

# Recent Trade Developments and the Trans-Pacific Partnership (TPP)

Presented by **Frank Samolis**

Co-chair, International Trade Practice

November 2015



# Agenda

- Background: Key Political Developments in the United States
- Trade Promotion Authority (TPA)
- Trans-Pacific Partnership (TPP)
  - Next Steps: A Washington Perspective
- TPP: Implications for Central America and the Caribbean

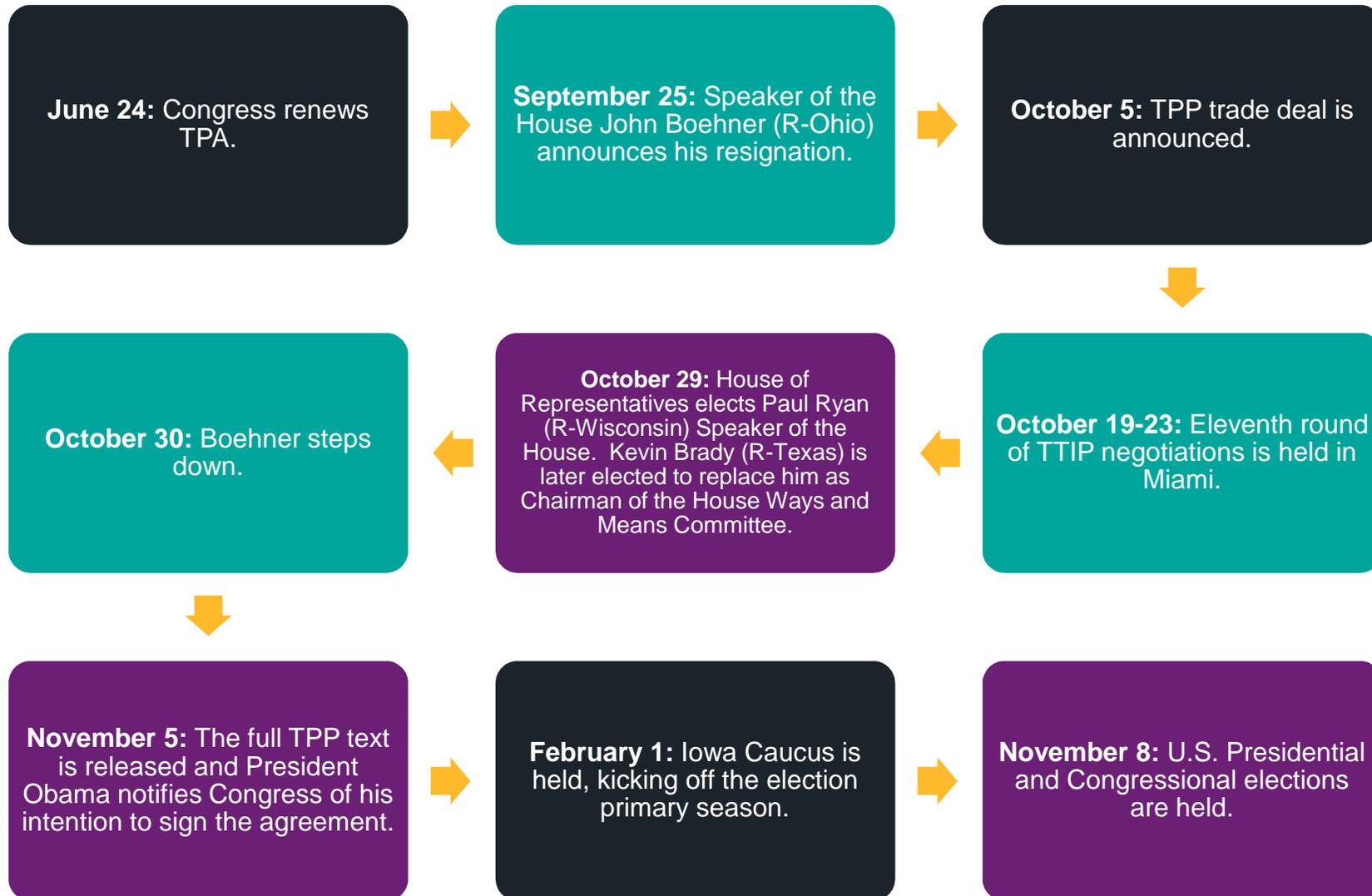


## Changes in the Geopolitical Landscape

- With the decline of the World Trade Organization (WTO) as a forum for crafting multilateral trade agreements, many countries, including the United States, are concentrating on the negotiation of mega-trade agreements, such as the TPP and the Transatlantic Trade and Investment Partnership (TTIP).
- Many experts believe that countries seeking to increase trade opportunities should seek to accede to as many mega-trade agreements as possible.



# Background: Key Political Developments



# Trade Promotion Authority (TPA)

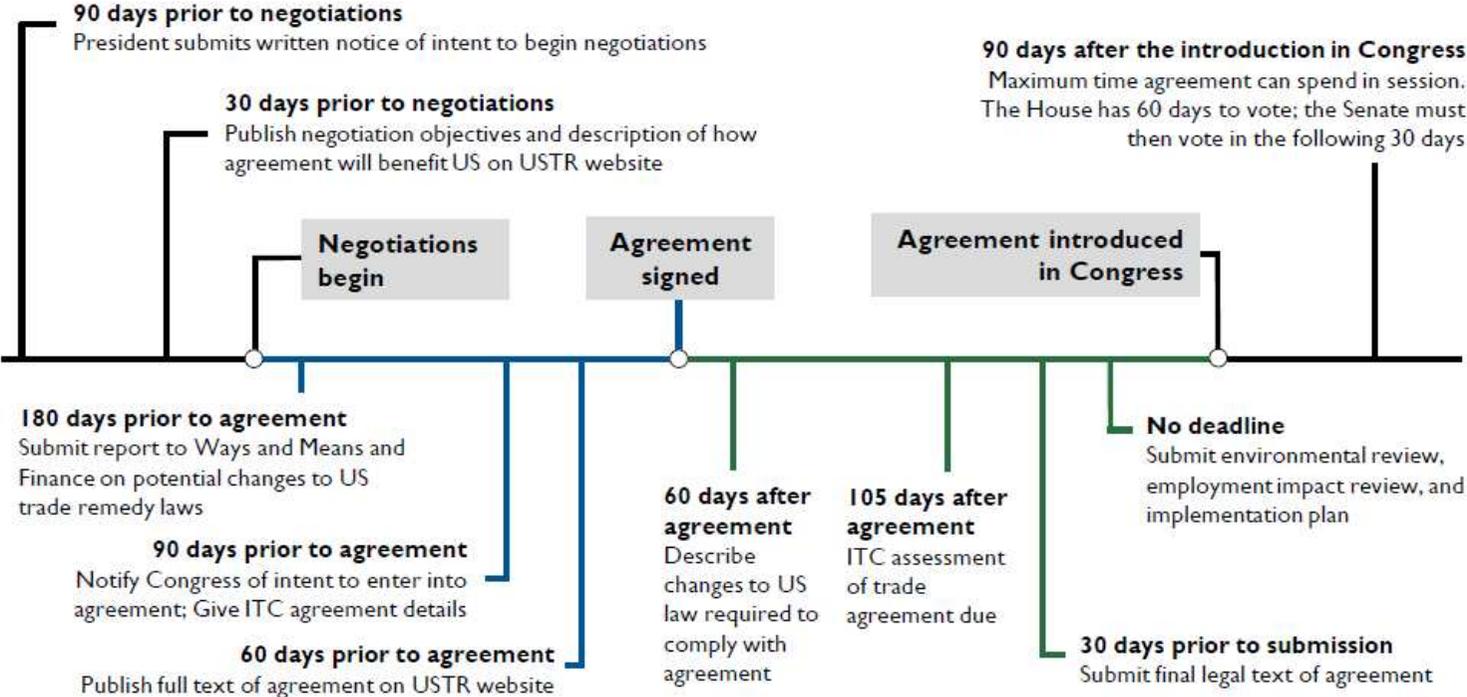


# Trade Promotion Authority

## What is TPA?

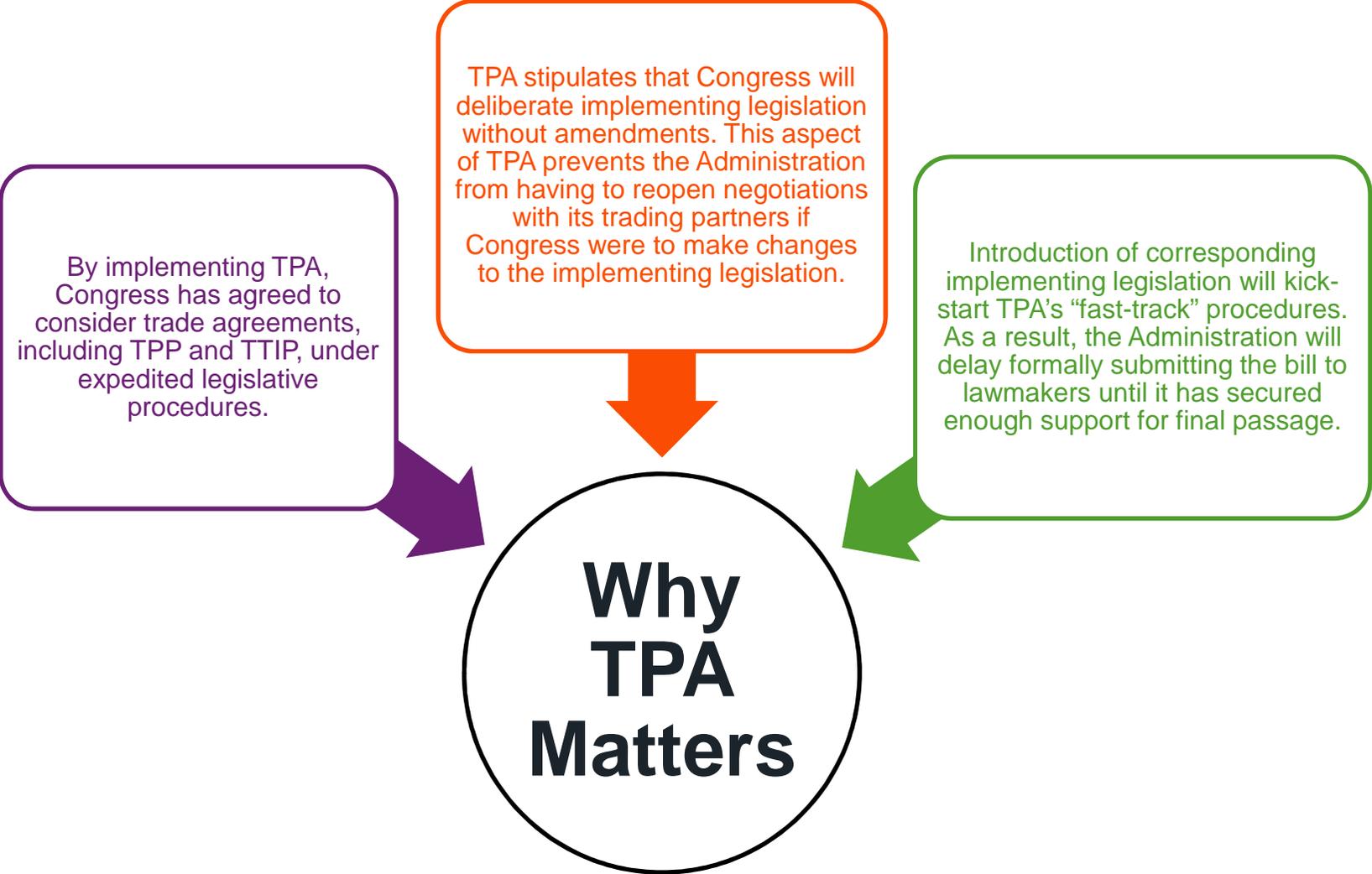
- Under U.S. law, trade agreements are not treaties and therefore are not self-executing. Instead, trade agreements must be approved by both chambers of Congress and signed into law by the President through implementing legislation.
- TPA gives the President the ability to negotiate these agreements, but requires he consult with lawmakers as negotiations progress.
- Extension of TPA is not required for trade negotiations to proceed. However, under TPA, once a final agreement has been reached, Congress can only approve or disapprove of the agreement, but it cannot amend or filibuster it.
  - Congress can still review the bill informally in committee through the “non-markup” process.
- Although TPA requires Congress to vote on the bill within 90 days of its introduction, there is no deadline for when the President must introduce the bill. Thus, the President can choose to delay introduction of the bill until he is certain that Congress will support it.
- Congress renewed TPA in June 2015 after a lengthy and often contentious debate. The TPA bill included updated negotiating objectives as well as provisions aimed at increasing transparency.

## Timeline of Requirements for Trade Agreements Under Trade Promotion Authority 2015



- Analysis**
- Trade Promotion Authority (“fast-track”) streamlines the process of approving trade agreements by giving the President authority to negotiate an agreement that goes straight to an up-or-down vote in Congress with no amendments or filibusters
  - TPA applies to all trade agreements reached before July 1, 2018, with a possible extension to July 1, 2021

Source: National Journal



# Trans-Pacific Partnership (TPP)



---

## What is TPP?

- The Trans-Pacific Partnership (TPP) aims to be a comprehensive trade agreement between twelve countries: Brunei, Chile, New Zealand, Singapore, the U.S., Australia, Peru, Vietnam, Malaysia, Mexico, Canada, and Japan.
- If implemented, the agreement would cover 40% of global trade, open markets across the Asia-Pacific region, and set high-standard trading rules for member countries.
- U.S. policymakers also argue that TPP would solidify the United States' "pivot to Asia" and strengthen its economic ties with the Asia-Pacific region.
- On October 5, the twelve TPP countries announced that a final agreement had been reached after over five years of negotiations.
- On November 5, the Office of the U.S. Trade Representative released the full text of the agreement and the President notified Congress of his intention to enter into the deal. Under the terms of TPA, he cannot sign the deal until at least 90 days after providing that notification.
- Countries such as South Korea, Taiwan, the Philippines, Indonesia, and Colombia have all expressed interest in acceding to the TPP in a later round.
  - China is reportedly also following TPP's progress with interest.

# Trans-Pacific Partnership

---

## Next Steps: A Washington Perspective

- Under TPA, the President must notify Congress of his intent to sign the agreement at least 90 days before doing so, and must publicly post the text of the agreement no less than 60 days before his signature.
- While the TPA vote was highly contentious and supporters lobbied hard to secure enough votes for passage, a vote against TPA does not necessarily mean a vote against TPP. For example, many Republicans objected to the TPA bill because they did not support what they argued was a grant of authority for the President to negotiate free trade agreements.
- Ultimately, the details of the agreement will determine whether Members support TPP.



# Trans-Pacific Partnership

---

## Next Steps: A Washington Perspective

- The timing for Congress' vote on the agreement remains unclear and has become even more complicated due to recent political developments.
- Several possible scenarios include:
  - **March/April 2016:** The President recently said he hopes Congress will move promptly to approve the TPP deal, which, given TPA's requirements, would not take place before March 2016. However, with the turnover in Republican Congressional leadership and the impending presidential primaries, some TPP supporters have suggested that this may not be enough time for the Administration to state its case and rally support.
  - **April/May 2016:** Political strategists have suggested that April/May could provide the perfect window for Congress to vote on the TPP. This would allow Congress to consider the agreement after the busiest time in the primaries and before the presidential nominating conventions in July.
  - **Lame Duck Session:** Some policymakers have argued that the President should wait until the lame duck session. But leaving the TPP in limbo until next November could provide its opponents too much time to undermine support.
- Ultimately, the TPP may not enter into force until 2017 at the earliest.

# TPP: Implications for Central America and the Caribbean



# TPP: Implications for Central America and the Caribbean

- Mexico, Peru, and Chile took an active role in negotiating a number of sensitive subjects, including:
  - Biologics: Intellectual property rights related to pharmaceutical drugs were a contentious issue throughout the negotiations. While the U.S. sought to guarantee twelve years of market exclusivity, other countries, including those in Central America, suggested that increasing protections of biologics would make it too difficult for countries to produce generic drugs. The final agreement only provides pharmaceutical companies with eight years of market exclusivity or five years plus unspecified other measures “recognizing that market circumstances also contribute to effective market protection to deliver a comparable outcome in the market.”
  - Automobiles: To protect its booming auto and auto parts industry, Mexico advocated for maintaining high content thresholds. The final deal provides a detailed tariff phase-out scheme and a regional value content threshold of 45% for finished vehicles and between 35 and 45% for auto parts.
  - Textiles/Apparel: Countries in Central America and the Caribbean derive significant trade revenue from the cut, make, and trim apparel assembly capacity (CMT). These countries lobbied for a “yarn-forward” rule of origin, requiring member countries to source their textiles from within the TPP trading bloc.

# TPP: Implications for Central America and the Caribbean

## How Will the TPP Affect Mexico, Peru and Chile?

- Although the TPP will not transform these countries overnight, it will open up new markets, particularly in Asia.
- Some experts have suggested that Mexico stands to gain the most under the TPP. Mexico has a strong preexisting trade relationship with the U.S., and the TPP will allow Mexico to deepen existing supply chains in the auto, electronics, and aerospace industries.
- While Chile and Peru will benefit from increased access to foreign markets, their fruit and vegetable exports could also face new competition from Vietnam and other Asian countries. As a result, many economists have suggested that Chile and Peru may have to diversify their economies.



# TPP: Implications for Central America and the Caribbean

## How Will TPP Affect Non-Member Countries in the Region?

- Some have suggested that Central-American and Caribbean countries left out of the TPP will face new customs and regulatory hurdles, making it more difficult for these countries to access U.S. and Asian markets.
- Non-member countries will be forced to compete with cheaper Vietnamese exports such as textiles, coffee, bananas, and pineapples.
- In addition, countries like Brazil, Argentina, and Venezuela that rely heavily on commodity exports could experience even more negative effects.
- The TPP's "yarn forward" rule of origin, which requires that textile and apparel products be made using U.S. or TPP-originating yarns and fabrics, could have a significant impact on non-member countries. While textile and apparel goods produced in member countries such as Vietnam and Mexico will enter the U.S. duty-free, non-member countries will not qualify for the same benefits.

# TPP: Implications for Central America and the Caribbean

## What can Non-Members in the Region Do to Prepare for TPP?

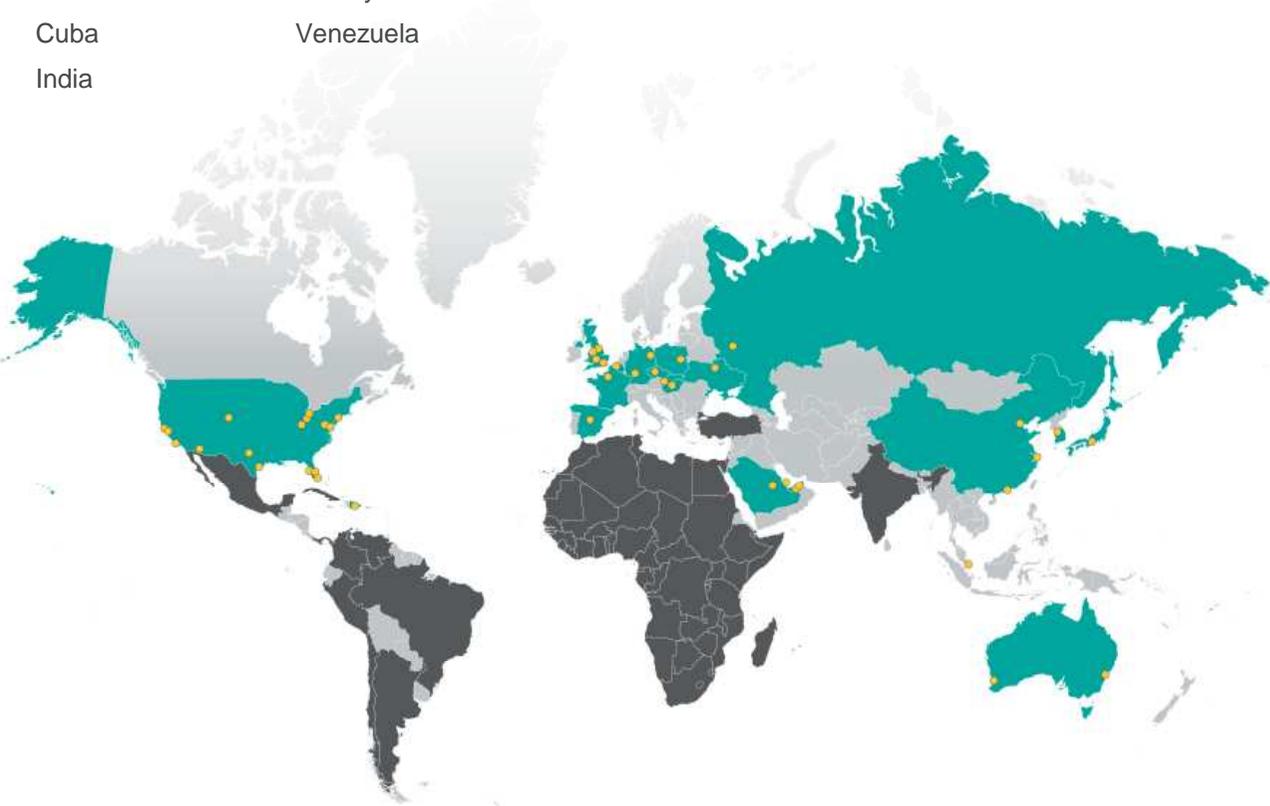
- The future success of the region's exports will largely depend upon how products compete in the global marketplace.
- Countries in Central America and the Caribbean can continue to develop their own global trade relationships by building on the existing framework of the Pacific Alliance, and by negotiating other multi-lateral trade agreements.
- After the TPP is implemented, it will be critical for non-member countries to ensure that market controls and technical barriers to trade do not impede future trade relations with TPP members. For example, local stakeholders could examine the TPP's standards for Sanitary and Phytosanitary Measures to understand what changes to domestic law may be necessary for harmonization with the agreement's requirements.
- Interested non-member countries can raise concerns with the Administration, lawmakers, and the congressional committees of jurisdiction.
- Of course, interested countries could consider joining TPP after it has entered into force.

# Office Locations & Regional Alliances

- Abu Dhabi
- Beijing
- Berlin
- Birmingham
- Bratislava
- Brussels
- Budapest
- Cincinnati
- Cleveland
- Columbus
- Dallas
- Denver
- Doha
- Dubai
- Frankfurt
- Hong Kong
- Houston
- Kyiv
- Leeds
- London
- Los Angeles
- Madrid
- Manchester
- Miami
- Moscow
- New York
- Northern Virginia
- Palo Alto
- Paris
- Perth
- Phoenix
- Prague
- Riyadh
- San Francisco
- Santo Domingo
- Seoul
- Shanghai
- Singapore
- Sydney
- Tampa
- Tokyo
- Warsaw
- Washington DC
- West Palm Beach

- Africa
- Argentina
- Brazil
- Chile
- Colombia
- Cuba
- India
- Israel
- Mexico
- Panamá
- Peru
- Turkey
- Venezuela

■ Office locations  
 ■ Regional desks and strategic alliances



# Contact Me

---



## Frank Samolis

Partner

Co-Chair, International Trade Practice

(202) 457-6000

[frank.samolis@squirepb.com](mailto:frank.samolis@squirepb.com)

*To subscribe to our weekly “Trade Talk” newsletter, please email [tradetalk@squirepb.com](mailto:tradetalk@squirepb.com)*