

Meeting the Challenges to Realizing a Comprehensive, High-Standard TPP

*Presentation by Calman J. Cohen
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Introduction

- I appreciate the opportunity to speak with you today.
- My name is Cal Cohen, and I serve as president of the Emergency Committee for American Trade—ECAT—an association of leading American businesses that promotes policies for economic growth through increased cross-border trade and investment.
- ECAT also serves as the secretariat of the U.S. Business Coalition for TPP, which is comprised of both companies and business associations representing all major economic sectors in the United States—agriculture, manufacturing, and service providers.
- The U.S. Business Coalition for TPP was established to promote outcomes that will achieve the ambitious vision laid out by the TPP leaders across all key areas of the negotiations.
- I will direct my remarks to three topics: first, an assessment of where we are currently in the negotiations; second, a reaffirmation of what the negotiating parties stand to gain in these negotiations; and third, an assessment from the perspective of the American business community of what needs to happen in order to bring these negotiations to a successful conclusion in 2013.

Where We Stand

- Since my last visit to New Zealand in April, there have been 3 negotiating rounds held in the United States—i.e. Dallas in May; San Diego in July; and Leesburg, Virginia in September.
- Important progress has been made, yet significant gaps and differences remain.
- Moreover, two additional countries have now joined the negotiations as active participants—i.e., Canada and Mexico.

- As host of the 15th round of negotiations, New Zealand is welcoming Canada and Mexico to the negotiating table and is poised to drive an agenda that will hopefully set the stage for the successful conclusion of these negotiations in 2013.
- I have met with representatives of the governments of Canada and Mexico, and I am uniformly impressed with the seriousness of purpose with which each government has approached the Auckland round of negotiations.
- I am optimistic that meaningful negotiations are taking place this week among all 11 parties to the TPP, and that this will not be a mere stock-taking exercise.
- And, it is essential that that be the case if negotiators are to succeed in concluding negotiations by the time of the Asia-Pacific Economic Cooperation Leaders Meeting in Indonesia.
- At this point, negotiation fatigue is understandable and some hardening of positions inevitable, but the parties must each fight against this and rededicate themselves to the purpose at hand—i.e. to realize the maximum potential of a comprehensive trade and investment liberalizing and standard-setting agreement among the TPP countries.
- New discussions may soon draw some attention from the negotiating parties, such as the Regional Comprehensive Economic Partnership and potentially a new dialogue between the United States and the European Union.
- The mere fact of simultaneous negotiations does not concern me; however, I would be quite concerned if a perception arose that the momentum of the TPP is slowing, for whatever reason.
- It is therefore imperative that negotiators begin winnowing the gaps and differences among the parties to those final issues that will be addressed at a political level.
- In the end, the hard work of our negotiators will be judged not by perceptions of wins or losses at the negotiating table, but by the degree to which an agreement creates new opportunities for businesses and their workers in the 11 countries.
- The TPP will accomplish that by establishing certainty in a framework of rules and standards that foster increased trade and investment flows, decreased border transit times for the movement of goods, increased market access for service suppliers, and a model of protection for intellectual and other property rights.

What the TPP Countries Stand to Gain

- The metrics that I just identified are not U.S. metrics—rather, they describe what is at stake for each of the TPP countries.
- These metrics may translate into different priorities for each of the TPP countries, but at heart they are what bring us together and motivate our interest in concluding an agreement.
- In Honolulu, the TPP leaders characterized these metrics under one broad umbrella of forging economic linkages when they stated:

*“ We are confident that this agreement will be a model for ambition for other free trade agreements in the future, **forging close linkages among our economies**, enhancing our competitiveness, benefitting our consumers and supporting the creation and retention of jobs, higher living standards, and the reduction of poverty in our countries.”*

Source: Trans-Pacific Partnership Leaders Statement, Honolulu, HA, November 2011 (emphasis added).

- The ultimate success of the TPP will be measured by the degree to which the agreement facilitates the establishment of close linkages among our economies.
- If it achieves that, we will all be stronger together, sharing the benefits of increased trade and investment.
- The question then, is—how do we get there from where we are today? How do we unleash that potential of a comprehensive, high-standard, and commercially meaningful TPP agreement?

Where We Go From Here

- As I suggested earlier, I believe that the remaining process can be divided into two phases—a winnowing of the issues that can be addressed at the negotiator level, followed by a higher level engagement to resolve the remaining few issues that must be raised to a political level.
- The first phase requires negotiators to tackle in earnest the sensitivities that remain unaddressed—deferral is no longer an option.

- Unfortunately, the list of outstanding sensitivities is still too great. When I spoke here in New Zealand, I highlighted a number of them:
 - For the United States, limited or non-existent market access for imports of apparel, footwear and agricultural products like dairy and sugar is not a “model for ambition.”
 - For Chile and New Zealand, the standards sought on intellectual property protection are not a “model for ambition.”
 - For Australia, the rejection of investor-state arbitration is not a “model for ambition.”
 - For several of the ASEAN countries, approaches on liberalizing financial and other services are not a “model for ambition.”
- And, for any TPP country contemplating an outright product exclusion, that would be an unacceptable step backwards, let alone a failure of ambition.
- Negotiators should draw their resolve from the reaffirmation of political will recently expressed on the sidelines of the East Asia Summit in Cambodia—the TPP negotiations must conclude in 2013.
- If negotiators from any TPP country require further guidance or further mandate from their political leaders in order to begin tabling concessions, now is the time for their capital to provide that direction.
- Canada and Mexico will have to hit the ground running so their participation does not slow down the pace of progress in the negotiations.
- With respect to the United States, the absence of fast-track negotiating authority is not a reason to withhold final offers or refrain from compromise at this stage of the negotiations.
- The Obama Administration is firmly committed to the TPP negotiation and its successful conclusion, and is actively engaging members of Congress with respect to these negotiations.
- Equally important, a comprehensive, high-standard, commercially meaningful agreement will earn broad bipartisan support from the U.S. Congress.
- I am confident that Congress and the President will determine a process to secure an up or down vote in Congress to implement a final TPP agreement, as long as the agreement meets the ambitious vision laid out in Honolulu.

- If there are other reasons being contemplated for why the negotiations cannot be completed expeditiously, let us address them head-on and move forward.
- In order to move forward, however, it may soon be time to augment the process.
- The schedule of formal negotiating rounds has served us well, but at some point the negotiators should be directed to enter a final round with the stated objective of resolving all outstanding issues that can be resolved at the negotiator level—and not leaving until they do.
- This will expedite movement to the second phase, wherein political leaders can tackle the remaining issues.
- If the political will is in place for each TPP country, as it appears to be, then 2013 is not an artificial or arbitrary timeframe—it is merely an ambitious one, and that ambition should be met with ambition.
- And this, I hope, will be the overall message we receive from the delegations as a result of the Auckland round negotiations.
- Ambition marked the TPP negotiations from their inception.
- Negotiators are taking on several new issues, including regulatory coherence, state-owned enterprises, competitiveness, supply and production chains, development, and small- and medium-sized business interests.
- One topic that I want to highlight is customs and trade facilitation for supply and production chains.
- This topic does not receive much fanfare, but it is critically important to the competitiveness of businesses in each of the TPP countries.
- A reduction in border transit costs and transit times accrues directly to the bottom lines of businesses, and international supply chains are no longer the exception, but the norm.
- I'm aware of one estimate that if the United States reduced port and paperwork export costs to the cost level of Singapore, that savings would equal 10 percent of the worldwide tariffs assessed on American goods.

Source: Progressive Economy, Trade Fact of the Week: "U.S. Cost to Export A Container, Compared to Foreign Tariffs" (July 27, 2011).

- We need to seize this opportunity to realize such gains for exporters across the TPP countries.
- Yet, I'm concerned that this issue has not received the full attention it merits from the negotiators.
- Several new issues involving rules and standards have come up during the course of the negotiations that also merit consideration.
- Thus, in my view, a comprehensive, high-standard, commercially meaningful TPP agreement would also incorporate the following elements:
 - (1) Binding commitments on sanitary and phytosanitary standards, as well as a mechanism for the transparent, predictable, and timely mitigation of administrative and regulatory delays in the release of shipments of perishable agricultural products for food, feed, and further processing;
 - (2) A flexible rule of origin that will support the dynamic supply chain flows under which TPP textile and apparel firms operate;
 - (3) A regime that fully protects intellectual property rights including trade secrets;
 - (4) Strong rules that ensure the viability of business practices that rely upon cross-border data flows;
 - (5) Strong rules to protect against illicit trade in counterfeit products; and
 - (6) Disciplines to ensure a level playing field for the provision of financial services—including insurance products—whether by private firms or government-owned or government-controlled entities.
- This list is meant to be illustrative, rather than exhaustive.
- I do not mean to exclude any of the other important priorities that have been raised by the U.S. Business Coalition for TPP—and others—particularly with respect to investment, procurement, regulatory coherence, competition policy, and transparency and anti-corruption.
- The list is long precisely because the ambition of these negotiations runs broad and deep.

- We have an opportunity to build upon and improve upon the various trade agreements that TPP countries have entered into previously.
- Hopefully, the end product will prove to be a living agreement that is sufficiently flexible to meet the economic challenges of today and tomorrow.

Conclusion

- I appreciate the opportunity to be here with you today and to share with you some of my views from the perspective of the American business-community. Thank you.