

Serious Negotiations Underway in Kota Kinabalu as TPP Members Await Japan's Formal Inclusion in the TPPA

The 18th Round of Trans-Pacific Partnership (TPP) talks started on July 15 at the Sutera Harbour Resort in Kota Kinabalu, in Malaysia. The current 11 countries' (Australia, Brunei, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States, and Vietnam) are seriously negotiating with the view to advance the talks as far as possible before the APEC Leaders' Summit in Bali this upcoming October.

According to officials, chief negotiators have received clear instructions from their superiors to increase the pace of their discussions in Malaysia. The goal is simple: to agree on all or most of the technical and rules-related aspects of the talks leaving the most sensitive – and therefore political – issues for a later stage in the negotiations. In addition, current members want to advance as many chapters as possible prior to the entry of Japan into the negotiations, which is expected to be made formal the afternoon of July 23rd.

So far negotiations have focused on market access, financial services, intellectual property rights (IPR), rules of origin (RoOs), non-conforming measures and environment. Some groups are expected to wrap up their meeting prior to the traditional stakeholder event which is scheduled to take place on July 20. This is the case with agriculture as officials say they hope to put aside their work after this round. Whether that will occur remains to be seen as the group is expected to meet until July 19. The last 2 days of this Round will be devoted to Japan.

Chief negotiators from the current 11 TPP countries will break from their meeting schedule on Saturday to attend the stakeholder event which this time features fewer presentations than in previous rounds. As per usual, chief negotiators will debrief stakeholders following the presentations.

Ahead of the 18th Round, the Malaysian Ministry of international Trade and Industry (MITI) released a paper on the state of the TPP negotiations. Malaysia claimed that "some progress" has been achieved in 14 of the 29 chapters under negotiations – including sanitary and phytosanitary measures (SPS), customs, cross-border trade in services, telecommunications, temporary entry, government procurement, labour, cooperation and capacity building, competitiveness and business facilitation, development, small and medium enterprises, regulatory coherence, initial and general definitions chapters and administrative and institutional provisions – considering them as "substantially closed."

However, observers here believe this claim could be misleading although negotiator are progressing in the talks citing issues such government procurement which discussion will continue until July 24th.

In addition, it remains difficult to assess whether a given topic could be considered "substantially closed" given the interlinkages existing between TPP chapters. What seems clear however, is to make sure most of the rule aspects of the negotiations are agreed upon, before Japan, a country that has many stringent rules, is included in the group.

Intensive Discussions Perceived this Fall on WTO Agriculture Talks

"As I'm not in a position to announce today that we have consensus in any area of our work in relation to Bali, this means that the period after the summer break will necessarily need to be extremely focused and intensive if we are in fact to deliver on the expectation that has been set now for several months that 'elements of agriculture' will form part of a suite of Bali decisions," said the chair of the agriculture negotiation, New Zealand Ambassador to the WTO, John Adank, during his opening remarks of the latest open-ended gathering of the agriculture negotiating group on July 18.

Ambassador Adank convened the meeting to report on the progress achieved thus far on the agriculture related topics of the Bali package: i.e. G-33 proposal on public stockholding for food security and the G20 proposal on export competition and TRQ administration.

Members still have time to find consensus on the above three issues before the Bali Ministerial Conference (MC9), Ambassador Adank stressed. However, they will have to be extremely focused when the consultations resume in the fall to be able to deliver on those issues. For the time being major differences remain on the food security and export subsidies.

On food security, the consultations have moved into serious consideration of the parameters of possible solutions but still without success and Ambassador Adank warned that the time has come for Members to “deepen the discussion of the most appropriate models for delivering flexibility under an interim mechanism, assuming that this is what members are prepared to envisage as an outcome for the Bali meeting.” Norway, in that regard, suggested to explore a solution that would take into account a downward adjustment in the reference price when markets can be shown not to be functioning properly. How this adjustment would be determined however remains to be discussed, the Norwegians added. But the suggestion meanwhile was welcomed by some as an example of new ideas needed at this stage.

On export competition, ambassador indicated that the debate has only begun as the G-20 proposal on the issue was only recently circulated to Members. That being said, delegations he added need to begin a serious brainstorming on this in order to assess whether it could be doable for Bali. Some countries, including Cairns Members, have provided their support to this initiative that would slash by half developed countries’ export subsidies this year instead of fully implementing the 2005 Hong Kong Declaration which calls for the complete elimination of all export subsidies in 2013. The US and EU meanwhile reiterated their warning that the issue was too complicated to be agreed upon before the MC9.

“I think it is probably fair to say that the overall political acceptability of recourse to export subsidies has diminished significantly as these unilateral reforms, undertaken in preparation for the day when export subsidies would need to be eliminated entirely, have been implemented,” Ambassador Adank told the negotiating group. “This trend for reform has positively contributed to the environment for broader reform in agriculture and the WTO more broadly and members may want to think about the importance of encouraging further efforts in this area,” he added.

On TRQ administration, which most Members consider well calibrated for Bali, some delegations expressed concern over the provisions concerning developing countries. Both the US and the EU voiced their fear that developing countries such as China and India who do not meet the 65% fill rate threshold required to avoid changes in their administration methods might nevertheless maintain their persistently underfilled TRQs, thanks to a special and differential treatment provision included in the proposal.

In the end, Ambassador Adank urged members to use the WTO's summer break for more creative thinking to allow a deal to emerge in Bali. “I would encourage you before you depart for the summer break to register where things are with your capital, and ensure that both you and they are focussed on the challenge that will need to be met if we are to arrive at convergence on agricultural elements for the Bali Ministerial.”

Upcoming Events

- TPP Round XVIII, July 15–25, 2013, Kota Kinabalu (Malaysia)
- General Council, July 24-25, Oct. 8-9, Nov. 5-6, 2013
- Deadline for Bali Deliverables, August, 2013
- Regular Agriculture Committee, September 4, November 12, 2013
- WTO Public Forum, October 1–3, 2013
- APEC Leaders’ Summit, October 1–8, 2013
- WTO 9th Ministerial Conference (MC9), December 3–6, 2013, Bali (Indonesia)

