

Hill Letter To Japan Claims Expanding Pork Subsidy Would Cost TPP Votes

U.S. pork producers and their congressional allies are ramping up their efforts to oppose a planned expansion of a Japanese pork subsidy program by preparing to send a letter to the Japanese ambassador arguing that the plan will cost votes for the Trans-Pacific Partnership (TPP) in the U.S. Congress if it is not modified.

“Programs that artificially stimulate pork production in Japan such as the one under consideration, will increase opposition to TPP here in Congress,” states the draft letter being circulated by Reps. Pat Tiberi (R-OH) and Brad Ashford (D-NE), according to a copy obtained by *Inside U.S. Trade*.

“We request you to decouple the government assistance from production. We sincerely hope that your government and ours will be able to find a mutually acceptable solution that will prevent the loss of crucial votes for TPP when its fate is decided by Congress,” the letter concludes.

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Key Innovations In TPP SPS Chapter Carved Out From Dispute Settlement

The Trans-Pacific Partnership chapter on sanitary and phytosanitary (SPS) measures fleshes out and clarifies the core obligations of the World Trade Organization SPS Agreement, but two key provisions that tighten the WTO standards to make it harder for countries to restrict imports on food safety grounds are not subject to dispute settlement.

One of these provisions gives exporting countries a new avenue to prove that their food safety measures are “equivalent” to those of the importing party, thereby permitting imports.

While the WTO agreement allows the exporting party to show their measures are equivalent if they “achieve the same level of protection” as those of the importing party, TPP says the exporting party can also demonstrate equivalency by showing its measures have “the same effect.”

The second provision tightens the burden of proof for regulators in justifying their SPS measures, making them

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Treasury Working With Companies, Regulators On TPP Financial Data Issue

U.S. Treasury Secretary Jack Lew this week testified before the congressional trade committees that his department is talking with financial services firms and independent U.S. financial regulators to work through the industry’s objections to its exclusion from a ban on local server requirements in the Trans-Pacific Partnership (TPP).

At the same time, Lew placed the blame squarely on independent regulators for his department’s position in TPP that the financial services sector should be excluded from the ban.

“This is a provision in TPP that we’ve been working on, talking with the financial services community on, but also with our own regulators,” Lew said in testimony on Feb. 10 to the Senate Finance Committee.

He made a similar comment to the House Ways & Means Committee on Feb. 11, telling Rep. Dave Reichert (R-WA) that Treasury was “working hard to try to come to a place where people can be more comfortable.”

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U.S. Official Says Hatch’s Specific Proposals For TPP Fixes Nearly Ready

Staff for Senate Finance Committee Chairman Orrin Hatch (R-UT) are close to completing work on a set of specific proposals for addressing the senator’s complaints about the Trans-Pacific Partnership (TPP), according to an administration official familiar with the matter.

The official, who spoke on the condition of anonymity, stressed that the administration was still awaiting specific proposals from Hatch’s staff in an apparent effort to deflect the senator’s criticism earlier in the day that the administration was not engaging meaningfully with him on his complaints about TPP.

“We understand the Hatch staff is close to having a comprehensive set of proposals to share. We’re eager to work closely with them on their ideas,” the official said. A spokeswoman for Hatch said she could not confirm that the proposals were almost ready.

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The official said the administration has had “productive early conversations” with Hatch’s staff. “We look forward to continuing that engagement, including hearing the specifics of their proposals,” he said.

Informed sources said in late January that Hatch’s staff was developing specific requests for TPP implementation on such issues as market exclusivity for biologic drugs (*Inside U.S. Trade*, Jan. 29).

The official’s comments came after Hatch told reporters Tuesday afternoon that the administration’s engagement on TPP thus far was “pretty much lip service.” Hatch, who spoke to reporters at the Capitol after the Senate’s weekly caucus lunches, was responding to a question on whether the administration’s engagement on TPP had been meaningful or just lip service.

Hatch said he and his staff have come up with “definite proposals” for addressing his TPP objections that have been discussed “multiple times with multiple people in the administration.” When pressed for details on his proposals, Hatch said his position remains that the TPP should have required countries to provide 12 years of market exclusivity for biologic drugs.

He said he prefers to fix this through renegotiation of TPP, but that this issue could also be addressed through side agreements or other tools. Hatch said the administration has not responded to his proposals but has claimed “they’re working on it.”

“I think they should have stuck with the 12 years, and they haven’t made any proposals back, and I have to say that ... that’s going to be one of the biggest problems they’re going to have” when it comes to passing TPP, he said.

While strongly reiterating his complaints to the TPP deal, Hatch said he did not have any problem with U.S. business groups lobbying in favor of the deal on Capitol Hill.

But informed sources said Republican congressional staff have conveyed the message to business representatives that they should focus their efforts on convincing the administration to address their objections to the TPP agreement instead of lobbying members of Congress to support it.

One industry source said members of the Republican leadership have made it clear that they want to define the timetable for congressional consideration of TPP and do not want businesses to push for quick action at this time.

Hatch underlined that he is “very upset” about the way the TPP’s intellectual property provisions ended up, and said that the administration has been unwilling to make any changes.

“They have messed up the intellectual property matters in that [TPP agreement], and they don’t seem willing to make any changes. And they’re going to have to make them, or it’s going to be very difficult to pass this,” he said.

Hatch said he interprets TPP as requiring a minimum of five years of market exclusivity for biologics, although he noted that the Obama administration claims it is eight.

TPP Article 18.51 requires countries to either provide eight years of market exclusivity for biologics, or to provide five years plus “other measures” to deliver a comparable outcome in the market.

Hatch said this wording amounted to a win for Australia. That country currently provides five years of data exclusivity for biologics, but argues that additional regulatory requirements in its system effectively extend that period for several additional years.

“Australia has the advantage because they got away with exactly what they wanted, even though I made it abundantly clear over and over and over that five years wasn’t good enough,” he said.

He said he has met with U.S. Trade Representative Michael Froman to discuss his complaints, but not since Froman returned to Washington after signing the TPP in New Zealand on Feb. 3. — *Matthew Schewel*

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U.S.-India Solar Outcome Delayed Yet Again; India Mulls Rolling Back LCRs

For the third time in three weeks, the World Trade Organization has delayed the release of a panel report reviewing U.S. claims that India violated trade rules by imposing local content requirements in a massive solar project. The delay beyond the planned Feb. 10 release date comes as the U.S. and India continue to discuss a potential settlement that likely involves rolling back the local content requirements.

Andrew Bates, a spokesman from the Office of the U.S. Trade Representative acknowledged the latest delay in a Feb. 10 statement, but did not provide a new date on which the report is expected.

“The United States and our Indian counterparts are engaged in discussions related to the enforcement case that the Obama Administration brought to help the fight against climate change by facilitating the availability of affordable clean energy technology in India and ending governmental discrimination against American solar product exports. As a result, the release of the WTO panel’s report has been temporarily delayed,” he said.

The report was originally set to be published by the end of August 2015, but the target date was subsequently pushed back to Jan. 29. That deadline was then pushed back to Feb. 5 once the two sides began discussing a settlement. After that deadline was missed, the U.S. and India set Feb. 10 as a new target date.

EU Poised To Table Two Texts On Regulatory Transparency, Cooperation

The European Commission is poised to table two separate texts covering regulatory issues ahead of this month’s Transatlantic Trade and Investment Partnership (TTIP) round. One will expand upon a previous EU proposal on regulatory transparency by reflecting changes made to the EU system over the past half-year, while the other will outline how U.S. and EU regulators can communicate to avoid measures that would impact trans-Atlantic trade.

According to minutes from a January TTIP advisory group meeting released on Feb. 3, commission officials have said that text on regulatory transparency will reflect the changes to EU procedures made under the so-called “Better Regulation Agenda.” Those changes were announced by the commission in May 2015, just a month after the EU tabled its first regulatory cooperation text in TTIP, and took effect in July of that year.

The Better Regulation Agenda establishes that certain kinds of EU “secondary” legislation must be published ahead of time in draft form and that the commission must accept public comments before finalizing the measure. These secondary “delegated acts” or “implementing acts” are measures that typically implement detailed portions of EU legislation, and are akin to the regulations that U.S. federal agencies administer.

As for EU “primary” legislation, which are the proposals it submits to the European Parliament, the Better Regulation Agenda foresees only that the commission will gather comments after the legislation is proposed and pass it on to the parliament and EU council — but not publish the measure beforehand. The U.S. has pushed to subject all EU measures to notice-and-comment procedures.

The second text that the EU is slated to table will outline a process under which U.S. and EU regulators will exchange regulatory plans and meet with the aim of creating greater regulatory alignment. This is similar to the idea of the “Regulator Cooperation Body” the EU proposed in its April 2015 text, and it is unclear at this point the extent to which the new text on this issue will differ from the previous proposal, if at all.

According to the minutes of the advisory group meeting, the text “will deliver a very clear mandate for regulators to act in areas of mutual interest, in a legally binding international agreement.”

Although TTIP itself may be legally binding, neither of the two chapters on these so-called “horizontal” regulatory issues will be subject to dispute settlement, the minutes say. This is consistent with the original EU text. The combined scope of the two texts will not exceed that of the previous EU proposal, and will cover the central level for the EU and the federal level for the U.S.

Dividing these two issues into separate texts is a new approach for the commission, which addressed both areas in its April 2015 text. Although it’s not clear why it has chosen to do so at this juncture, the chapters represent different priorities for the U.S. and EU. The U.S. has prioritized the inclusion of rules on regulatory transparency — also called “regulatory coherence” and — while the EU has prioritized regulator-to-regulator engagement. One U.S. business source said that U.S. and EU negotiators have agreed to incorporate both aspects in TTIP.

EU sources emphasized the need for both aspects, arguing that the two concepts are inextricably linked. One source explained that this could work by having a U.S.-EU body develop ways to align regulations, which would then be subject to notice-and-comment procedures to allow stakeholders to weigh in as well.

Regulatory issues are expected to be a focal point of the 12th TTIP round, according to EU Trade Commissioner Cecilia Malmstrom. The round will take place in Brussels the week of Feb. 22.

With regard to regulatory coherence, exactly how the new EU proposal will go beyond the April 2015 text by incorporating the Better Regulation Agenda developments is not clear.

The EU’s April 2015 proposal envisioned both sides providing some form of “stakeholder consultation” process, but did not detail specific notice-and-comment procedures for legislative and regulatory measures. The proposal says that

parties “shall offer a reasonable opportunity for any interested natural or legal person, on a non-discriminatory basis, to provide input through a public consultation process, and shall take into account the contributions received.”

The advisory committee meeting minutes quote commission officials as saying the proposal will incorporate “the spirit” of the Better Regulation Agenda, but that “the details will not be incorporated into the text as such.” It’s also not clear how these changes would apply to the U.S. legislative or regulatory procedures.

While the U.S. has pushed to subject all EU measures to notice-and-comment procedures, one U.S. business source said the U.S. will likely signal that it can accept the new proposal because it recognizes that the EU will not go any farther than what is included in the Better Regulation Agenda.

This is because the EU believes that allowing stakeholders — including the U.S. government — to comment on draft regulation before it is approved by the commission would upset the delicate balance that member state governments and parliament have in crafting legislation, the source said.

White House Predicts TTIP Will Not Conclude Under Obama Administration

White House Press Secretary Josh Earnest on Monday (Feb. 8) said that although the Transatlantic Trade and Investment Partnership (TTIP) is a priority for the Obama administration, he does not envision the deal wrapping up while President Obama is in office.

“I do not believe that we’re going to reach a TTIP agreement before the president leaves office, but he’s certainly interested in moving those negotiations forward and in a direction where we can be confident that the economy of the United States will be enhanced through the completion of an agreement hopefully under the leadership of the next U.S. President,” Earnest said at the daily press briefing following a meeting between President Obama and Italian President Sergio Mattarella.

His comments represent the first time an administration official has publicly said that concluding the TTIP before Obama leaves office is unlikely. But a different White House press official subsequently tried to walk back Earnest’s comments, saying that the administration wants to conclude the TTIP by the end of the year, but acknowledges it will not be able secure congressional passage of a completed deal within that timeframe.

“We do not believe that we will be in a position to finish the congressional approval process for T-TIP and sign it into law before the President leaves office,” Assistant White House Press Secretary Brandi Hoffine said in Feb. 9 emailed statement. “However, as we have expressed repeatedly — including yesterday during President Mattarella’s visit — concluding the T-TIP negotiations is a priority for the Administration, and that’s why we are going to push to complete negotiations this year.”

Hoffine’s comments reflect the official administration position that was also included in the Feb. 9 budget proposal submitted by the Office of the U.S. Trade Representative (see related story). In that document, USTR said it was seeking to conclude the TTIP talks within the 2016 calendar year.

After his meeting with Mattarella, President Obama emphasized that he wants to conclude the TTIP, but did not mention a specific timeframe for doing so.

“And from the work we’re doing together in Afghanistan ... to the opportunities that present themselves in finalizing a trade agreement through the TTIP process, we agreed that joint and common action between the United States and Italy not only serves the interest of both our countries, but the broader transatlantic relationship that has underwritten so much peace and prosperity over the last several decades,” Obama said.

The meeting between Obama and Mattarella comes just two weeks ahead of the next TTIP negotiating round, slated for Feb. 22-26 in Brussels. But while U.S. trade officials have been publicly stressing the message that the talks must wrap up under Obama or else risk drifting for years, the U.S. has showed reluctance to make key concessions on issues like government procurement that the EU has said it needs to conclude a deal.

Mattarella, in his remarks after the meeting, said that TTIP could be used to prevent future economic and financial crises. Speaking through interpreter, he made the case that this would be good for developing countries as well, as they would also be impacted by any economic downturn in the U.S. or EU.

“We also talked about our transatlantic economic and trade partnership, and this of course is a very important approach because it can help us to avoid in the future additional, new economic and financial crises, because they would, of course, jeopardize the prosperity that has been achieved in the developing world and perhaps ward off or prevent any prosperity from being achieved in developing nations,” he said.

Prior to the meeting, a White House notice said the two presidents would discuss “the importance of concluding the Transatlantic Trade and Investment Partnership.”

Mattarella, as the president, is the Italian head of state. The head of government is Prime Minister Matteo Renzi.

Obama Budget Aims To Cover TPP Enactment, Predicts Drop In Tariff Revenue

President Obama's budget proposal for fiscal year 2017 says it includes the funds necessary to implement the Trans-Pacific Partnership (TPP) and specifically boosts funding for trade-related functions at the departments of Commerce, Labor and State, along with the Office of the U.S. Trade Representative.

At the same time, the budget also projects that implementing TPP would lead to a net loss of \$28 billion in tariff revenue over 10 years compared with the current baseline. The administration, however, estimates that this would be offset by other revenue derived through the increased economic activity it argues TPP would bring.

The budget's claim that it "provides the necessary resources to implement" TPP is contained in a section labeled "Advancing the Rebalance to Asia and the Pacific." How exactly the budget provides necessary funding for TPP implementation is not explained in detail, but the budget justifications and proposal summaries from various departments provide a glimpse of how much the agencies think they need to implement the deal.

USTR, for example, in its budget proposal called for an 8.9 percent increase in its budget, up to roughly \$59.4 million from the FY2016 enacted level of \$54.5 million. Its budget justification said the bump up was needed because of the "significant costs associated with implementing, monitoring and enforcing new trade agreements" such as TPP.

The International Trade Administration (ITA) within Commerce requested a 4 percent increase in funding for enforcement and compliance activities, up to about \$83.5 million from the current enacted level of \$80.2 million. According to the Commerce's budget justification, ITA supports USTR in the enforcement and implementation of TPP and other FTAs by investigating "potential failures by foreign governments to implement and adhere fully to trade agreements."

The budget also specifically addressed the implementation costs of TPP's labor and environmental provisions in the Department of Labor and State submissions, respectively.

The International Labor Affairs Bureau (ILAB) arm of the Labor Department requested a 17.5 percent increase in funding from about the FY2016 enacted level of \$86.1 million to roughly \$101.2 million, which it says "includes increases for the monitoring and enforcement of labor provisions of free trade agreements [...]."

According to the Department of Labor's justification for its budget proposal, TPP's labor provisions "will represent a significant new responsibility for ILAB, at a time when ILAB is already stretching to effectively monitor and enforce the labor obligations of 13 existing FTAs with 19 trading partners."

"The Administration is committed to ensuring that the 11 TPP partners, five of which are new U.S. free trade partners (Brunei Darussalam, Japan, Malaysia, New Zealand, and Vietnam) uphold their new labor obligations and that TPP effectively establishes, on paper and in practice, a new standard for protecting workers' rights in the context of trade, and ILAB requests additional funding in order to meet this priority," the justification says.

ILAB also requested 14 more full time employees to "strengthen monitoring and enforcement" of FTAs, which accounts for nearly \$9.2 million — or roughly 60 percent — of ILAB's proposed increased funding. This would double the number of employees dedicated to FTA monitoring and enforcement. An additional \$5 million of the program's requested increase — or about 33 percent — would go to technical assistance grants.

The State Department also specified that its Oceans and International Environmental and Scientific Affairs (OES) will assist TPP partners with fulfilling the commitments of the deal's environmental chapter. OES requested an increase in funding from \$140.2 million in 2015 to \$632.3 million, but most of that is designated to a fund to help developing countries reduce carbon pollution.

The U.S. Agency for International Development, which is funded through the State Department, also requested \$694.4 million to "continue to support rebalance in the Asia-Pacific region" and specified part of this would be used for "economic inclusion and innovation activities in Vietnam" related to the TPP, with no further elaboration.

Despite the various proposed increases, vocal TPP critic Rep. Rosa DeLauro (D-CT) slammed the budget for failing to provide enough money to effectively enforce the various U.S. trade agreements.

With the Trans-Pacific Partnership under consideration, we must have the resources to enforce the trade agreement with countries that do not engage in fair trade and this budget does not come close to the level of funding needed," DeLauro said in a Feb. 9 statement.

DeLauro also blasted the president's budget because it showed that the U.S. would lose about \$28 billion in tariff revenue if TPP were enacted in 2018. "Not only is it projected to cost half a million U.S. jobs, but we also lose money doing it," she emphasized.

But in a statement to *Inside U.S. Trade*, an administration official argued that TPP will likely result in overall deficit reduction because increased economic growth and tax revenue would make up for the lost tariff revenue. The official cited a recent study that showed that TPP would increase exports by \$357 billion and overall annual U.S. national income by \$131 billion by 2030, in an apparent reference to a January study by the Peterson Institute for International Economics.

That study, however, has been controversial and its methodology is one that has drawn criticism from other academics as well as House Ways & Means Ranking Member Sander Levin (D-MI). And predicting how economic growth could translate into government revenue gains is not an exact science.

Douglas Holtz-Eakin, a former director of the Congressional Budget Office (CBO), said in an interview that CBO

President's Budget Repeats Call For Seven Years Of Biologics Exclusivity

The fiscal year 2017 budget proposal submitted by the Obama administration on Tuesday (Feb. 9) reiterated its proposal from previous years to roll back the term of market exclusivity for biologics under U.S. law to seven years from the current 12 years, which would be one year less than what the administration claims is required under the Trans-Pacific Partnership (TPP).

The proposal to reduce the term to seven years is one of three previously proposed reforms in the budget “designed to increase access to generic drugs and biologics.” These reforms would do so by “stopping companies from entering into anti-competitive deals intended to block consumer access to safe and effective generics, by awarding brand biologic manufacturers seven years of exclusivity, rather than 12 years under current law, and by prohibiting additional periods of exclusivity for brand biologics due to minor changes in product formulations,” according to the budget.

Senate Finance Committee Chairman Orrin Hatch (R-UT) and other congressional Republicans have criticized TPP for failing to require 12 years of biologics exclusivity and have called for this aspect of the deal to be changed. TPP requires countries to either provide eight years of market exclusivity for biologics, or to provide five years plus “other measures” that deliver a comparable outcome.

The president's budget proposal carries no legal weight, as Congress is tasked with setting the spending levels for the government for the next fiscal year. But it is typically used by the administration to outline its funding priorities and propose reforms.

The administration included the proposal to roll back the exclusivity period for biologics to seven years in its previous three budgets.

generally believes that a 0.1 percent annual growth rate in gross domestic product over 10 years results in a \$325 billion reduction in the deficit over that time.

A report by the World Bank released in January — which used a methodology similar to the Peterson study and was conducted by one of the same authors — projected that U.S. GDP would grow an additional 0.4 percent due to TPP by 2030.

In its budget justification, USTR also said it needed new funding for advancing trade initiatives in China; East, Southeast and Central Asia; sub-Saharan and North Africa; the Middle East; Europe; and India. That covers essentially everywhere around the globe, except for Central and South America and Russia.

The agency also said that it wants to conclude the U.S.-EU trade negotiations by the end of calendar year 2016, despite the comments by White House Press Secretary Josh Earnest on Feb. 8 that he does not believe a trans-Atlantic trade deal is possible before the president leaves office in January 2017.

In addition, USTR cited the anticipated authorization of the Interagency Trade Enforcement Center (ITEC) as a reason it needs an increase in funding, but did not elaborate other than saying ITEC was another resource it can use to monitor and enforce FTAs.

The conference report on the customs bill, which passed the Senate on Thursday (Feb. 11), formally establishes the ITEC within USTR, but renames it to the Interagency Center on Trade Implementation, Monitoring, and Enforcement (ICTIME) (see related story).

The omnibus spending bill passed by Congress in December 2015 gave ITEC up to \$10 million if the Commerce Department led the body, but the customs conference report stipulates that USTR is to appoint the director of ICTIME. It's not clear what exactly that will mean for the center's funding.

USTR's budget proposal did call for eight new full-time employees — to bring its total to 248 — and for a \$2.3 million increase for “personnel compensation and benefits” to \$44.9 million, which would be a 5.5 percent increase.

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WH Ag Budget Scraps Food Safety Agency Proposal, Bumps FAS Funds

President Obama's budget for fiscal year 2017 drops last year's proposal to combine the U.S. Department of Agriculture's Food Safety Inspection Service (FSIS) and the Food & Drug Administration (FDA) into a single food safety agency, while boosting funding for a number of trade-related USDA functions.

The proposal to combine FSIS, which conducts inspections for meat and poultry, and FDA, which has jurisdiction over seafood and most other foodstuffs, was made in Obama's FY2016 proposal. But this year's budget nixes that idea completely. It also does not take into account recommendations from a congressionally chartered think tank that USDA separate its trade functions from the domestic farm service functions (*Inside U.S. Trade*, Oct. 30, 2015).

Meanwhile, the budget proposes a \$5 million bump in funds from 2016 levels to USDA's Foreign Agriculture Service (FAS), which represents U.S. agricultural interests overseas. That would bring its funding level to \$197 million, if Obama's budget is adopted. Of that increase, \$4 million would be split evenly between "trade policy" and "trade promotion," while the remaining \$1 million would be designated to capacity building and food security.

The USDA budget summary notes that FAS helped facilitate Trans-Pacific Partnership (TPP) negotiations on agricultural issues, and says that ratification of the deal would amplify demand for U.S. agriculture products. Current TPP members account for up to 42 percent of all U.S. agricultural exports, the budget summary says.

It also points to the ongoing Transatlantic Trade and Investment Partnership (TTIP) negotiations with the European Union as another instance where FAS engagement and liberalized trade will benefit U.S. agriculture producers. "TPP and TTIP will expand trade to drive higher commodity prices, additional farm income, and agribusiness jobs that ultimately generate more cash flow in rural economies," it says.

USDA's Animal and Plant Health Inspection Service (APHIS) — which, among other duties, works to resolve technical trade issues related to plant pests and animal diseases — would see its funds increased by about \$27 million to \$901.2 million compared to its FY2016 funding.

Part of the reason for the funding bump is to patch vulnerabilities relating to highly pathogenic avian influenza, an outbreak of which in 2015 resulted in a number of countries restricting their imports of U.S. poultry, the USDA budget summary explains.

Obama's budget proposal also provides a \$4.5 million increase from FY2016 levels to aid importers in filing Lacey Act declarations and maximize the number of products reviewed for compliance with the 2008 amendments to the Act, duties that are delegated to APHIS. The Lacey Act, which has been on the books since 1900, prohibits the importation of any wood harvested in violation of "foreign law."

The act was amended in the 2008 farm bill to include a declaration requirement for imports of any wood product to identify its genus, species and the country in which it was harvested, and the administration in its budget proposal argues the additional funding "should help prevent the importation of products derived from illegally harvested timber."

The budget also sets aside \$4.2 million for enforcement of country of origin labeling (COOL), but explicitly notes COOL requirements for beef and pork were eliminated in the 2016 omnibus funding bill (*Inside U.S. Trade*, Dec. 25).

That change came about after Mexico and Canada were authorized by the World Trade Organization to impose roughly \$1 billion in trade retaliation against U.S. products over COOL for beef and pork, which the two countries had proved violated WTO rules. COOL still applies to other meat and produce.

U.S., Peru Discuss Implementation Of FTA Enviro Chapter, Forestry Issues

U.S. and Peruvian officials held meetings in Washington early this week on the implementation of the environment chapter contained in the bilateral free trade agreement between the two countries, according to both governments.

"USTR met with several Peruvian Government officials with environmental responsibilities including forestry this week," a spokesman for the agency said in a Feb. 11 emailed statement.

A notice in the Feb. 6 edition of Peru's official newspaper, *El Peruano*, said the Peruvian embassy had set up meetings between the U.S. and Peruvian governments for Feb. 8-9 during which officials will discuss "aspects linked to the implementation" of the FTA's environment chapter, without providing further details.

A number of issues pertaining to Peru's implementation of its environmental obligations under the FTA have cropped up in the past couple years. Among these are issues related to the core environment text as well as the forestry annex aimed at cracking down on illegal logging.

On the core text, the U.S. has previously complained to Peru about a package of laws it enacted in 2014 aimed at promoting foreign investment by rolling back environmental regulations. U.S. environmental groups have claimed that this legislation violates the FTA environment chapter, particularly its obligation in Article 18.3.2 not to waive or derogate from its environmental laws in a way that reduces protections.

USTR General Counsel Tim Reif said in May 2015 that the agency was evaluating whether FTA dispute settlement was an appropriate tool for dealing with the situation (*Inside U.S. Trade*, Aug. 21, 2015).

On the forestry annex, documents circulated by the Peruvian government last fall showed that, as of mid-2014, Lima had still not fully implemented 10 of its 29 obligations under the annex. Among those obligations were strengthening

Peruvian institutions involved in forestry management like forestry oversight agency Osinfor and the Ministry of Agriculture (*Inside U.S. Trade*, Oct. 2, 2015).

Last month, the Environmental Investigation Agency (EIA), a U.S.-based non-governmental organization, criticized the Peruvian government's decision to fire Osinfor chief Rolando Navarro. In a Jan. 15 press statement, EIA said the decision by Peruvian President Ollanta Humala came after pressure and threats by the Peruvian timber industry, which opposed the agency's efforts to crack down on illegal logging.

The U.S.-Peru meetings this week coincided with a Feb. 8 event organized by the Peruvian embassy and the Inter-American Development Bank titled, "Sustainable Management of Forests in Peru: Achievements and Challenges."

The new Osinfor director, Maximo Salazar, was slated to take part in that panel, according to a Feb. 4 resolution from the Peruvian council of ministers. The resolution did not say whether Salazar would participate in any of the meetings with U.S. government officials.

Senate Sends Customs Bill To Obama's Desk; President Set To Sign

The Senate on Feb. 11 approved the conference report on the long-pending customs bill (H.R. 644) by a vote of 75-20 after reaching a deal to overcome a procedural objection by senators including Minority Whip Richard Durbin (D-IL) to an Internet tax provision in the customs legislation.

Those senators had threatened to block cloture on the customs bill or raise a point of order absent assurances that a separate piece of legislation that allows states to impose taxes on goods purchased on the Internet would be considered by Congress. That bill is known as the Marketplace Fairness Act (MFA).

But they dropped their objections to the customs bill after Senate Majority Leader Mitch McConnell (R-KY) committed that the Senate would take up the MFA before the end of the year. House Speaker Paul Ryan (R-OH) has also pledged to bring up the MFA in the House, Senate Minority Leader Harry Reid said in a Feb. 11 floor speech.

White House Press Secretary Josh Earnest praised Senate passage of the customs conference report, which the House approved Dec. 11, and said that President Obama intended to sign the legislation into law.

Earnest praised the legislation because it "would strengthen trade enforcement at our ports and borders and improve our ability to stop evasion of our trade laws; improve transparency, accountability, and coordination in enforcement efforts; and give us unprecedented new tools to address unfair currency practices."

At the same time, Earnest said there are provisions in the customs bill that the administration does not support, although he only specified language that "contravenes longstanding U.S. policy towards Israel and the occupied territories, including with regard to Israeli settlement activity."

This is an apparent reference to Section 909 of the bill, which is aimed at urging the U.S. government to oppose policies by foreign governments to boycott, divest from, or sanction Israel. This section includes language requiring the president to submit to Congress an annual report that includes a "description of specific steps being taken by the United States to prevent investigations or prosecutions by governments or international organizations of United States persons solely on the basis of such persons doing business with Israel, with Israeli entities, or in Israeli-controlled territories."

The White House and pro-Palestinian groups oppose this language because it lumps the Palestinian territories together with Israel, which they view as legitimizing Israeli control over those territories.

U.S. Trade Representative Michael Froman also lauded the passage of the customs bill, saying that it would help the administration enforce the Trans-Pacific Partnership (TPP), which the administration wants Congress to pass this year.

"Coming on the heels of negotiating TPP, the highest-standard trade agreement in history, this bill will further boost enforcement of the groundbreaking intellectual property, labor, environment, and many other fully enforceable commitments we've secured," Froman said in a Feb. 11 statement.

In his floor speech, Reid slammed the customs bill for removing language the Senate version of the bill had that encouraged the Commerce Department to investigate currency manipulation as a countervailable subsidy. He also criticized language that makes it a principal negotiating objective of the U.S. to ensure that trade agreements do not establish obligations for the U.S. regarding greenhouse gas emissions measures, other than those that fulfill other U.S. negotiating objectives.

"The conference report on customs misses the opportunity to take strong action against currency manipulation. The bill we sent out of here had strong currency manipulation language in it. It's not there anymore," Reid said. "The customs bill does not do enough to enforce our trade agreements or protect American workers, and I will oppose it."

Ahead of the Senate vote, the AFL-CIO and U.S. business groups issued opposing "key-vote" alerts on the bill, formally known as the Trade Facilitation and Trade Enforcement Act.

The AFL-CIO on Tuesday urged senators to oppose the conference report, based on the argument that it contains weak provisions on currency manipulation, prevents free trade agreements from including meaningful commitments on climate policy, and bars states and local authorities from imposing taxes on internet access.

By contrast, the U.S. Chamber of Commerce and the National Association of Manufacturers (NAM) urged approval of the bill, arguing it would facilitate trade and provide additional tools to protect U.S. intellectual property rights.

NAM and the American Iron and Steel Institute also favored the bill because of its provisions to set up a new process for Customs and Border Protection to respond to complaints regarding evasion of U.S. trade remedy duties.

Despite Market Access Gains, U.S. Poultry Still Locked Out Of Malaysia

Despite declaring their support for the Trans-Pacific Partnership (TPP), U.S. poultry producers are complaining that access to the Malaysian market promised under the deal is essentially meaningless because of their inability to secure crucial certifications showing compliance with Malaysia's halal meat requirements.

Under TPP, Malaysia granted TPP countries a 20,000 metric-ton tariff-rate quota (TRQ) for frozen chicken cuts and offal, and a 400 metric-ton TRQ for frozen whole chicken. Imports enter duty-free within these TRQs, while the over-quota tariff rate is 40 percent. The over-quota tariff rates will be reduced to 20 percent over 11 years for frozen cuts and offal and over 16 years for frozen whole chicken.

But the USA Poultry & Egg Export Council (USAPEEC) and the National Chicken Council (NCC) argued in joint testimony submitted to the U.S. International Trade Commission in January that Malaysia's unwillingness to authorize U.S. poultry facilities as eligible to produce halal products effectively quashes those market access gains.

TPP's market access gains are "essentially irrelevant so long as Malaysia continues to require halal slaughter for all imported poultry, and at the same time refuses to certify U.S. plants," they said. "At the current time, our industry can see no advantage gained by the TPP negotiations in terms of accessing the Malaysian market."

The industry is not opposing the halal requirements as such, and U.S. poultry processors have complied with halal certifications to export to other markets such as Saudi Arabia successfully. But the industry says that Malaysia's certifications are much more stringent — requiring not only that processors use Islamic cleaning procedures, but that they also maintain separate halal facilities from those used to produce non-halal meat.

It is not clear how many U.S. processors have been willing to take on the economic cost of creating separate facilities in order to export to Malaysia, a relatively small export market. The Islamic Food and Nutrition Council of America and Islamic Services of America, the two U.S. entities that are authorized to certify for the Malaysian market, did not respond to requests to explain why U.S. companies have failed to meet their requirements.

Obtaining authorization to export poultry to Malaysia is a two-step process. First, a U.S. facility must receive authorization from the Malaysian halal regulatory authority, known as JAKIM. Second, each individual shipment of products intended for Malaysia must receive a halal certificate from one of the two U.S. halal-certifying entities. Those entities must also be approved by JAKIM to provide such certificates.

One U.S. industry source charged that, despite efforts by firms to meet Malaysia's standards, Malaysian officials have used the halal certification process as a way to simply block imports from the U.S. in order to shield the country's domestic poultry industry from competition.

In their testimony, USAPEEC and NCC note that the one U.S. turkey plant that has successfully been recognized by Malaysia's halal regulatory authority as eligible to export to Malaysia still has not been able to obtain the necessary certification from the U.S. certifying entity, for reasons that are unclear.

"Although U.S. companies have been attempting to access the Malaysia market for at least a decade, to date only one turkey plant has been certified and it has not yet been able to export to Malaysia," they said.

In addition to TPP failing to resolve this issue, TPP's chapter on sanitary and phytosanitary (SPS) measures contains novel language on halal that — according to one industry source familiar with the issue — could make it harder for the U.S. to unravel this issue in the future.

Article 7.3 of that chapter states: "Nothing in this Chapter prevents a Party from adopting or maintaining halal requirements for food and food products in accordance with Islamic law."

The source said that previously, the U.S. has seen halal requirements as technical measures, not SPS measures, as they not necessarily related to protecting human, animal or plant health. He argued this new language conflates the two, and could give Malaysia a way to fend off complaints over its stringent halal requirements.

Generally, the SPS chapter requires a country's measures to conform to relevant international standards, guidelines or recommendations. The Codex Alimentarius Commission, a key international food safety standard-setting body, maintains guidelines on the use of the term "halal" that allow halal foods to be prepared, processed, transported or stored using facilities which have been previously used for non-halal foods — provided that proper cleaning procedures, according to Islamic requirements, have been observed.

Article 7.3 of the SPS chapter, however, would appear to give Malaysia a way to dismiss any complaint that its requirement for the use of completely separate facilities goes beyond international standards.

The Malaysian Ministry of International Trade and Industry (MITI) in a FAQ posted on its TPP webpage clarified that TPP does not impinge on its current halal certification system and does not prevent it from adopting new policies in the future.

"TPP parties recognized that existing halal requirements can be maintained, while new halal requirements on the importation of food products can be adopted. This recognition enables Malaysia to continue conducting halal audits/inspection at overseas establishment, and requesting halal certificates for importation of food products, as part of halal assurance programme.

But the NCC and USAPEEC blasted Malaysia's halal requirements as violating international trade rules. "In our

view, Malaysia's policy of requiring halal slaughter for all imported poultry, coupled with its practice of refusing to accept halal certification for U.S. product, constitutes a restrictive regulation of trade in contravention of internationally understood standards for a free trade area."

Despite all of this, the poultry industry remains overall supportive of TPP, chiefly because of the improved potential for expanded market access in Japan and Vietnam. In TPP, Japan is obligated to remove tariffs of 11.9 percent on whole frozen chicken, frozen chicken pieces, and offal, and an 8.5 percent tariff on bone-in leg meat, over 11 years.

Japan will also phase-out tariffs on a number of egg products over different periods, and immediately eliminate a 3 percent tariff on turkey and turkey offal. Vietnam is slated to eliminate a 40 percent tariff on whole frozen chicken and a 20 percent tariff on frozen chicken cuts and offal, over 13 and 11 years, respectively.

At the same time, the industry in its testimony complained about weak improvements to access to the Canadian market, arguing that TPP hardly goes beyond current U.S. access to that market. Under TPP, Canada will expand its TRQ for chicken from 3,917 metric tons to 23,500 MT by year six. That TRQ will then expand at rates between 1-3% annually until it reaches 26,745 MT at year 19, at which point its growth will stop.

Canada's turkey TRQ will expand from 583 MT to 3,500 MT by year six and then stop expanding at year 19 when it hits 3,983 MT, following a similar annual growth rate as the chicken TRQ.

Canada's egg TRQ growth follows the same pattern as the turkey and chicken TRQs. The TRQ expands from 2,783,333 dozen eggs to 16,700,000 dozen eggs by year 6. The TRQ tops off at 19,006,158 dozen eggs in year 19.

"Under TPP, our access to the Canadian market will grow only very modestly," USAPEEC and the NCC said in their testimony. "The TPP was the opportunity to correct a 30 year-old mistake, and very frankly, the results of this negotiation are disappointing in that regard, instead of free trade in poultry and egg products, we have small increases in quotas over a very long period of time."

WTO Members Brainstorm On Future Agenda, But Consensus Is Elusive

World Trade Organization members are holding informal talks on the body's negotiating agenda for 2016 in various small group and bilateral meetings, but a small contingent of developing countries including India is resisting proposals to bring in new issues that were not a part of the Doha round, according to Geneva sources.

In a WTO ambassadors' meeting on Wednesday (Feb. 10), the future of the WTO's agenda was discussed by the organization's full membership for the first time since the Dec. 15-19 ministerial in Nairobi, Kenya. During that session, most countries expressed a willingness to discuss new issues, sources present at the meeting said.

Countries that generally agree with this approach are planning over the next two weeks in Geneva to further discuss their negotiating priorities, which will then filter into talks led by the chairs of the various negotiating groups.

No specific timetable has been laid out for any of these meetings, but the chairs are ultimately expected to whittle down the areas of focus that will form the negotiating agenda for this year, sources said. Activity in Geneva is not expected to pick up ahead of a scheduled Feb. 24 General Council meeting, sources said (*Inside U.S. Trade*, Jan. 29).

Although specific new issues were not raised in the Feb. 10 meeting, members have previously expressed interest in adding e-commerce and investment to the WTO's agenda.

But there is no consensus on whether new issues should be discussed, and India, Bolivia, Cuba and Uganda this week raised objections to the idea of introducing non-Doha agenda items. Sources said that at the Feb. 10 meeting, India was the most ardent in its opposition to adding items on the agenda, and argued the WTO should focus on the items singled out for future work in the decisions that were adopted at the end of the Nairobi ministerial.

Those include the negotiation of a special safeguard mechanism (SSM) that could be used by developing countries if they experience a surge in agricultural imports, and a final resolution on the issue of whether public stockholding programs for food security purposes can be challenged under WTO rules.

Bolivia was critical to the idea of adding new items on the agenda, and also instead expressed dismay with the current negotiating process at the WTO. The country's representative noted that Bolivia was shut out of the talks in Nairobi, along with most other WTO members, and that all the decisions were driven by the so-called G-5 countries — the United States, European Union, China, India and Brazil.

In response to this point, WTO Director-General Robert Azevedo stressed the importance of the multilateral process producing more outcomes in Geneva instead of all of the negotiations taking place in the throes of a brief ministerial conference, sources said.

Members need a consensus to formally add a new issue to the WTO's negotiating agenda. For now, that appears elusive, although one Geneva source said the divisions among members on new issues is no longer split along the traditional lines of developed versus developing members.

For instance, China has expressed an interest in incorporating investment into the WTO's negotiating agenda. China discussed this outside the context of the WTO at a Jan. 29 G20 "Trade and Investment Working Group Meeting" that included talks on how the WTO could address these issues. China has scheduled two more meetings of the working group in April and July.

House Speaker Says TPP Would Not Pass Congress If Voted On Now

House Speaker Paul Ryan (R-WI) said this week there is insufficient support in Congress right now to pass the Trans-Pacific Partnership (TPP), offering a yet another sign that the trade deal will not be taken up by lawmakers any time soon.

In a Feb. 9 interview with *The Journal Times* of Racine, Wis., Ryan said he thinks “there are enough concerns about this agreement, some that I also have, where I don’t see enough support for it right now.”

“So I don’t see the votes for TPP in Congress today given the multitude of concerns that have been brought forth about the actual contents of the agreement,” he added. The speaker’s comments to the *Times* were confirmed by his office.

The issues flagged most by House Republicans about the TPP deal are the market exclusivity term for biologic drugs, which some believe is too short; the carveout of tobacco control measures from investor-state dispute settlement; and the exclusion of the financial services sector from a general ban in TPP on data localization requirements.

In December, Ryan said House Republicans were still weighing whether TPP reflects the necessary “ambition,” but that if they decide it does, they will move to pass the deal as soon as possible.

At that time, he held open the possibility then that the deal could still be voted on in 2016, but declined to say at what point during the year that might take place.

Congress Approves Judicial Redress Act, In Boost For New U.S.-EU Data Deal

Congress this week approved the Judicial Redress Act, a bill that is key to the U.S.-European Union data transfer deal agreed to earlier this month and will allow EU citizens to sue the U.S. authorities over claims of personal data mishandling.

The Senate passed the legislation on Feb. 9, and that version was agreed to by the House on Feb. 10. It contains an amendment that effectively links this new right for EU citizens to the finalization of the data transfer deal, dubbed the EU-U.S. Privacy Shield (*Inside U.S. Trade*, Jan. 29).

The deal would allow the continued lawful transfer of EU citizens’ data to the U.S. after its predecessor, called Safe Harbor, was invalidated by the EU high court last October. Securing passage of the Judicial Redress Act was something that the European Commission had linked politically to the conclusion of the talks on the Privacy Shield, but it also has substantive implications for the legal soundness of the privacy framework as well.

The European Court of Justice, in its October 2015 ruling, cited the European Commission’s failure to take into account the lack of effective redress for data mishandling claims in the U.S. as one reason for invalidating the framework, the U.S. tech industry source noted.

EU member state data protection authorities (DPAs) have said they will judge the Privacy Shield deal in part on whether EU citizens are given effective remedies to defend their rights in the U.S. (*Inside U.S. Trade*, Feb. 5). The DPAs do not technically have the authority to reject the data transfer deal, but their opinion carries political weight.

The European Commission is still in the process of final-

izing the text of the “decision” that will give legal force to the Privacy Shield, but officials have said the agreement will also include new ways for EU citizens to resolve complaints about how companies handle their data.

European Commission Announces Stakeholder Events For Next TTIP Round

The European Commission this week announced that it will host stakeholder presentations during the 12th Transatlantic Trade and Investment Partnership (TTIP) negotiating round in Brussels the morning of Wednesday, Feb. 24, to be followed in the afternoon by a chief negotiators’ briefing.

Stakeholders must register to present by 6 p.m. Brussels time on Feb. 15. The stakeholder presentations will be split into four groups. They cover industrial goods and regulatory issues; food and agriculture; services, investment and government procurement; and rules issues like intellectual property rights.

At the round this month, EU Trade Commissioner Cecilia Malmstrom said on Feb. 2 that the two sides at the next round will discuss procurement, services, and the EU’s proposal for an international investment court, which was tabled in October 2015. They are expected to exchange their first procurement market access offers before the round, but sources said the level of ambition expected from the U.S. offer is unlikely to be sufficient to start end-game discussions.

The commission has also planned a press briefing at the close of the TTIP round on the afternoon of Friday, Feb. 26

Beijing Pushes Back On Obama’s China Rhetoric In TPP Sales Pitch

A Chinese government spokesman last week shot back at repeated claims by the Obama administration that the Trans-Pacific Partnership (TPP) will allow the United States — and not China — to write the “rules of the road” for trade in the global economy.

Lu Kang, spokesman for the Chinese Foreign Ministry, argued in a Feb. 5 press briefing in Beijing that no one country alone can write global trade rules, saying that role is played by the World Trade Organization. He also took a swipe at the Obama administration for trying to make the case for TPP using an anti-China message.

“There is no need to politicize the economic issue. Don’t make people feel that the U.S. is pursuing some political ends throughout the process of promoting the TPP,” Lu said, according to a transcript. “Remarks as such will mislead the public and do harm to state-to-state relations.”

Lu also made a thinly-veiled dig at the U.S. over its level of commitment to the multilateral trade system and the WTO. Beijing has made similarly critical comments in the past directed toward Washington (*Inside U.S. Trade*, Dec. 11, 2015).

“We have never thought that China or any other specific country could decide by itself how to write the rules or agenda of global trade in the 21st century,” he said.

“We always maintain that the World Trade Organization [should] play a leading role in making global trade rules, and hope that major trading powers and economies would stay committed to upholding the role of the WTO.”

Administration Makes Pitch For New Cuba Ag Office In Budget Proposal

President Obama's proposed budget for the fiscal year 2017 includes increased funding for the U.S. Department of Agriculture (USDA) to open an office in Cuba, a move that the agency says will better allow U.S. agricultural exporters to tap an important market.

Obama's proposal grants the Foreign Agricultural Service (FAS) — the branch of USDA tasked with promoting U.S. agriculture exports — \$196.6 million, an increase of \$5 million from the enacted 2016 budget. According to a budget summary from USDA, some of that extra cash will be devoted to opening "an overseas post in Cuba."

According to the summary, Cuba in 2014 imported over \$2 billion in agriculture produce with \$300 million coming from the U.S. USDA argues that an in-country presence will better position the U.S. agriculture industry to snatch up more of that market share.

The budget summary said the funding would provide for "an in-country presence in Cuba to cultivate key relationships, gain firsthand knowledge of the country's agricultural challenges and opportunities, and develop programs for the mutual benefit

of both countries.

Agriculture Secretary Tom Vilsack, speaking to reporters on a conference call Tuesday (Feb. 9), said that absent direction from Congress, USDA cannot allocate its existing resources to open the proposed Cuban office. "I don't think that we currently have the authority, absent some direction from Congress, to be able to use existing resources within the USDA budget to fund personnel. That's why we're asking for this in the appropriations process," he said.

"[W]e think it is important for Congress to consider this and we think that there's a broad base of support within the agricultural community for expanded Cuban opportunities," the secretary added.

Vilsack argued that placing personnel in Cuba would better position U.S. agriculture exporters to more fully tap into that market if Congress acts to lift the current trade embargo.

"In the past, we controlled roughly 50 percent of [Cuba's agricultural import] activity. Today, it's significantly less than that because of the embargo, because of the difficulties in the way in which credit is managed, and because frankly we don't have anybody in country to work through some of the challenges and difficulties that normally arise in any trading relationship," Vilsack said.

Stakeholders Differ On U.S. Impact Of TPP's 'Rapid Response Mechanism'

The Trans-Pacific Partnership (TPP) chapter on sanitary and phytosanitary (SPS) measures contains provisions aimed at allowing traders to lodge complaints when shipments are stopped at the border for food safety or health reasons, but a food safety advocate and an industry consultant this week differed on whether this would require changes to current U.S. practice.

The provisions — found in Article 7.11 at paragraphs 6-8 of the SPS text — have been commonly referred to as a "rapid response mechanism." They establish two basic obligations: that relevant parties be informed within seven days when a shipment is stopped by an importing party, and that the importing party provide an opportunity for the decision to restrict the shipment to be reviewed.

While U.S. compliance with the notification requirement does not appear in doubt, both the food safety advocate and the industry consultant said they view the legal language containing the latter obligation as vague regarding the nature of this review, leaving who may request it and who must conduct it somewhat unclear. This makes it difficult to know whether the U.S. would already be viewed as in compliance with this obligation.

Specifically, Article 7.11.8 says, in part: "An importing Party that prohibits or restricts the importation of a good of another Party on the basis of an adverse result of an import check shall provide an opportunity for a review of the decision and consider any relevant information submitted to assist in the review."

Patrick Woodall, research director at the consumer advocacy group Food & Water Watch, argued in a Feb. 8 interview that this language would appear to require the U.S. to set up a new "quasi-judicial" mechanism that would allow companies — in addition to governments — to push back against legitimate decisions by inspectors for the Food & Drug Administration (FDA) or Customs & Border Protection (CBP).

While acknowledging that any importer is likely to complain informally about a shipment being detained, this type of process "has more weight and is more threatening," Woodall said. "So that's going to mean that FDA and [CBP agriculture] inspectors are going to have colder feet about shipments that they think are suspicious."

This same argument has been made by Rep. Rosa DeLauro (D-CT), a vocal opponent of TPP, who has warned that this "new right" would put U.S. food safety in jeopardy (*Inside U.S. Trade*, Nov. 20, 2015).

But Benjamin England, owner of FDAImports.com, an international consulting and law practice focused on food and drug imports, argued in a Feb. 10 interview that FDA already allows for the type of review that could likely be interpreted as living up to the requirements of Article 7.11.8.

While acknowledging that the TPP language is somewhat vague, England said that FDA rules allow an importer or broker to submit information countering the reasons cited by an inspector for detaining a shipment. This usually happens between 14 and 21 days, he said. Generally speaking, FDA then has the option to accept these arguments and release the shipment, or to disagree and order it to be re-exported or destroyed.

Furthermore, under 21 CFR 10.75, a decision by an FDA employee is subject to review by that employee's supervisor upon a request by an "interested person outside the agency," noted England, who previously served as regulatory counsel to FDA's associate commissioner for regulatory affairs. This provides another layer of review, although there is

no timeframe established under the regulation.

Darci Vetter, chief agricultural negotiator in the Office of the U.S. Trade Representative, at a Feb. 11 public event on TPP hosted by the Washington International Trade Association dodged a question about whether the TPP SPS chapter's obligations would require changes to current U.S. laws or regulations.

Instead, Vetter emphasized that nothing in the chapter would require the U.S. to change its food safety standards. She noted that, in general, the TPP SPS chapter does not require the U.S. or any other TPP countries to change the level of protection they deem appropriate. However, the TPP chapter as well as the WTO SPS agreement require that countries must demonstrate the level of protection they choose is applied in a way that is not discriminatory and is backed up by science and risk analysis, she said.

She also emphasized that FDA and other regulators from the U.S. Department of Agriculture — which advises CBP on border inspection matters — were involved in the negotiations for the TPP SPS chapter, although USTR took the lead.

“U.S. regulators were at the table looking at whether in fact those new SPS rules would allow us to be able to keep and maintain and implement the high food safety and animal and plant health standards that we have here. So that has been the process throughout,” she said.

The review mechanism in the RRM contained in the trade deal does not go as far as some agricultural industry groups had advocated in the earlier stages of the TPP negotiations.

A previous industry proposal foresaw the review being conducted by “neutral experts” from TPP countries and finalized within 15 days. The review would yield a non-binding, public recommendation. If the importing party still failed to lift the restriction after the neutral expert report, then the government of the exporting party could move on to invoke the normal TPP dispute settlement process (*Inside U.S. Trade*, May 24, 2013).

One source close to the U.S. agriculture industry took a skeptical view of the RRM provisions. He said that many countries already routinely inform traders when a shipment is stopped through some means. This source further argued that it would be difficult for traders to hold governments accountable to the review requirements in time for a shipment of perishable goods to be salvaged.

He noted that the consultative and dispute resolution timelines in TPP's SPS and Dispute Settlement chapters stretch over months, and are not likely to be used to challenge a country's failure to follow the RRM procedure in one specific instance. “We're not going to have dispute settlement if Vietnam pulls something off the line and doesn't do this,” he said.

Trumka Pledges To Hold Lawmakers Accountable For Lame Duck TPP Vote

AFL-CIO President Richard Trumka this week said the labor federation would hold lawmakers accountable in future elections if they cast a vote in favor of the Trans-Pacific Partnership (TPP) during a lame-duck session on Congress, saying unions will not forget how they voted.

“They think, well there's enough time for our [representatives] to recover over the next two years or if you're a Senator, two, four, six years,” Trumka said at a Feb. 3 press conference accompanied by Democratic representatives and civil society groups that oppose TPP. “Well we're not gonna forget, and we're not going to let the American worker forget, and I think that they'll have a tough time explaining that vote to workers that have lost jobs, that have seen manufacturing devastated, that sees tax dollars being reduced that sees regulations under assault.”

At the same time, Trumka signaled that the AFL-CIO was not mounting a nationally coordinated campaign to use congressional primaries to defeat Democratic lawmakers who have not taken a position on TPP, saying decisions on supporting such candidates would be made by local affiliates.

“I don't get to make and I don't want to make those decisions,” he said. “Those types of decisions are made by our members on the ground that live in district where a House member has betrayed their best interests and they are going to make that decision.”

“We'll work together, we'll coordinate our efforts, we'll help them in either way but they'll ultimately make that decision about whether they want to primary somebody, withhold support for somebody, or just actively work somebody. Those will all be made by local people and we'll encourage them to do that,” he said. “There's no generalized answer, there's no cookie cutter answer.”

Prior to congressional consideration of the fast-track bill last June, the AFL-CIO withheld all campaign contributions to lawmakers until after that vote and made future funding contingent on voting against it (*Inside U.S. Trade*, March. 6, 2015).

At the Feb. 3 press conference, Trumka argued that Congress does not want to vote on TPP until after the November election because the deal is unpopular with constituents and could tip the scales in the polls.

“They don't want Senators and House members to vote yes or no because they know if they vote against it they're going to get beat at the polls and if they vote for it they're gonna lose their corporate donors and wall street donors. So they want to put it after the election so they think we'll forget,” he said.

Trumka was joined at the press conference by Reps. Rosa DeLauro (D-CT), Lousie Slaughter (D-NY), Debbie Dingell (D-MI) and Tulsi Gabbard (D-HI), as well as MoveOn's Washington director Ben Wikler and Debbie Sease, the Sierra Club's senior lobbying and advocacy director. All of the participants oppose TPP (*Inside U.S. Trade*, Feb. 5).

They spoke in front of stacks of boxes that they said held over 1 million petitions rejecting TPP.

At Dem Debate, Clinton Hints She Would Seek TPP Changes If Elected

Democratic presidential candidate Hillary Clinton during a televised debate last week hinted that, if elected, she would seek changes to the Trans-Pacific Partnership (TPP). She did so by reiterating that she does not support the deal in its current form and noting that, as secretary of state under President Obama, she helped renegotiate the U.S.-Korea free trade agreement that was inherited from the previous administration.

“I did help to renegotiate the trade agreement that we inherited from President Bush with Korea,” Clinton said in the Feb. 4 debate. “We got the [United Auto Workers union] on board because of changes we made. So there are changes [to the TPP] that I believe would make a real difference if they could be achieved, but I do not currently support it as it is written.”

Although Clinton did not specify what changes she would make, she has previously opposed the failure of the agreement to address currency manipulation as well as its pharmaceutical provisions (*Inside U.S. Trade*, Oct. 9, 2015).

Clinton at the debate signaled that, beyond changes to TPP, she would seek additional domestic measures to strengthen the safety net for U.S. workers and improve the competitiveness of the U.S. economy. “We have failed to provide the basic safety net support that American workers need in order to be able to compete and win in the global economy. So it’s not just what’s in the trade agreement that I’m interested in,” she said.

She also made clear that she supports trade, but that it must be reciprocal. “Now I have a very clear view about this. We have to trade with the rest of the world. We are 5 percent of the world’s population. We have to trade with the other 95 percent. And trade has to be reciprocal. That’s the way the global economy works,” Clinton said.

She said she had been holding out hope that she would be able to support the TPP and that it would “put to rest a lot of the concerns that many people have expressed about trade agreements.” But she said that once she saw what the outcome was, she opposed it.

Clinton has previously said her three general criteria for evaluating the TPP were whether it would create American jobs, raise wages and advance national security.

At the debate, she pointed out that she voted against the Central American Free Trade Agreement when she was a senator in 2006 because she “did not believe it was in the best interests of the workers of America, of our incomes.”

Clinton was responding to a question by the debate moderator about whether, given her track record, Democrats should expect that she would support trade agreements like the TPP once elected. The moderator noted that she supported the North American Free Trade Agreement (NAFTA) in the 1990s, but opposed it when she ran for president in 2008.

Sen. Bernie Sanders (I-VT), Clinton’s rival for the Democratic presidential nomination, during the debate continued to contrast his position on trade with that of Clinton, noting that he has opposed all trade agreements since NAFTA. “I was not only in opposition to NAFTA — and this is an area where the secretary and I have disagreements. I was not only in opposition to NAFTA, I was on the picket line in opposition to NAFTA because I understood” its impact, he said.

Sanders was challenged by the debate moderator to explain how he would stop China from setting the rules on global trade if he did not move forward with the TPP, echoing the Obama administration’s argument for the deal.

Sanders did not respond directly to that question. Instead, like Clinton, he stressed that he believes in trade, but that it must be fair and it must work for the middle class and working families as well as corporations.

He argued that the trade agreements the U.S. had concluded in the past 30 years had resulted in jobs being outsourced to countries like China and downward pressure on U.S. wages. “Workers today are working longer hours for lower wages. Trade is one of the reasons for that,” he said.

Sasae Claims Pork Program Won’t Undermine TPP . . . begins on page one

Tiberi sits on the House Ways & Means Committee and Ashford is one of the 28 House Democrats who voted for fast track last year.

The draft letter represents the most explicit threat to date that the Japanese pork subsidy program could sap support for TPP in Congress. Industry sources had previously said that U.S. pork producers’ opposition to the Japanese subsidy plan had cast doubt on whether they would continue their fervent support for TPP (*Inside U.S. Trade*, Jan. 8).

The letter reiterates complaints by National Pork Producers Council (NPPC) that the proposed expansion of the Japanese pork subsidy program could undermine the market access gains that the industry had expected under TPP.

But Japanese Ambassador Kenichiro Sasae this week publicly rejected that notion and went on to insinuate that it is hypocritical for U.S. pork producers to attack Japan’s subsidies because he argued they also benefit from U.S. agricultural subsidies.

“I don’t believe that all this support will be harmful to the future market access and all these programs are part of the trade adjustment like you do here, too,” Sasae said at a Feb. 9 event on U.S.-Japan relations on Capitol Hill. He was asked to respond to criticisms of the subsidy program lobbied by U.S. pork producers.

Sasae also made the point that Japan’s agricultural subsidy programs are consistent with World Trade Organization rules. “I think our agricultural support program is consistent with the WTO, as your agricultural support program is. And

you support a lot, we all know, grains and so forth, and they are also used by the pork producers, too,” he said.

More broadly, he argued that TPP would provide a “big market access improvement” for U.S. agricultural exports to Japan, and said it would be a mistake to reject this positive outcome of the negotiations.

Darci Vetter, chief agricultural negotiator in the Office of the U.S. Trade Representative, this week said the Obama administration is working with the NPPC and the Japanese government to clarify the details of the subsidy program, but stopped short of saying the U.S. was seeking changes to it (see related story).

She also argued that the TPP agreement represents a huge opportunity for U.S. pork producers regardless of the subsidy program due to structural changes it will bring to the way U.S. exporters approach the Japanese market.

In his speech at the event, Sasae urged Congress to approve TPP on the grounds that it would improve the U.S. and Japanese economies, strengthen the global economy, and represent a major achievement for U.S.-Japan relations. He acknowledged that there are some “debates” about the outcomes for specific sectors in TPP, but emphasized that in every trade agreement nobody gets 100 percent of what they wanted.

In terms of Japan’s ratification process, Sasae said he hopes that the TPP implementing legislation will be submitted to the Japanese Diet during its current session, which ends in June, adding that the goal is to then secure approval as soon as possible.

The Japanese government is aiming to submit the legislation expanding the pork subsidy program to the Diet along with the TPP implementing bill, a Tokyo source said earlier this month (*Inside U.S. Trade*, Feb. 5). Another source signaled that the Diet would not take up these bills immediately, as its biggest priority right now is passing a budget before the Japanese fiscal year begins on April 1.

The draft congressional letter’s request to delink the subsidy payments from production indicates that the NPPC and its congressional allies are seeking changes to the program rather than its elimination. The letter also says the lawmakers understand that Japan’s pork producers will need some kind of help to adjust to greater foreign competition once TPP is implemented.

The proposal from the Japanese government would expand an existing safety net program, which is designed primarily to ensure that the country’s hog farmers can remain competitive in the market despite their relatively higher input costs.

The scheme currently covers 80 percent of the difference between a hog farmer’s total production costs and the actual sale price, if the farmer suffers a loss. Under the proposal approved by the Japanese Cabinet, however, this would be increased to 90 percent. The proposal would also increase the government’s share of funding the program to 75 percent from the current level of 50 percent.

“The income protection payments could artificially stimulate Japanese pork production, reducing the pork market access benefits provided by Japan to the United States and other nations under the TPP agreement,” the letter states.

“We understand that the Japanese government will need to help its pork producers through the TPP transition period, but we respectfully urge you to inform your government that this must be done in a manner that does not undermine TPP benefits and the trade concessions it negotiated with the U.S.,” it adds.

Dermot Hayes, an agricultural economist who has analyzed the Japanese proposal, told *Inside U.S. Trade* in January that the expanded program would essentially neutralize the market access gains for the U.S. pork industry under the trade deal.

But other sources familiar with the proposal say these estimates are exaggerated, given the smaller size of the Japanese pork industry and its higher input costs. — *Matthew Schewel*

Vetter: U.S. Clarifying Japanese Pork Subsidy Program With NPPC, Tokyo

A senior U.S. trade official said Thursday (Feb. 11) that the Obama administration is working with the National Pork Producers Council (NPPC) and the Japanese government to clarify the details of an expanded pork subsidy program that Tokyo plans to implement along with the Trans-Pacific Partnership (TPP), but stopped short of saying the U.S. was seeking changes to the program.

Darci Vetter, chief agricultural negotiator in the Office of the U.S. Trade Representative, also argued that the TPP agreement represents a huge opportunity for U.S. pork producers regardless of the subsidy program, due to structural changes it will bring to the way U.S. exporters approach the Japanese market.

“We are obviously aware of NPPC’s concerns [about the subsidy program] and are working with them to look at their understanding of the program,” Vetter said at an event on TPP’s impact on the agriculture sector organized by the Washington International Trade Association.

“And we’ve talked to the government of Japan about how exactly that program operates both on paper and in practice to make sure at the start of this that we all have the same understanding of the facts and what incentives that that program may or may not actually create for Japanese pork producers,” she added.

She was responding to a question on whether the U.S. government was pushing Japan to modify the program and whether Japan is open to making changes. She did not answer the latter question.

Her comments come as two House lawmakers, supported by NPPC, are gathering signatures for a letter to the

Japanese ambassador arguing that Tokyo's plan to expand the pork subsidy program will cost votes for TPP in the U.S. Congress if it is not modified (see related story).

Vetter argued that TPP will fundamentally improve the way the U.S. sells pork into Japan in two ways. First, changes that Japan will make to its "gate price" system for fresh and frozen pork cuts under TPP will allow U.S. pork producers to market their product directly to their customers instead of going through a distributor, she argued.

Second, the eventual elimination of all tariffs and the gate price on processed pork products may make it more profitable for U.S. exporters of fresh pork to process their product in the U.S. and then export to Japan duty free, according to Vetter. This would create more jobs in the U.S., she argued.

"And so the dynamism in that pork market, because of how this deal was structured, I think presents huge opportunity regardless of this particular subsidy program," she said.

Under Japan's gate price system, shipments of fresh and frozen pork valued below 524 yen per kilogram face a variable levy that bring their price up to that level, although the maximum duty that can be applied is 482 yen per kilogram. Under TPP, Japan agreed to reduce that maximum duty level by 90 percent to 50 yen per kilogram by year 10.

Vetter explained that the current gate price system has led U.S. exporters to mix low-value and high-value pork in a single shipment so that the value of the shipment exceeds the gate price. This requires a Japanese distributor to unpack the shipments once they arrive in Japan and send the product to customers, she said.

Reducing the maximum duty applied to shipments under the gate price will allow U.S. exporters to ship only high-value cuts that could be marketed directly to their customers under promotions, according to Vetter.

Currently, "our pork producers don't have the opportunity to send one container of one cut and run a grocery store promotion and have a branded effort and a direct interface with their buyers," Vetter said. "And the ability to do that under TPP will really change the opportunity for U.S. pork to distinguish itself in that marketplace."

Some SPS Rules Exempt From Dispute Settlement . . . begins on page one

show not only that their measures are based on "documented and objective scientific evidence," but that they are also "rationally related" to that science.

No parallel provisions to these exist in the WTO SPS Agreement, but both of these obligations have been specifically exempted from dispute settlement through footnotes in the TPP text.

The TPP's SPS chapter also includes a range of new transparency and procedural commitments. Among these are new rules aimed at increasing transparency around the implementation of SPS measures, a new "rapid response mechanism" that aims to resolve problems that lead to shipments being detained, and new bilateral consultative proceedings that authorities must go through before launching any dispute.

There are differences of opinion over whether these provisions that go beyond the WTO SPS Agreement are commercially meaningful for U.S. agricultural exporters. While many in the U.S. agricultural industry have cheered the TPP's SPS chapter, others have expressed skepticism about whether it really will yield benefits.

U.S. food safety advocates, meanwhile, seem to agree with the industry that the changes from the status quo are meaningful, but argue that these tighter rules could be wielded against U.S. regulators in ways that would threaten domestic food safety regulations (see related story).

Granting "equivalence" is a way that regulators have long used to recognize the food safety systems of other countries and permit the import of regulated foodstuffs like meat. Article 4.1 of the WTO SPS Agreement establishes that members "shall accept the sanitary or phytosanitary measures of other Members as equivalent" if the exporting party can objectively demonstrate that its measures achieve the importing country's "appropriate level" of protection.

Article 4.2 of the WTO SPS Agreement — the only other paragraph in the agreement's brief article titled "Equivalence" — adds that members shall, upon request, enter into consultations with the aim of achieving bilateral and multilateral agreements on the recognition of equivalence.

The same core obligations are fleshed out in much more detail in TPP Article 7.8. For example, Article 7.8.2 requires that on the request of an exporting party, an importing party "shall explain the objective and rationale" of its SPS measure and "clearly identify" the risk that it seeks to address — an obligation that is not found anywhere in the WTO SPS agreement, but that is related to the goal of countries granting equivalency to each other.

But one of the most potentially significant novel TPP SPS provisions is found in Article 7.8.6, and expands upon the ways in which an exporting party may actually demonstrate how its measure is equivalent.

Subparagraph (a) of that article says that an importing party shall grant equivalency if the exporting party demonstrates objectively that its measure "achieves the same level of protection as the importing Party's measure" — the same at Article 4.1 as the WTO SPS Agreement.

However, subparagraph (b) says that the exporting party can also show its measure "has the same effect in achieving the objective as the importing Party's measure." That is novel language, but at the same time, it is explicitly exempted from dispute settlement through a footnote.

One source with deep knowledge of SPS issues saw subparagraph (b) as something of a mixed bag. On the one hand,

it could make it easier for exporting countries to obtain an equivalency determination for measures where an easy comparison to the importing party's measure is not readily made, this source said.

A potential example of that is an age-old fight between the U.S. and European Union over the color of slaughterhouse walls. EU regulations require slaughterhouse walls to be white, in order to ensure that no carcass material remains that would lead to a build up of bacteria. U.S. regulations do not have similar requirements, but surfaces must be cleaned every so often to ensure sanitary conditions.

Proving that the U.S. measure “achieves the same level of protection” as the EU measure is not straightforward, but proving that they have “the same effect” — producing meat that is safe to consume — might be more so, the source posited. On the other hand, subparagraph (b) is not enforceable through dispute settlement, meaning countries cannot hold each other's feet to the fire over this obligation.

Moreover, the fact that these two ways of proving equivalency are bifurcated in TPP suggests that there are some types of measures that fail to “achieve the same level of protection” even if they do have “the same effect.” This source argued that this has been a gray area in the WTO to date, and the TPP's provisions here may indirectly undermine the WTO's rules on equivalency.

Another provision that goes beyond WTO disciplines — but where the gains are not clear-cut — is Article 7.8.3. This article establishes that when an importing party receives a request for an equivalence assessment, it shall initiate the assessment “within a reasonable period of time.”

That latter language, however, leaves a lot of flexibility. In addition, the article says that an importing party only has to initiate the assessment after it “determines that the information provided by the exporting Party is sufficient,” leaving the importing party with an additional way to escape having to take action.

One further key piece of language that goes beyond WTO SPS rules but that is exempted from dispute settlement is found at Article 7.9.2, in a section titled “Science and Risk Analysis.” This paragraph requires parties' SPS measures to conform to “relevant international standards, guidelines or recommendations,” or if they do not, to ensure that they are “based on documented and objective scientific evidence that is rationally related” to the measures.

The parallel paragraphs in the WTO SPS Agreement are Article 3.1 and Article 5.1, which generally require WTO members to base their measures on international standards, guidelines or recommendations, and on an assessment of the risk to human, animal or plant life. There is no specific obligation in the WTO for the measures to be “rationally related” to the available scientific evidence.

But the fact that all of Article 7.9.2 is exempt from dispute settlement, whereas some of the same obligations can be challenged through the WTO, makes this aspect of the TPP arguably weaker than the WTO provisions in terms of enforceability.

Despite the dispute settlement carve-outs, a representative for the National Milk Producers Federation said in an e-mail that the dairy industry believes the TPP's SPS rules will ultimately be an improvement over the status quo.

“We realize what a challenge this chapter presented over the course of negotiations in order to ensure that it was sufficiently strong and enforceable while not creating potentially conflicting duplication in comparison with fundamental existing WTO obligations,” he said.

“We believe that at the end of the day the agreement enhances the ability to secure enforceable improvements in the SPS area in a way that will provide greater guarantees for U.S. agricultural exporters moving forward.”

One of other innovations in the TPP's SPS chapter is something called Cooperative Technical Consultations (CTC), a process established in Article 7.17 shy of full dispute settlement that allows parties to work out problems arising under the SPS chapter.

A request to initiate this process must be made in writing, and the responding party must generally acknowledge receipt within seven days. The first meeting on the issue must take place within 30 days — unless the parties agree otherwise — within the aim of resolving the matter within 180 days. All communications must be kept confidential.

A complaining party has to first clear the hurdle of going through the CTC before having recourse to the TPP's dispute settlement chapter. If a meeting does not take place within 37 days of a request, or after the meeting has been held to discuss the matter, then a party can start the dispute settlement process, which includes its own set of consultations.

While some in the U.S. agricultural industry see the CTC as a helpful way for problems to be worked out behind closed doors, others see it as potentially resulting in further delays because it introduces procedural hurdles that are not present in other chapters. — *Ben Hancock*

SEC, State Insurance Laws In Spotlight . . . begins on page one

“One of the issues here is the requirements of our regulators in terms of how they view what they need to have their [prudential] reviews of financial institutions,” Lew told Finance. “So as we are in an international space, we can’t give away something that our financial institutions, our financial regulators, would need here in the United States.”

He did not name any agencies in particular, but Treasury has previously cited rules by the Securities and Exchange Commission (SEC) and state insurance laws as potentially conflicting with a ban on local server requirements. However, industry has been making the argument on Capitol Hill that these measures do not actually require local data storage.

Lew later drove home the point that it is these independent U.S. regulators that are driving the U.S. government’s position on this issue. “This is actually a case where what we in the United States — we meaning not Treasury but our independent regulators — require in terms of data availability is one of the issues we have to work around,” he said.

Lew’s comments appear to hold open the possibility that there could be some way to address the need of U.S. financial regulators to maintain adequate access to companies’ data while still banning local server requirements. But they also could offer an indication that the administration may simply seek to shift the blame to regulators if a solution ultimately does not materialize.

At Ways & Means, Lew said he thought the regulators had “legitimate concerns.” He said their fears stem largely from the 2008 financial crisis, where some regulators had a problem getting access to information overseas and that made it more difficult for them to respond.

He also noted that the U.S. government has made a commitment to these regulators that trade agreements “will not overrule any of the prudential regulatory matters.” That said, U.S. trade agreements, including TPP, already contain what is known as the “prudential carveout,” which allows parties to adopt or maintain measures for prudential reasons, including to ensure the integrity and stability of the financial system.

Some in the financial services industry viewed Lew’s comments to Finance as positive because they represent the first time he has acknowledged companies’ complaints about the data localization provisions and has disclosed that talks are underway with regulators as well as industry to try and address them.

Lew also acknowledged that the outcome in TPP was not “meant to put a burden on U.S. financial institutions,” which some in the industry see as reassuring. “We bargained very hard in TPP to get terms that are very favorable generally to U.S. financial institutions on a global basis,” he said. Lew was responding to a question by Sen. John Thune (R-SD) about Treasury’s position on the data localization issue for financial services in TPP.

Talks between the Obama administration and financial services firms on the data localization issue as of mid-January appeared to be moving in what industry sources viewed as a positive direction. They said the most likely solution to the problem was for the administration to reverse its stance in future trade agreements, but not make changes to TPP.

At Ways & Means, Lew hinted that the U.S. government may change its position on the data localization issue in future trade agreements such as the Transatlantic Trade and Investment Partnership (TTIP). “On the question of TTIP, let’s separate the question of data localization. We want to be able to manage the data localization issue so that we’re in a place where there’s broader comfort with going forward,” he said.

Treasury has identified four SEC rules as potentially including requirements that data be stored in the United States or in the office to which the records relate. But industry has made the case even where such requirements do exist in these rules, there are exceptions or waivers that allow data to be stored offshore.

For instance, industry argues some of these rules allow the relevant records to be stored electronically without stating the location, or waive the local storage requirement if companies commit to turn the records over on demand.

The state insurance laws flagged by Treasury require insurance companies to keep records within that state. But industry points out that these laws also contain waivers to that requirement, and that these waivers are often granted.

Lew, who testified before Finance about the president’s fiscal year 2017 budget proposal, reiterated that the administration wants to see Congress vote on TPP this year. He said the administration would keep pressing Congress to have a vote on TPP and continue working to build support for its passage.

He said the signing of TPP, as well as the Senate’s expected consideration this week of the customs and enforcement bill, are important steps toward that goal. The Senate passed the customs bill on Thursday (see related story).

He was responding to a question from Sen. Maria Cantwell (D-WA) on when TPP would come up in Congress. Cantwell said she hoped Republicans did not delay action on TPP, and made clear that she does not want to wait until after the November election for a vote. She argued passing TPP was important to ensure China does not dominate the world economy and to secure market access for U.S. exports in the Asia-Pacific region.

Lew spoke out in favor of the enforcement provisions of the customs bill when asked to do so by Sen. Michael Bennet (D-CO), who worked closely with Treasury in crafting the bill’s language on currency manipulation.

— *Matthew Schewel*

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