

# Getting the Trans-Pacific Partnership Over the Finish Line

BY *Deborah Elms*

The Trans-Pacific Partnership (TPP) member countries recently concluded the latest round of negotiations in Leesburg, Virginia. Talks between the United States, Australia, Brunei, Chile, Malaysia, New Zealand, Peru, Singapore, and Vietnam have been underway since 2010. Canada and Mexico will be joining the negotiations for the first time in early December.

After more than two years of hard bargaining, the talks are moving closer to an end game. In many areas, what remains are highly sensitive issues that cannot be resolved at the level of negotiating officials, but require intervention by political leaders in the United States and elsewhere. Because no country can get all that it wants, only political leaders can make the calculations about what will constitute an acceptable deal. Some concessions in sensitive areas will be necessary, and it is time to start thinking about acceptable outcomes.

## BENEFITS FOR THE UNITED STATES

The TPP provides three sets of benefits to the United States. First, it will provide economic benefits to U.S. businesses and consumers through granting preferential access to ten significant markets, including countries like Vietnam and New Zealand where the United States has no agreement in place. It also will provide modest new benefits with other free trade agreement (FTA) partners and allow firms to more easily move goods, services, and investments between all ten markets. Second, the TPP is designed

to expand in the future and should eventually include countries even more important to the U.S. economy, bringing new jobs and market opportunities to U.S. firms. Perhaps most important, however, the TPP keeps the United States economically anchored in the Asia-Pacific, the most dynamic region of the world.

## THE REMAINING CHALLENGES

With nearly 30 different chapters still under discussion, progress in negotiations has been uneven. Some areas are nearly ready to close, while others will require more time to resolve. The following list highlights some of the key sticking points, particularly for the United States:

- *Sugar.* The United States has a complicated system in place to support the domestic sugar industry. Part of this protection includes quantitative restrictions on imports that have been extended in various bilateral FTAs—for example, the existing U.S.-Australia FTA carved out sugar completely. Maintaining this restriction in the TPP could complicate the agreement as a whole by establishing a precedent for other countries to insist on carving out their own sensitive sectors—many of which are of primary interest to American exporters such as auto or pharmaceutical companies.
- *Textiles and footwear.* The United States also maintains a complicated structure to support domestic textile and footwear production. This includes both high tariff barriers and difficult rules of origin, which are at odds with the 21st-century aspirations of the TPP.
- *Regulatory coherence and binding regulations.* The biggest impediment to trade may no longer be traditional tariffs but rather incompatible regulations and standards that make it difficult for firms to trade. The TPP attempts to address these barriers. One particular controversy in recent rounds has been whether common sanitary and

phytosanitary rules could be written and made binding to better facilitate the flow of trade in agricultural products.

- *Intellectual property (IP) rights.* Some of the most difficult challenges have been in the IP chapter. Partly this is because the United States is pushing for significant new rules in a wide range of areas. Many TPP member states believe that past U.S. demands on IP have been difficult to implement in their home countries, and they are not eager to go beyond existing commitments. New areas include draft rules on pharmaceutical pricing and reimbursement; patent protection length; copyright extensions; trade secrets; cross-border data flows; the connection between the TPP and existing FTAs; and enforcement provisions.
- *Other major sticking points.* There are also major disagreements over dairy, since the TPP includes several highly competitive dairy exporters; state-owned enterprises, where the United States is attempting to create new standards; the investor-state dispute settlement mechanism, which Australia says it will not accept; and environmental and labor regulations, as several members object to such provisions being legally binding.

Further, Canada and Mexico will join the TPP negotiations in December, and their addition complicates several of the more sensitive issues noted above, especially textiles, dairy, and sugar. As part of their commitment to join, both countries pledged not to “reopen” closed chapters. However, talks have concluded on only one or two chapters, and many countries view the TPP as a “single undertaking” where nothing is agreed until everything is final. Canada and Mexico will likely weigh in on most of the agreement but accede to the bulk of what has already been put into place, since current TPP members will be unwilling to revisit most of their previous work.

## CONCLUSION

As countries prepare for the fifteenth round of negotiations in early December, American political leaders should begin to turn their attention to the end game. By agreeing to modify demands in areas such as sugar, footwear, and textiles and perhaps relaxing some requests on intellectual property, the United States would greatly facilitate compromises from other countries needed elsewhere in the agreement. Other members are facing their own sensitive issues such as providing market access, opening up for investment or government procurement, or making new IP commitments. These are key objectives for American businesses. Making some strategic concessions now could enable the entire package to be pulled together by mid-2013.

The economic and political benefits for the United States from a deal involving ten trading partners will be considerable. The other TPP partners have taken talks seriously and want an agreement, but they do have options in other trade arenas. Flexibility at the political level is needed to seal a deal that is in the United States’ best interest. ♦

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