

## ITC's Tepid Forecast Unlikely To Accelerate TPP Ratification

By Alex Lawson

*Law360, New York (May 19, 2016, 7:51 PM ET)* -- The U.S. International Trade Commission's analysis of the Trans-Pacific Partnership paints a relatively modest picture of the agreement's economic benefit, which experts say will do little to expedite the current timeline for a congressional vote on the accord.

Fervent opponents of the 12-nation TPP are unlikely to be swayed by any findings from the ITC, which released its report Wednesday, and the deal's backers are not going to abandon ship based on one analysis. But Paul Davies, director of Crowell & Moring LLP's consultancy arm C&M International, said that the results are just muddled enough to embolden both sides to double down on their positions.

"The ITC report is likely to confirm the pre-existing view of TPP on both sides," Davies told Law360. "At the industry level, it may reveal some detail that may help ease concerns for certain sectors that may have been a little less fully decided about it, but at the macro or political level, it's unlikely to move the debate in one way or another."

In its comprehensive report, the ITC projected steady but minimal gains for the U.S. economy in a number of areas, including employment, GDP and exports. The sheer mass of the report — it weighed in at just shy of 800 pages — provides plenty of material for both the pro- and anti-TPP sides to cherry pick certain data points to their advantage.

Shortly after the ITC report was released, U.S. Trade Representative Michael Froman welcomed its findings but stressed that the commission's analysis would be just one data set that the Obama administration will point to as it continues to make the case for Congress to hold a quick vote on the TPP.

But Hogan Lovells LLP partner and former USTR general counsel Warren Maruyama said that the ITC study carries more heft than the **various other TPP papers** making the rounds on Capitol Hill and that its middling projections will do more harm than good for those aiming to pass it.

"This is probably not good news for the TPP," Maruyama said. "The ITC is respected because it's independent, and this is the first truly independent look at this thing. The administration stuff is largely propaganda, and the other studies have funding behind them, one way or the other."

Projecting the impact of the agreement over the next 15 years, the commission's report predicted a 0.23 percent spike in U.S. annual real income, a 0.15 percent bump to GDP and a 0.07 percent uptick in total employment, which is equivalent to about 128,000 full-time jobs.

Though the amount of growth is lower than some in the administration may have hoped, the report nevertheless cemented the TPP's status as a net benefit for the economy. Linking the ITC's report with various other TPP literature, U.S. Chamber of Commerce Executive Vice President Myron Brilliant continued to champion the agreement Wednesday.

"The report at first glance provides substantive support for the Chamber's view that the TPP is in our national economic interest," Brilliant said in a statement. "By eliminating thousands of tariffs and other barriers to the export of U.S.-made goods and services, the TPP will create new opportunities for American workers, farmers, ranchers, innovators and companies."

On the raw trade side, the ITC said that the growth of new imports would slightly outpace that of exports at 1.1 percent and 1 percent, respectively. Despite the almost negligible difference in those figures, the report will arm certain critics that have pointed to growing trade deficits as a symptom of deals like the TPP.

"Even though we are talking essentially about rounding errors in total trade and GDP, it will inevitably be touted as increasing the trade deficit," Cato Institute adjunct scholar and White & Case LLP trade attorney Scott Lincicome told Law360. "TPP opponents will take those types of numbers and use them to their rhetorical and political advantage."

Another problem for the administration, according to Lincicome, is the ITC's spotty record of accurately predicting the net effects of new trade deals. It would be unrealistic for one to expect an unblemished prognostication from the commission, Lincicome said, noting the incredible difficulty of anticipating the ripple effects of free trade deals, particularly one of the TPP's size and magnitude.

But because of that lingering uncertainty, Lincicome, a TPP supporter, said that other proponents should use caution before citing to the ITC study as gospel.

"I would caution pro-TPP folks against putting too much emphasis on the report," he said. "It is a nice rhetorical feather for the president to have in his cap as he discusses these issues, but in terms of its overall importance in the debate, it is relatively minor."

Even before the report was released, ardent TPP foils like Public Citizen accused the ITC of painting overly rosy pictures of past U.S. trade deals to mislead the public.

But now that the actual report is relatively bearish on the TPP, it leaves both sides in something of a holding pattern, keeping in place a status quo that has most observers predicting that a TPP vote will have to wait until the lame-duck session of Congress at the end of this year, if not later.

"Certainly, the report will inform the debate, but I don't see anything in there that is going to accelerate the timeline for consideration," Lincicome said.

--Editing by Christine Chun and Emily Kokoll.

---