

Client Alert

International Trade & Litigation Practice Group

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Congressional Letter to the White House Voices “Strong Support Of Buy American Procurement Policies” in Context of Ongoing Trans-Pacific Partnership Agreement Negotiations

On May 3, 2012, 69 members of Congress wrote President Obama to voice concerns about reports of the potential weakening of Buy American procurement policies in ongoing Trans-Pacific Partnership (TPP) agreement negotiations.

The United States is one of nine countries currently involved in TPP negotiations, along with Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, and Vietnam. Other countries, including Canada, Japan, and Mexico, have been rumored as potential candidates for joining the TPP, but the addition of new members also has been widely seen as a factor that would complicate the completion of any agreement by the end of 2012.

In the interim, talks between the current TPP countries regarding specific obligations are ongoing, and the “broad framework” for government procurement aspires to an agreement that is “fair, transparent, and non-discriminatory.” The twelfth round of TPP negotiations started in Dallas on May 8, which also follows up on an intersessional meeting regarding government procurement that was held in Los Angeles during April.

The Congressional letter discusses that past U.S. Free Trade Agreements (FTA) required companies from the foreign-country party to the FTA to “be provided equal access as domestic firms to U.S. government procurement contracts over a certain dollar threshold.” The Congressional letter disapproved of this “trading away” of “an important policy tool that can ensure that billions in U.S. government expenditures are recycled into our economy to create jobs, strengthen our manufacturing sector, and foster our own new cutting-edge industries.”

Of particular concern to the members of Congress who signed the letter “is the prospect that firms established in TPP countries, such as the many Chinese firms in Vietnam, could obtain waivers from Buy American policies.” According to the letter, such a result would strengthen foreign manufacturers at the expense of the U.S. manufacturing base and result in a loss of U.S. tax dollars.

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A copy of the Congressional letter can be accessed [here](#).

We will continue to monitor the status of the TPP negotiations and welcome the opportunity to help companies with government procurement interests in this field.

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