

Client Alert

International Trade & Litigation Practice Group

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Trans-Pacific Partnership Agreement Negotiations Conclude After Marathon Session

The 12 Trans-Pacific Partnership (“TPP”) countries –Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, United States, and Vietnam – announced this morning that they have resolved all remaining issues and reached a final agreement on the regional free-trade agreement. If the United States ultimately passes legislation implementing the agreement, TPP will create an integrated regional economy accounting for 40 percent of global GDP. Formal negotiations began in March 2010, and today’s announcement concludes the final negotiations round that began last week in Atlanta.

The agreement is billed as a high-ambition, “21st century agreement,” which contains “World Trade Organization-plus” provisions in key areas and which attempts to a much greater degree to address behind-the-border trade barriers that have eluded the disciplines contained in existing multilateral and bilateral Free Trade Agreements. Although not yet publicly available, the text contains some 30 chapters, annexes to chapters, and bilateral side-letters covering all aspects of trade in goods and services between and among the parties. A summary of the key features of the agreement can be found [here](#). The negotiating teams now must formalize the outcomes of the final days of negotiations and “scrub” the legal text before it is publically released.

Once the text is finalized, the agreement still faces Congressional scrutiny before it can take effect. Under the Trade Promotion Authority legislation that was signed into law this summer (otherwise known as “fast track” authority), Congress will hold an up-or-down vote (with no opportunity for amendments to the agreement or for Senate filibuster).

Congressional reaction to the conclusion of the deal has been met with a mix of optimism, concern, and caution. Senate Finance Committee Chairman Orrin Hatch stated that

[a] robust and balanced Trans-Pacific Partnership agreement holds the potential to enhance our economy by unlocking foreign markets for American exports and producing higher-paying jobs

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here at home. But a poor deal risks losing a historic opportunity to break down trade barriers for American-made products with a trade block representing 40 percent of the global economy. . . . While the details are still emerging, unfortunately I am afraid this deal appears to fall woefully short. Over the next several days and months, I will carefully examine the agreement to determine whether our trade negotiators have diligently followed the law so that this trade agreement meets Congress's criteria and increases opportunity for American businesses and workers.

The statement of the ranking Democrat on the Senate Finance Committee, Sen. Ron Wyden, agreed, explaining that “[i]t’s now time for Congress and the public to examine the details of the TPP and assess whether it will advance the nation’s interests.”

On the House side, both Ways and Means Committee Chairman Paul Ryan and Ranking Member Sander Levin promised intense scrutiny of the deal. Chairman Ryan announced that he is “reserving judgment until I am able to review the final text and consult with my colleagues and my constituents. In particular, I want to explore concerns surrounding the most recent aspects of the agreement.”

Rep. Levin made clear that he was not pleased with the outcome on certain aspects of the text, explaining as follows:

Progress has been made on important issues, with the outcome on a multitude of issues still requiring deeper scrutiny, and others falling short of the results we seek. . . . We will need to see the language to understand the full impact of several issues, including the auto rules of origin, Japan automotive market access, investment, environment, state-owned enterprises and agricultural market access. . . . I look forward to an intense period of Congressional scrutiny, as well as the vital period of public release of the agreement’s text.

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