

United States Senate

WASHINGTON, DC 20510
(202) 224-6342

August 5, 2015

Ambassador Michael Froman
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508

Dear Ambassador Froman:

I am writing to follow up on letters dated July 30, 2015, in which I reiterated my objections to discriminatory treatment of tobacco in the Trans Pacific Partnership. While I remain hopeful that you and your colleagues can complete the TPP negotiations and produce a trade deal that can be supported by a majority of the Senate, I am concerned that we do not appear to be on a clear path to achieving that result.

I have once again met personally with Leader McConnell and Chairman Hatch, both of whom continue to express opposition to a tobacco “carve out,” without regard to form. I share their view that the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (TPA) set clear directives for you and your team, and raise the specter that the TPP is not necessarily entitled to its otherwise privileged status if those directives are not honored throughout the negotiations. Both the leader and the Chairman are also well aware – and dubious – of the impact a carve out here could have in future agreements.


Moreover, in my conversations with other Senators who would otherwise be inclined to support the TPP, I have emphasized the dangerous, precedent setting nature of a carve out and the fact that inclusion of such a term would run counter to the explicit instructions set forth in the TPA. A number of my colleagues share my view that the TPP can be a net positive in the long run. I am confident, however, that the path toward ratification will be significantly endangered if the administration or one of our trading partners impose their biases by targeting specific industries for exclusion.

Consistent with the consultation requirements of Section 104 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, I respectfully request access to pertinent negotiation documents which touch upon disparate treatment of any agricultural commodity, in any form, and am willing to coordinate as necessary to maintain the confidentiality of such documents.

At his request, I am enclosing a copy of a letter I shared with Senator Hatch following our meeting this afternoon. Once again, I reiterate my hope that you will resist any effort that results in disparate treatment of any commodity in the agreement, and that we can thereafter work together to garner robust support for the final partnership in the United States Senate.

I look forward to hearing from you.

Sincerely,



Thom R. Tillis

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The Honorable Orrin Hatch
United States Senate Pro Tempore
Chairman, Senate Finance Committee
104 Hart Office Building
Washington, DC 20510

VIA HAND DELIVERY

Dear Senator Hatch:

Thank you for taking time from your busy schedule to discuss my concerns with the negotiations over the Trans Pacific Partnership. I wanted to leave behind a few points that likely bear repeating:

- Current negotiations reveal a general lack of respect for Congressional involvement and oversight in trade negotiations. My office has requested language which we have not been provided, and we have generally had to learn more about the state of negotiations from stakeholders than directly from USTR. I have not received any response from my floor speech or from my communications to the USTR transmitting the same.
- The Congress has provided clear directives to our ministerial team. These directives are not aspirational or optional. Both the bill language and the Committee Report provide clear direction on the issues about which I've raised objections. Our negotiators nonetheless seem to be ignoring them, or worse, actively flouting them.
- You yourself have articulated the importance of there being "no exceptions" and "no discriminatory treatment" for U.S. businesses in these agreements. Otherwise, we will pave the way for a pattern and practice of choosing

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- winners and losers in future agreements. This is all the more frightening when it is clear that such a selection process would be based on social engineering preferences of the U.S. or, worse yet, those of our trading partners.
- The very rule of law is at stake here – U.S. values, tenets, and guidelines. When we talk about dispute settlement and investor protection, we’re talking core “American” principles like property protection.
- I have been told by Ambassador Froman that a sizable “block” of our trading partners have demanded a carve-out, while private sector individuals close to the negotiations paint a very different picture. Moreover, I have yet to see proof in literature or periodicals from our trading partners that they are insisting on a tobacco carveout to get the agreement finalized. It’s not clear this is a “must have” for any of the participating countries except the U.S.
- Inclusion of this product carve out will lead to others and will break apart the rule of law that is the foundation for our trade agreements. This is the wrong path for an agreement that is supposed to set the standard for our commercial relationship with the Asia Pacific.

I am extremely grateful for your leadership in our chamber generally, but I am particularly grateful at this moment for your leadership on this issue. I will continually welcome your seasoned guidance on how we resolve and move past this issue to arrive at an agreement that can be broadly supported.

Sincerely,



Thom R. Tillis