

Congress of the United States
Washington, DC 20515

December 21, 2011

Ambassador Ron Kirk
United States Trade Representative
600 17th St. NW
Washington, DC 20508

Dear Ambassador Kirk:

We are pleased that the Leaders of the countries engaged in the Trans-Pacific Partnership (TPP) announced during APEC the broad outlines of an agreement and the commitment to conclude negotiations as rapidly as possible. TPP presents an historic opportunity to open new markets for U.S. goods and services and provide new jobs to America's workers. Because TPP is so important, we are writing to you now to express our views as the Administration develops the U.S. negotiating position regarding labor in the TPP negotiations.

We fully support the underlying goal of ensuring that workers are treated fairly and according to international norms and that trade agreements do not lower labor standards. However, we would have strong concerns if the Administration sought to meet this goal through expanded labor-related obligations in TPP. A more effective approach is to assist other countries to develop better capabilities to implement and enforce their own labor laws and core international standards. We believe that improving the labor-related capacity building provisions in past trade agreements would enhance TPP as a 21st century agreement and would bring practical and concrete improvements to workers.

Moreover, the U.S. approach to labor standards must be carefully calibrated and bipartisan. While some of us still have serious concerns about the approach followed in the Peru, Colombia, Panama, and South Korea agreements, we recognize that it reflected a careful balancing of interests. We caution that any move to further expand the scope of the labor provisions would seriously undermine support for the TPP negotiations.

In addition, further expanding the scope of obligations could unduly expose the United States to potential unwarranted litigation and trade sanctions on a new and broader array of its labor laws and policies in this new forum. The International Labor Organization has not hesitated to unjustifiably criticize U.S. labor policies, and in particular, U.S. agriculture policies, including family farms, and expanding labor obligations could create an opportunity for ILO criticisms to be used as the basis for litigation. Foreign countries – whether or not they have adopted the same obligations – would be permitted to bring

spurious cases against the United States using those criticisms. The United States, in turn, would face the potential of retaliatory trade sanctions if it lost – something the United States does not face currently under its international obligations.

Moreover, any expansion of labor obligations would inevitably bog down and delay conclusion of the TPP. Because the TPP will open new markets for U.S. exports and support well-paying American jobs, we believe the TPP should be concluded as quickly as possible. However, trying to expand the international labor obligations of the United States and the other TPP countries will surely delay completion of the negotiations.

Furthermore, expanding the scope of labor obligations would undoubtedly come at the cost of new market access for U.S. exporters. The purpose of the TPP is to open new markets for U.S. goods and services, but trading away market access for broader labor obligations does not comport with that goal.

Finally, we strongly believe that the Administration should not seek to change U.S. labor laws indirectly by committing to international obligations that exceed current law or would prevent Congress from ever changing U.S. laws even in ways that are consistent with international norms. Any such changes should be made legislatively by Congress after full consideration and debate.

Accordingly, we do not support expansion of the scope of labor obligations in the TPP. Any such effort will seriously undermine support for the TPP and jeopardize Congressional approval of the agreement.

Sincerely,



Dave Camp
Chairman
Committee on Ways and Means
U.S. House of Representatives



Orrin Hatch
Ranking Member
Committee on Finance
U.S. Senate



Kevin Brady
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives



John Thune
Ranking Member
Subcommittee on Trade, Customs
and Global Competitiveness
Committee on Finance
U.S. Senate