

Citizens Trade Campaign

working together for social and environmental justice in trade policy

January 25th, 2010

Dear President Obama:

The faith, labor, family farm, consumer, environmental, human rights and social justice organizations within Citizens Trade Campaign (CTC) look forward to working with you to bring about the promise of trade reform. Altering the current model of U.S. trade agreements is a critical aspect of rebuilding our economy to create good jobs for Americans now and in the future, and to promote prosperity here and abroad. The administration's decision to enter into negotiations for a proposed Trans-Pacific Partnership Trade Agreement (TPP) provides the opportunity to lay out your framework for a new and more balanced American trade agreement model that can expand trade under terms that deliver benefits to more people and thus can gain the support of a majority of Democrats in Congress.

We are all eager to support trade agreements that benefit a majority of U.S. workers, farmers, small businesses and consumers. We all want American trade and globalization policies that promote the larger societal goals of economic justice, poverty alleviation, healthy communities, human rights and a sound environment.

We understand that during your administration's first year in office, priority had to be given to trying to remedy the economic mess that the previous administration left. However, as 2010 begins, we respectfully urge your administration to initiate the inclusive review of U.S. trade policies that your USTR announced in 2009 and the related formulation of a new American trade agreement model.

We support the many explicit trade reform commitments you outlined during the campaign, and support your goals of "increasing transparency and promoting broader participation in the debate." We also appreciate your commitment that our future trade policies must "reflect our respect for entrepreneurship and market competition, our environment, opportunity for all, and the rights of workers". After many secretive back-room trade negotiations during the last administration, we strongly agree with your assessment that "U.S. trade policy development needs to become more transparent" and appreciate your recognition that "many stakeholders are frustrated with the lack of consultation involved in the development and implementation of trade policy, but we can and should expand public participation in advising U.S. trade negotiators. . . . and more public consultation venues outside the established advisory groups are important steps toward this goal."

It is also a breath of fresh air, after the Bush Administration, to hear Ambassador Kirk declare with respect to TPP negotiations that "the development of our negotiating positions will be a collaborative effort with elected leaders and stakeholders here at home." We applaud his recent comments regarding the need for a serious consultation process for developing U.S. objectives for the TPP talks that would achieve, "a robust U.S. view that seeks the highest economic benefit for America's workers, farmers, ranchers, manufacturers, and service providers, and reflects our shared values on labor, the environment, and other key issues."

We agree that the challenges and opportunities associated with creating new rules for the global economy that work for more Americans require a thoughtful process that includes participation by the many interests affected by today's expansive trade pacts. Thus, we applaud the administration's 2009 commitment to undertake a thorough review so that the best future course may be determined. Given the complicated issues related to the formation of a prospective TPP that will consume the March negotiations, there is ample time to undertake a review and policy formulation process if it is begun soon.

With respect to the initial TPP meeting in March, we believe that it is critical that the countries interested in participating in TPP talks understand that **there are certain terms that must be and must not be included in any future U.S trade agreement for it to obtain public and thus congressional support.** Establishing early on that

there will be a new Obama administration approach to TPP negotiations is especially critical, considering the Bush administration initiated U.S. involvement in the TPP in February 2008. They participated in three negotiating rounds, presumably following the past U.S. trade agreement model opposed by many congressional Democrats, our organizations and according to polling data, a majority of Americans.

Congressional critics of the past trade agreement model worked hard in 2009 to develop legislation that provides specific remedies to many of the issues that you have raised in the past, and about which they have shared concerns. The comprehensive reform agenda set forth in the **Trade Reform, Accountability, Development and Employment (TRADE) Act** – put forward by Senator Sherrod Brown and Representative Mike Michaud – now enjoys the support of a majority of House Democrats. Its cosponsors include a majority of House committee chairs and subcommittee chairs and 22 members of the Blue Dog caucus and 18 members of the New Democrats caucus. The TRADE Act establishes basic, common sense principles upon which all future American trade agreements -- including the TPP -- ought to be based. We hope you will use it as a blueprint to build a new model, starting with the TPP negotiations.

For a prospective Trans-Pacific Partnership Trade Agreement to be successful, it cannot merely mirror past U.S. agreements, including those negotiated with Peru, Colombia, Panama and Korea. The FTAs negotiated under the Bush Administration do not represent an acceptable trade agreement model. Indeed, a majority of House Democrats voted against the Peru FTA. However, specific improvements made to some of those pacts' terms in 2007 with respect to labor and environmental standards and patent rules related to medicines are a starting point from which a prospective TPP agreement must achieve more progress.

A prospective TPP must also address the significant problems with the foreign investor, procurement, services, agriculture, and food and product safety terms in past trade agreements that were not subject to initial reform in 2007. During the campaign, you included these issues in your discussion of changes needed to the NAFTA-model FTAs. The issues that you raised have been the basis of congressional opposition to NAFTA-style pacts: excessive foreign-investor privileges and private enforcement systems, limits on domestic procurement policy, service sector provisions that can undermine the regulation needed to ensure affordable access to quality services, limits on imported food and product safety protections, and more.

The TPP provides a long-overdue opportunity to decide what policies future U.S. trade agreements should and should not include. The United States has Free Trade Agreements (FTA) with four of the prospective TPP partners, Australia, Chile, Peru and Singapore. Thus, TPP talks present an opportunity not only to establish a new trade policy going forward, but also to address some of the mistakes of past trade policy.

In March of 2009, our national, state and local affiliates, representing well over sixteen million combined members, and 350 individual organizations in the trade reform movement, signed a letter that was sent to Ambassador Ron Kirk that identified the TRADE Act as the roadmap for the needed reforms to the existing American trade agreement model. These groups agreed that many of the most serious problems of the previous trade agreement model were replicated in the FTAs with Peru, Colombia, Korea and Panama and that the initial reforms made to labor and environmental standards and medicines patent rules required further improvements. Inclusion in a prospective Trans-Pacific Partnership Trade Agreement of the problematic provisions found in past NAFTA-style trade agreements, or the failure to build on past improvements with respect to labor and environmental standards and medicine patent rules, would result in it not even passing the most conservative “does no further harm” test.

If the TPP if it is to represent a more balanced way to expand trade, and garner broad support from the public, labor and civil society organizations and thus Congress, it must address the core issues below which are also central to the TRADE Act.

- Labor and Environmental Standards and their Enforcement. The Peru FTA and the three leftover Bush FTAs require countries only to implement the vague terms set forth in the ILO Declaration on Fundamental Principles and Rights at Work, and they explicitly do not refer to the ILO Conventions, with their associated jurisprudence and protections. The labor standards of a prospective TPP agreement must require signatories to enforce the core International Labor Organisation's (ILO) standards as set forth in the ILO Conventions. Requiring in the TPP that countries implement in their domestic law the ILO Convention standards will be a historic accomplishment for

international worker rights. Indeed, all future U.S. trade agreements must include a requirement that countries implement in their domestic law the ILO Convention standards. They must also include provisions stating that the failure to enforce or the weakening of such policies would constitute a violation of a trade pact provision, for which the consequences will be just as stringent as commercial violations. The record of implementation of the Peru FTA demonstrates why better enforcement of trade pact labor and environmental terms must be a goal of a prospective TPP. Despite inclusion of the 2007-revised labor and environmental language, the Peru FTA was implemented in 2009 without Peru fully implementing its labor commitments as required and after its government rolled back existing environmental protections. Given the disconcerting labor rights records of Vietnam and Brunei, the issue of enforcement will be a critical one in the TPP negotiations.

- **Foreign-Investor Rights and Private Extra-judicial Investor-State Enforcement.** The TPP must not include the same foreign investor terms included in NAFTA, CAFTA and the Bush FTAs that led many Democrats to oppose these pacts. These past rules afford foreign investors operating here with greater rights than those enjoyed by U.S. investors. The past FTA investment provisions also allow foreign investors and corporations to directly enforce their special FTA investor rights and privileges by suing governments in foreign tribunals to demand cash compensation. You cited these investment rules as problematic during the campaign. The past FTAs' investor rights terms create incentives for U.S. firms to offshore their U.S. production to foreign jurisdictions where they can operate under privileged FTA foreign investor status rather than be forced to deal with that country's regulatory policy and courts. They also subject our domestic environmental, zoning, health and other public interest policies to challenge by foreign investors in foreign tribunals. The Australia FTA does not include investor-state enforcement, providing the starting place from which substantive reforms to the foreign investor rules can be built. The TRADE Act describes a model for trade agreement investment rules that can ensure security for U.S. firms investing abroad while avoiding the overreach of past pacts which established extraordinary new rights for foreign investors.

- **Food and Product Safety.** NAFTA, CAFTA and the Bush FTAs contain language requiring the United States to accept imported food that does not meet our domestic safety standards and limiting import inspection of food and products. In all future U.S. trade pacts, the right to send food and products into the United States must be conditioned on meeting U.S. safety and inspection standards.

- **Procurement Provisions.** Past FTA procurement rules subject many common federal and state procurement policies to challenge and directly forbid other common procurement policies. These procurement rules continue the NAFTA/CAFTA ban on anti-offshoring and many Buy America policies, and expose U.S. renewable-energy, recycled-content and other environmental safety requirements to challenge. These terms must be changed in the TPP to provide the policy space for exciting "Green Economy" proposals needed to get our economy back on track.

- **Service-sector deregulation.** Future U.S. trade pacts must not limit domestic policy regarding the regulation of health, energy, and other essential services. As well, the financial crisis has shown the perils of locking in deregulation of banking, insurance, and other financial services, as has occurred in past pacts.

- **Agriculture Provisions.** Past FTAs contain the NAFTA-style agriculture trade rules that have simultaneously undermined U.S. producers' ability to earn a fair price for their crops at home and in the global marketplace. Multinational grain-trading and food-processing firms have made enormous profits, while farmers on both ends have been hurt. If this model is continued, hunger is projected to increase, along with illicit drug cultivation, and undocumented migration. Failure to establish new agriculture terms would intensify the race to the bottom in commodity prices, pitting farmer against farmer and nation against nation to see who can produce food the cheapest, regardless of labor, environment or food-safety standards.

- **Access to Medicines.** While the most egregious, CAFTA-based terms limiting access to affordable medicines were removed from the last four Bush FTAs, the texts still include NAFTA-style terms that undermine the right to affordable medicines that were contained in the WTO's Doha Declaration. The TPP negotiations must build on the 2007 reforms on medicine patents rules.

The prospect of fixing the problems with the existing U.S. agreements with prospective TPP partners provides a selling point for the TPP initiative given the limited new commercial prospects the pact provides. That is to say that the United States already has FTAs with the largest economies in the prospective TPP bloc – Australia and Singapore. The four countries with which the United States already had FTAs comprise 87 percent of the total combined \$1.7 trillion nominal GDP of all target TPP countries.

Finally, we note that both Vietnam and Brunei have authoritarian governments and, according to annual U.S. State Department country reports, there are serious and on-going labor and human rights violations in both of these nations. This reality creates an imperative for American negotiators to ensure that any country seeking to be part of a prospective future TPP agreement meet criteria with respect to labor rights, democratic governance and other human rights.

The dramatic economic downturn caused in part by the lack of prudent global regulation of commerce, and massive trade and financial imbalances, demonstrates why America needs a new way on trade. The TPP negotiations provide a long-overdue opportunity to decide what policies future U.S. trade agreements should and should not include so as to deliver on our shared goals.

We look forward to working with you to create a new American trade and globalization policy, starting with the process of reviewing our old trade agreement model and formulating a new approach which can be debuted in the context of the TPP process. It will be challenging to remedy the considerable damage that our past trade policies have wrought, however we are confident that working together, we can replace the failed trade policies of the past with those that deliver broadly shared benefits and thus earn broad support.

Sincerely,

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| United Steelworkers | Friends of the Earth U.S. | National Farmers Union |
| Int. Brotherhood of Teamsters | United Methodist General Board of Church & Society | Communication Workers of America |
| Public Citizen | Int. Brotherhood of Boilermakers | Workers United |
| International Association of Machinists & Aerospace Workers | Int. Union of Painters and Allied Trades | International Brotherhood of Electrical Workers |
| United Students Against Sweatshops | Nat'l Family Farm Coalition | IATP Action |
| Americans for Democratic Action | | |

Citizens Trade Campaign (CTC) is a coalition of faith, family farm, labor, consumer and environmental organizations with over 12 million combined members. Our national organizations, state coalitions, and over 300 state and local affiliates are united in a common belief that international trade and investment are not ends unto themselves, but must be viewed as a means for achieving greater societal goals. First formed in 1992 to reform NAFTA, we support trade policies that reflect the interests of a majority of people in America, and across the world.

For more information about CTC, please visit our website at www.citizenstrade.org