



★ 25 ★

Regulatory Coherence

The Trans-Pacific Partnership (TPP) levels the playing field for American workers and American businesses, leading to more Made-in-America exports and more higher-paying American jobs here at home. By cutting over 18,000 taxes different countries put on Made-in-America products, TPP makes sure our farmers, ranchers, manufacturers, service suppliers, 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.

EXECUTIVE SUMMARY

Through the Regulatory Coherence chapter, the United States is seeking to foster an open, fair, and predictable regulatory environment for U.S. businesses operating in Asia-Pacific markets, including through principles that are central features of the U.S. regulatory process, such as transparency,

impartiality, and due process as well as coordination across the government to ensure a coherent regulatory approach. The chapter does not affect the rights of the United States or other TPP Parties to regulate for public health, safety, worker and environmental protections, security, financial stability, and other public interest reasons, nor will anything in it require changes to U.S. regulations or U.S. regulatory procedures.

CHAPTER OVERVIEW

Importance of Regulatory Coherence

The Regulatory Coherence chapter includes provisions promoting the use by TPP governments of good regulatory practices in developing and implementing regulatory measures. It also recognizes the important role such policies can play in enhancing the benefits of the TPP Agreement and promoting regional trade and investment, as well as that each Party has the right to identify its regulatory priorities and establish and implement measures to address these priorities at levels it considers appropriate. For the United States, these features apply only to federal regulatory measures.

Establishment of Coordination and Review Processes or Mechanisms

The chapter aims to facilitate regulatory coherence in each TPP country by promoting mechanisms for effective interagency consultation and coordination for agencies and issues Parties agree to cover.

Implementation of Core Good Regulatory Practices

The chapter also encourages widely-accepted good regulatory practices. These include impact assessments of proposed regulatory measures in order to assess the need and range of feasible alternatives, and communication of the grounds for the selection of the chosen regulatory alternative and the nature of the regulation being introduced. They also include ensuring that regulations are clearly and concisely written; that the public has access to information on new regulatory measures, if possible online; and that existing regulatory measures are periodically reviewed to determine if they remain the most effective means of achieving the desired objective. In addition, it encourages TPP governments to provide public notice annually of all regulatory measures it expects to take the following year. All these practices

are standard in the United States.

Framework for TPP Cooperation

The chapter promotes ongoing work on regulatory coherence through a committee that will give TPP countries, businesses, and civil society continuing opportunities to report on implementation, share experiences on best practices, and consider potential areas for cooperation.

NEW FEATURES

TPP is the first U.S. Free Trade Agreement (FTA) to include a chapter on regulatory coherence, reflecting a growing appreciation of the relevance of this issue to international trade and investment. As in the United States, we expect these commitments to promote “good regulatory practice” principles in the regulatory development process, including coordination among regulators, opportunities for stakeholder input, and fact-based regulatory decisions that will serve to eliminate the prospect of overlapping and inconsistent regulatory requirements or regulations being developed unfairly and without a sound basis, including so as to benefit a particular stakeholder. Nothing in the chapter will affect the U.S. or other TPP Parties’ right to regulate in the public interest, nor will anything in it require changes to U.S. regulations or U.S. regulatory procedures.

IMPACT

Governments are responsible for regulating to foster fair competition, consumer safety, environmental quality, workplace safety and many other policy goals. In the United States, the rulemaking process is well developed so as to ensure transparency, impartiality, and due process. The U.S. also has a well-established system for coordination among agencies across the government to safeguard against “stove-piped” internal decisions that could lead to conflicting regulatory approaches by different agencies responsible for related issues or to agencies being inappropriately influenced by the stakeholders—often domestic—that they are responsible for regulating.

The legal and regulatory environment in countries across the Asia-Pacific is diverse. The region’s governments and publics may have differing priorities and reach different conclusions on specific regulatory issues. They share a common interest, however, in developing regulations based on reliable and objective data; avoiding conflicting requirements in their own

markets; allowing requirements to be met in the most effective way possible to achieve the policy objectives; and ensuring that public input helps inform decision-making so as to lead to the optimal outcomes. They also share an interest in cooperating and exchanging information on appropriate regulatory approaches to respond to new challenges. This is particularly important as TPP economies become more integrated, businesses manage production and supply chains across borders, and workers increasingly depend on the jobs these production and supply chains support.

Coherent regulatory processes—coordinated across government agencies, designed and implemented based on good regulatory practices, and with opportunities for stakeholder input—are critical to creating open, fair and predictable environments for U.S. businesses operating in Asia-Pacific markets. The Regulatory Coherence chapter does not address specific regulatory issues related to trade and investment, but rather the overall process or system through which TPP members develop regulations. It will also help leverage regulatory best practices, while reaffirming the right of each TPP Party to identify its regulatory priorities and establish and implement measures to address these priorities as it considers appropriate.

