

Pillar I: Trade

Agriculture

The United States tabled proposed text on Agriculture that includes a broad set of provisions designed to open or expand opportunities for agricultural producers to access markets throughout the IPEF region, advance food security, and promote sustainable agricultural production. In particular, the text is aimed at increasing transparency and regulatory certainty for agricultural exporters and importers, as well as encouraging collaboration and innovation in areas such as sustainability and food security.

The text breaks new ground in including elements relating to sustainable agriculture as well as elements relating to innovation and technology, tabled for the first time in U.S. trade negotiations. The text acknowledges that there is no one-size-fits-all solution to sustainable agriculture and promotes collaborative work to share best practices and explore science- and evidence-based solutions tailored to the conditions of IPEF partners. The text also includes cooperative efforts to promote innovation, fair trade, and individualized approaches to advance environmental goals.

The text also includes a number of provisions regarding food safety, plant health and animal health protection, and other provisions of importance for agricultural trade, preserving the role of regulatory authorities to ensure the safety of their domestic food supplies, while also facilitating trade in agricultural goods. These provisions are intended to: improve transparency of regulatory processes and procedures; advance science-based decision-making to protect human, plant, and animal life and health; improve processes and promote cooperation regarding regulatory and administrative requirements; and facilitate agricultural trade across the IPEF region. The text also includes provisions related to transparency in import licensing procedures for agricultural products, certification requirements, and equivalency to ensure that any requirements for importation are clearly communicated to regional agricultural producers.

The agriculture text also contains provisions intended to promote food security in the region, such as disciplines regarding the imposition of export restrictions, an area of particular interest to net food importing countries in the region.

Services Domestic Regulation

The United States tabled a proposed text on development and administration of rules and procedures governing licenses or other authorizations required to supply services (sometimes referred to as “services domestic regulation”). In accordance with the ministerial statement outlining the goals of IPEF Pillar I (Trade), this text builds on the outcome agreed to by WTO Members in December 2021 in the Joint Statement Initiative on Services Domestic Regulation.

Difficulty in obtaining licenses or other authorizations in a foreign country can be a barrier to services exporters, particularly small companies such as professional services firms (architects, engineers, accountants, lawyers, etc.). The aim of the U.S. IPEF text is to ensure service suppliers are treated fairly and in a transparent manner when they apply for permission to operate

in an IPEF country. At the same time, the proposal does not interfere with the ability of regulators to apply domestic standards to protect important interests such as safety, health and the environment, and ensuring worker and consumer welfare. In striking this balance, the text requires that laws and regulations be transparent and that regulators be independent of the industry they oversee. The proposal also prohibits licensing rules from discriminating on the basis of gender. Regulators are required to inform applicants of the requirements to obtain a license, provide applicants a fair opportunity to demonstrate that they meet the requirements, and make a decision on whether to issue a license in a reasonable period of time.

Given the complexity of regulating financial services, the United States proposed a special set of rules to ensure fair and transparent treatment to financial service suppliers while preserving the ability of regulators in that sector to protect the stability of the financial system.

In recent years there has been rapid growth of the ability to apply for licenses on line, streamlining the process for both applicants and regulators. The U.S. text encourages regulators to continue experimenting with new technologies to make the application process easier, especially with an eye to reducing unnecessary administrative burdens on small businesses.

Customs and Trade Facilitation

The aim of the U.S. proposal is to reduce red tape at the border, reduce the cost and time of trade, and ensure transparency and fairness for all traders. The proposal is designed to achieve these goals by focusing on automation, reducing formalities, and requiring new or improved, innovative border processes.

Some of the provisions on automation include requiring governments to post online their trade and border-related laws, regulations, and procedures. Governments are also required to make all their forms available online and to receive them, and other supporting documents, electronically. Governments must also process pre-arrival information a single window with a view to releasing goods upon arrival. These proposals would reduce time and cost of importing, reduce spoilage (especially of perishable goods), and reduce greenhouse gas emissions from idling vessels and trucks.

Other provisions would address e-commerce, including reducing formalities around express shipments and facilitating the return of goods across borders. Additionally, the proposal would prohibit the use of consular transactions for imported goods, reduce formalities for containers, require governments to offer electronic payment of duties, taxes, and fees, and encourages the growth in electronic invoicing and electronic invoicing frameworks. These provisions are designed to reduce the cost of trading and encourage the participation of micro, small, and medium-sized enterprises (MSMEs) in international trade by prohibiting the barriers that often discourage their participation.

Finally, the proposal includes provisions focused on making trade across borders a fair and reliable experience. Some of the articles that do this are penalty disciplines designed to ensure transparency and fairness, standards of conduct for border agents, protection of confidential business information, and cooperation between the parties. In particular, enforcement

cooperation is included to facilitate weeding out illicit trade and other customs offenses and ensure the borders are being used for legitimate trade.

Good Regulatory Practices

The United States has tabled proposed text for a chapter on good regulatory practices (GRPs), with articles that cover a range of rules for rule-making across the full regulatory lifecycle at the central level of government. GRPs provide citizens, traders, and other interested persons with greater transparency about regulatory processes.

The proposed text recognizes that providing early information about planned regulatory actions through the use of regulatory agendas allows interested persons to engage with regulatory authorities and gives them more time to prepare to comply. The text also includes core provisions on the transparent development of regulations, meaning publishing draft regulations and allowing adequate time for comments to be considered. Public consultations on draft regulatory measures can contribute to better regulations since regulators do not always have complete information to anticipate the impact and consequences of regulations.

The proposed text includes several articles relating to informed regulatory decision-making. There is an obligation for regulatory authorities to prepare guidance or establish mechanisms on using the best available information and data when planning regulatory actions. Regulators are also encouraged to use appropriate tools and techniques to evaluate proposed measures and to have guidance materials for those carrying out the analysis so that there can be consistency across regulatory authorities.

The proposed text also provides for stakeholders to have the opportunity to request issuance, modification, or repeal of regulations if change is justified due to technological changes, new information, or new standards.

Since regulations can have cross-border impact, the proposed text contains an article on regulatory transparency tools that can expand on-line access to relevant information, including information about registries of existing laws, the procedural requirements of regulatory authorities, websites where draft regulations are posted and comments accepted, and the acceptability of electronic documentation, where appropriate. The text also reflects the fact that these same types of online resources are beneficial for MSMEs seeking to understand regulatory measures.

Expert advisors can provide advice on planned regulatory actions as a complement to, and not a substitute for, public consultations. The proposed text therefore details transparency requirements relating to the functioning and outputs of expert advisors.

Finally, the proposed text provides for establishment of a GRP Committee to monitor implementation of the obligations in the chapter and to allow for information sharing and further regulatory cooperation to address issues of common interest.