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## Update on the Trans-Pacific Partnership Negotiations

### **Introduction**

At the recent Trans-Pacific Partnership (TPP) ministerial in Maui, the 12 participant countries resolved a number of issues and built consensus for a path forward on those issues which remain unsettled. These developments will directly benefit American workers, farmers, and businesses of all sizes. Our negotiators made substantial progress on rules related to financial services, state-owned enterprises (SOEs), legal issues, and trade in industrial goods, agriculture, and textiles. Importantly, we also made substantial progress on intellectual property issues, where many previously-outstanding issues were resolved to the satisfaction of all parties after years of negotiations. We made substantial progress on market access for goods, services, investment, and government procurement. We also took significant steps toward completing an investment chapter that ensures that Americans do not face unfair discrimination when doing business abroad, while including safeguards that ensure our ability to continue to regulate in the U.S. public interest.

The progress made at the Ministerial meeting reflects our efforts to promote a values-based trade policy. Significant strides were made on an environment chapter that will require countries to provide critical environmental protections if they want to send their goods to the United States and will update NAFTA by putting fully-enforceable environmental obligations at the core of the agreement. We also made progress toward conclusion of groundbreaking and enforceable labor provisions that will require TPP partners to undertake specific steps to ensure that workers are accorded their most fundamental rights, as outlined by the International Labor Organization. In these and other areas in TPP, we have an opportunity to promote growth that is sustainable and inclusive.

Collectively, these steps are critical to “expanding the winner’s circle” by giving more Americans a fair shot in tomorrow’s global economy. By increasing U.S. exports and giving the United States a leading role in writing the rules of the road for tomorrow’s global economy, TPP will support more well-paying jobs here at home, enhance the economic prospects of middle-class American families, and strengthen U.S. national security. President Obama has made clear that he will only accept an agreement that benefits middle-class families, supports jobs and opportunities, and furthers our national security interests in the region. Our negotiators’ work at the recent Ministerial meeting was focused on achieving the high bar that has been set by Congress through bipartisan Trade Promotion Authority and on delivering the ambitious, high-standard agreement that the President, Congress and the American people demand. These efforts built on prior work in a number of important areas, from e-commerce and telecommunications, to textiles, and other high-priority issues. Following last month’s productive meetings, this high-standard trade agreement is one step closer toward completion. Recognizing that in any trade negotiation, nothing is agreed to until everything is agreed to, we made significant progress at the Ministerial toward developing a package that we expect to be acceptable to all TPP countries, pending the resolution of a limited number of outstanding issues.

Ministers and negotiators are now in contact to formalize the progress made at the recent Ministerial meeting

and find common ground toward concluding negotiations. At each step, our negotiators are guided by the ambitious objectives outlined in this report, as well as other important U.S. objectives including, but not limited to, the protection of health, safety, essential security, and consumer interests.

### **Trade in Goods**

The United States ships nearly \$2 billion in goods to TPP countries each day. In a highly competitive global marketplace, even small increases in a product's cost due to tariffs or non-tariff barriers can mean the difference between success and failure for a business – and some of these cost increases are very large, with tariffs in TPP countries ranging up to 70 percent for American-made automobiles and even higher for some agricultural exports. That is why the United States is working to negotiate in TPP preferential access for the industrial goods, food and agriculture products, textiles, and many other products we export into the fastest-growing economies in the world.

At the recent Ministerial meeting, negotiators made progress toward:

Eliminating 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 U.S. exports while addressing U.S. import sensitivities;

Eliminating 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;

Disciplining state trading enterprises, state-owned enterprises and designated monopolies, as appropriate, to enhance transparency and eliminate market distortions;

Reaffirming WTO commitments on sanitary and phytosanitary (SPS) measures and avoiding any SPS restrictions that are not based on science;

Reaffirming WTO commitments on technical barriers to trade (TBT) and avoiding any unjustified TBT measures;

Obtaining fully reciprocal access to TPP country markets and more open conditions of trade for U.S. textile and apparel products; and

Ensuring that no commitments would require changes to U.S. antidumping and countervailing duty laws and practices or diminish the U.S. ability to effectively enforce those laws.

### **Customs Matters, Rules of Origin, and Enforcement Cooperation**

Cutting the red-tape of trade, including by reducing costs and increasing customs efficiencies, will make it cheaper, easier, and faster for businesses to get their products to market. In TPP, we are looking to facilitate trade across the TPP region; support the deep integration of U.S. logistics, manufacturing, and other industries in regional supply chains; and reduce costs for U.S. business by removing onerous and opaque customs barriers.

At the recent Ministerial meeting, negotiators made progress toward:

Establishing rules of origin, procedures for applying these rules, and provisions to address circumvention that ensure that preferential duty rates under the TPP Agreement apply only to goods eligible to receive such treatment, without creating unnecessary obstacles to trade; and

Securing 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.

### **Trade in Services**

Services industries account for four out of five U.S. jobs in the U.S., which is by far the world's largest services exporter and maintains a services-trade surplus of \$233 billion as of 2014. Securing liberalized and fair access to foreign services markets will help U.S. service suppliers, both small and large, to do business in TPP markets – increasing revenues and supporting jobs at home.

At the recent Ministerial meeting, negotiators made progress toward:

Expanding market opportunities for U.S. services, as well as reducing barriers to international trade in services;

Securing 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; and

Pursuing a comprehensive approach to market access, including improvements in access to the telecommunications and financial services sectors, as well as addressing the operation of any designated monopolies or state enterprises related to services or investment.

### **Investment**

With trade following investment, we are working to ensure that Americans doing business abroad are provided the same kind of opportunities in other markets that U.S. policy affords to domestic and foreign investors doing business within our borders. That is why we are seeking to include in TPP many of the investment obligations that have historically helped to support jobs and economic growth, as well as new provisions to take on emerging investment issues, while also including safeguards to ensure full rights to regulate in the public interest.

At the recent Ministerial meeting, negotiators made progress toward:

Establishing rules that reduce or eliminate artificial or trade-distorting barriers to U.S. investment in TPP countries;

Securing for U.S. investors in TPP countries important rights comparable to those that would be available under U.S. legal principles and practices, 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;

Ensuring that U.S. investors receive treatment as favorable as that accorded to domestic or other foreign investors in TPP countries and addressing unjustified barriers to the establishment and operation of U.S.

investments in TPP countries; and

Providing and maintaining 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 settlement.

### **Digital Trade in Goods and Services and Cross-Border Data Flows**

In the past five years, the number of Internet users worldwide has ballooned from two to three billion, and this number will continue to grow. The increase in Internet use creates significant economic potential, particularly for small businesses. The Obama Administration is working through TPP to ensure competitive access for Internet and telecommunications companies, and the huge swathe of the economy that relies on their services. As the first trade agreement to address these issues in a comprehensive way, TPP will set digital trade rules-of-the-road, and is crucial to preserving the benefits of an open, global Internet for the future.

At the recent Ministerial meeting, negotiators made progress toward:

Establishing requirements that support a single, global Internet, including ensuring cross-border data flows, consistent with governments' legitimate interest in protecting privacy;

Establishing rules against localization requirements that force businesses to place computer infrastructure in each market in which they seek to operate, rather than allowing them to offer services from network centers that make business sense; and

Securing commitments to provide reasonable network access for telecommunications suppliers through interconnection and access to physical facilities.

### **Intellectual Property**

Strong and effective protection and enforcement of IP rights is critical to U.S. economic growth and American jobs. Nearly 40 million American jobs are directly or indirectly attributable to "IP-intensive" industries. These jobs pay higher wages to their workers, and these industries drive approximately 60 percent of U.S. merchandise exports and a large share of services exports. In TPP, we are working to advance strong, state-of-the-art, and balanced rules that will protect and promote U.S. exports of IP-intensive products and services throughout the Asia-Pacific region for the benefit of producers and consumers of those goods and services in all TPP countries.

At the recent Ministerial meeting, negotiators made progress toward:

Establishing 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;

Securing fair, equitable, and nondiscriminatory market access opportunities for U.S. persons that rely on intellectual property protection;

Establishing strong protections for patents, trademarks, copyrights, and trade secrets, including safeguards against cyber theft of trade secrets;

Securing strong and fair enforcement rules to protect against trademark counterfeiting and copyright piracy, including rules allowing increased penalties in cases where counterfeit or pirated goods threaten consumer health or safety; and

Providing strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property, including in a manner that facilitates legitimate digital trade

Securing pharmaceutical IP provisions that promote innovation and the development of new, lifesaving medicines, create opportunities for robust generic drug competition, and ensure affordable access to medicines, taking into account levels of development among the TPP countries and their existing laws and international commitments;

Rules that promote transparency and due process with respect to trademarks and geographical indications;

### **Government Procurement**

Increasing access to government procurement markets in TPP countries, which represent an estimated 10-15 percent of many countries' economies, will unlock significant opportunities for U.S. businesses and workers. At the same time, we intend TPP to be consistent with past agreements in preserving U.S. rights to maintain such policies as Buy American requirements and small business and other set-asides, as well as state and local procurement rights.

At the recent Ministerial meeting, negotiators made progress toward:

Expanding market access opportunities for U.S. goods, services, and suppliers of goods and services in the government procurement markets of the TPP countries.

### **Competition and State-Owned Enterprises (SOEs)**

U.S. goals on competition policy and SOEs are grounded in long-standing principles of fair competition, consumer protection, and transparency. The United States is seeking rules to prohibit anticompetitive business conduct, as well as fraudulent and deceptive commercial activities that harm consumers. We are also pursuing pioneering rules to ensure that private sector businesses and workers are able to compete on fair terms with SOEs, especially when such SOEs receive significant government backing to engage in commercial activity.

At the recent ministerial meeting, negotiators made progress toward:

Establishing new and enforceable rules to ensure commercial SOEs do not cause harm to competitors as a result of subsidies or other advantages they receive from government owners or other SOEs; and

Establishing new and enforceable rules to ensure that commercial SOEs operate on the basis of commercial considerations and do not discriminate against U.S. goods and services in their commercial purchases or sales.

### **Labor**

Ensuring respect for worker rights around the world is both a core value and a key to leveling the playing field

for American workers and businesses. In TPP, the United States is seeking enforceable rules that protect the rights of freedom of association and collective bargaining; discourage trade in goods produced by forced labor, including forced child labor; establish mechanisms to monitor and address labor concerns; help to ensure acceptable conditions of work, in areas such as minimum wages and workplace health and safety; and upgrade NAFTA to ensure that enforceable labor standards are fully part of our trade relationships with Canada and Mexico.

At the recent Ministerial meeting, negotiators made progress toward:

Obtaining appropriate and enforceable commitments from each TPP country with respect to internationally recognized labor rights, including child labor rights, and effectively enforcing their respective labor laws concerning those rights; and

Establishing procedures for consultations and cooperative activities to strengthen the capacity to TPP countries, 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.

### **Environment**

Advancing environmental protection and conservation efforts across the Asia-Pacific region is a key priority for the United States in TPP, both as a core value and as a key to leveling the playing field for American workers and businesses. In TPP, we are seeking strong and enforceable rules to protect the environment and require enforcement of domestic environmental laws; trailblazing, first-ever conservation proposals to address some of the region's most urgent environmental challenges, such as wildlife trafficking, illegal logging, and overfishing; the first agreement to reduce fishery subsidies; and rules ensuring transparency and public participation.

At the recent Ministerial meeting, negotiators made progress toward:

Obtaining appropriate and enforceable commitments from each TPP country to effectively enforce their environmental laws and undertake implementation of specific multilateral environmental agreements; and

Encouraging conservation and obtaining commitments to help reduce threats to sustainable development, including the use of sustainable fisheries management systems and sustainable forest management.

### **Transparency, Anti-Corruption, and Regulatory Coherence**

Through TPP, we are seeking to make trade across the TPP region more seamless, including by improving the coherence of TPP regulatory systems, enhancing transparency in policy-making processes, and combatting corruption. These "good government" reforms also play an important role in ensuring fairness for American workers and small businesses.

At the recent ministerial meeting, negotiators made progress toward:

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

### **Dispute Settlement**

We expect our TPP partners to abide by the rules and obligations within the agreement. If disputes arise with respect to compliance, the Parties have recourse to an independent tribunal to determine whether a Party has failed to meet its obligations, and ultimately to allow suspension of benefits of the trade agreement if a Party fails to come into compliance. Through the TPP dispute settlement mechanism, we are seeking to give the American public the confidence that the United States has the means to enforce the strong, high-standard obligations we aim to secure through this agreement.

At the recent Ministerial meeting, negotiators made progress toward:

Establishing provisions that treat all disciplines in the Agreement equally with respect to access to the dispute settlement provisions of the agreement, including with respect to remedies;

Establishing fair, transparent, timely, and effective procedures to settle disputes arising under the TPP; and

Establishing penalties on parties that encourage compliance and are appropriate in nature, subject matter, and scope to the violation.

### **Development and Capacity-Building**

The United States views development as a way to further strengthen the region and lay the groundwork for future economic opportunities by improving access to economic opportunity for women and low income individuals; incentivizing private-public partnerships in development activities; and designing sustainable models for economic growth. In addition, the United States sees trade capacity-building as critical to assist TPP developing countries such as Vietnam, Peru, Brunei, and others, in implementing the agreement and ensuring they can benefit from it. In TPP, we plan to include a chapter on cooperation and capacity building, and for the first time in any U.S. trade agreement a chapter dedicated specifically to development.

At the recent Ministerial meeting, negotiators made progress toward:

Promoting capacity building and assistance by the United States and other developed TPP countries in order to aid developing TPP countries with implementation of trade commitments and obligations.