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STATE OF MAINE

Citizen Trade Policy Commission

DRAFT AGENDA

Tuesday, October 27, 2015 at 1 P.M.
Room 208, Burton M. Cross State Office Building
Augusta, Maine

- I. Welcome and introductions
- II. Presentation and Discussion with Matt Jacobson, Executive Director of the Maine Lobster Marketing Collaborative (1:15 PM)
- III. Presentations from CTPC member Sharon A. Treat on the current status of the TPP and an update on the proposed Regulatory Chapter of the TTIP
- IV. Articles of interest (Lock Kiermaier, Staff)
- V. Discussion of possible dates in November for next Public Hearing/Meeting to be held in Bangor
- VI. Adjourn (3 PM)

Preempting the Public Interest: How Regulatory Cooperation in TTIP Will Limit US States' Chemical & Pesticide Protections

Sharon Anglin Treat, Trade Project Consultant
National Caucus of Environmental Legislators

TTIP Stakeholder Presentation

Miami, Florida

October 21, 2015



National Caucus of Environmental Legislators

Founded in 1996, NCEL connects over 1000 environmentally committed state legislators from both political parties in every state with their peers to support member's legislation. NCEL educates and connect legislators with policy experts and advocacy organizations to pass successful legislation to protect the environment and prevent anti-environmental legislation.



PREEMPTING THE PUBLIC INTEREST

How TTIP Will Limit US States' Public Health and Environmental Protections

10/21/2015 Treat: TTIP's Regulatory Cooperation & US States' Environmental Protections 3

THE EU'S REGULATORY COOPERATION CHAPTER

- “Regulatory cooperation” threatens the continuing viability of US state laws and regulations that are more protective than federal standards & threatens US consumers and the environment with increased exposure to toxics
- US states essentially “co-regulate” pesticides with federal regulators, and state chemical, cosmetics and food policies fill in the gaps where federal regulation is ineffective and outdated

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EU REGULATORY COOPERATION APPLIES BROADLY TO US STATES

- Applies to most if not all US state laws and regulations – EVEN IF NO TRADE IMPACT
- Fails to preserve any right to regulate outside of federal government
- New procedural requirements apply to both legislatures & executive agencies

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NOT JUST "GOOD GOVERNMENT"

The chapter will lead to **regulatory chill** caused by delay, increased costs for government, fear of legal challenges, heightened industry influence & conflicts of interest

- **EARLY WARNING SYSTEM** for foreign trade officials (and industry stakeholders) for proposed laws & regulations
- **US Federal Gov't MUST ENABLE REGULATORY EXCHANGES** between the EU and states on proposed laws
- **Additional justifications required to regulate, including TRADE & COST-BENEFIT IMPACT ASSESSMENTS**
- **Increased potential for INVESTOR-STATE lawsuits (ISDS)**

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MORE INDUSTRY INFLUENCE... ... LESS TRANSPARENCY

- Industry associations such as US Council on International Business (USCIB) & American Chamber of Commerce to the EU (Amcham) want regulatory cooperation as a means of preventing regulations by US states
- Focus on industry-driven international standards (CODEX), behind-the-scenes “exchanges”
- US states ill-equipped to influence – don’t sit at negotiating table & won’t be able to effectively participate in international meetings

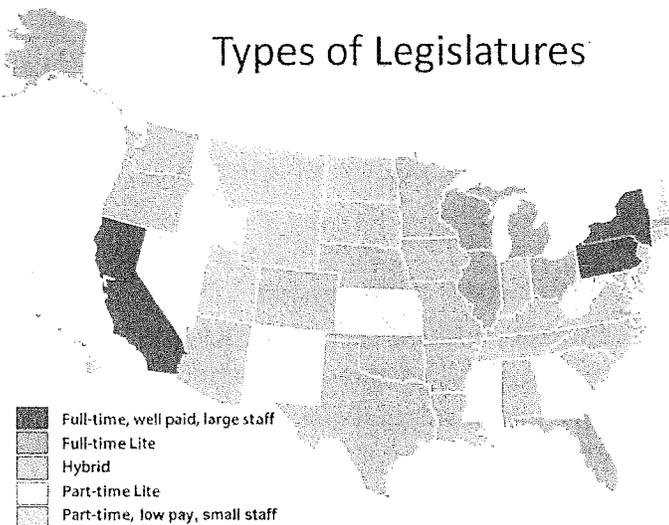
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BOX 4 Types of Legislation

Types of Legislatures



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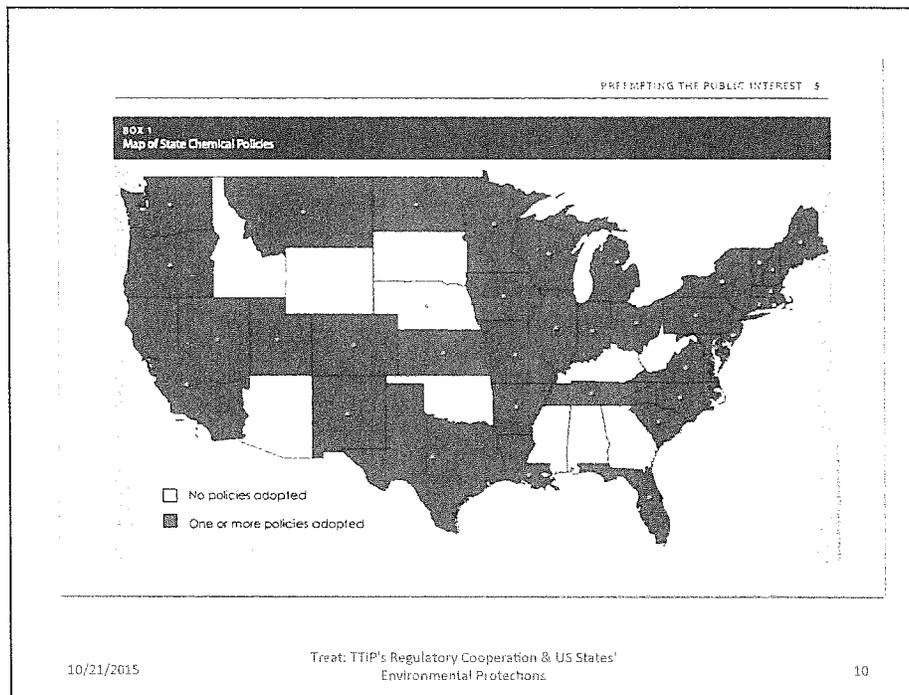
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STATES' CHEMICAL POLICIES

38 US states have more than 250 laws and regulations to protect the public & environment from toxic chemicals, including measures to:

- Protect children from toys with toxic components
- Ban toxic ingredients from food packaging
- Disclosures of toxic ingredients
- Health warnings
- Impose producer responsibility for disposal or other end-of-life handling
- on manufacturers of products containing mercury and other heavy metals, and to require



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SOME STATE-REGULATED TOXICS

Mercury, lead, bisphenol-A (BPA), cadmium, formaldehyde, hexavalent chromium, nonylphenol and nonylphenol ethoxylates (potential endocrine disruptors), perchloroethylene, and polybrominated diphenyl ether flame retardants are banned in consumer products in many states

... BUT NOT BY FEDERAL LAW

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POLICIES BASED ON THE EU'S REACH

- California, Maine, Minnesota, Oregon, Vermont & Washington have a rigorous process identifying hazardous chemicals of greatest concern to vulnerable populations
- Authorized to require reporting & disclosure
- Product bans based on level of risk
- In 2015, thirteen bills related to chemical prioritization were pending in eight state legislatures.

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NEONICOTINOIDS

- US states have jumped into a void created by a lack of regulation at the federal level and started regulating bee-killing pesticides that threaten the food supply and ecological balance.
- Minnesota, California, Indiana, Oregon and Vermont are among the states that have already taken action.

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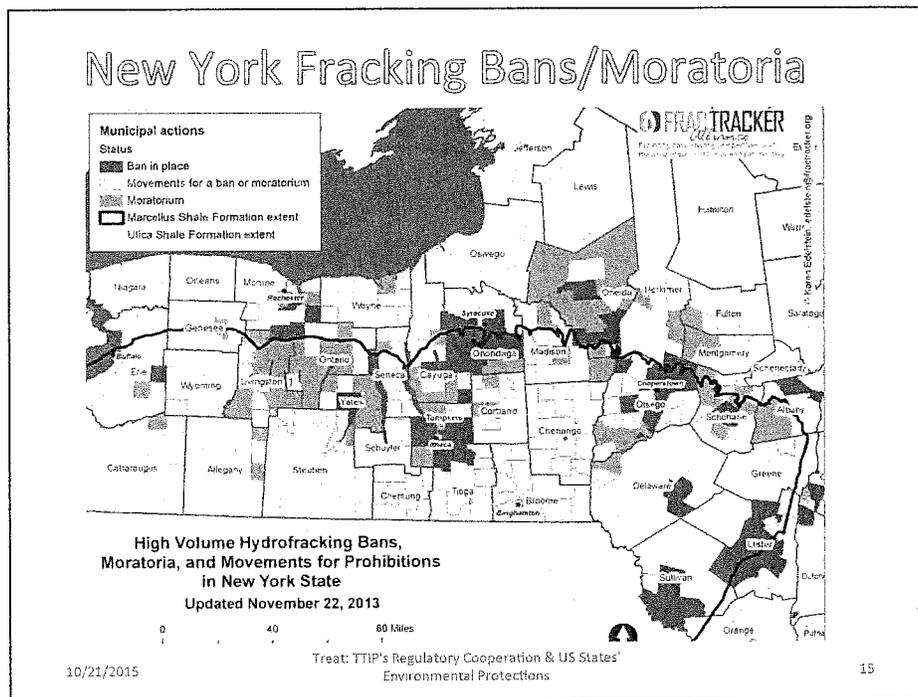
FRACKING

- In 2015, there were 226 bills in 33 state legislatures concerning hydraulic fracturing
- Connecticut, California, Maryland, and New York have waste handling, disclosure, moratoria and other policies that go far beyond federal fracking regulations

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FOOD LABELING

- 300 food labeling bills introduced in 2014 and 2015 combined
- **Virtually every US state had legislation:**
 - Nutrition and calorie disclosures
 - Identifying foods containing GMOs (already enacted in Vermont, Maine, Connecticut)
 - Warning labels on sugary drinks (proposed in California, New York, Vermont)
 - Identifying locally produced or harvested products including olive oil and seafood

In Summary ...

- The EU's Regulatory Cooperation chapter & related food safety (SPS) and technical standards (TBT) provisions could negate important existing & future protections in the US at both federal and state levels.
- It fails to recognize the federalist system of government – established in the US Constitution – which gives US states broad authority to regulate in the public interest
- It inserts foreign government influence into domestic state legislative and regulatory procedures and policymaking

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Links to Some Resources

- CIEL REPORT, Preempting the Public Interest
<http://www.ciel.org/reports/preempting-the-public-interest-how-ttip-will-limit-us-states-public-health-and-environmental-protections-sep-2015/>
- National Caucus of Environmental Legislators,
www.ncel.net
- National Conference of State Legislatures,
www.ncsl.org
- SAFER States, website on state chemical policies,
www.saferstates.com

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Contact Information

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National Caucus of Environmental Legislators
www.ncel.net



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Article notes

Citizen Trade Policy Commission

Articles from September and October 2015

US seen waiving tariff on 80% of Japanese autoparts; (asia.nikkei.com; 9/30/15)- This article reports that under the terms of the proposed TPP, the US will eliminate import tariffs of more than 80% of auto parts that are made in Japan.

Pacific Trade Deal Talks Resume, Under Fire From U.S. Presidential Hopefuls; (New York Times; 9/30/15)- This article reports that, as of late September 2015, that the TPP negotiations are scheduled to resume. The article also reports on criticism of the TPP from Republican presidential candidate Donald Trump and Democratic presidential candidate Senator Bernie Sanders.

Latest TPP Biologics Proposal Is a Step in the Wrong Direction; (AARP; 10/1/15)- This blog piece from the AARP strongly criticizes the inclusion of “monopoly protection for biologic medicines” by arguing that such provisions would prolong high drug prescription costs for consumers.

Overnight suspense over TPP: On verge of completion, big trade deal hit by delay; (National News Watch.com; 10/4/15)- This article reports that, as of early October 2015, the TPP negotiations have almost been finalized but have encountered negotiation snags over issues relating to pharmaceuticals and dairy products.

TPP DONE AT THE DIPLOMATIC LEVEL, NOW GOES TO THE POLITICIANS; (The Nelson Report; 10/5/15)- This article reports that TPP negotiations have been finalized and further reports on the reactions from prominent elected officials and different organizations; these reactions include the following:

- Representative Paul Ryan, House Chair of the Ways & Means Committee- in favor of a strong TPP but reserves final judgment until the text is available for congressional review;
- Representative Sander Levin, ranking Democrat of the Ways & Means Committee- the TPP is to be lauded for the inclusion of a carve-out for tobacco in the ISDS process but other topics including the treatment of currency manipulation are unsatisfactory;
- Senator Orin Hatch, Senate Chair of the Finance Committee- feels that the reported agreement falls “*woefully short*”;
- Senator Ron Wyden, ranking Democrat on the Finance Committee- advocates for close examination of the TPP text and favors a strong agreement; lauds reported provisions on currency manipulation, labor rights and the tobacco carve-out for the ISDS process;
- US-ASEAN Business Council- strongly supports the negotiated agreement;
- Emergency Committee for American Trade- looks forward to reviewing the text and supports an agreement which is “*standard, comprehensive and commercially meaningful*”;

- Business Roundtable- while the details are unavailable, the TPP has the “*potential to help U.S. businesses, farmers and workers sell more goods and services to 11 countries in the Asia-Pacific region, which would support American jobs and U.S. economic growth*”;
- American Apparel & Footwear Association- intends to review the final text and is hopeful that “*that the final agreement contains provisions to enable our members-as well as the millions of U.S. workers they employ and the billions of customers they serve-to benefit from the deal as soon as it is implemented*”;
- United States Fashion Industry Association- also looks forward to reviewing the final text of the agreement and is “*hopeful that the TPP will indeed be a high-standard agreement that recognizes the 21st-century global value chain and economic contributions of these companies, which work hard to create high-quality jobs in the United States and affordable, high-quality apparel products for American families*”;
- Information Technology Industry Council- the test of a successful TPP will be “*whether it is an agreement that will support jobs, drive sustainable growth, foster inclusive development, and promote 21st century innovation.*”;
- U.S. Business and Industry Council- categorically rejects the proposed agreement by objecting to the treatment of currency manipulation and stating that the TPP is “*completely inadequate to serve the interests of American manufacturers, workers, farmers, and other segments of the US economy*”;
- Public Citizen’s Global Trade Watch- skeptical as to whether the TPP will receive congressional approval and stated that “*There is intense controversy in many TPP countries about the pacts’ threats to jobs, affordable medicine, safe food and more.*”; and
- Public Citizen’s Access to Medicine Program- generally not in favor of the negotiated agreement though the TPP does “*contribute to preventable suffering and death*”.

FACT SHEET: How the Trans-Pacific Partnership (TPP) Boosts Made in America Exports, Supports Higher-Paying American Jobs, and Protects American Workers; (White House Press Release; 10/5/15)- This press release from the White House makes the following points favoring adoption of the TPP:

- The agreement eliminates over 18,000 different taxes on Made-in-America exports;
- The agreement includes the strongest worker protections of any trade agreement in history;
- The agreement includes the strongest environmental protections of any trade agreement in history;
- The agreement helps small businesses benefit from global trade;
- The agreement promotes e-commerce, protects digital freedom and preserves an open internet;
- The agreement levels the playing field for US workers by disciplining state-owned enterprises;
- The agreement prioritizes good governance and fighting corruption;
- The agreement includes the first ever Development Chapter; and
- The agreement capitalizes on America’s position as the world leader in services exports.

TPP: The end of the beginning; (Brookings Institute; 10/5/15)- This article makes the point that completion of the TPP negotiations is yet the beginning of a long review and approval process by the signatory nations.

The Trans-Pacific Partnership Trade Accord Explained; (New York Times; 10/5/15)- This article provides a useful and comprehensive summary of the various components of the TPP;

Vilsack: TPP text to be released within 30 days; (Politico; 10/6/15)- This article reports that the US Agriculture Secretary Tom Vilsack has stated that the text of the TPP will be publicly released within 30 days and makes the following points about the TPP:

- Agriculture is a “big winner” in the TPP;
- Tariff cuts will affect almost every commodity group;
- The TPP will use “science-based determinations” with regards to the importation of products;
- The agreement will promote transparency in the biotech regulatory process; and
- US dairy producers will have increased access to the Canadian and Japanese markets.

Trade agreement praised and panned; (Sciencemag.org; 10/6/15)- This article presents two differing perspectives from the scientific community regarding the recently negotiated TPP. One camp holds that the agreement will:

- Lower consumer costs for manufactured goods and agricultural products;
- Enhance labor and environmental protections; and
- Strengthen rules against counterfeiting and intellectual property theft.

Another viewpoint argues that the TPP has serious disadvantages which include:

- Restricting access to biologic drugs through excessive intellectual protection; and
- Despite claims to the contrary, there are fears that tobacco companies could still challenge public health laws through the ISDS process.

Ed Fast says text of TPP trade deal available within days; (cbc.ca; 10/8/15) – This article from the Canadian Broadcast Centre states that Canadian Trade Minister Ed Fast is promising that a “provisional” copy of the TPP will be released in the “next few days”;

Administration Pushes To Clear Way For TPP Consideration In Congress; (Inside US Trade; 10/8/15)- This article reports that the Obama administration intends to advance the TPP for consideration in Congress as soon as possible and intends to promote it through the use of press conferences, fact sheets and speeches.

Germany mobilizes against EU-U.S. trade deal; (Politico.com; 10/9/15)- this article reports on the widespread opposition of many in the German public to the proposed TTIP. The article cites several sources:

- A non-representative survey of some 3,000 app users showed that 88% of the respondents did not believe that Germany would benefit from the TTIP; and
- In a recent poll, 51% of Germans said they opposed the TTIP and 31% were in favor of it.

How the controversy over drug prices could take down Obama's massive trade deal;

(Washington Post; 10/9/15)- This article reports that the proposed protections for pharmaceutical patents and subsequent pricing pose a serious threat to Congressional approval of the TPP. Some critics feel that the protections included in the agreement are seriously lacking while other critics feel that the proposed protections are excessive. The opposition from either point of view may combine to threaten adoption of the TPP by Congress.

Why support TPP? Critics should read the agreement and keep an open mind;

(The Guardian; 10/11/15)- This opinion piece maintains that critics of the TPP should carefully consider the actual contents of the proposed agreement. The author suggests that the agreement represents a balance of sorts by:

- Giving tobacco companies, pharmaceutical companies and other corporations less than they had advocated for; and
- Providing more provisions than expected that are favorable to environmentalists;

Trading Away Land Rights: TPP, Investment Agreements, and the Governance of Land;

(triplecrisis.com; October 2015)- This article reports on the inclusion of certain investment provisions in the TPP and other FTAs that have the potential to significantly impede a government's ability to "manage land and other natural resources in the public interest". The authors suggest that the ISDS provisions could be used to challenge government regulations in this policy sphere.

TPP Drug Reimbursement Rules Likely Deviate From Past U.S. Trade Pacts;

(Inside US Trade; 10/15/15)- This article reports that the TPP contains provisions governing the amount of allowable reimbursements for the cost of drugs are significantly weaker than recent FTAs. A significant difference is that the TPP calls for a review process of reimbursement decisions that can be conducted by the pharmaceutical company in question whereas previous FTAs require an independent review to take place.

Letter from Langdon: Farmers Pay the Cost of 'Free' Trade;

(dailyyonder.com; 10/12/15)- This opinion piece, written by Richard Oswald, President of the Missouri Farmers Union, maintains that the TPP will result in a situation where, "American farmers will face upheaval and more dislocation, while corporate agriculture thrives".

<http://asia.nikkei.com/Features/Trans-Pacific-Partnership/US-seen-waiving-tariff-on-80-of-Japanese-autoparts>

September 30, 2015 4:29 am JST
Concession ahead of TPP talks

US seen waiving tariff on 80% of Japanese autoparts

RYOHEI YASOSHIMA, Nikkei staff writer

The U.S. may end tariffs on more than 80% of Japanese autoparts under the proposed Trans-Pacific Partnership.

ATLANTA -- The U.S. is likely to eliminate import tariffs on more than 80% of autoparts made in Japan under the proposed Trans-Pacific Partnership trade pact.

The two nations are finalizing bilateral talks on automotive trade ahead of ministerial-level negotiations by representatives from the 12 TPP nations to start here Wednesday.

Before the last ministerial-level talks in late July, the two countries agreed the U.S. should exempt more than 50% of Japanese-made parts from import tariffs. The American side now appears to be making an even bigger concession.

Japan exports 100 or so key autoparts to America. Seat belts, brakes and exhaust gas filters are among those likely to be exempt from tariffs as soon as the TPP takes effect. But transmissions, gearboxes and other parts for which U.S. companies are more protective would remain subject to duties. Japan wants all autoparts exempted within 10 years.

Japan sends 2 trillion yen (\$16.5 billion) in autoparts to the U.S. annually. Removing the tariff on all of them would save Japanese companies around 50 billion yen per year. Tariffs on completed vehicles are expected to be lifted in about three decades.

Automobiles are also a crucial topic in the broader TPP talks. Mexico wants any vehicle receiving a tariff exemption to have a high percentage of its components made in the 12 TPP economies, while Japan sees a lower percentage as appropriate.

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Rice is another major topic of Japan-U.S. negotiations linked to the pact. Japan, which plans to propose exempting 70,000 tons of imported rice a year from tariffs, is considering adding 50,000 tons to its offer.

Concessions from both sides in these two areas would propel the TPP talks. Japan is eager to reach an agreement in Atlanta because missing this opportunity could delay a deal by a year or longer. But it is unclear whether the 12 countries can reach a general agreement this time, amid discord over drug development data protection and dairy trade.

<http://mobile.nytimes.com/2015/10/01/business/pacific-trade-deal-talks-resume-under-fire-from-us-presidential-hopefuls.html?hp&action=click&pgtype=Homepage&module=second-column-region®ion=top-news&WT.nav=top-news&r=2&referrer=>

Pacific Trade Deal Talks Resume, Under Fire From U.S. Presidential Hopefuls

By JACKIE CALMES

September 30, 2015

WASHINGTON — Trade ministers for the United States and 11 other Pacific nations gathered in Atlanta on Wednesday to try to reach agreement on the largest regional free-trade pact ever. But knotty differences persist, and antitrade blasts from American presidential candidates have not eased prospects for any deal.

The talks in a downtown Atlanta hotel are picking up where ministers left off two months ago after deadlocking at a Maui resort, at odds over trade in pharmaceutical drugs, autos, sugar and dairy goods, among other matters. United States negotiators said last week that enough progress had been made in recent contacts to justify hosting another, perhaps final round.

For President Obama, who cited the potential agreement during his address this week to the United Nations, success in a negotiating effort as old as his administration would be a legacy achievement. The proposed Trans-Pacific Partnership would liberalize trade and open markets among a dozen nations on both sides of the Pacific, from Canada to Chile and Japan to Australia, that account for about two-fifths of the world's economic output.

Failure would be just as big a defeat for Mr. Obama, and upset his long-troubled foreign policy initiative to reorient American engagement toward fast-growing Asia and away from the violent morass of the Middle East and North Africa. Yet if the Atlanta talks yield no agreement by the weekend, the Americans are unlikely to declare failure.

Time is not the president's friend, however. Even if agreement is reached this week, Congress will not debate and vote on it until late winter — in the heat of the states' presidential nominating contests — because by law Mr. Obama cannot sign the deal without giving lawmakers 90 days' notice.

He will need bipartisan support, given the resistance of many Democrats and union allies to such trade accords. But presidential candidates in both parties have already registered strong opposition.

The Republican front-runner, Donald J. Trump, the billionaire who boasts of his own deal-making prowess, has called the emerging trans-Pacific agreement "a disaster." While some Republican rivals also are critical, it is the rhetoric of Mr. Trump, given his celebrity appeal, that has Republican leaders more worried that a toxic trade debate could threaten vulnerable

Republicans in 2016. Senator Mitch McConnell of Kentucky, the majority leader, supports a Pacific accord but nonetheless wants to protect his narrow Republican majority — and deny Mr. Obama an achievement.

On the Democratic side, where unions, progressive groups and many members of Congress oppose an agreement, Hillary Rodham Clinton has not taken a stand, though she repeatedly promoted the Pacific accord as secretary of state. In June, Mrs. Clinton told an Iowa audience “there should be no deal” if congressional Democrats’ concerns for workers were not addressed, and many in the party, including administration officials, expect she ultimately would oppose a deal, like her rival, Senator Bernie Sanders of Vermont.

The United States trade representative, Michael B. Froman, said before heading to Atlanta, “The president has made clear that he will only accept a T.P.P. agreement that delivers for middle-class families, supports American jobs and furthers our national security.”

“The substance of the negotiations will drive the timeline for completion,” Mr. Froman added, “not the other way around.”

Mr. Obama and Vice President Joseph R. Biden Jr., who has not ruled out a bid for president, showed at the United Nations that they were pressing hard to get an agreement. The president affirmed his support in private meetings with several world leaders, according to administration officials.

In his address to the United Nations, Mr. Obama told foreign leaders the accord would be a model for the world, “an agreement that will open markets, while protecting the rights of workers and protecting the environment that enables development to be sustained.” Should a deal come together, central to the White House campaign to sell the agreement to Congress would be the argument that setting economic, labor and environmental standards in the Pacific region would counter China’s influence, officials said.

Late Tuesday, Mr. Biden brought Mr. Froman to a Manhattan meeting with Prime Minister Shinzo Abe of Japan, who has made an agreement central to his own economic platform.

The Obama administration has pressed for the Pacific accord for six years, picking up the idea from the George W. Bush administration. Many issues have been all but settled, but nothing is final until everything is decided.

That progress, including tentative agreements on ending tariffs, setting labor and environmental standards, and opening certain markets, has sustained the negotiations despite setbacks.

But several issues continue to block a deal.

Dairy market rules divide the United States, Canada, Australia and New Zealand; this has been especially troublesome for Canada’s team, since the nation will hold elections this month.

Also divisive are provisions over auto exports, including requirements that autos have a certain percentage of parts made in countries that are parties to the agreement. Japan has sought a lower percentage of parts in the "rules of origin," with some support from Americans, to allow the export of autos with Chinese parts, while Mexico and Canada demand stricter rules.

Perhaps most contentious are negotiations related to protections for pharmaceutical companies' drugs, especially cutting-edge biologics that are made from living organisms and considered promising against cancer, among other ailments.

Several countries, especially Australia, have opposed the United States and its pharmaceutical industry for insisting that companies' drug data be protected for 12 years to create financial incentives to innovate. Critics say this keeps lower-cost generic drugs and "biosimilars" off the market for too long.

Here, too, the presidential contest has injected a wild card: Mrs. Clinton and Mr. Sanders each have accused drug makers of price gouging.

While there is talk of an eight-year compromise, for many opponents that is too long. Judit Rius Sanjuan, a manager of a campaign by Doctors Without Borders to hasten access to lower-priced drugs and vaccines, said she met with American negotiators last week in Washington, "and they gave me zero indication that they are going to be more flexible on this issue."

Andrew Spiegel, executive director of the Global Colon Cancer Association, said drug makers needed the incentives of strong protections for their intellectual property to encourage their research. He did not offer an answer to the question dividing negotiators: how many years the drug makers' data monopoly should last.

"I leave it to them to pick the magic number," Mr. Spiegel said.

Last week, 156 members of Congress, mostly Democrats, wrote the administration to complain that some parties to the talks, like Vietnam, Singapore and Japan, manipulate their currency values to underprice their products. While discussions are continuing, the administration is counting on reaching a currency deal with the Asian nations that would be a side agreement to any trade pact.

<http://www.nationalnewswatch.com/2015/10/04/is-canada-joining-a-big-new-trade-deal-answer-could-be-a-few-hours-away/#.VhIne9Y-DeT>

Overnight suspense over TPP: On verge of completion, big trade deal hit by delay

By Alexander Panetta — Oct 4 2015

ATLANTA - A last-minute sprint toward a historic trade agreement has turned into yet another marathon negotiating session, with the suspense rippling from the negotiating table into Canada's federal election campaign.

Negotiators appeared very close to striking the 12-country Trans-Pacific Partnership Agreement on Sunday afternoon, with plans to announce the creation of the world's largest trade zone.

Here's how close: Reporters were brought into a room for a briefing session on the deal, were made to sign confidentiality agreements to keep the details secret until a formal announcement, and ziploc bags were distributed around the table to confiscate cellphones until the news embargo was lifted.

That briefing never happened Sunday.

A planned news conference to announce the deal was rescheduled — from 4 p.m. to 6 p.m., then 8 p.m., and was eventually postponed indefinitely, in a fitting finale to a ministerial meeting marked by all-night negotiations that was intended to last two days, then three, four and finally a supposedly make-or-break fifth day.

"Look, it's not done yet," said Andrew Robb, Australia's trade minister.

The overnight hours into Monday could prove pivotal in determining whether the Canadian election experiences a debate on a deal, or a debate on which party should take over this process after Oct. 19.

The talks appear likely to break up Monday as some ministers planned to leave for a G20 summit. Japan's envoy has warned he can't stick around through the day.

It was supposed to be a quiet day off the campaign trail for Stephen Harper. But his Sunday wound up consumed by trade talks, with the prime minister in Ottawa getting phone briefings from the negotiating team in Atlanta.

Another country's minister confirmed that last-minute snags had delayed a deal. Robb said a struggle over next-generation pharmaceuticals had a cascading effect on attempts to resolve other issues.

One of those issues, insiders say, is Canadian dairy.

Robb explained that the U.S. and Australia had worked all night into Sunday to resolve their differences on cutting-edge, cell-based medicines and made a breakthrough around 3 a.m.

He said they'd succeeded at establishing a model that bridges the gap between two entrenched positions: the more business-friendly, eight-year patent-style protections the U.S. wants for biologics, and the more patient-and-taxpayer-friendly five-year model preferred by Australia and others.

But that triggered a chain-reaction. Some other countries weren't pleased with the compromise, and that discussion became more multi-sided with two or three holdouts remaining, he said.

Canada is not too involved in that skirmish. But the delay, according to Robb, wound up pushing other issues to the backburner until Sunday morning and they're still being worked out.

Insiders say access to Canadian grocery shelves is chief among them. Negotiators have been haggling about how much foreign butter, condensed milk and other dairy products should be allowed into Canada.

New Zealand helped create the TPP project a decade ago and it wants to sell more butter in North America — especially in the United States. It says the U.S., however, won't open its own agriculture sector until getting some assurance that American producers could sell more in Canada and Mexico.

Currently, 90 per cent of the Canadian dairy market is closed to foreign products. The system allows for stable incomes in farming communities, but it limits options and drives up prices at the grocery store.

Representatives of the dairy lobby milled about the convention site late Sunday. They professed to still be in the dark about what market-access offer Canada had made.

In an unusual twist, the evening's drama came with a special soundtrack: a concert by the band Foo Fighters which could be heard throughout the hotel-convention complex hosting the negotiations.

While negotiators hashed out percentages and contemplated the long-term consequences on dairy farms and hospitals, many thousands of concertgoers could be heard chanting nearby, oblivious to the unintentional symbolism, "I swear I'll never give in... Is someone getting the best, the best, the best, the best of you?"

An agreement would complete a decade-long process that began with four countries in Asia and Chile, and spread to the United States, then Canada and other Latin American countries.

The state of play was summarized by New Zealand's trade minister — who easily provided the most-memorable quote of the five-day meetings.

Under pressure to obtain foreign access for his own country's dairy, he told one of his country's newspapers that difficult compromises will have to be made.

He illustrated it with an unappetizing culinary metaphor.

"It's got the smell of a situation we occasionally see which is that on the hardest core issues, there are some ugly compromises out there," Tim Groser told New Zealand's Weekend Herald.

"And when we say ugly, we mean ugly from each perspective — it doesn't mean 'I've got to swallow a dead rat and you're swallowing foie gras.' It means both of us are swallowing dead rats on three or four issues to get this deal across the line."

<http://blog.aarp.org/2015/10/01/latest-tpp-biologics-proposal-is-a-step-in-the-wrong-direction-2/>

Latest TPP Biologics Proposal Is a Step in the Wrong Direction

by [KJ Hertz](#) | [Comments: 0](#) | [Print](#)

As negotiators meet on the Trans-Pacific Partnership (TPP) in Atlanta, AARP is again urging them to be mindful of the consumers who depend on prescription drugs to manage their health conditions. We continue to have serious concerns with the direction of the TPP negotiations on key issues that will have long-lasting effects on access to affordable prescriptions in the U.S. and around the world.

One of [AARP's main objections](#) centers on the intellectual property provisions in the draft TPP agreement. These provisions would restrict prescription drug competition and result in delaying consumers' access to lower-cost generic drugs. These anti-competitive provisions would extend brand drug patent protections through "evergreening" drug products that provide little to no new value. They also [prolong high prescription drug costs for consumers](#), link approval to market generic or biosimilar drugs to existing patents in a way that protects only brand drugs, and increase [data exclusivity periods for biologics](#) that further delays access by other companies to develop generic versions of these extremely high-cost drugs.

We urge the TPP negotiators to reject calls for additional monopoly protection for biologic medicines. We understand that the newest proposal in the TPP includes five years of data protection plus a three-year post-marketing surveillance period that would effectively give biologic manufacturers at least eight years of monopoly protection. This proposal runs counter to the Obama administration's efforts to reduce monopoly protection for biologic drugs, efforts that AARP and many other groups also have long supported.

The U.S. is already witnessing the strain of unsustainable prescription drug spending on consumers, state and federal budgets, and our health care system. We simply cannot afford a trade deal that will unduly restrict competition by delaying consumers' access to lower-cost prescription drugs.

The Nelson Report

Oct. 5, 2015

TPP DONE AT THE DIPLOMATIC LEVEL, NOW GOES TO THE POLITICIANS

...BOTH CAPITOL HILL AND BUSINESS ARE STAYING CAUTIOUS, PENDING "DETAILS"

SUMMARY: echoing the key Capitol Hill reactions, note the business community is being careful with "wait, study and see", if of course positive overall that the deal's been done at the government level.

Now the hard politics begins on Capitol Hill, and we've included all of the reactions received so far, except the opposition press conference organized by Rep. DeLauro going on right now.

Rep. Sandy Levin gives it mixed reviews, some positive, some problems he's still adamant on, like currency and labor rights in Mexico. Lori Wallach is still banking on biologics to gen-up public concern, and actually quotes Don Trump in opposition. Good lord...

On that, we are reminded to stop talking about an "8 year" biologics protection deal, and urged to more accurately call it a "5+3" agreement...

We will confess much interest in seeing the text of the US-Japan bilaterals, now to be folded into TPP, on rice, autos, etc. Send details and comments as soon as you get them!!!

Here are the reactions received by 11 am DC time today:

WAYS & MEANS...

CHAIRMAN RYAN'S STATEMENT:

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WASHINGTON, DC - House Ways and Means Committee Chairman Paul Ryan (R-WI) released the following statement in response to the news that negotiators in the Trans-Pacific Partnership have reached agreement.

"A successful Trans-Pacific Partnership would mean greater American influence in the world and more good jobs at home. But only a good agreement-and one that meets congressional guidelines in the newly enacted Trade Promotion Authority-will be able to pass the House. I am 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. I'm pleased that the American people will be able to read it as well because TPA requires, for the first time ever, the administration to make the text public for at least 60 days before sending it to Congress for consideration. The administration must clearly explain the benefits of this agreement and what it will mean for American families. I hope that Amb. Froman and the White House have produced an agreement that the House can support."

TRADE SUBC. CHAIR:

WASHINGTON, DC - House Ways and Means Trade Subcommittee Chairman Pat Tiberi (R-OH) released the following statement after negotiators in the Trans-Pacific Partnership reached agreement.

"Today the administration announced there was an agreement reached in the Trans-Pacific Partnership (TPP) negotiations, and I look forward to reviewing the text closely to ensure it follows the objectives Congress laid out in passing Trade Promotion Authority (TPA). TPP has the potential to increase American influence and provide access for American businesses to sell their products and services around the world. However, there are many complex issues involved in this agreement that require careful consideration to ensure that the outcome is beneficial for the U.S. economy and jobs. I am pleased the passage of TPA earlier this year will allow the public to fully review the text of TPP, and I look forward to receiving input from my constituents and other stakeholders."

RANKING DEM SANDY LEVIN:

WASHINGTON, DC - Ways and Means Committee Ranking Member Sander Levin (D-MI) today issued a statement following the conclusion of the Trans-Pacific Partnership (TPP) trade negotiations this week in Atlanta, where United States Trade Representative Michael Froman announced that the 12 TPP countries have reached an agreement:

"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. Removing tobacco from investor-state dispute settlement is a vital and welcome step in allowing countries to protect their public health. There has also been substantial progress with Vietnam and Malaysia in the areas of worker rights as we seek to ensure they comply with the enforceable standards in the agreement. Unfortunately, there is still no satisfactory plan to ensure that Mexico - a country where economic competition with U.S. workers is the most intense - changes its laws and practices to comply with its obligations in the agreement. Changing NAFTA has been a top priority - we cannot miss this opportunity and hope to rely on a future dispute settlement panel to do so. The Finance Ministers' plan regarding currency manipulation - an issue with a major impact on U.S. jobs - is also entirely unsatisfactory.

"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. In the vital area of access to medicines, this issue was discussed until the very last hours, and I pressed to ensure access to generic medicines for developing countries, as well as to avoid locking in policies for the United States and other countries that we may one day decide can be improved. During the 90-day notification period, I look forward to an intense period of Congressional scrutiny, as well as the vital period of public release of the agreement's text. This long-awaited public debate is an important component in evaluating the strengths and weaknesses of this agreement. It will also be important to fully consider the various analyses of the impact of TPP on the U.S. economy and middle class jobs.

"Indeed, at the heart of any trade agreement is its impact on jobs and economic growth. But as we have seen during the course of these negotiations, there are new issues that impact the terms of competition, and others that are vital to the integration of the TPP economies. We have to get this agreement right, which is why no one should be surprised if the 90-day period results in additional changes, particularly since many of these issues are the subjects of bi-lateral negotiations. The most important objective is to get the strongest agreement that benefits American workers and the U.S. economy for generations. The role of Congress now is as important as ever."

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SENATE FINANCE...

Hatch Statement on Trans-Pacific Partnership Negotiations

WASHINGTON - Senate Finance Committee Chairman Orrin Hatch (R-Utah) today issued the following statement after the United States Trade Representative (USTR) Michael Froman announced that an agreement had been reached between the United States and 11 other nations to close the Trans-Pacific Partnership (TPP) negotiations:

"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 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. Closing a deal is an achievement for our nation only if it works for the American people and can pass Congress by meeting the high-standard objectives laid out in bipartisan Trade Promotion Authority. 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 Trans-Pacific Partnership is a once in a lifetime opportunity and the United States should not settle for a mediocre deal that fails to set high-standard trade rules in the Asia-Pacific region for years to come."

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A longtime advocate of breaking down trade barriers, Hatch has championed efforts to enhance America's global competitiveness and increase access for American farmers, workers and job-creators into international markets. Most recently, Hatch co-authored legislation to renew Trade Promotion Authority (TPA) which was signed into law in June.

Wyden Statement on End of TPP Negotiations

WASHINGTON - Sen. Ron Wyden, D-Ore., ranking Democrat on the Senate Finance Committee, issued the following statement on the close of negotiations for the Trans-Pacific Partnership trade agreement between the United States and 11 other Pacific nations.

"As I have said in the past, a good Trans-Pacific Partnership agreement could present important new opportunities for Oregon workers, farmers and manufacturers, and raise the bar for labor rights and environmental protections overseas," Wyden said.

"It'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.

"I'm pleased to hear reports that the deal reached today includes, for the first time, an agreement to curb currency manipulation and new and enforceable obligations on countries like Vietnam and Malaysia to uphold labor rights, including in the case of Malaysia enforceable commitments to address human trafficking. I also understand that the agreement will include commitments to stop trade in illegal wildlife and first-ever commitments on conservation. Importantly, I understand that this deal will ensure that countries that are part of it can regulate tobacco without fearing intimidation and litigation by Big Tobacco. It has been reported the agreement includes enforceable measures to promote the free flow of digital information across borders; if accurate, those provisions could constitute an important win for the Internet and the free speech it facilitates. Importantly, the impact of this deal must result in parties to it providing copyright exceptions and limitations known as Fair Use. I look forward to working with the administration and stakeholders to be sure that is ultimately the case.

"In the weeks ahead, I will be examining the details of this agreement to determine whether it will provide the meaningful economic opportunities that Oregonians deserve, and that it reflects Oregon values. I look forward to the details of this agreement becoming public as soon as possible, so Oregonians and the rest of the American public can weigh in."

Background on what happens next:

Pursuant to the Trade Promotion Authority (TPA) legislation that was coauthored by Senator Wyden, the President may not sign the agreement until 90 days after he notifies Congress that he intends to

sign it. Additionally, TPA requires the President to make the entire text of the agreement public at least 60 days before he signs it. Although TPA provides for a clear timeline for how and when Congress will consider a trade agreement like TPP, such timelines do not begin until the President submits the trade agreement to the Congress. The timing of the submission is negotiated between leaders in Congress and the President.

The TPA legislation that Wyden coauthored included negotiating guidelines championed by Wyden to instruct negotiators to seek strong provisions to curb currency manipulation, protect labor rights and the environment, and promote an open Internet. Wyden recently wrote to the Obama Administration, making clear his views about how the trade agreement should deal with tobacco. A copy of the letter can be found [here](#).

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BUSINESS COMMUNITY...

S-ASEAN Business Council Support for the Completed TPP

(Washington, D.C.) The US-ASEAN Business Council offered its support today for the successful completion of the Trans-Pacific Partnership (TPP) negotiations.

"We congratulate the TPP member governments for concluding this landmark agreement in Atlanta, GA today," said Alexander Feldman, President and CEO of the US-ASEAN Business Council. "Almost six years ago, President Obama announced his intention to pursue this landmark agreement and join the P4 (Brunei, Malaysia, Chile, New Zealand and Singapore) in the negotiations. Today, the TPP has grown to include nearly 40 percent of the world's GDP under a single high standards trade agreement. It will open new opportunities for American companies in 11 important Pacific countries, creating a level playing field for U.S. businesses looking to break into and/or expand their presence in some of the fastest growing markets in the world. This agreement will improve intellectual property, environment, labor and e-commerce standards across the region."

"ASEAN (Association of Southeast Asian Nations) countries represent over 30 percent of countries negotiating the TPP, including Brunei, Malaysia, Singapore and Vietnam," Feldman continued. "40 percent of the ASEAN nations will be signatories of the TPP and others, including the Philippines, have indicated an interest in joining in the future. The agreement will significantly and positively impact commercial relations between the United States and these important countries and is a critical component of American's engagement with Southeast Asia in particular and with Asia more generally."

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ECAT LOOKS FORWARD TO FULLY REVIEWING THE JUST-ANNOUNCED TPP AGREEMENT

Washington, D.C., October 5, 2015: Calman J. Cohen, President of the Emergency Committee for American Trade (ECAT), issued the following statement regarding the conclusion of the Trans-Pacific Partnership (TPP) negotiations:

"ECAT looks forward to undertaking a full evaluation of the just-announced TPP agreement that was concluded on Sunday, the 4th of October, at the TPP Ministerial that was held in Atlanta, Georgia. Throughout the negotiations, ECAT's business leaders have advocated the conclusion of a high-standard, comprehensive, and commercially meaningful TPP agreement.

"The fast-growing Asia-Pacific region is of significant economic importance to U.S. business and agriculture interests, who view the TPP as an opportunity to open foreign markets to their products, strengthen the U.S. economy, and support well-paying jobs here at home. Through the TPP, the United States has taken a leading role in writing the rules for 21st-century international trade and investment.

"We are particularly thankful for the leadership of U.S. Trade Representative Michael Froman, Assistant U.S. Trade Representative Barbara Weisel, and the entire team at the Office of the U.S. Trade Representative for their tireless efforts to conclude an agreement which will address longstanding tariff and non-tariff barriers to U.S. goods and services in TPP markets and address 21st-century trading issues.

"The position ECAT takes on the agreement will be determined following a full review of its contents - once they have been made public - and consultations with our member companies."

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BUSINESS ROUNDTABLE:

Statement by America's Business Leaders on Conclusion of TPP Negotiations

Washington - Business Roundtable today released the following statement on the conclusion of the Trans-Pacific Partnership (TPP) negotiations:

"We thank President Obama, Ambassador Froman and the U.S. negotiating team for their tireless work on the TPP negotiations, and we look forward to reviewing the details of this agreement," said Tom Linebarger, Chairman and Chief Executive Officer of Cummins Inc. and Chair of the Business Roundtable International Engagement Committee. "While we don't yet know all the details of today's agreement, TPP holds the potential to help U.S. businesses, farmers and workers sell more goods and services to 11 countries in the Asia-Pacific region, which would support American jobs and U.S. economic growth."

In 2013, U.S. trade with the TPP countries supported 15.3 million American jobs, and 44 percent of U.S. goods exports were bound for these 11 countries. The TPP will help expand existing trade between the United States and six current free trade agreement (FTA) partners - Australia, Canada, Chile, Mexico, Peru and Singapore. The agreement will also open new markets with five countries that are not current U.S. FTA partners - Brunei, Japan, Malaysia, New Zealand and Vietnam.

U.S. trade expansion, including through trade agreements like the TPP, is a key pillar of the Business Roundtable pro-growth policy agenda, *Achieving America's Full Potential: More Work, Greater Investment, Unlimited Opportunity*. [Click here](#) for Business Roundtable national and state-by-state fact sheets on the benefits of trade with the TPP countries.

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AAFA STATEMENT ON THE TRANS-PACIFIC PARTNERSHIP

(ARLINGTON, Va.) - October 5, 2015 - The American Apparel & Footwear Association today released the following statement regarding the Trans-Pacific Partnership (TPP) free trade agreement.

Free trade agreements have the potential to help U.S. industries, including ours, access new markets, new suppliers, and new customers.

"The Trans-Pacific Partnership agreement represents nearly 40 percent of the world's economy and could present a tremendous opportunity for our industry. We are hopeful that the final agreement contains provisions to enable our members-as well as the millions of U.S. workers they employ and the billions of customers they serve-to benefit from the deal as soon as it is implemented.

"We welcome the conclusion of the TPP talks. We look forward to reviewing the details of the agreement when they are released. Throughout this process, we communicated what's needed to

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create trade opportunities for the clothing and shoe industry. Now we plan to evaluate those provisions that impact the industry, review the details, and consult with our members."

The TPP is the free trade agreement the United States is negotiating with 11 other countries from the Pacific Rim. The negotiations have been in the making for more than five years. Earlier today, negotiators concluded the talks and came to a final agreement. The full text of the agreement is expected to be released later this year.

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U.S. Fashion Industry Recognizes Conclusion of TPP Negotiations, Remains Hopeful Agreement Will Benefit Fashion Industry

Washington, D.C. - The United States Fashion Industry Association (USFIA) recognizes the conclusion of the Trans-Pacific Partnership (TPP) negotiations today in Atlanta.

"The Trans-Pacific Partnership represents an important opportunity for American fashion brands, retailers, importers, and wholesalers, who are already doing significant business in several TPP partner countries," says Julia K. Hughes, President of USFIA. "On behalf of our members, thank you to U.S. Trade Representative Michael Froman and his team for their many years of hard work to conclude this agreement."

"The fashion industry has been eagerly awaiting the completion of this agreement and we look forward to seeing the final text to see how it can benefit our members," continued Hughes. "We remain hopeful that the TPP will indeed be a high-standard agreement that recognizes the 21st-century global value chain and economic contributions of these companies, which work hard to create high-quality jobs in the United States and affordable, high-quality apparel products for American families," she concluded.

According to the [2015 USFIA Fashion Industry Benchmarking Study](#), which we released in June, we found that our members already source from five TPP partner countries: Vietnam, Peru, Mexico, Malaysia, and the United States. Nearly 80 percent of respondents said they expect the TPP to affect their business practices. However, the level of impact depends on the rules of origin and market access provisions; 83 percent called for abandoning the strict "yarn-forward" rule of origin, and 45 percent hoped the TPP short-supply list would be expanded.

"We understand the final agreement contains a yarn-forward rule of origin and limited short-supply list, though we remain hopeful it also will include many opportunities for fashion brands, retailers, importers, and wholesalers to expand their global businesses," concluded Hughes.

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ITI Welcomes TPP Trade Agreement Announcement for its Potential

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to Boost '21st Century Economy'

WASHINGTON - The Information Technology Industry Council (ITI), the global voice for the technology sector, released the following statement from President and CEO Dean Garfield reacting to news that a deal has been reached by negotiators on the Trans-Pacific Partnership (TPP):

"We welcome the news announcing a deal has been reached by TPP Trade Ministers in Atlanta. TPP has the potential to be a new model for trade deals in the 21st century-boosting economies in the United States and around the globe by lowering trade barriers and by promoting transparency and good governance. For the tech sector, the true test of the deal will be whether it is an agreement that will support jobs, drive sustainable growth, foster inclusive development, and promote 21st century innovation. We also look forward to reviewing the text, when it is made public, to ensure that it achieves these goals, and as well to the work ahead with the administration and Congress."

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STATE DEPT:

Successful Conclusion of Trans-Pacific Partnership (TPP) Negotiations

Press Statement

John Kerry
Secretary of State

Washington, DC

October 5, 2015

With today's successful conclusion of the Trans-Pacific Partnership negotiations, the United States and 11 other nations have taken a critical step forward in strengthening our economic ties and deepening our strategic relationships in the Asia-Pacific region.

This historic agreement links together countries that represent nearly 40 percent of global GDP. The TPP will spur economic growth and prosperity, enhance competitiveness, and bring jobs to American shores. It will provide new and meaningful access for American companies, large and small. And by setting high standards on labor, the environment, intellectual property, and a free and open Internet, this agreement will level the playing field for American businesses and workers.

The TPP will provide a near-term boost to the U.S. economy, and it will shape our economic and

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strategic relationships in the Asia-Pacific region long into the future.

I am proud of the work that our teams in Washington and at our embassies and consulates around the Pacific have done to bring these negotiations to a successful conclusion. I especially commend our outstanding Ambassador Michael Froman for his leadership and vision.

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ASSOC/NGO OPPOSITION...

Domestic Manufacturers Reject Trans-Pacific Partnership Deal Announced Today

Washington, October 5 - The members of the U.S. Business and Industry Council (USBIC) categorically reject the Trans-Pacific Partnership deal announced this morning as completely inadequate to serve the interests of American manufacturers, workers, farmers, and other segments of the US economy. Additionally, USBIC notes that the Obama administration, by refusing to include enforceable currency manipulation provisions, is offering an open invitation for TPP member countries Japan, Malaysia, and Singapore to continue their unfair, anti-competitive currency practices without fear of consequences.

Kevin L. Kearns, USBIC president, said, "In concluding the TPP deal announced today, the Obama administration has refused to carry out the will of Congress and its specific negotiating instructions to include enforceable currency provisions in the agreement. The omission of meaningful currency language is not only a deal-breaker, but also an open invitation to Japan, Malaysia and Singapore, among others, to continue to use currency cheating to gain competitive advantage over American companies."

Kearns continued, "In addition, the lack of enforceable currency provisions in the TPP signals China and other East Asian non-party manipulators that they are 'home free' and can continue to use currency market interventions to boost sales without fear that the United States will seek any redress. Finally, the lack of currency provisions sets a terrible precedent for the Trans-Atlantic Trade and Investment Partnership trade deal.

Several European nations are currency manipulators as well and now know that they can continue their practices without any consequences."

Kearns concluded, "The TPP is not free trade and it is not fair trade. It is government-managed trade. Witness the horse-trading at the all-night Atlanta negotiating sessions, where executive branch negotiators decided which industries would be sacrificed to achieve a deal and cement the "Obama legacy." Industrial sectors such as autos, dairy, agriculture, and pharmaceuticals are government-designated losers under the TPP.

Today's statements by leading Members of Congress, saying they must study the deal to see what's in it, indicate that the representatives of the American people were not adequately consulted. The Obama administration's penchant for secret negotiations, favoritism, and crony capitalism along with blatant disregard for Congressional

instructions on currency should not be allowed to stand when the TPP comes to Congress for a vote. To preserve the integrity of the trade negotiating process and to force achievement of a better trade deal, Congress must reject this woefully inadequate TPP trade agreement."

FROM LORI WALLACH, PUBLIC CITIZEN:

If There Really Is a Final TPP Deal: Can It Pass Congress? When Does Congress Get to See a Final Text?

Statement of Lori Wallach, Director, Public Citizen's Global Trade Watch

If there really is a Trans-Pacific Partnership (TPP) deal, its fate in Congress is highly uncertain given the narrow margin by which trade authority passed this summer, the concessions made to get a deal, and growing congressional and public concerns about the TPP's threats to jobs, wages, safe food and affordable medicines and more. The intense national battle over trade authority was just a preview of the massive opposition the TPP will face given that Democratic and GOP members of Congress and the public soon will be able to see the specific TPP terms that threaten their interests.

With congressional opposition to TPP growing and the Obama administration basically up against elections cycles in various countries, this ministerial was extended repeatedly because this was the do or die time but it's unclear if there really is a deal or this is kabuki theatre intended to create a sense of inevitability so as to insulate the TPP from growing opposition.

Ten U.S. presidential candidates have pushed anti-TPP messages in their campaigning, stoking U.S. voters' ire about the pact. Democratic candidate Senator Bernie Sanders has repeatedly said that "The TPP must be defeated." GOP frontrunner Donald Trump also has repeatedly slammed the TPP, stating "It's a horrible deal for the United States and it should not pass." The Canadian national election outcome could also rock the TPP talks, as Conservative Prime Minister Harper's political opponents have taken critical views of his approach to TPP.

If there really is a deal, its fate in Congress is at best uncertain given that since the trade authority vote, the small bloc of Democrats who made the narrow margin of passage have made demands about TPP currency, drug patent and environmental terms that are likely not in the final deal, while the GOP members who switched to supporting Fast Track in the last weeks demand enforceable currency terms, stricter rules of origin for autos, auto parts and apparel, and better dairy access for U.S.

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producers.

The TPP's prospects will be even worse if the Administration announces a deal today but then does not actually have a final text to provide Congress. There is intense controversy in many TPP countries about the pacts' threats to jobs, affordable medicine, safe food and more.

Useful Resources

- The Fast Track timeline for a U.S. congressional vote on the TPP: As this [memo](#) explains, under the Fast Track bill, various congressional notice and report filing requirements add up to about four and one half months between notice of a final deal and congressional votes being taken. Even if all of the timelines are fudged by the 90-day notice to Congress before signing, a TPP vote cannot occur in 2015.
- Congressional Letters Raising Doubts on the TPP's Congressional Prospects: On Sept. 25, 160 House GOP and Democrats sent a [letter](#) to Obama demanding enforceable currency disciplines in the TPP. While building that level of support required months when a similar letter was sent in 2013, this letter was in circulation for only a week, starting when the TPP Atlanta ministerial was announced. Meanwhile, at the end of the summer, 19 pro-Fast Track Democrats sent a [letter](#) laying out necessary environmental terms for an acceptable deal, and 18 pro-Fast Track Democrats sent a [letter](#) about lack of enforcement in current and future trade agreements and demanding action against Peru for violations of environmental terms in its bilateral U.S. trade deal. Twelve Democrats who supported Fast Track and 12 GOP members were among the 160 representatives signing a [letter](#) decrying Malaysia's inclusion in the TPP and the upgrade of Malaysia's human trafficking status. During this week's negotiations, the top Republican and Democrat leaders on trade in the House and Senate sent a [letter](#) expressing frustration at the lack of coordination and consultation between USTR and Congress on the remaining issues of the negotiation, and 25 pro-Fast Track Republicans and Democrats from dairy districts sent a [letter](#) expressing their concern that a final deal would not meet their goal for improved dairy market access in Canada and Japan.
- Polling: As [this memo](#) shows, recent polling reveals broad U.S. public opposition to more-of-the-same trade deals among Independents, Republicans and Democrats. While Americans support trade, they do not support an expansion of status quo trade policies, complicating the push for the TPP. Furthermore, [recent Pew polls](#) in many of the TPP nations show that, outside Vietnam, the deal does not have strong support.

Also from Public Citizen:

Eleventh Hour TPP Deal on Biotech Drugs Still Harms Access to Medications, May Increase Ire Over TPP in Congress

Statement of Peter Maybarduk, Director, Public Citizen's Access to Medicines Program

The deal brokered today by the U.S. Trade Representative (USTR) and the Australian government on biotech drugs, which supposedly paved the way for an overall "deal in principle" for the Trans-Pacific Partnership (TPP), fell short of Big Pharma's most extreme demands but will contribute to preventable suffering and death. The final deal as reported does not seem to adhere to the "May 10th 2007 Agreement" standard on access to affordable medicines and could complicate any eventual final TPP deal's prospects in the U.S. Congress. In biologics and other areas, TPP rules would expand monopoly protections for the pharmaceutical industry at the expense of people's access to affordable medicines. (The May 10th Agreement was brokered in 2007 between Democratic congressional

leadership and the Bush administration to begin to reduce the negative consequences of U.S.-negotiated trade agreements, for health, the environment and labor.)

In recent days, monopoly periods for biologics, which are medical products derived from living organisms and include many new and forthcoming cancer treatments, became the most controversial issue in the attempt to conclude a TPP. The highly technical and confusing biologics deal appears to not guarantee Big Pharma the minimum eight-year automatic monopolies that industry has taken for granted as an eventual TPP outcome. According to informed sources, countries could limit automatic biologics exclusivity to not more than five years, at which point affordable biosimilars could enter the market. (Biologics exclusivity is separate from and independent of patent protection, though the protections may overlap.) Yet the deal also includes mechanisms that would help the USTR browbeat countries, now and in the future, to get what Big Pharma wants, and pull countries toward longer monopoly periods.

This week, U.S. Rep. Sander Levin made clear that May 10 agreement limits exclusivity to five years, with a "concurrent period" mechanism to ensure faster access that is not present in the TPP biologics deal. Several other TPP rules, including those relating to patent term extensions, linkage and evergreening, go beyond the limits of the May 10th Agreement. In late July, 11 of the 28 Democrats who voted for Fast Track legislation warned in a letter that the TPP could fail in Congress if it did not adhere to the May 10 standard with respect to access to medicines.

With respect to other issues in the TPP's Intellectual Property Chapter, the transition periods before developing countries must meet all of the TPP's protections for pharmaceutical corporations and possible exceptions to those rules are not sufficient to protect access to medicines. Transition periods will be very short and apply to only a few of the most harmful rules. Exceptions will be limited to very few rules or countries. Within a few years, most, if not all, harmful TPP rules will apply to all countries.

Controversies over pharmaceuticals and intellectual property, including frequently unanimous resistance from negotiating countries, have held up the TPP for years. Many courageous negotiators and others from developing countries stood up to industry and USTR pressure, consistently, to protect their people's health. A number of harmful rules were eliminated from TPP proposals as a result of this work.

Yet the Obama administration showed itself willing to risk its entire trade agenda to satisfy the avarice of the pharmaceutical lobby. In that respect, people everywhere trying to understand why medicine prices are so high find a disheartening answer in the TPP negotiations: The pharmaceutical industry has purchased tremendous influence with political leaders.

The White House

Office of the Press Secretary

For Immediate Release

October 05, 2015

FACT SHEET: How the Trans-Pacific Partnership (TPP) Boosts Made in America Exports, Supports Higher-Paying American Jobs, and Protects American Workers

Today, the United States reached agreement with its eleven partner countries, concluding negotiations of the Trans-Pacific Partnership.

The Trans-Pacific Partnership (TPP) is a new, high-standard trade agreement that levels the playing field for American workers and American businesses, supporting more Made in America exports and higher-paying American jobs. By eliminating over 18,000 taxes – in the form of tariffs – that various countries put on Made in America products, TPP makes sure our farmers, ranchers, manufacturers, and small businesses can compete - and win - in some of the fastest-growing markets in the world. With more than 95 percent of the world's consumers living outside our borders, TPP will significantly expand the export of Made in America goods and services and support American jobs.

TPP Eliminates over 18,000 Different Taxes on Made in America Exports

TPP levels the playing field for American workers and American businesses by eliminating over 18,000 taxes that various countries impose on Made in America exports, providing unprecedented access to vital new markets in the Asia-Pacific region for U.S. workers, businesses, farmers, and ranchers. For example, TPP will eliminate and reduce import taxes – or tariffs – on the following Made in America exports to TPP countries:

U.S. manufactured products: TPP eliminates import taxes on every Made in America manufactured product that the U.S. exports to TPP countries. For example, TPP eliminates import taxes as high as 59 percent on U.S. machinery products exports to TPP countries. In 2014, the U.S. exported \$56 billion in machinery products to TPP countries.

U.S. agriculture products: TPP cuts import taxes on Made in America agricultural exports to TPP countries. Key tax cuts in the agreement will help American farmers and ranchers by expanding their

exports, which provide roughly 20 percent of all farm income in the United States. For example, TPP will eliminate import taxes as high as 40 percent on U.S. poultry products, 35 percent on soybeans, and 40 percent on fruit exports. Additionally, TPP will help American farmers and ranchers compete by tackling a range of barriers they face abroad, including ensuring that foreign regulations and agricultural inspections are based on science, eliminating agricultural export subsidies, and minimizing unpredictable export bans.

U.S. automotive products: TPP eliminates import taxes as high as 70 percent on U.S. automotive products exports to TPP countries. In 2014, the U.S. exported \$89 billion in automotive products to TPP countries.

U.S. information and communication technology products: TPP eliminates import taxes as high as 35 percent on U.S. information and communication technology exports to TPP countries. In 2014, the U.S. exported \$36 billion in information and communication technology products to TPP countries.

TPP Includes the Strongest Worker Protections of Any Trade Agreement in History

TPP puts American workers first by establishing the highest labor standards of any trade agreement in history, requiring all countries to meet core, enforceable labor standards as stated in the International Labor Organization's (ILO) Declaration on Fundamental Principles and Rights at Work.

The fully-enforceable labor standards we have won in TPP include the freedom to form unions and bargain collectively; prohibitions against child labor and forced labor; requirements for acceptable conditions of work such as minimum wage, hours of work, and safe workplace conditions; and protections against employment discrimination. These enforceable requirements will help our workers compete fairly and reverse a status quo that disadvantages our workers through a race to the bottom on international labor standards.

In fact, TPP will result in the largest expansion of fully-enforceable labor rights in history, including renegotiating NAFTA and bringing hundreds of millions of additional people under ILO standards – leveling the playing field for American workers so that they can win in the global economy.

TPP Includes the Strongest Environmental Protections of Any Trade Agreement in History

TPP includes the highest environmental standards of any trade agreement in history. The agreement upgrades NAFTA, putting environmental protections at the core of the agreement, and making those obligations fully enforceable through the same type of dispute settlement as other obligations.

TPP requires all members to combat wildlife trafficking, illegal logging, and illegal fishing, as well as prohibit some of the most harmful fishery subsidies and promote sustainable fisheries management practices. TPP also requires that the 12 countries promote long-term conservation of whales, dolphins, sharks, sea turtles, and other marine species, as well as to protect and conserve iconic species like rhinos and elephants. And TPP cracks down on ozone-depleting substances as well as ship pollution of the oceans, all while promoting cooperative efforts to address energy efficiency.

TPP Helps Small Businesses Benefit from Global Trade

For the first time in any trade agreement, TPP includes a chapter specifically dedicated to helping small- and medium-sized businesses benefit from trade. Small businesses are one of the primary drivers of job growth in the U.S., but too often trade barriers lock small businesses out of important foreign markets when they try to export their Made in America goods. While 98 percent of the American companies that export are small and medium-sized businesses, less than 5 percent of all American small businesses export. That means there's huge untapped potential for small businesses to expand their businesses by exporting more to the 95 percent of global consumers who live outside our borders.

TPP addresses trade barriers that pose disproportionate challenges to small businesses, such as high taxes, overly complex trade paperwork, corruption, customs "red tape," restrictions on Internet data flows, weak logistics services that raise costs, and slow delivery of small shipments. TPP makes it cheaper, easier, and faster for American small businesses to get their products to market by creating efficient and transparent procedures that move goods quickly across borders.

TPP Promotes E-Commerce, Protects Digital Freedom, and Preserves an Open Internet

TPP includes cutting-edge rules to promote Internet-based commerce – a central area of American leadership, and one of the world's great opportunities for growth. The agreement also includes strong

rules that make sure the best innovation, not trade barriers and censorship laws, shapes how digital markets grow. TPP helps preserve the single, global, digital marketplace.

TPP does this by preserving free international movement of data, ensuring that individuals, small businesses, and families in all TPP countries can take advantage of online shopping, communicate efficiently at low cost, and access, move, and store data freely. TPP also bans "forced localization" - the discriminatory requirement that certain governments impose on U.S. businesses that they place their data, servers, research facilities, and other necessities overseas in order to access those markets.

TPP includes standards to protect digital freedom, including the free flow of information across borders - ensuring that Internet users can store, access, and move their data freely, subject to public-interest regulation, for example to fight spamming and cyber-crime.

TPP Levels the Playing Field for U.S. Workers by Disciplining State-Owned Enterprises (SOEs)

TPP protects American workers and businesses from unfair competition by State-owned companies in other countries, who are often given preferential treatment that allows them to undercut U.S. competitors. This includes the first-ever disciplines to ensure that SOEs compete on a commercial basis and that the advantages SOEs receive from their governments, such as unfair subsidies, do not have an adverse impact on American workers and businesses.

TPP Prioritizes Good Governance and Fighting Corruption

TPP includes the strongest standards for transparency and anticorruption of any trade agreement in history. As such, TPP strengthens good governance in TPP countries by requiring them to ratify or accede to the U.N. Convention Against Corruption (UNCAC), commit to adopt or maintain laws that criminalize bribing public officials, adopt measures to decrease conflicts of interest, commit to effectively enforce anticorruption laws and regulations, and give citizens the opportunity to provide input on any proposed measures relating to issues covered by the TPP agreement. TPP also requires regulatory transparency policies based on standard U.S. practice.

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TPP Includes First Ever Development Chapter

For the first time in any U.S. trade agreement, TPP includes stand-alone chapters dedicated to development and capacity-building, as well as a wide range of commitments to promote sustainable development and inclusive economic growth, reduce poverty, promote food security, and combat child and forced labor.

TPP Capitalizes on America's Position as the World Leader in Services Exports

TPP lifts complex restrictions and bans on access for U.S. businesses – including many small businesses – that export American services like retail, communications, logistics, entertainment, software and more. This improved access will unlock new economic opportunities for the U.S. services industry, which currently employs about 4 out of every 5 American workers.

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<http://www.nytimes.com/2015/10/06/business/international/the-trans-pacific-partnership-trade-deal-explained.html?emc=eta1>

The Trans-Pacific Partnership Trade Accord Explained

By KEVIN GRANVILLE

OCT. 5, 2015

The largest regional trade accord in history, the Trans-Pacific Partnership would set new terms for trade and business investment among the United States and 11 other Pacific Rim nations — a far-flung group with an annual gross domestic product of nearly \$28 trillion that represents roughly 40 percent of global G.D.P. and one-third of world trade.

The agreement reached by trade ministers on Monday in Atlanta, the result of five days of round-the-clock talks, came after a dispiriting failure to reach consensus in Hawaii in late July.

The product of 10 years of negotiations, the agreement is a hallmark victory for President Obama who has pushed for a foreign-policy “pivot” to the Pacific rim. But the Trans-Pacific Partnership now takes center stage on Capitol Hill, where it remains politically divisive.

In June, Mr. Obama successfully overcame opposition from Democrats to win trade promotion authority: the power to negotiate trade deals that cannot be amended or filibustered by Congress. He must now convince Congress — his fellow Democrats, in particular — to approve the trade deal. Lawmakers have 90 days to review the pact’s details.

The debate in Congress will put all the elements of the trade pact under scrutiny. It would be the final step for United States adoption of the Trans-Pacific Partnership, the most ambitious trade deal since the North American Free Trade Agreement in the 1990s.

Why Has the Pact Been So Divisive?

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Supporters say it would be a boon for all the nations involved, that it would “unlock opportunities” and “address vital 21st-century issues within the global economy,” and that it is written in a way to encourage more countries, possibly even China, to sign on. Passage in Congress is one of President Obama’s final goals in office, but he faces stiff opposition from nearly all of his fellow Democrats.

Opponents in the United States see the pact as mostly a giveaway to business, encouraging further export of manufacturing jobs to low-wage nations while limiting competition and encouraging higher prices for pharmaceuticals and other high-value products by spreading American standards for patent protections to other countries. A provision allowing multinational corporations to challenge regulations and court rulings before special tribunals is drawing intense opposition.

Why This, Why Now?

The pact is a major component of President Obama’s “pivot” to Asia. It is seen as a way to bind Pacific trading partners closer to the United States while raising a challenge to Asia’s rising power, China, which has pointedly been excluded from the deal, at least for now.

It is seen as a means to address a number of festering issues that have become stumbling blocks as global trade has soared, including e-commerce, financial services and cross-border Internet communications.

There are also traditional trade issues involved. The United States is eager to establish formal trade agreements with five of the nations involved — Japan, Malaysia, Brunei, New Zealand and Vietnam — and strengthen Nafta, its current agreement with Canada and Mexico.

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Moreover, as efforts at global trade deals have faltered (such as the World Trade Organization’s Doha round), the Trans-Pacific Partnership is billed as an “open architecture” document written to ease adoption by additional Asian nations, and to provide a potential template to other initiatives underway, like the Transatlantic Trade and Investment Partnership.

What Are Some of the Issues Addressed by the Pact?

Tariffs and Quotas Long used to protect domestic industries from cheaper goods from overseas, tariffs on imports were once a standard, robust feature of trade policy, and generated much of the revenue for the United States Treasury in the 19th century. After the Depression and World War II, the United States led a movement toward freer trade.

Today, the United States and most developed countries have few tariffs, but some remain. The United States, for example, protects the domestic sugar market from lower-priced global suppliers and imposes tariffs on imported shoes, while Japan has steep surcharges on agricultural products including rice, beef and dairy. The pact is an effort to create a Pacific Rim free-trade zone.

Environmental, Labor and Intellectual Property Standards United States negotiators stress that the Pacific agreement seeks to level the playing field by imposing rigorous labor and environmental standards on trading partners, and supervision of intellectual property rights.

Data Flows The Pacific trade pact to address a number of issues that have arisen since previous agreements were negotiated. One is that countries agree not to block cross-border transfers of data over the Internet, and not require that servers be located in the country in order to conduct business in that country. This proposal has drawn concerns from some countries, Australia among them, that it could conflict with privacy laws and regulations against personal data stored offshore.

Services A big aim of the Pacific pact is enhancing opportunities for service industries, which account for most of the private jobs in the American economy. The United States has a competitive advantage in a range of services, including finance, engineering, software, education, legal and information technology. Although services are not subject to tariffs, nationality requirements and restrictions on investing are used by many developing countries to protect local businesses.

State-Operated Businesses United States negotiators have discussed the need to address favoritism often granted to state-owned business — those directly or indirectly owned by the government. Although Vietnam and Malaysia have many such corporations, the United States has some too (the Postal Service and Fannie Mae, for example). The final agreement may include terms that seek to insure some competitive neutrality while keeping the door open to China's future acceptance of the pact.

Why Hasn't China Been In on the Talks?

China has never expressed interest in joining the negotiations, but in the past has viewed the pact with concern, seeing a potential threat as the United States tries to tighten its relationship with Asian trading partners. But lately, as the talks have accelerated, senior Chinese officials have sounded more accepting of the potential deal, and have even hinted that they might want to participate at some point. At the same time, the deal provides China some cover as it pursues its own trade agreements in the region, such as the Silk Road initiative in Central Asia.

United States officials, while making clear that they see the pact as part of an effort to counter China's influence in the region, say they are hopeful that the pact's "open architecture" eventually prompts China to join, along with other important economic powers like South Korea.

The Shadow of Nafta, and the Debate in Washington

Nafta, signed by President Bill Clinton in 1993, helped lead to a boom in trade among the United States, Mexico and Canada. All three countries exported more goods and services to the other two, cross-border investments grew, and the United States economy has added millions of jobs since then. But of course not all those trends were attributable to Nafta, and the benefits were not equal: The United States had a small trade surplus with Mexico when the pact was signed, but that quickly became a trade deficit that has widened to more than \$50 billion a year.

Critics of Nafta also point out that job growth in the United States does not account for the loss of jobs to Mexico or Canada; the A.F.L.-C.I.O. contends about 700,000 United States jobs have been lost or displaced because of Nafta.

Nafta was a significant victory for President Clinton after a difficult congressional battle, where he won support from just enough fellow Democrats to ensure passage. The votes were 234 to 200 in the House, and 61 to 38 in the Senate.

President Obama may yet win that kind of outcome. Working with Republican leadership in the House and Senate, he gained final approval for trade promotion authority, a critical step that allows the White House to present the trade package to Congress for a straight up-or-down vote, without amendments.

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But the tortuous legislative process further soured relations with many fellow Democrats, as well as unions and progressive groups, who vehemently oppose the Trans-Pacific Partnership. Many Democrats said the president would have to address their concerns over labor and environmental standards and investor protections when he returns to Congress seeking approval of the trade deal.

http://www.brookings.edu/blogs/order-from-chaos/posts/2015/10/05-transpacific-partnership-agreement-solis?utm_campaign=Brookings+Brief&utm_source=hs_email&utm_medium=email&utm_content=22594105&hsenc=p2ANqtz--5dLMDZ4g0fRPipFREaaSVQw1MFvKgk1HZfQ_hf7DYE3JIFRIRcng6PeuUEPaD-yH46eK37bNOqRDiqZtvc6vV-eBYg&hsmi=22594105

TPP: The end of the beginning

Mireya Solís | October 5, 2015 4:10pm

Editors' Note: Hammering out the political deal that has now brought Trans-Pacific Partnership (TPP) negotiations to a successful conclusion was a landmark achievement, but as Mireya Solís argues, there are still battles to be fought. This post originally appeared in Nikkei Asian Review.

The Trans-Pacific Partnership (TPP) deal that the United States and 11 other Pacific Rim countries struck in Atlanta today was five years in the making. More than once we heard that the end game had come, only to see deadlines pass us by as the negotiations continued to move at a frustratingly slow pace. The grueling work required to cinch this mega trade deal should not come as a surprise, however, given the sheer complexity of the negotiation agenda and the wide differences in the makeup of the participating countries.

Hammering out the essential political deal that has brought TPP negotiations to a successful conclusion is a landmark achievement. But we should not lose sight of the fact that more battles will need to be won before the TPP morphs from an agreement in principle to an agreement in reality. Success at the Atlanta ministerial, however, delivers immediate and portentous benefits.

TPP-MEMBERS/ - Shows countries in the Trans-Pacific Partnership agreement. (SIN02)

Countries in the Trans-Pacific Partnership agreement. Credit: Reuters.

U.S. leadership: A balance between strength and flexibility

Central to American grand strategy has been updating the international economic architecture to match the realities of 21st-century economy and consolidating the critical role of the United States as a Pacific power as envisioned by the Asian rebalance policy. The TPP has long emerged as a litmus test of the

American will and resolve to rise to these challenges in a world of fluid geopolitics. With success at the TPP negotiating table, the convening power of the United States—as demonstrated by its ability to steward the most ambitious blueprint for trade integration—has received an enormous boost.

But equally important is that in the final TPP deal, the United States has displayed another key trait of international leadership: flexibility. Critics of American trade strategy have frequently complained that the U.S. rigidly pushes for its own free-trade agreement (FTA) template without incorporating the preferences of its counterparts: that de facto, the United States does not “negotiate” in trade negotiations. But the set of final compromises that enabled the TPP deal to be struck at Atlanta shows a different picture, one that in fact makes U.S. leadership more attractive and the TPP project more compelling.

The TPP project is still a promise, not a reality.

In endorsing the principle that TPP countries can opt out of investor-state dispute settlement in their public regulation of tobacco products, and in adopting a hybrid approach that will give up to eight years of data protection for biologic drugs, the United States has shown the strength to compromise without surrendering high standards. In turn, these negotiated compromises cast a favorable light on the TPP as a collective endeavor with a commonality of purpose among founding members: to ensure that protection of foreign direct investment does not hinder public health regulations; and to both promote innovation and access to medicines.

Reviving trade policy

The trade regime has not had a success of this magnitude for the past two decades. Rather, the list of failures and missed opportunities is long, and the prospects of the Doha Round are dim at best.

In powerful ways, the TPP revives a stagnant trade regime. It shows that mega trade agreements can offer a platform to devise updated rules on trade and investment that cover sizable share of the world economy. And it creates an incentive structure for concurrent trade agreements to aim higher if they want to remain competitive.

A genuine re-launch of Abenomics

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After a bruising political battle to secure passage of the security legislation, Prime Minister Shinzo Abe announced that the economy would be his utmost priority. In so doing, he disclosed three fresh arrows: a strong economy, raising the fertility rate, and boosting social security to care for the elderly.

Abenomics 2.0, however, has fallen flat, as it lacks specifics on how to achieve the target of 600 trillion yen GDP, and because subsidies for young families and the expansion of nursing homes, while desirable and politically popular, do not make for a strategy of economic revitalization. Instead, the TPP deal boosts Abenomics 1.0 where its true transformative power lies: structural reform.

An informed debate on TPP

After legal scrubbing, the TPP text will be released. This will offer the much-needed opportunity to debate the merits and demerits of the agreement with facts, and not speculation. Full disclosure of the agreement, close public scrutiny, and a spirited discussion on where the agreement has lived up to expectations and where it has fallen short will be essential in shoring up public support.

The TPP project is still a promise, not a reality. Another set of milestones will be required (twelve, to be exact). Each participating country has its own domestic procedures for ratification, and some definitely face an uphill battle: Malaysia is gripped by a major political crisis as Prime Minister Najib Razak fights charges of corruption; and it is anyone's guess what the electoral results in a couple of weeks will mean for Canada's place in the TPP.

For the United States too, the quest for TPP ratification could not come at a more complicated time with a full-blown presidential election race. In wrapping up the TPP negotiations, the United States has demonstrated its leadership in convening a significant and diverse group of countries and in stewarding with success the negotiation of an ambitious blueprint for economic governance. But this will mean little if TPP is voted down in Congress or stays frozen in ratification limbo. Without the power to deliver a TPP in force, past accomplishments will rightfully be brushed aside.

POLITICO: Vilsack: TPP text to be released within 30 days

By Adam Behsudi

10/06/2015 04:13PM EDT

The text of a finalized Trans-Pacific Partnership deal will be released to the public within the next 30 days, Agriculture Secretary Tom Vilsack said in a call with reporters today.

"I think it's fair to say agriculture is a winner in this agreement and we're going to do everything we can to make sure folks understand the historic nature and historic opportunity this represents," he said in the call, which was held after a meeting hosted earlier in the day between President Barack Obama and agriculture industry leaders.

On the call, Vilsack promoted tariff cuts that he said would touch almost every commodity group and regulatory agreement on issues like sanitary and phytosanitary standards. The agreement will also include a special biotechnology annex in which countries agree to use "science-based" determinations with respect to the import of products. The agreement will promote transparency in biotech regulatory processes and advocate the TPP countries "engage in discussions" on appropriate thresholds for low-level presence.

Vilsack said U.S. dairy producers would have increased access in Canada and Japan over the next 10 years for products like cheese, milk powder and fluid milk. In Canada, U.S. producers would be able to sell more yogurt, which Vilsack touted as a "value-added proposition" and one that would spur innovation in those types of products. The access Canada has agreed to offer TPP countries to its largely closed dairy market would represent roughly just 3.25 percent of its domestic milk production.

Additional access for New Zealand dairy producers was balanced against the gains U.S. dairy producers made in Canada and New Zealand, he said.

"The goal here was ... that there was not a disproportionate opening up of our market without a disproportionate opportunity to access market

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<http://news.sciencemag.org/health/2015/10/trade-agreement-praised-and-panned>

Trade agreement praised and panned

By Dennis Normile Kelly Servick

6 October 2015 3:00 pm

The Trans-Pacific Partnership (TPP) announced this week promises to lower the cost of manufactured goods and agricultural products for consumers, enhance labor and environmental protections, and strengthen rules against counterfeiting and intellectual property theft. But experts say that some aspects of the deal—signed by the United States and 11 other Pacific Rim countries representing two-fifths of the global economy—could harm public health.

A major concern is intellectual property (IP) rights for drugs. Pharmaceutical companies had been pushing for enhanced protection for biologics: drugs derived from living organisms that are a hot area of R&D. The United States provides the most generous terms for data exclusivity, which keeps critical information about the drugs out of the hands of generic drugmakers. With biologics, "to [make drugs] safe for the consumer" generics makers need access to information about the drugs' manufacturing, says Tim Mackey, a global health policy analyst at University of California, San Diego. If the makers of "biosimilars"—the term for generic biologics—don't have access, "they just may give up."

The United States currently gives drug companies 12 years of exclusivity before biosimilar manufacturers can access their data for new submissions to the Food and Drug Administration (FDA). TPP partners Australia and Chile offer 5 years of exclusivity, and others none at all. "Most of the countries in the world have zero data exclusivity; this is a new data monopoly that doesn't exist under many national laws," says Judit Rius Sanjuan, a legal policy adviser for Doctors Without Borders (MSF), which opposes the agreement's IP protections.

The United States was reportedly pushing for 8 years of protection. As a compromise, all TPP parties have agreed to provide at least 5 years of data exclusivity. (The United States retains 12 years.) The deal "fell short of Big Pharma's most extreme demands but will contribute to preventable suffering and death," said Peter Maybarduk, an official with the consumer rights group Public Citizen in Washington, D.C. That's not how the drugmakers see it. "We are disappointed that the ministers failed to secure 12 years of data protection for biologic medicines," Pharmaceutical Research and Manufacturers of America President John Castellani said in a statement. "The Ministers missed the opportunity to

encourage innovation that will lead to more important, life-saving medicines that would improve patients' lives."

But pharmaceutical companies may have won additional patent rights. The details are not yet clear, as the TPP wording has not yet been made public. But Brook Baker, a law professor at Northeastern University in Boston, says the agreement likely includes provisions covering patent term extensions to compensate for regulatory and patenting delays and patenting of new uses of known medicines. "With the higher IP protections obtained in the TPP, it will be harder for developing country members to develop their own local capacity," says Baker, who is on the board of the Health Global Access Project, which advocates for people living with HIV/AIDS.

Last spring, a team of Australian and U.S. public health experts looked at the potential impact in Vietnam of provisions in a leaked draft of the TPP agreement. As they reported online in April, under that version of the TPP the cost of treating an HIV-infected person in Vietnam could rise from \$304 to \$501 per year. Given the country's tight budget, that increased cost could reduce Vietnam's HIV treatment rate from 68% to 30%, depriving more than 45,000 people of life-saving treatment each year, they argued. Study co-author Brigitte Tenni, a public health adviser at the University of Melbourne in Australia, says the team cannot determine to what extent their analysis is still valid because they haven't seen the final agreement. But "any increase in intellectual property protection stands to have devastating consequences for access to medicines especially for people living in developing countries like Vietnam," she asserts.

The TPP offers a partial victory for antismoking efforts. Tobacco companies have used trade agreement clauses known as investor-state dispute settlement (ISDS) provisions to initiate arbitration over plain packaging laws that they say deprive them of their trademark benefits. After losing a court battle against Australia's plain packaging law, Philip Morris Asia Limited relied on an ISDS provision in a 1993 agreement between Australia and Hong Kong to initiate arbitration. A TPP provision says "A Party may elect to deny the benefits of Investor-State dispute settlement with respect to a claim challenging a tobacco control measure of the Party," according to the website of the United States Trade Representative. The U.S.-based antitobacco organization Action on Smoking and Health called this provision a "major victory for public health."

But "the devil is in the details," says Sharon Friel, a public health expert at Australian National University in Canberra. Without examining the agreement's language, she says, "it is hard to tell exactly what is still possible." She thinks tobacco companies could still file ISDS claims, leading in some instances to a "regulatory chill" or to reluctance on the part of governments to enact tobacco control measures that

might invite costly litigation. Australian newspapers have recently reported that the country has run up AU\$50 million (\$36 million) in legal bills in its dispute with Philip Morris. Avoiding such confrontation, "is of course much more likely to happen in poorer countries, where tobacco smoking is on the rise and hence the risk for public health," Friel says. She adds that tobacco companies will still be able to use ISDS provisions in other trade agreements, such as the one Philip Morris is utilizing.

The TPP's ultimate fate is not decided. In many countries, including the United States, governments must win approval from their legislatures.

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<http://www.cbc.ca/news/politics/canada-election-2015-fast-vancouver-tpp-1.3262687>

Ed Fast says text of TPP trade deal available within days

Canada's trade minister is promising to release a provisional copy of the Trans-Pacific Partnership trade agreement in the next few days — but Ed Fast won't say whether it will include details of the all-important side deals.

"We fully expect over the next few days we'll be able to release a form of the text," Fast said Thursday during a breakfast question-and-answer session being hosted by the Vancouver Board of Trade.

The text is currently being translated into several languages, including Spanish, he added.

"We've asked the TPP partners to allow us ... to release a provisional text. It may not be fully scrubbed but it will confirm the outcomes we've already released in summary earlier this week."

Trade agreements of such scale are very complex documents and it's vital that they be carefully translated to ensure each word correctly reflects the agreement, he added.

"Remember this agreement was only concluded three days ago. You have 1500 pages of legal text," Fast said.

He said he can't commit to releasing the so-called side letters — individual agreements between countries on specific sectors.

"I can't say that (side letters) will be part of the provisional (agreement)," he said. "We're looking at what the 12 TPP partners will agree to release."

Forestry side deal with Japan

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One side letter, he said, would include a deal on processed and unprocessed forestry products between Canada and Japan.

"We have secured outcomes across all the major sectors ... including forestry products, value-added wood products," said Fast. "Markets like Japan are going to be much more available to Canadian exporters."

The minister said he didn't know how many side deals there are and referred the question to his staff.

Highlights: What's in the Trans-Pacific Partnership agreement?

Trans-Pacific Partnership: Industry, provincial reaction is mixed

TPP: The disaster that didn't happen for dairy and auto sectors

Trans-Pacific Partnership offers dairy sector good news, bad news and a question mark

Both Fast and Industry Minister James Moore, who also took part in the discussion, were asked about U.S. Democratic presidential hopeful Hillary Clinton, who earlier this week came out against the agreement.

Clinton said that based on what she knows so far about the pact, she can't support it because it doesn't appear to do enough to protect American jobs, wages and national security.

Fast said the Americans are in the midst of a race for presidential nominations and that her comments should be viewed in that context.

"They've got their own silly season they're in. I'm focused on making sure Canadians understand what's in this agreement," he said.

"This cements our position as one of the great free trading nations of the world."

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Fast says he believes the deal, which includes 11 other Pacific Rim countries, is worth about \$3.5 billion of additional economic activity to Canada, based on estimates from his officials.

He says it was vital for Canada to be at the table and part of the deal, billed by Conservative Leader Stephen Harper as the biggest trade agreement of its kind in history.

Canada should reject TPP too: Mulcair

Harper was played "like a chump" in the TPP talks, NDP Leader Tom Mulcair said at a town hall meeting Thursday in Toronto.

Mulcair latched onto Clinton's opposition, saying the U.S. democratic presidential hopeful has joined a growing list of "progressives" across North America who see the 12-country deal as bad for jobs and the families those jobs support.

SPIN CYCLE: Are Conservatives the only true free traders as Harper says?

Justin Trudeau says Liberals are 'pro-trade,' offers no promises for auto

Mulcair said the Conservatives were duped into accepting a bum deal and it needs to be rejected in Canada, too.

Tom Mulcair says other countries played Harper "like a chump" in the TPP negotiations.1:57

"Hillary Clinton finds that the bar hasn't been set high enough in the Trans-Pacific Partnership agreement for Americans, and yet we know that the auto deal that the Americans got in the TPP is better than what Stephen Harper was able to get," Mulcair said in front of a room full of supporters in downtown Toronto.

"And you know why? Stephen Harper went into those negotiations two weeks away from a federal general election in an incredibly feeble position," said Mulcair.

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"Everyone around that table knew it, and they played him like a chump."

Campaigning in Woodbridge, Ont., Liberal Leader Justin Trudeau emphasized that his party is pro-trade.

"We're committed to bringing this deal before Parliament to have a full airing. And I am resolute in my support for trade as a way of growing our economy and creating good jobs for Canadians," he said.

"We look forward to seeing the full details of this accord."

The Canadian Press Posted: Oct 08, 2015 12:26 PM ET Last Updated: Oct 08, 2015 2:21 PM ET

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Administration Pushes To Clear Way For TPP Consideration In Congress

Inside US Trade, Posted: October 08, 2015

Within days of announcing a Trans-Pacific Partnership (TPP) deal, the Obama administration seems determined to advance the agreement as quickly as possible toward signature and congressional consideration while at the same time kicking off a campaign touting its benefits in press conferences, speeches and fact sheets.

Quick action has two potential benefits for the administration, according to private-sector sources. First, it allows the administration to shape the narrative of the TPP, which this week seemed dominated by opponents, particularly after the critical comments by presidential candidate Hillary Clinton.

Secondly, quickly notifying Congress of the president's intent to sign the agreement will put additional pressure on the U.S. International Trade Commission (ITC) to speed up its analysis of the TPP's impact on the U.S. economy. Such assessments have typically been submitted with an FTA implementing bill to Congress.

U.S. Trade Representative Michael Froman last year urged the ITC to begin work on the analysis even before the TPP was completed (Inside U.S. Trade, Feb. 13, 2015).

Overall, moving quickly to notify Congress and release the TPP text helps ensure that -- when an opening for congressional passage arises -- all the procedural hurdles have been met.

In an Oct. 6 speech at the U.S. Department of Agriculture, President Obama said it would be "months" before a congressional vote, and Ways & Means Ranking Member Sander Levin (D-MI) said in a letter to fellow Democrats that day that congressional consideration will not happen before the spring of 2016.

Other sources said the question is whether the agreement could come up sometime between the March 1 primaries on "Super Tuesday" and the nominating conventions in July, or will take place after the elections. In the post-election scenario, the TPP implementing bill could come up in the lame-duck

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session of 2016 though it cannot be ruled out that the agreement would not come up until the first half of 2017 after Obama is out of office, one source said.

But the source warned the current turmoil prevailing in the House Republican conference over the election of new leaders makes it hard to predict a timetable for anything, since it is an open question how and if the House will operate next year.

He also said that the White House has to decide whether it wants to push TPP ratification as an Obama legacy issue in 2016 even if that would alienate the Democratic base in advance of the November election, and which may then not rally around a Democratic candidate. The question is what the White House considers a bigger legacy issue: the approval of TPP and or the election of a Democratic president, he said.

The administration is planning to notify Congress formally of its intent to sign the TPP agreement in a matter of days, private-sector sources said early in the week. They said they based this on the message conveyed by USTR officials in briefings as well as one-on-one conversations.

But by mid-week, Senate Finance Committee Chairman Orrin Hatch (R-UT) warned against sending that congressional notification before the full text of the agreement is released. He did so in an Oct. 7 Senate floor speech, two days after he spoke to Froman on the phone, according to a spokeswoman.

Prior to that speech, senior administration officials, including Agriculture Secretary Tom Vilsack, said the administration was working to release the text "within the 30 days or so."

Asked in an Oct. 7 press conference on how he planned to proceed in light of the Hatch comments, Froman would only say that the administration is engaged in consultations with Congress. "We're having ongoing conversations with congressional leadership and congressional partners about the process going forward," he said. "We're still in consultations with members of congress and the leadership about the pathway forward."

Froman noted that the formal notification of the intent to sign is really the first step in the process of advancing the agreement. Froman was scheduled to meet with House Ways & Means Committee Chairman Paul Ryan (R-WI) on Oct. 7, after he had spoken to Hatch on the phone on Oct. 5.

Froman said the U.S. is still working with the other countries to finalize the details of the text and put it through a legal scrub and release as soon as possible. "We're shooting to do it within 30 days following the completion of the negotiations," Froman said.

The release of the full TPP text will likely coincide with the release of the currency side agreement that Treasury has been negotiating with the finance ministries of other TPP countries, according to informed sources. That currency agreement will not formally be part of the TPP and not subject to dispute settlement (see related story).

In a related development, Canadian Prime Minister Stephen Harper on Oct. 5 indicated that the full TPP text would be released in a matter of days. He also said he expected the deal to be signed early next year and ratified during the next two years.

The Trade Promotion Authority law obligates the president to make a formal notification to Congress 90 days before he signs the deal. No later than 30 days after the notification and 60 days before signing the agreement, the administration must publish the text of the deal under the law.

Informed sources said that the administration is determined to beat that deadline and may publish the text of the agreement in about three weeks.

Vilsack said the administration is hoping to release the text "relatively soon" and "within" the 30 day period. He said it will be done "more quickly" than for previous trade agreements because TPP countries started the process of legal review months ago because they knew stakeholders would want the text as quickly as possible.

Late last year, TPP countries were saying they would begin a legal review of chapters that have already been closed prior to reaching a final agreement on an overall deal. They acknowledged this was aimed at minimizing the delay between the conclusion of the negotiations and the signing of the agreement, thereby allowing a speedier ratification by signatories (Inside U.S. Trade, Dec. 19, 2014).

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One business source said that U.S. officials during the Atlanta negotiations made clear that they are under enormous pressure to finish up the legal review of the TPP text as soon as possible. But the source cautioned that he did not believe the U.S. would publish the TPP text before others countries are also ready to do so.

<https://www.politicopro.com/trade/story/2015/10/germany-mobilizes-against-eu-us-trade-deal-060849>

Germany mobilizes against EU-U.S. trade deal

By Janosch Delcker

10/09/2015 12:25 PM EDT

BERLIN - As the German capital prepared for what is slated as its biggest protest yet against the Transatlantic Trade and Investment Partnership Saturday, officials in Berlin and Brussels talked up the benefits of an EU-U.S. free-trade deal.

More than 600 buses and five special trains are scheduled to bring about 40,000 protesters to reinforce tens thousands of locals who are expected to march, according to one of the organizers, Uwe Hiksich of the environmental group Friends of Nature.

Labor unions, environmentalists, social movements and anti-globalization activists like Attac are behind the protest, which goes by the slogan "Stop TTIP and CETA" - referring not just to the EU-U.S. trade deal but also a similar deal with Canada.

Even though the trade deal has been eclipsed in the media by the influx of hundreds of thousands of refugees, German opposition to TTIP shows no signs of abating.

In a non-representative survey of 3,000 app users conducted by public broadcaster ZDF this week, 88 percent of respondents answered "No" to the question "Will the German economy benefit from TTIP?"

In a Eurobarometer poll from May, 51 percent of Germans said they were against a free-trade agreement with the U.S., while only 31 percent were in favor.

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TTIP opponents in Germany have been critical of what they perceive as opaque negotiations carried out away from public scrutiny, and of the potential role of arbitration tribunals in disputes between investors and governments.

Although the European Commission has tried to calm such concerns by proposing to give EU governments a greater influence over those tribunals, and by implementing a new Europe-U.S. commercial court, widespread criticism in Germany has not faded and there continue to be fears that standards of social services, environmental regulation and consumer protection will fall.

Politicians from the opposition Greens and Left have encouraged followers to join Saturday's protest while Chancellor Angela Merkel's "grand coalition" of conservatives and Social Democrats are behind the trade deal.

SPD leader Sigmar Gabriel, who is economy minister and vice chancellor, came down clearly in favor of TTIP in an interview Thursday, after sitting on the fence for months and even admitting in June to doubting "if TTIP would ever happen."

"If the negotiations fail, we will have to adapt ourselves to other standards, maybe those that will one day be agreed upon between China and the U.S.," he told business magazine WirtschaftsWoche.

"In that case, there will be arbitration tribunals, there will be no or little standards of consumer protection - and for sure, there will be no social standards," he warned. "Those who now yell 'Stop TTIP,' and oppose any sort of negotiations with the U.S., should think it through."

Merkel defended the trade deal in front of skeptical members of the ver.di trade union late last month, arguing that it could set the standard for trade agreements worldwide, and asserting her belief that Germany should be an "open economy."

Earlier this week, EU Trade Commissioner Cecilia Malmström voiced astonishment at the level of opposition to TTIP among Germans, especially "because the German economy will most likely profit the most from it."

In an interview with Süddeutsche Zeitung, she said the Volkswagen emissions scandal ought to suggest some humility vis-à-vis Europe's U.S. partners.

"I spent much time explaining to the Americans that we have the highest environmental standards in Germany. And now it turns out that we're not perfect," she said.

The next round of TTIP discussions between the European Commission and Washington is scheduled for Oct. 19, 2015.

This article first appeared on POLITICO.EU on Oct. 9, 2015.

To view online:

<https://www.politicopro.com/trade/story/2015/10/germany-mobilizes-against-eu-us-trade-deal-060849>

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<http://www.washingtonpost.com/news/wonkblog/wp/2015/10/09/how-the-controversy-over-drug-prices-could-take-down-obamas-massive-trade-deal/>

How the controversy over drug prices could take down Obama's massive trade deal

By Carolyn Y. Johnson October 9

A political firestorm is building over the protections for drug companies in Obama administration's massive international trade deal, threatening support for a key piece of the president's legacy.

The chapter addressing the issue, which was posted online Friday by WikiLeaks, grants at least five years of exclusivity to the makers of next-generation biologic medicines for diseases ranging from cancer to rheumatoid arthritis. That's less than what drug companies enjoy in the United States. The language has become a sticking point for both critics and supporters of the industry – and has even changed the minds of some of the deal's most ardent supporters.

Democratic presidential candidate Hillary Rodham Clinton is worried that the terms provide excessive protections for drug companies and said this week that she now opposes the Trans-Pacific Partnership (TPP). Senator Orrin Hatch (R-Utah), who has been a key GOP backer of Obama's trade agenda, said in a speech this week that he could drop his support partly out of concerns that it provides too little intellectual property protection for drug development.

The biologics issue was among the final sticking points in a deal that was negotiated by the administration for more than five years, with trade ministers haggling over the matter until just hours before President Obama announced they had reached a deal at a news conference on Monday.

Almost immediately, what was known about the biologics provision began to generate controversy. According to the draft leaked Friday, drug companies will get either eight years of protection or "at least five years" plus an ambiguous amount of extra time due to "market circumstances" that will "deliver a comparable outcome in the market." The language is obtuse enough that some are interpreting it as five years, others as eight. In the United States, those drugs enjoy 12 years of exclusivity, through a provision embedded in the Affordable Care Act.

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The "data exclusivity" granted by the deal means that competing companies making biosimilar drugs cannot bring their products to market, which could bring down prices. Patient advocates said that the drug industry won monopoly protections it didn't previously have that will hurt patients' access to drugs. The pharmaceutical industry said anything less than 12 years of protection will stymie innovation.

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The brewing battle over the protections of drug company monopolies is one of the trickiest debates emerging in politics. On one hand, there's the need to provide incentives for drug companies to sink considerable money into the risky business of developing new therapies. On the other, there is growing question over when monopolies produce an unsustainable system in which high prices are no longer linked to value, but to what drug companies can charge.

The U.S. Trade Representative urged all sides to reserve judgment until the final agreement is made public.

"Despite the wide gulf between the U.S. and other TPP partners on this issue we achieved a strong and balanced outcome that incentivizes innovation and ensures that medicines are widely available for those who need them," said Matthew McAlvanah, a spokesperson for the USTR. "TPP will be the first trade agreement that provides minimum standards for an extended period of protection for biologics and will give countries multiple pathways to meet those strong standards."

Henry Grabowski, a professor emeritus of economics at Duke University, said much of the industry anxiety stems from the possible ripple effects this agreement might have.

"I think the fear is that if a large part of the world adopts five years [of exclusivity], then it creates pressure," Grabowski said. Clinton has proposed shortening the period of exclusivity in the United States for biologic drugs from 12 years to seven. The Obama Administration's budget proposal does, too.

"It's part of a broader mosaic that it could come back to kind of create political pressures in the U.S. and Europe to shorten the exclusivity period, which I think would be a tremendous problem for the industry," Grabowski said.

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Executives from major drug companies met with the President on Thursday to express their disappointment in the agreement. In a statement, Mark Grayson, a spokesman for the pharmaceutical trade organization, PhRMA, confirmed the meeting, but declined to name the companies that attended.

"We emphasized that strong intellectual property protection is necessary for the discovery and development of new treatments and therapies for the world's patients and are disappointed that the TPP, which, by failing to secure 12 years of data protection for biologic medicines, will compromise the next wave of innovation and disrupt the development of new, critically-needed medicines," Grayson said.

Both PhRMA and BIO, the trade group for the biotechnology industry, said they would not comment on the leaked draft.

"The Congress set 12 years as the appropriate period to both foster innovation and provide access to biosimilars in a reasonable timeframe. While the TPP agreement will not impact the U.S. data protection period, we believe the failure of our Asian-Pacific partners to agree to a similar length of protection is remarkably short-sighted and has the potential to chill global investment and slow development of new breakthrough treatments for suffering patients," Jim Greenwood, the president of BIO said in a statement released this week.

Public Citizen, a patient advocacy group, has argued that the deal is major concession to pharmaceutical companies. Biologics currently do not have any exclusivity protection in many countries, while in others, such as Chile, New Zealand, Singapore and Australia, they only have five years of protection.

"This is a huge win for pharma and a huge loss for us," said Burcu Kilic, a policy director at Public Citizen. "That is why we are quite confused. They won this game; they got five years, and they are building the pathway to eight now -- they are putting the bricks there. Pharma shouldn't play this as, ' We are the losers, we wanted 12 years.'"

Politicians haven't hesitated to critique the deal, for diametrically opposed reasons.

In a speech on the Senate floor, Hatch lambasted the Obama Administration for failing to get intellectual property protections comparable to those that exist in the U.S.

"This is particularly true with the provisions that govern data exclusivity for biologics," Hatch said. "As you know, biologics are drugs that are on the cutting edge of medicine and have transformed major elements of the healthcare landscape thanks, in large part, to the efforts and investments of American companies."

In an interview with PBS, Clinton voiced her objections to the agreement, for the opposite reason:

"I'm worried that the pharmaceutical companies may have gotten more benefits and patients and consumers fewer. I think there are still a lot of unanswered questions," she said.

Staff writer David Nakamura contributed to this story.

A previous version of this story incorrectly stated that Peru was among the countries that have five years of exclusivity for biologic drugs.

<http://www.theguardian.com/business/2015/oct/11/why-support-tpp-critics-read-agreement-keep-open-mind>

Why support TPP? Critics should read the agreement and keep an open mind

In light of vociferous opposition to the trade deal, the TPP that emerged is a pleasant surprise – so much so that some Republicans threaten to oppose it

Jeffrey Frankel

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Agreement among negotiators from 12 Pacific rim countries on the Trans-Pacific Partnership (TPP) represents a triumph over long odds. Tremendous political obstacles, both domestic and international, had to be overcome to conclude the deal. And now critics of the TPP's ratification, particularly in the US, should read the agreement with an open mind.

Many of the issues surrounding the TPP have been framed, at least in US political terms, as left versus right. The left's unremitting hostility to the deal – often on the grounds that the US Congress was kept in the dark about its content during negotiations – carried two dangers: A worthwhile effort could have been blocked; or President Barack Obama's Democratic administration could have been compelled to be more generous to American corporations, in order to pick up needed votes from Republicans.

In fact, those concerned about labour rights and the environment risked hurting their own cause. By seeming to say that they would not support the TPP under any conditions, Obama had little incentive to pursue their demands.

Seen in this light, the TPP that has emerged is a pleasant surprise. The agreement gives pharmaceutical firms, tobacco companies, and other corporations substantially less than they had asked for – so much so that the US senator Orrin Hatch and some other Republicans now threaten to oppose ratification. Likewise, the deal gives environmentalists more than they had bothered to ask for.

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Perhaps some of these outcomes were the result of hard bargaining by other trading partners (such as Australia). Regardless, the TPP's critics should now read the specifics that they have so long said they wanted to see and reconsider their opposition to the deal.

The most controversial issues in the US are those that are sometimes classified as "deep integration" because they go beyond the traditional easing of trade tariffs and quotas. The left's concerns about labour and the environment were accompanied by fears about excessive benefits for corporations: protection of the intellectual property of pharmaceutical and other companies, and the mechanisms used to settle disputes between investors and states.

So what, exactly, is in the finished TPP? Among the environmental features, two stand out. The agreement includes substantial steps to enforce the prohibitions contained in the Convention on International Trade in Endangered Species (Cites). It also takes substantial steps to limit subsidies for fishing fleets – which in many countries waste taxpayer money and accelerate the depletion of marine life. For the first time, apparently, these environmental measures will be backed up by trade sanctions.

I wish that certain environmental groups had devoted half as much time and energy ascertaining the potential for such good outcomes as they did to sweeping condemnations of the negotiating process. The critics apparently were too busy to notice when the agreement on fishing subsidies was reached in Maui in July. But it is not too late for environmentalists to get on board.

Similarly, various provisions in the area of labour practices, particularly in south-east Asia, are progressive. These include measures to promote union rights in Vietnam and steps to crack down on human trafficking in Malaysia.

Perhaps the greatest uncertainty concerned the extent to which big US corporations would get what they wanted in the areas of investor-government dispute settlement and intellectual property protection. The TPP's critics often neglected to acknowledge that international dispute-settlement mechanisms could ever serve a valid purpose, or that some degree of patent protection is needed if pharmaceutical companies are to have sufficient incentive to invest in research and development.

There was, of course, a danger that such protections for corporations could go too far. The dispute-settlement provisions might have interfered unreasonably with member countries' anti-smoking campaigns, for example. But, in the end, the tobacco companies did not get what they had been demanding; Australia is now free to ban brand-name logos on cigarette packs. The TPP also sets other new safeguards against the misuse of the dispute-settlement mechanism.

Likewise, the intellectual property protections might have established a 12-year monopoly on the data that US pharmaceutical and biotechnology companies compile on new drugs (particularly biologics), thereby impeding competition from lower-cost generic versions. In the end, these companies did not get all they wanted; while the TPP in some ways gives their intellectual property more protection than they had before, it assures protection of their data for only 5-8 years.

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The focus on new areas of deep integration should not obscure the old-fashioned free-trade benefits that are also part of the TPP: reducing thousands of existing tariff and non-tariff barriers. Liberalisation will affect manufacturing sectors such as the automotive industry, as well as services, including the internet. Liberalisation of agriculture – long a stubborn holdout in international trade negotiations – is noteworthy. Countries like Japan have agreed to let in more dairy products, sugar, beef, and rice from more efficient producers in countries like New Zealand and Australia. In all these areas and more, traditional textbook arguments about the gains from trade apply: new export opportunities lead to higher wages and a lower cost of living.

Many citizens and politicians made up their minds about TPP long ago, based on seemingly devastating critiques of what might emerge from the negotiations. They should now look at the outcome with an open mind. They just might find that their worst night-time fears have vanished by the light of day.

Trading Away Land Rights: TPP, Investment Agreements, and the Governance of Land

Rachel Thrasher and Timothy A. Wise

In 2009, the government of Mozambique put a moratorium on large-scale land acquisitions, a belated response to a wave of protests triggered by so-called "land grabs" by foreign investors. The moratorium, which lasted two years and restricted only land deals larger than 25,000 acres (10,000 hectares), calmed tensions while the government sought to resolve the inconsistencies between the great land giveaway and the country's progressive land law, which recognizes farmers' land rights even when they do not hold formal titles.

Some of those investors were from the United States, and it is a wonder that they didn't sue the Mozambican government for limiting their expected profits. They could have under the Bilateral Investment Treaty (BIT) between the United States and Mozambique.

As U.S. trade negotiators herd their Pacific Rim counterparts toward the final text of a long-promised Trans-Pacific Partnership Agreement (TPP), the investment chapter remains a point of contention. Like the 1994 North American Free Trade Agreement (NAFTA) and most U.S. trade agreements since, the TPP text includes controversial provisions that limit the power of national governments to regulate incoming foreign investment and give investors rights to sue host governments for regulatory measures, even those taken in the public interest, that limit their expected returns. A host of BITs with a far wider range of countries, including Mozambique, contain similar provisions.

The impact of such agreements on land grabs and land governance has received scant attention until recently. As new research from the International Institute for Environment and Development (IIED) and Tufts University's Global Development and Environment Institute (GDAE) shows, the kinds of investment provisions in the TPP and in most BITs can severely limit a government's ability to manage its land and other natural resources in the public interest. They can also interfere with the implementation of newly adopted international guidelines on land tenure.

As GDAE's research shows, there are alternatives to such restrictive investment rules. Mozambique, for example, could withdraw from its BIT with the United States and instead draw on the less constraining investment provisions offered by the Southern African Development Community (SADC).

The Threats to Land Governance

GDAE's new background paper, "Trade Agreements and the Land," by Rachel Thrasher, Dario Bevilaqua, and Jeronim Capaldo, examines the implications of proposed agreements, such as the TPP, for regulating land grabs. Lorenzo Cotula of IIED, in his report, "Land Rights and Investment Treaties: Exploring the Interface," looks beyond land grabbing to consider other important aspects of land governance, including land redistribution. Both identify key provisions common to U.S. investment treaties that constrain land governance.

Perhaps most well known is the Investor-State Dispute Settlement (ISDS) process whereby private investors can sue states in a private arbitral tribunal – a glaring exception to the traditional sovereign immunity granted to states. Land grabs have not yet been the subject of dispute under these treaties, but other land conflicts show how they might in the future.

Beyond the onerous ISDS provisions, investment treaties universally require compensation in the case of expropriation. Traditionally, that compensation must be "prompt, adequate and effective." Countries have faced claims for expropriation in a wide variety of land-related cases – mostly in response to state efforts to correct past injustices or reform land tenure. Zimbabwe, in the wake of its fast-track land-redistribution program, Albania's privatization in the transition from socialism, and South Africa's mining legislation to benefit disadvantaged groups after apartheid all faced investor disputes claiming expropriation.

The standard for compensation in these treaties is often based on the market value of the investment and does not take into account a fair balance between interests. Indeed, in the draft TPP several negotiating countries have explicit footnotes and annexes specifying that the compensation must be at market value (Art. 11.7, Annex II-C). As Cotula points out, investors can demand such compensation even if they got the land at low prices and even if government action simply interferes with or delays their profit-making activities.

Treaties also often require that foreign investors be treated with “full protection and security.” In some cases, where domestic individuals or groups have taken action against foreign investors, the countries have been on the hook for not acting with “due diligence” to protect them.

Many investment agreements also demand “fair and equitable treatment” for foreign investors. In investment jurisprudence this has come to include the “legitimate expectations” of the investor based on negotiations with governments. Any promise of access to land and resources, or even the speedy handing over of such land, can be disputed as a violation by investors.

Sometimes, even before an investor enters the country, these investment treaties threaten land governance by extending the “right of establishment” to investors from partner countries. This means that under the TPP and most modern BITs, host countries must treat foreign investors on par with domestic investors, giving no priority to nationals even in sensitive areas such as land, minerals, and other natural resources.

These investment provisions can have a marked “chilling effect” on governments. Cotula points out, for example, that many provisions of investment treaties would conflict with efforts by a government to implement the Voluntary Guidelines on the Governance of Land Tenure (VGGT) from the FAO, now the gold standard for appropriate recognition of land rights. The guidelines call for the restitution of land to those from whom it was taken and the redistribution of land in land reform efforts. To the extent those efforts impede the profitability or expected profitability of a foreign investment, the government may find itself liable for unaffordable market-rate compensation in settlements that can include the recouping of expected profits by investors. Such agreements therefore make it more difficult for governments to implement this groundbreaking new international land tenure agreement.

Notably, many of Cotula’s recommendations involve ways that governments can protect themselves by legislating the VGGT in national law and ensuring that investment treaties recognize such obligations.

TPP – No Way Forward

The TPP is expected to be finalized in the coming months. For countries like Viet Nam, which was not previously bound by any international investment treaties, this could create large unexpected obstacles to domestic land regulation. Currently, the United States is negotiating investment treaties with what amounts to 80 percent of global GDP. Between the TPP, the TTIP, and BITs with India and China, U.S.

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style investment treaties are poised to become the de facto international legal regime for the treatment of foreign investors.

AS GDAE's background paper shows, there are other investment treaty models out there. The Southern African Development Community drafted a model BIT with some of these threats to governance in mind. Its Model BIT begins by explicitly recommending that countries not extend rights to investors before establishment. Instead, countries are encouraged to admit investments in a good faith application of their laws. The model also limits ISDS provisions, recommending either that disputes should be kept between States, or at the very least, that States should be able to bring counterclaims against the investor in the same tribunal.

Expropriation is approached differently as well. Rather than a standard of non-discrimination and "prompt, adequate and effective" compensation, it acknowledges that almost all expropriations are discriminatory and suggests a "fair and adequate" standard for determining compensation. This is more in line with other approaches looking to create an "equitable balance" between interests in deciding how much compensation is owed.

Finally, the language of "full protection and security" and "fair and equitable treatment" is downgraded such that it requires only "fair administrative treatment." By doing this the SADC text emphasizes that this is a procedural, rather than a substantive standard and reserves the rights of states to make regulatory changes in response to important public policy.

As Cotula concludes, "Protecting the land claims of some, without also taking action to protect different and potentially competing land claims, can entrench imbalances in both legal rights and power relations. In the longer term, solutions should lie less in legal arrangements that insulate foreign investment from shortcomings in national legal systems, and more in establishing fair and effective land governance that can cater for the needs of all."

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Thursday, October 15, 2015

Daily News IUST

TPP Drafting, Legal Scrub Continues In Tokyo; Few Details For Cleared Advisers

Posted: October 15, 2015

Officials from the 12 Trans-Pacific Partnership (TPP) countries are drafting parts of the final text of the agreement and conducting a legal review of completed chapters at a meeting this week in Tokyo, according to informed sources. This meeting comes as the Obama administration is facing pressure from trading partners such as Canada, as well as members of Congress and stakeholders, to release the TPP text as soon as possible.

The work in Tokyo also includes drafting one or two side letters to the agreement, as well as technical work on the tariff schedules, according to one informed source.

The tariff schedule work, which is very detailed and technical to begin with, will be further complicated by the fact that the TPP negotiations were conducted on the basis of a 2007 version of the Harmonized Tariff Schedule, one source said. This means negotiators need to ensure that items are placed under the correct tariff lines in the 2012 version of the HTS, he said.

One former U.S. trade official involved in previous trade negotiations said this week that the work to finalize the tariff schedules is very time consuming due to its technical nature.

Similarly, a source close to the negotiations said it will likely take several meetings to finalize the TPP text, not just the one underway in Tokyo.

U.S. Trade Representative Michael Froman said on Thursday that TPP countries are currently "working to finalize the details of the text." Speaking on an Oct. 15 conference call organized by the Council on

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Foreign Relations, he said the Obama administration is "very eager" to get the text finalized and get it out in the public "as soon as possible."

Without a final text, the administration has been reluctant to provide very detailed briefings to business representatives and other stakeholders, and revealed few new details at an all-day briefing for cleared advisers on Oct. 14, sources said.

Participating in that briefing were members of the Advisory Committee for Trade Policy and Negotiations, the Labor Advisory Committee, the Industry Technical Advisory Committees, and some agriculture cleared advisers. The Agriculture Technical Advisory Committee as well as the Agriculture Policy Advisory Committee have a separate briefing on TPP scheduled for Oct. 22, according to informed sources.

Froman said during the CFR call that administration officials have been briefing stakeholders, Congress and the public on how the key TPP issues were resolved, so there is a full understanding ahead of the congressional debate.

The administration has shared some elements of the TPP deal with members of Congress, though not to cleared advisers, sources said. This has led to questions among congressional staff whether the texts shown to members of Congress now should also be shown to cleared advisers, sources said.

At this point, cleared advisers only have access to the TPP text that reflects the state of play at the July Maui ministerial.

Canadian Trade Minister Ed Fast on Oct. 14 expressed doubt that any TPP text will be publicly available to Canadians before the Oct. 19 federal election in that country. "We're working with our eleven other partners to secure at least a provisional [TPP] text," he said in the interview with the Canadian Broadcasting Corporation. He noted that any TPP country needs the consent of all the other participants to release "any form of the text."

He said that Canada is pressing the other TPP nations "very hard" to release that text so Canadians can see for themselves. "I can tell you, we've been very, very assertive with our partners explaining to them that Canadians in the middle of an election have a right to know what's in the text, and that's why we've

provided a summary to provide them with essentially a clearer understanding of what the overall terms of the text are," he said.

Amidst the difficulties of coming up with a text, the administration seems to have backed off its initial plan to notify Congress of its intent to sign the TPP within a matter of days after announcing a deal, according to informed sources. Finance Committee Chairman Orrin Hatch (R-UT) last week warned President Obama to refrain from notifying Congress of its intent to sign the TPP before Congress has access to the text.

At the same time, President Obama and Froman have been in close contact with members of Congress. After the TPP deal was announced, President Obama called a number of members, and Froman reached out to the 28 House Democrats who voted for the renewal of fast-track earlier this year as well as the 13 Senate Democrats who voted for cloture on the Trade Promotion Authority (TPA) bill, sources said.

These most recent outreach efforts come on top of the attention administration officials have paid on these members after the fast-track vote, including providing updates during the Atlanta TPP negotiations, one informed source said.

The administration has clearly decided that dominating the TPP discussion with positive messages requires that level of senior official involvement at this early stage, this source said. As part of this concerted campaign to shore up support for the TPP, the administration has generated letters of support for TPP from former government officials and five former chairmen of the Democratic National Committee.

Froman during the CFR call said Obama has already been out there "aggressively" talking about the TPP in public, including during his Oct. 10 weekly address, and that cabinet members will be making appearances around the country to tout the benefits of the deal.

Some stakeholder sources said this week that the absence of the text may favor the administration's current campaign to garner support for the TPP. Specifically, it allows Froman to tout the benefits of the agreement without critics being able to contradict him based on the details of a text, these sources said.

In a related development, AFL-CIO President Richard Trumka urged Obama in an Oct. 9 letter to release the text in the "very near future" as a way of proving the administration claims about the benefits of the TPP. "In my experience, when there is such good news to share, there is no need for secrecy," Trumka wrote. "If the TPP will do for the American middle class all that USTR claims, releasing the text would be the single best way to prove that."

He said that creating the level playing field for American workers includes equal access to information, and the only way to ensure that is to give all Americans access to the text "right now," not after the administration has done its "public relations spin."

Once the text is released, there will be a better sense of the political tensions around the TPP agreement because stakeholders will reveal more of their positions based on the details of the deal, sources said this week. For example, the U.S. dairy industry will likely want to review U.S., Canadian and Japanese tariff schedules before taking a position, they said.

At the same time, the absence of a final text means the administration cannot take the procedural steps, such as the notification, which will ultimately lead to a congressional vote. The administration is clearly pursuing a strategy of fulfilling all the necessary requirements in order to be ready to take any opportunity for a congressional vote should it arise, sources said. However, two congressional aides have said the congressional consideration of the deal could slip to the lame duck session following the 2016 election, which is more than 13 months from now.

Gauging when and how an opportunity for a vote would arise is particularly hard to predict in light of the turmoil in the House Republican caucus that has delayed the election of a speaker. Without a House speaker, it will be hard to tell how and if the House will operate and how much energy and inclination there will be to tackle any major issues, sources said.

Once the notification is submitted, the administration has 90 days to sign the TPP deal, though it could opt to sign it later. The administration is required to publish the TPP text at least 60 days before signature, which would be no later than 30 days after notification. Cleared advisers have 30 days after the notification to provide their written assessments of the TPP text, according to the fast-track law.

TPP Drug Reimbursement Rules Likely Deviate From Past U.S. Trade Pacts

Posted: October 15, 2015

An annex in the Trans-Pacific Partnership (TPP) agreement that sets disciplines for decisions by government bodies on reimbursements for drugs and medical devices does not appear to go as far as similar annexes included in the U.S. free trade agreements with Australia and South Korea, in two respects, according to fact sheets issued by the Australian and New Zealand governments and a joint summary written by all 12 participants.

The first departure is that the TPP annex only requires parties to establish a review process of prior decisions on reimbursement, while the U.S.-Australia FTA and the KORUS required an "independent review process."

An Oct. 9 fact sheet by the New Zealand government makes clear that New Zealand is interpreting this obligation as allowing for the review to take place by the same body which made the initial decision, which is PHARMAC in the case of New Zealand.

"An internal review process is sufficient to meet the obligation. In other words, the decision maker, PHARMAC, may undertake the review," the fact sheet said. It added that the result of the review does not carry the requirement to change funding decisions.

The second departure from previous trade pacts is that the obligations in the drug reimbursement annex will not be subject to dispute settlement. This is made clear by the New Zealand fact sheet, an Oct. 6 Australian fact sheet on health outcomes and the joint summary of the agreement. Provisions on national pharmaceutical reimbursement policy within both KORUS and the Australia-U.S. FTA are subject to government-to-government dispute settlement.

In lieu of dispute settlement, the annex appears to set up a government-to-government consultation mechanism to discuss issues covered in the annex, according to the New Zealand fact sheet. This consultation mechanism appears in neither the Australia FTA nor KORUS.

A leaked text of this annex -- released by Wikileaks on June 10 and dated December 17, 2014 -- contains language stating that dispute settlement shall not apply to the annex and includes consultation mechanism.

The leaked text also shows discord over the requirement that the review process must be done by an independent body, which is a provision the U.S. has pushed for in its previous trade agreements (Inside U.S. Trade, June 6).

Sources following negotiations on the annex said the lack of dispute settlement was an expected outcome, but still represents a deviation in preferences the U.S. laid out in KORUS and the Australian FTA.

U.S. drug companies have complained that PHARMAC's listing and pricing determination process is opaque and unpredictable, claiming that PHARMAC aims to drive down drug prices at the expense of intellectual property protections and transparency. U.S. drug companies hoped that provisions the U.S. had initially proposed within the annex - such as requiring an independent review process - would put tighter rules on PHARMAC.

Deborah Gleeson, a professor at the School of Psychology and Public Health at Australia's La Trobe University and a critic of TPP, said she believed the U.S. backed down significantly from its initial aims for the annex, "primarily because Australia simply refused to go further than the AUSFTA provisions."

Gleeson went on to say that "battles" over Australia's national healthcare program had already been fought during the negotiations for that deal and that the Australian government determined it would be "politically unacceptable" to sign a deal requiring further changes to the program.

Another source following the negotiations said that, when Australian officials negotiated the Australia-U.S. FTA, they believed that the independent review provisions did not require the review to be done by a group outside of their government's public health department.

That source said that Australian negotiators may have therefore sought less strict language in the TPP that did not explicitly require this review process to be independent.

Two TPP critics agreed that the annex's departures from previous FTAs are positive in terms of mitigating the agreement's impact on access to medicines and drug prices. But they made clear that these changes were not sufficient to alleviate the worries previously raised by skeptics of the trade pact about the annex and TPP's overall impact on public health.

Gleeson and Peter Maybarduk, director of Public Citizen's Global Access to Medicines Program, both said the final wording of the annex may be ambiguous enough that it will still allow governments or pharmaceutical companies to use the language to put pressure on reimbursement bodies to change their behavior.

They also argued that despite the changes to water down the annex, countries and the pharmaceutical industry still have a variety of indirect methods to apply pressure to TPP members if they feel as though their drug reimbursement policies are not being carried out in a favorable manner.

In addition, they contended that pharmaceutical companies could still launch an investor-state claim under the investment chapter arguing that an action by the reimbursement body violated the obligation by governments to provide fair and equitable treatment to investments. Critics of the annex had sought explicit language stating that reimbursement decisions by government bodies could not be challenged under investor-state dispute settlement.

One critic said U.S. trade officials had explicitly acknowledged last year that excluding the reimbursement annex from dispute settlement does not preclude a pharmaceutical company from challenging how drugs are reimbursed through the investment chapter.

Maybarduk said another way to circumvent the changes would be for members to hold back on the implementation of other parts of TPP if they perceive another member to not be strictly following the text or "spirit" of the health transparency annex.

The government-to-government consultation mechanism also provides a route to constantly pressure governments over their national health reimbursement policies and advocate for the pharmaceutical industry, he argued.

Gleeson said PHARMAC will have to make changes to its current process in order to comply with the obligations in the annex, specifically by establishing a specified period of time for completing review as well as establishing a review process.

The New Zealand fact sheet hinted at these new obligations, but insisted they would not require New Zealand to "change the PHARMAC model." However, it estimated that implementing the annex's obligations would involve up to \$4.5 million in one-off establishment costs for PHARMAC, and \$2.2 million per year in operating costs.

On the specified period of time, the fact sheet noted that the period can be determined by each TPP party and there is an exception that allows this timeframe to be extended provided the reason for the extension is disclosed. "This exception is noteworthy given PHARMAC may assess applications over multiple budget cycles or defer a final decision until funding is available," it said.

It also noted that PHARMAC does not currently offer a specific review process for drugs that it has declined to list for reimbursement.

The New Zealand fact sheet also points to an additional victory for the Kiwis: the exclusion of medical devices from its obligations in the health transparency annex. Gleeson expects that this exclusion arose from the fact that Australia had successfully managed to obtain a de facto medical devices exception based on the most recent leaked text of the annex by limiting the application of the annex to the Pharmaceutical Benefits Scheme, which does not cover medical devices.

The Australia-U.S. FTA provisions on national pharmaceutical reimbursement policy do not cover medical devices while the provisions laid out in KORUS do.

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<http://www.dailyonder.com/letter-from-langdon-farmers-pay-the-cost-of-free-trade/2015/10/12/9060/>

Letter from Langdon: Farmers Pay the Cost of 'Free' Trade

By Richard Oswald

October 12, 2015

The Trans Pacific trade pact promises us cheaper food with sketchier ingredients. American farmers will face upheaval and more dislocation, while corporate agriculture thrives.

If China assembles my Apple iPhone with its global mixture of ingredients, shouldn't Asians at least eat Washington apples? Maybe not while China produces nine times as many apples as the U.S.

And if my chore tractor came from Italy, (Europe is where most small farm tractors are manufactured today) shouldn't Italians buy my corn?. Probably not, while they're the eighth largest corn grower in the world.

That brings U.S. farmers to another crossroads, having bought into the idea that to be successful and make a lot of money, we need full unfettered access to consumers around the world. But those consumers, almost without exception, would rather have food grown at home. Their farmers want it that way too.

Maybe that's why we've been told the answer to consumer resistance is trade agreements like Trans Pacific Partnership (TPP) that lock trading partners into commitments to buy stuff no matter what. Those agreements always seem to come with a few years of doing business the old way, giving our best new buddies protection and a chance to adapt to doing business the new way. But, as is too often the case, by the time new markets are phased in, they've already disappeared via geopolitical corporate hustles and revalued currencies.

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It's pretty nigh onto impossible to pick up the family farm and move it one piece at a time, the way industry seems to do. We've already seen how easy it is to set up manufacturing plants in Asia or Mexico for everything from cars and washing machines to cotton T-shirts. And while benefits to farms are always touted, most of the trade agreements we farmers are exhorted to support are already designed to aid floating factories around the world owned by shadow companies looking for cheap labor and ingredients, a tax break, and easily adjustable money.

Farmers are no strangers to market access. Over the years we've seen markets come and go via embargoes, farm programs, or transformed into world trade deals more about whipping us than helping us. That's the way it's gone for poultry and hog farmers in America as corporations have cemented themselves into virtually every aspect of production from eggs and artificial insemination, chicks and pigs, all the way up to fresh wrapped meat in the grocer's case.

Monopolies like those have come to be viewed by leaders (who most of us unenthusiastically refer to as politicians) as just another cost of doing business for highly efficient "agriculture."

But here lately, one of the biggest costs to one efficient branch of U.S. "agriculture" has been a virus called PED, short for porcine epidemic diarrhea. First discovered in Europe, PED spread through Asia mysteriously finding its way to America and Canada. After years of searching for the source, USDA now attributes PED's origins, responsible for killing 8 million baby pigs in the U.S., to contaminated shipping bags used to deliver bulk commodities to the U.S. from – take a wild guess – our trading partners in Asia.

That's where avian flu originated, resulting in the destruction of close to 50 million U.S. chickens and turkeys this year costing close to \$1 billion and driving up the price of eggs.

Now USDA has approved chicken imports from China. And beef from South America, even though parts of countries there still harbor the scourge of cattlemen everywhere, hoof and mouth disease. That one microscopic bug can wipe out an American beef herd faster than you can say "shipping container."

But, we're told, it will be good for "agriculture."

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Instead of facing the truth of policies favoring cheap commodities and cheaper food ingredients for corporate processors, "agriculture" as a whole talks about broad benefits to America and rural communities through profitable farms with access to global markets.

More times than not we've seen rural population centers, those clusters of agrarian association that once served as our support group, eroded by indifference or failure to understand the real meaning of the words "sustainability" and "community."

These days instead of coming from Main Street, most of the things big farms buy come from tens or hundreds, if not thousands, of miles away. Communities have gotten smaller, farms have gotten bigger, and the roads that hook us all together have gotten longer.

So when we hear that global corporate aggregators of all things bought and sold are good for "agriculture," we farmers tend to think that means us. The problem is that we are only one small step, the bottom rung, of a long and torturous climb to consumers everywhere. Calling us "agriculture" is a little like calling an engine the whole car. But it's the engine that makes the whole thing go. And when we consider money collected along the way, the best any farmer can hope for is maybe 15 cents on the dollar.

That leaves a lot of benefit to "agriculture" up for grabs.

Many times it is actions by agriculture as a whole that leads to problems on the family farm when trade and other government deals hurt us through importation of disease, contaminated food, or perhaps just a market manipulating higher corporate power holding no compassion for us, our consumers, or perhaps the world in general.

That's what happens when everyone forgets that the agriculture we hear so much about in America isn't always family farms, but all the gigantic corporations surrounding us, doing what they do for better or sometimes worse.

When billion dollar trade deals are at stake, it's that blurring of the line between us and them that makes it difficult for family farmers to be heard. So when agriculture and unfair free-trade deals are

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debated in Congress later this year or the next, keep in mind that most importantly to us, family farmers feed America.

The "Agriculture" they'll all be talking about isn't who we are, but it's certainly what we do.

Richard Oswald, president the Missouri Farmers Union, is a fifth-generation farmer from Langdon, Missouri. "Letter From Langdon" is a regular feature of The Daily Yonder.