Regular Agriculture Committee, September 20-21, November 14-15, 2012
- WTO Public Forum, September 24-26, 2012



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