

EXECUTIVE OFFICE OF THE PRESIDENT
THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

SEP 22 2008

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, D.C. 20515

Dear Madam Speaker:

At the direction of the President, I am pleased to notify Congress that the President intends to initiate negotiations for a free trade agreement (FTA) with the members of the Trans-Pacific Strategic Economic Partnership (TPP), which currently includes Singapore, Chile, New Zealand and Brunei Darussalam. As we have done in the past, we will be consulting closely with Congress in developing our negotiating positions to ensure that they are consistent with Congressional priorities and objectives.

The Administration is committed to negotiating and implementing trade agreements which open markets to benefit our businesses, farmers, workers, and families. With the help of Congress, we can move promptly to advance America's trade and commercial interests.

Based on the conclusions of a detailed exploratory process we began early this year, we believe the United States has much to gain from an FTA with the members of the TPP. We are particularly interested in this high-standard agreement potentially serving as a vehicle for advancing trade and investment liberalization and integration across the Trans-Pacific region and perhaps beyond. Ultimately, the objective is to expand the membership of the Agreement to other nations that share our vision of free and fair trade. While the United States was the first country to express interest in launching FTA negotiations with the Trans-Pacific partner countries, others have recently expressed interest in potentially joining as well.

Strengthening U.S. economic ties to the Asia-Pacific region is a top policy priority for the United States. The Asia-Pacific region already is economically important to the United States, and, with its robust economic growth and large markets, it will become even more significant in the coming years to U.S. industrial and consumer goods, agricultural exports, and service providers.

Two-way goods trade between the United States and 21 Asia Pacific Economic Cooperation (APEC) countries totaled \$1.9 trillion in 2007, an increase of nearly six percent over 2006 and of almost 50 percent since 1994. Asia-Pacific economies are growing faster than economies in other regions. In fact, the Asia-Pacific region is expected to account for 35 percent of global GDP in purchasing power parity terms, up from 21 percent in 1990, according to International Monetary Fund (IMF) projections. Economic forecasts by the IMF and the World Bank predict that economic growth rates in Asian economies will continue to outpace those of other regions for at least the next five years.

While the United States has concluded FTAs with six APEC Members, other countries are moving quickly to negotiate bilateral and regional trade agreements with countries in the Asia-

Pacific region that provide their own businesses and farmers preferential access. In 1980, there were 22 trade agreements in force involving APEC Members. Today, there are 152 agreements in force; 21 are completed and awaiting implementation; 72 are being negotiated; and 81 are in an exploratory phase. As these preferential trade agreements, which do not include the United States, are fully implemented over coming years, they are likely to disadvantage increasingly U.S. commercial interests, including manufacturers, farmers, service suppliers, and other businesses. To the extent that these agreements impede U.S. export growth, we can expect the expansion of export-supported jobs, which pay more than the national average wage, to be constrained as well.

By concluding an FTA with the TPP countries, the United States will seek to offset the trade preferences other countries have obtained for their businesses farmers, and workers through their own agreements. In addition, the proposed agreement would facilitate U.S. trade and investment by ensuring common trading rules and fair treatment of our investors, while advancing U.S. economic interests in such areas as intellectual property rights, standards, transparency, labor rights, and the environment.

An FTA with the TPP countries also could promote economic integration within the Asia-Pacific region. Our objective is to establish a high-standard agreement for advancing economic integration in the Asia-Pacific that will be stronger than other regional initiatives that do not include the United States. Such an agreement would also support U.S. priority goals in APEC to strengthen regional economic integration, build momentum towards a Free Trade Area of the Asia Pacific, and promote a high level of ambition in the WTO Doha negotiations. A successful conclusion of the Doha negotiations remains a top priority for the United States and the TPP countries.

In addition to advancing U.S. economic interests, this agreement would promote our broader strategic interests in the Asia-Pacific region. It would reinforce our shared interests, promote our common values, and complement and facilitate cooperative efforts on economic as well as key political and security issues with the Trans-Pacific partner economies and other countries in the region that may seek to join the agreement.

We have held initial consultations with Members of the Committee on Ways and Means, the Committee on Agriculture, and other Members of Congress regarding a proposed TPP FTA. The Administration will continue to consult closely with Congress as the negotiations proceed.

The United States intends to preserve U.S. rights and obligations under our current FTAs and negotiate a new FTA that is not inconsistent with those rights and obligations. Our specific objectives for negotiation of this new agreement with the TPP countries are as follows:

Trade in Goods:

- Seek to eliminate tariffs and other duties and charges on trade between each TPP country and the United States on the broadest possible basis, taking into account

the need to obtain competitive opportunities for exports of U.S. goods exports while addressing U.S. import sensitivities.

- Seek to eliminate non-tariff barriers to U.S. exports, including permit and licensing barriers on agricultural and other products, restrictive administration of tariff-rate quotas, unjustified trade restrictions that affect new U.S. technologies, including biotechnology, and other trade restrictive measures.
- Seek to discipline state trading enterprises, state-owned enterprises and designated monopolies, as appropriate, to enhance transparency and eliminate market distortions.
- Pursue a mechanism that will support achieving the U.S. objective in the WTO negotiations of eliminating all export subsidies on agricultural products, while maintaining the right to provide *bona fide* food aid and preserving U.S. agricultural market development and export credit programs.
- Obtain fully reciprocal access to TPP country markets for U.S textile and apparel products.

Customs Matters, Rules of Origin, and Enforcement Cooperation:

- Seek rules to require that each TPP country conducts its customs operations with transparency, efficiency, and predictability, and that customs laws, regulations, decisions, and rulings are not applied in a manner that would create unwarranted procedural obstacles to international trade.
- Seek rules of origin, procedures for applying these rules, and provisions to address circumvention that ensure that preferential duty rates under an FTA with TPP countries apply only to goods eligible to receive such treatment, without creating unnecessary obstacles to trade.
- Seek terms for cooperative efforts with the TPP countries regarding enforcement of customs rules and related issues, including in the areas of trade in textiles and apparel and agricultural products of concern.

Sanitary and Phytosanitary (SPS) Measures:

- Seek to have TPP countries reaffirm their WTO commitments on SPS measures and eliminate any SPS restrictions that are not based on science.
- Seek to strengthen cooperation between U.S. and TPP countries' SPS authorities.

Technical Barriers to Trade (TBT):

- Seek to have TPP countries reaffirm their WTO TBT commitments and eliminate any unjustified TBT measures.
- Seek to strengthen collaboration in implementing the WTO TBT Agreement and create a procedure for exchanging information on TBT-related issues.

Intellectual Property Rights:

- Seek to establish standards to be applied in TPP countries that build on the foundations established in the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights and other international intellectual property agreements, such as the World Intellectual Property Organization (WIPO) Copyright Treaty, the WIPO Performances and Phonograms Treaty, and the Patent Cooperation Treaty.
- Seek to establish high standards for trademark protection and an appropriate balance between trademark and geographical indications.
- In areas such as patent protection and protection of information submitted to obtain marketing approval, seek to have TPP countries apply levels of protection and practices more in line with U.S. law and practices, including appropriate flexibility.
- Where appropriate, seek commitments from TPP countries to strengthen their laws and procedures on enforcement of intellectual property rights, such as by ensuring that TPP countries' authorities have authority to seize and destroy pirated and counterfeit goods, equipment used to make such goods, and documentary evidence.
- Seek commitments from TPP countries to: (1) strengthen their measures that provide for compensation of right holders for infringements of intellectual property rights, and (2) provide for criminal penalties under their respective laws that are sufficient to have a deterrent effect on piracy and counterfeiting.

Trade in Services:

- Seek commitments from TPP countries to improve transparency and predictability in their respective regulatory procedures, specialized disciplines for financial services, and additional disciplines for telecommunications and other sectors, as appropriate.
- Pursue a comprehensive approach to market access, including any necessary improvements in access to the telecommunications, financial services, express

delivery, professional services, or other sectors and address the operation of any designated monopolies or state enterprises, as appropriate.

Investment:

- Seek to establish rules that reduce or eliminate artificial or trade-distorting barriers to U.S. investment in TPP countries.
- Seek to secure for U.S. investors in TPP countries important rights comparable to those that would be available under U.S. legal principles and practice, while ensuring that TPP country investors in the United States are not accorded greater substantive rights with respect to investment protections than U.S. investors in the United States.
- Seek to ensure that U.S. investors receive treatment as favorable as that accorded to domestic or other foreign investors in TPP countries, and to address unjustified barriers to the establishment and operation of U.S. investments in TPP countries.
- Provide and maintain procedures to resolve disputes between U.S. investors and the TPP countries that are in keeping with the goals of expeditious, fair, and transparent dispute resolution.

Electronic Commerce:

- Seek commitments from TPP countries not to impose customs duties on digital products or unjustifiably discriminate among products delivered electronically.

Government Procurement:

- Seek to establish rules that require government procurement to be conducted in the TPP countries in a manner that is fair, transparent, and predictable, and that ensures that U.S. goods, services, and suppliers of goods and services receive treatment as favorable as that accorded to domestic and other foreign goods, services, and suppliers in the TPP countries.
- Seek to expand market access opportunities for U.S. goods, services, and suppliers of goods and services in the government procurement markets of the TPP countries.

Transparency/Anti-Corruption/Regulatory Reform:

- Seek commitments to make each TPP country's administration of its trade and investment regime more transparent, and pursue rules that will permit timely and meaningful public comment before a TPP country adopts trade-and investment-related measures.

- Seek commitments to ensure that the TPP countries apply high standards prohibiting corrupt practices affecting international trade and investment and enforce such prohibitions.

Competition:

- Address anticompetitive business conduct, and other competition-related matters, as appropriate.
- Seek provisions that provide, as appropriate, for cooperation on competition law and policy and consultations on competition issues that may arise.

Trade Remedies:

- Provide a safeguard mechanism during a transition period to allow a temporary revocation of tariff preferences, if increased imports from the TPP countries are a substantial cause of serious injury or threat of serious injury to the domestic industry.
- Make no commitments that would require changes to U.S. antidumping and countervailing duty laws and practices.

Environment:

- Consistent with U.S. priorities and objectives, seek appropriate commitments by the TPP countries to effectively enforce their environmental laws and undertake implementation of applicable multilateral environmental agreements.
- Seek to establish mechanisms, including those for consultations and cooperation to work with the TPP countries, with a view to promoting sustainable development and addressing environmental issues of mutual interest, and as appropriate helping strengthen their capacity to protect the environment.

Labor, including Child Labor:

- Consistent with U.S. priorities and objectives, seek an appropriate commitment by the TPP countries to respect internationally recognized labor rights and effectively enforce their respective labor laws concerning those rights.
- Based on a review and analysis of the TPP countries' labor laws and practices, establish procedures for consultations and cooperative activities to strengthen their capacity, as appropriate, to promote respect for internationally recognized labor rights, including the principles embodied in the ILO Declaration on Fundamental Principles and Rights at Work and ILO Convention 182 on the Worst Forms of Child Labor.

State-to-State Dispute Settlement:

- Encourage the early identification and settlement of disputes through consultation.
- Seek to establish fair, transparent, timely, and effective procedures to settle disputes arising under the FTA.

In addition, we will take into account other U.S. objectives including, but not limited to, the protection of health, safety, environment, essential security, and consumer interests.

We are committed to concluding these negotiations with timely and substantive results for U.S. workers, consumers, businesses, farmers, and ranchers, keeping in mind U.S. priorities and negotiating objectives. We look forward to continuing to work with the Congress as negotiations with TPP countries begin, and we commit to work with you throughout the process.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan C. Schwab". The signature is fluid and cursive, with the first name "Susan" being the most prominent part.

Susan C. Schwab

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The Honorable Robert C. Byrd
President Pro Tempore
United States Senate
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Dear Senator Byrd:

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Environment:

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Susan C. Schwab