Now that the actual language of the Trans Pacific Partnership (TPP) trade deal has been finalized and released, many in the business community have begun poring over the details in order to determine what the deal really means for their particular industry. As in all trade negotiations, compromises were made, and not every U.S. industry sector believes they “came out on top.” Below is a brief analysis of the apparent U.S. industry winners and losers under the terms of the agreement, taken from the 30 chapters and more than 2,000 pages of the deal text. Of course, readers should keep in mind this is a general analysis, and certain members of a particular industry group may be impacted more or less favorably than others.

WINNERS

- **Agriculture:** Members of the agricultural industry are generally among the most vocal celebrants of the agreement, as it significantly lowers tariffs on U.S. beef, poultry, pork, wine/beer, grain, soybean, rice, and fruit exporters, among others. The National Cattlemen’s Beef Association, for example, has come out strongly in support of the agreement, noting that “TPP member nations already account for over 60 percent of total beef exports, and lower tariffs will allow us to continue to grow our market share in that region.” The U.S. Grains Council and the National Corn Growers Association have likewise pledged their support for the deal, which they believe will significantly boost grain exports.

- **Aerospace:** Boeing, Lockheed Martin, Honeywell, and other members of the aerospace industry are likewise in favor of the agreement, which they hope will further boost their sales abroad by lowering tariffs significantly in growing markets. In addition, by removing certain non-tariff barriers, the agreement may speed up procurement processes for components that these aircraft manufacturers source in the Asia-Pacific countries party to the TPP.

- **Apparel/Textile:** The American Apparel and Footwear Association, the National Retail Federation, the National Council of Textile Organizations, the United States Fashion Industry Association, and the Outdoor Industry Association have all backed hard in favor of the TPP, which could enlarge foreign-market access while reducing the cost for U.S. retailers importing foreign made goods for re-sale in the U.S. foreign made products and supplies. Of course, the devil is in the details. The “yarn forward” rule of origin – which provides that everything from the yarn through the final garment has to be made in a country that’s part of the trade agreement in order to enter the U.S. without import duties – creates a bigger market for American textile manufacturers. However, certain retail brands and department stores would have preferred a looser rule of origin that would have enabled them to buy less expensive fabric from countries outside the TPP agreement, assemble them in TPP countries, and then import the finished clothing the U.S. duty-free. Nonetheless, companies like the GAP and Nike have come out in support of the agreement, perhaps in part because of a textile-specific special safeguard to respond to serious damage to domestic industry in the event of a sudden surge in imports.

- **IT/Tech:** Technology giants such as Microsoft, IBM and Uber are cautious supporters of the TPP, which will eliminate import tariffs as high as 35 percent on U.S. information and communication technology exports to foreign member countries. The agreement prohibits trade discrimination against digital goods, including software, mobile apps, online games, or any other products that are shipped electronically. In other words, data is afforded the same legal protections as goods, in that, data from TPP member countries will be treated the same as domestic data. More controversially, the agreement restricts domestic rules that require companies to store data within national borders, a boon for cloud computing providers. The Semiconductor Industry Association and Intel have lauded the deal, in part because of provisions (a) preventing member country restrictions on imports of commercial products with encryption, (b) protecting trade secrets, and (c) ensuring state-owned enterprises are required to compete fairly and transparently with private industry.

- **International Financial Service Providers:** Members of the financial service sector, including Citigroup, Goldman Sachs, and Morgan Stanley, have a lot to gain from the TPP. For example, with some restrictions, the agreement allows such companies to sell financial services provided by suppliers in other TPP member countries without requiring such suppliers to establish a local presence. Therefore, the agreement more easily allows U.S. financial services providers to compete for market share in TPP partner countries. While openness is mutual, the U.S. financial sector is already relatively open, and a number of exceptions have been carved out which preserve discretion for U.S. regulators to take measures to promote financial stability and the integrity of our financial system.

- **Large Manufacturers:** The majority of large U.S. manufacturers support the TPP, primarily because it eliminates member country tariffs on U.S. exports of manufactured goods and prevents other TPP countries from maintaining, expanding, or creating new trade barriers. The Customs Administration and Trade Facilitation chapter clarifies import license requirements and is reduces processing requirements for U.S. products. As a result, companies as diverse as Proctor and Gamble, General Electric, and Caterpillar have expressed their support for the deal.

LOSERS

- **Automakers:** The American Automotive Policy Council (AAPC), which represents Ford, General Motors and Fiat Chrysler, has long taken the position that the TPP should contain “strong and enforceable” provisions against currency manipulation. While the AACP has supported prior free trade agreements, it has stated that past experience has shown that foreign countries have often given with one hand – by agreeing to lower tariffs on foreign imports – while taking away with the other – by lowering the value of their currency, thereby making foreign imports more expensive. While a separate joint declaration by TPP member countries contains provisions that would require member countries to provide data on currency related activities, Steve Biegun, Ford’s vice president of international government relations, has stated that “[there’s no loss of benefits, and there’s no enforceability] for currency manipulators, perpetuating the status quo. In addition, some have suggested that the eventual elimination of current U.S. 2-25 percent tariffs on imported Japanese vehicles and parts under the TPP would potentially remove some of the incentives for the creation of Japanese vehicle and automotive part manufacturing in the U.S., while changes to the rules of origin under the agreement would allow Japanese automakers to incorporate a higher percentage of Chinese made parts and still enjoy the benefit of lower U.S. tariff rates. Due to the above issues, although the agreement significantly lowers tariffs on U.S. automotive exports to growing markets like Vietnam and Malaysia (by 70 percent and 30 percent, respectively), Ford has urged Congress to reject the deal.

- **Pharmaceutical Industry:** Pharmaceutical industry groups, such as the Pharmaceutical Research and Manufacturers of America, have stated they are severely “disappointed” in the deal, primarily because it provides manufacturers of biologic drugs in the Asia-Pacific region with five to eight years of data exclusivity before competitors can enter the market
with their own non-innovator versions, in contrast with the 12 years of exclusively provided for under U.S. law (which would not be changed by the agreement). The industry’s concern is that the shorter timeline for protection will make it more difficult for innovators to recover investments made in new products and leave Americans subsidizing cheaper medicines in other nations. The pharmaceutical industry has strong backers in Congress that are opposing the TPP primarily on this basis. Republican U.S. Senate Finance Committee Chairman Orrin Hatch has stated that while he “understand[s] that renegotiation may be difficult, particularly with so many parties involved… [t]he alternative to renegotiation may very well be no TPP at all.”

- **Tobacco**: Under the terms of the TPP, each member country has the right to regulate manufactured tobacco products, such as cigarettes, as part of any effort to protect public human life or health. While corporations have the ability to challenge other types of regulatory measures taken by member state governments before an ad-hoc tribunal under the TPP’s the Investor-State Dispute Settlement (ISDS) process, tobacco companies and private investors do not have the same ability to challenge tobacco control measures in this manner. Under the umbrella of the ISDS process under other trade treaties, tobacco companies have been able to challenge cigarette packaging regulations, for example. Under the TPP, they cannot do so. As a result, tobacco companies like Phillip Morris and lawmakers from tobacco producing states like North Carolina have come out strongly against ratification of the TPP.

Now that the appropriate notification of Congress has been made, the President may sign the agreement as soon as February 3, 2015. However, Congress will only begin formal consideration of the TPP after the Obama Administration submits draft legislative text to Congress that would implement the agreement. In the interim, we can be certain that American industry will be working to remind their Congressional representatives of both the negative and positive impacts of the deal on U.S. business.