

THOUGHT LEADERSHIP

LEGAL UPDATES

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Agreement Reached in Trans-Pacific Partnership Negotiations

On October 5, 2015, the United States and 11 other nations signed the highly anticipated Trans-Pacific Partnership (TPP), a free trade agreement that would encompass nearly 40 percent of world economic output if ratified. Although the agreement has not yet been finalized, companies should begin now to prepare for the changes it may bring.

The Ratification Process

There are many steps on the path to ratification of the agreement (see our flow chart). TPP officials first must craft final language for the agreement, which will be made available to the 12 member governments for domestic ratification and implementation.

After negotiators complete a legal “scrub,” translations and verification of the final agreement language, President Obama will issue a notice of intent to sign the deal. A 90-day “notification period” will follow, during which Congress will review major areas of concern, including intellectual property protection, automobile rules of origin, environmental protection and agricultural market access. The Trade Promotion Authority (TPA), which grants President Obama “fast track” capabilities in his trade negotiations, also stipulates that the agreement’s final text must be available for public review for at least 60 days before the president can sign it.

In addition to congressional and public review, the U.S. International Trade Commission (ITC) must assess and report on the projected economic effects of the TPP in its final version. U.S. Trade Representative Michael Froman has urged the ITC commissioners to accelerate their assessment to facilitate a congressional vote.

After the notification period, President Obama can sign the final TPP agreement. Within 60 days, the president may present Congress with the final agreement and implementing legislation, including any changes to existing laws required to bring the United States into compliance. TPA requires that Congress consider the agreement for a simple up-or-down vote. Before the agreement can be applied to any particular country, the president must deem the country in compliance with the agreement and provide Congress with a 30-day notification of this compliance, a process normally accomplished through presidential proclamation.

It is important to note that the timeframe for ratification may extend past the respective 90- and 60-day periods. The TPP agreement has been a point of contention among presidential candidates and will likely prove to be a controversial vote in the coming months. Under the current timeline, the earliest possible TPP implementation date would be February 2016. More realistically, we anticipate the TPP to pass Congress late in 2016.

What This Means to You

The TPP is the most wide-ranging trade agreement in the history of the United States, with both economic and strategic objectives. It is important for companies that import or export goods to or from the United States to understand at a high level what the agreement covers and the steps involved in ratification so they can begin planning and adjusting their global supply chains accordingly.

We will be able to provide insight into specifics of the agreement after the text of the TPP is released, likely later in 2015.

Contact Us

For more information on this issue, please contact Courtney Morgan or Robert Stang in the Technology, Manufacturing and Transportation group.