

TPP Negotiators Wrapped Up Round XV in Auckland

Next Round Set for Early March in Singapore

After nine days (December 3–12) of “constructive and busy” negotiations in Auckland (New Zealand), chief negotiators from the 11 TPP countries (Australia, Brunei, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, the U.S. and Vietnam) claimed to have made good progress across the negotiation’s 29 chapters. Exceptions were regulatory coherence and development, which were discussed in an intersessional meeting hosted by Mexico last month.

The group, which was composed of more than 500 delegates, made progress on some technical issues of the talks – such as technical barriers to trade (TBT), sanitary and phytosanitary measures (SPS), telecommunications and customs but were unable to close additional chapters.

“What we are doing as an overall agreement, we operate under a single-undertaking approach, which means that nothing is formally concluded and agreed until we have the overall deal and everything is agreed,” said New Zealand’s chief negotiator, David Walker, when asked if negotiators were able to close additional topics since the small and medium enterprises (SMEs) chapter was completed last May in Dallas.

“[N]egotiators worked to resolve issues and to provide clear pathways towards conclusion for issues that remain to be resolved,” the TPP negotiators said at the end of their 15th round of negotiations.

“Considerable amount of work” still remains

The 11 countries also touched on a number of technical issues related to some of the most sensitive chapters (intellectual property rights (IPR), environment and investment) with the aim “to more clearly frame up some of the substantive differences on more challenging issues that will need to be resolved as negotiations are brought to a conclusion,” Walker said.

On IPR, the discussion focused on some other parts of the area like trademarks, copyrights and enforcement. The pharmaceutical issue, which creates problems, was not specifically on the agenda for this round. The U.S., which has tabled a controversial proposal on the issue, insists on high standards in IPR.

“We had tabled the proposal some time ago, that remains on the table, that we consider a strong approach for encouraging introduction of innovating medicines in the TPP countries in a way that balances issues related to generics and the promotion of generic medicines to our market as well as access to medicines generally,” said the U.S. chief negotiator, Barbara Weisel. “We received the reactions of all countries around the table and we’ve been discussing those with our Congress and stakeholders as we consider how we intend to move forward but we have not come to a decision on what our response will be and whether we actually intend to change that proposal and if so how. So when we conclude those internal discussions, then we’ll come back to the negotiating table with our (new) position,” she added.

On market access, the work was more devoted to building “an overall package” in goods covering both tariffs and associated rules of origin, cross-border and financial services, investment and government procurement, which seeks to meet “the ambition set out by Leaders and Ministers”.

In essence, negotiators have been working both on the broad market access text and bilaterally with each other on the market access commitments. However, they admitted that there is still a considerable amount of work that needs to be done in both areas, which are expected to be tackled more thoroughly during the next round in Singapore, along with other sensitive issues such as state owned enterprises (SOE).

SOE have been discussed domestically in many countries and continues to raise concern for some, as explained by the Malaysian chief negotiator, J. Jayasiri, who maintained that his country remains uncomfortable with several issues contained in the proposal.

Malaysia was not the only country uncomfortable with some issues. Even the so-called liberalized New Zealand also displayed some sensitivity. Asked whether New Zealand would be ready to make concessions on its Pharmaceutical Management Agency (Pharmac) – their drug pricing and reimbursement program – in exchange for market access, as hinted by New Zealand’s Trade minister, Tim Groser, earlier this month, Walker responded that the New Zealand government has been “very clear on this issue that we would not make concessions that would undermine Pharmac.”

The issue of investor states is also problematic for countries such as Australia, whose government has stated very clearly that it is not in a position to sign onto an investor-state dispute settlement mechanism as part of the TPP outcome. On the flip side, Australia chief negotiator, Hamish McCormick, reiterated Australia’s pursuit of the elimination of tariffs.

“I think we are all working, trying to achieve that outcome and so we’re confident that we would actually finish the negotiations and we would get an outcome that meets the level of ambition that has been set by leaders,” McCormick said with respect to the objective of reducing all tariffs. “Some of these issues are not easy to get there, but we certainly more confident that we’ll get there,” he added.

Newcomers: Canada & Mexico

One of the two objectives in this round was to welcome the two newest members of the TPP to the table. Canada and Mexico, who officially joined the talks early October, have, according to the group, smoothly entered the negotiations. “This was achieved in large part because both countries came to Auckland well prepared across the TPP negotiating brief and each made positive contributions to narrowing differences across the negotiation,” Walker said.

U.S. chief negotiator, Barbara Weisel, added that “the addition of Canada to the negotiations will certainly help change the dynamic (...) in a very positive way. What we’ve been trying to do in these negotiations is to recognize the new opportunities for export of dairy products. There are significant opportunities in this sector and we would like to structure the negotiations in a way that allow our industry to take advantage of those export opportunities.”

What about Japan?

Although negotiators plan to finish the talks by the end of 2013, the addition of Japan to the group has not been ruled out. However, many feel that whether or not Japanese Prime Minister Yoshihiko Noda succeeds in turning the TPP into an election issue for the December 16th elections, the chances that Japan actually decides to enter the talks are fairly slim.

“[Japan] needs to be very clear to all of us that they could stand by the ambitions set out in the Honolulu declaration and needs to be able to demonstrate how they could participate in the process, while maintaining the same momentum that the current members have,” Walker said when asked if it was too late for Japan to join the talks.

“In terms of what we are doing in these negotiations, the desirable outcome is to reach agreement which is capable of serving as a potential pathway to broader economic integration in the Asia Pacific region. We’ve welcomed the participation of Canada and Mexico in that context and in terms of countries who have indicated that they are ready to work to meet the level of ambition set out amongst the leaders in Honolulu. We feel that they can participate in the negotiations in a way which is contributing to the momentum of the overall approach that we have as existing participants of the negotiations,” the New Zealand official continued.

The agreement, he said, remained open to countries who think that they can meet the two conditions stated above.

An Agreement by October 2013?

The second objective of the Auckland Round was “to make continued progress across the whole negotiation in order to set a platform that could enable the conclusion of a deal in 2013.”

TPP Leaders set out the ambition of what they are looking to see achieved in a TPP agreement when they met in Honolulu in November 2011. That ambition was reiterated during the APEC meetings in Vladivostok in September 2012 with TPP Leaders’ and Trade Ministers’ statements released at that time.

While in Cambodia for the East Asia Summit, a number of Leaders, including U.S.’s president Barack Obama, along with his counterparts from Australia and New Zealand, again expressed a common desire to see a conclusion to the negotiations in the course of the coming year. This is the 3rd deadline set for the conclusion of the TPP.

Most delegates believe the October 2013 deadline is a very ambitious target, which they are not sure to achieve given the remaining issues on the table. Negotiators have about 4 additional rounds to meet that objective starting with Singapore from March 4–13, 2013.

Dates and venues of the subsequent rounds are usually programmed at the conclusion of the preceding round. However, rumours have it that after Singapore, it would be the turn of Peru to hold the 17th round in May. The other two could come in July and September 2013.

In the meantime, TPP countries have specific follow-up work to do in preparation for the next round of negotiations on remaining areas of chapter texts and in market access in order to stay on track, said Walker.

WTO General Council

The WTO held its last General Council meeting of the year on December 11, 2012. The organization’s Director General, Pascal Lamy, urged delegates to “make sure that 2013 does not look like 2012 with regard to doing business in the WTO.”

Indeed, this year the negotiations in general have been hampered by the continuous grim outlook of the world economy but also by key elections in the U.S. and China. However, there have been, nonetheless, some constructive discussions taking place during the second part of 2012, particularly in trade facilitation and services plurilateral. Countries taking part of the services plurilateral discussion (Australia, Canada, Chile, Colombia, Costa Rica, the E.U., Hong Kong, Israel, Japan, Mexico, New Zealand, Norway, Pakistan, Panama, Peru, South Korea, Switzerland, Taiwan, Turkey and the U.S.) said they have reached an agreement on the negotiations’ framework and objectives. The group will now consult with their respective capitals before starting intensive negotiations on substance next year. The hope is to have some concrete deliverables to announce at the end of the WTO 9th Ministerial Conference scheduled for December 3–6, 2013 in Bali.

In addition to trade facilitation, items in agriculture such as TRQ administration and development are amongst the candidates for early harvest, along with other issues that may emerge in the coming months, Lamy told the full Membership. Observers also include agreements on expanded Government Procurement Agreement (GPA) and Information Technology Agreement (ITA) which would greatly contribute to the success of MC9.

“We had a pragmatic and constructive discussion about what is feasible for next year, and I was pleased to note that the tone was one of caution, but also of realism and determination. I saw that members remain committed to achieving a credible outcome at MC9,” Lamy said.

“MC9 is not the end of the line, but rather a stepping stone on a longer-term roadmap leading to the conclusion of the Round, which now needs to be framed,” Lamy added and will take this new agenda to Davos (Switzerland) for a discussion with WTO’s key trade ministers on the sidelines of the annual meeting of the World Economic Forum.

Note to Readers:

Geneva Watch will cease for the remainder of 2012 and recommence in January.

Upcoming Events

- World Economic Forum, January 23–27, 2013, Davos-Klosters (Switzerland)
- TPP Round XVI, March 3–14, 2013, Singapore
- Regular Agriculture Committee, March 26, September 4, November 12, 2013
- WTO 9th Ministerial Conference (MC9) December 3–6 2013, Bali (Indonesia)

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