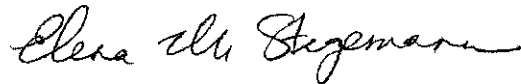


The Honorable Michael Froman  
United States Trade Representative  
600 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20508

Dear Ambassador Froman:

In accordance with section 5(b)(4) of the Bipartisan Trade Priorities and Accountability Act of 2015, and section 135(e) of the Trade Act of 1974, as amended, I am pleased to transmit the report of the Committee on Consumer Goods (ITAC 4) on the Trans-Pacific Partnership, reflecting consensus majority advisory opinion on the proposed Agreement.

Sincerely,

A handwritten signature in black ink, reading "Elena M. Stegemann". The signature is written in a cursive, flowing style.

Elena M. Stegemann  
Chair, ITAC-4

# **The Trans-Pacific Partnership**

**Report of the  
Advisory Committee on Consumer Goods**

**December 3, 2015**

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Industry Trade Advisory Committee on Consumer Goods

**Advisory Committee Report to the President, the Congress and the United States Trade Representative on the Trans-Pacific Partnership.**

**I. Purpose of the Committee Report**

Section 5(b)(4) of the Bipartisan Trade Priorities and Accountability Act of 2015, and section 135(e)(1) of the Trade Act of 1974, as amended, require that advisory committees provide the President, the U.S. Trade Representative, and Congress with reports not later than 30 days after the President notifies Congress of his intent to enter into an agreement.

Under Section 135 (e) of the Trade Act of 1974, as amended, the report of the Advisory Committee for Trade Policy and Negotiations and each appropriate policy advisory committee must include an advisory opinion as to whether and to what extent the agreement promotes the economic interests of the United States and achieves the applicable overall and principle negotiating objectives set forth in the Trade Act.

The report of the appropriate sectoral or functional committee must also include an advisory opinion as to whether the agreement provides for equity and reciprocity within the sectoral or functional area.

Pursuant to these requirements, the Advisory Committee on Consumer Goods (“ITAC-4” or the “Committee”) hereby submits the following report.

**II. Executive Summary of Committee Report**

ITAC-4 members support the Trans-Pacific Partnership (“Agreement” or “TPP”). We believe the completion of the TPP is a historic milestone in breaking down global trade barriers. The Agreement will deliver important benefits to consumer goods firms in terms of improved market access, increased regulatory transparency, simplified customs procedures and harmonization of technical barriers. Further, we generally support the Agreement’s provisions on intellectual property and investment, as well as the inclusion of new trade challenges, such as the growing role of electronic commerce, protection of the environment, and the growing role of small- and medium-sized enterprises in global trade.

We also approve of the efforts to simplify trade through introduction of reciprocity on temporary entry for business travelers (visas) and innovations in customs administration. Documentation simplification, automation implementation, along with minimal certification of TPP compliance, are important elements of trade facilitation.

ITAC-4 members have consistently supported comprehensive trade agreements and believe that, overall, the Agreement provides for equity and reciprocity within the consumer goods sector. Thus, the Committee is disappointed that the United States agreed to a product-specific exemption pertaining to public health measures to the Investment Chapter in the TPP. By incorporating this provision, the Committee is concerned that this will be interpreted by regulators as a blanket authority to discriminate against certain sectors without upholding basic principles of the rules-based international trading system. Thus, ITAC-4 urges the administration to ensure that no additional product-specific exemptions are included in the TPP or in any other future free trade agreements.

### **III. Brief Description of the Mandate of ITAC-4**

The Committee advises the Secretary of Commerce and the USTR concerning the trade matters referred to in Sections 101, 102 and 124 of the Trade Act of 1974, as amended; with respect to negotiating objectives and bargaining positions before entering into a trade agreement under Section 135 of the Trade Act of 1974, as amended, with respect to the operation of any trade agreement once entered into, and with respect to other matters arising in connection with the development, implementation and administration of the trade policy of the United States, including those matters referred to in Reorganization Plan Number 3 of 1979 and Executive Order 12188, and the priorities for actions thereunder. In particular, the Committee provides detailed policy and technical advice, information and recommendations to the Secretary and the USTR regarding trade barriers and the implementation of trade agreements negotiated under Sections 101 or 102 of the Trade Act of 1974, as amended, and Sections 1102 and 1103 of the 1988 Trade Act, and performs such other advisory functions relevant to U.S. trade policy as may be requested by the Secretary and the USTR or their designees.

Further, while the Committee appreciated the consultations during the TPP negotiating process, we encourage the Administration to further its engagement with the Committee before and during negotiations of trade agreements to ensure that the views and advice of the private sector are adequately reflected, consistent with Section 135 of the Trade Act of 1974, as amended.

### **IV. Negotiating Objectives and Priorities of ITAC-4**

“Consumer Goods” covers a wide array of products, including sporting goods, appliances, toys, processed foods and beverages, cookware, glassware, motorcycles, boats, recreational vehicles, shoes, apparel and consumer electronics. All of these products – and others – are represented by members of ITAC-4. Consequently, the Committee’s primary objectives for the Agreement were that it be a comprehensive agreement encompassing all sub-sectors within the consumer goods category and that it achieve both free and fair trade through the rapid elimination of both tariff and non-tariff barriers.

ITAC-4 members take particular interest in the following elements/chapters of the agreement: market access, dispute settlement, intellectual property, rules of origin, customs procedures, regulatory transparency, technical barriers to trade, conformity assessment, related instruments, and exceptions. Although all of the provisions included in the TPP are important to ITAC-4

members, our comments will address only the above mentioned priority aspects of the Agreement.

## **V. Advisory Committee Opinion on Agreement**

### **Market Access**

Overall, market access for U.S. consumer goods in TPP countries where the United States does not already have a free trade agreement (FTA) will significantly improve upon implementation of the agreement, creating a level playing field for U.S. goods in these markets. For example, according to Department of Commerce data, Japan will eliminate import duties on 93.5% of U.S. consumer goods immediately upon entry into force of the agreement. In addition, Malaysia and New Zealand will also eliminate duties for U.S. consumer goods (80.3% and 86.4% of tariff lines, respectively) immediately upon entry into force. Almost 93% of U.S. consumer goods entering Vietnam will face no duties within four years after entry into force of the agreement. Thus, given the importance of the consumer goods sector to the U.S. economy (U.S. exports totaled \$43 billion in 2014), the market access outcomes in TPP are significant and, we believe, will help to boost U.S. exports of these products. The Committee welcomes the rapid tariff elimination that was achieved for many U.S. consumer goods, and encourages the Administration to pursue accelerated phase outs wherever possible.

Some of the specific sector results are noted below.

*Toys:* The market access results for toys were highly positive. Duties on all toy categories in the U.S. toy industry's major markets in the region will be eliminated immediately upon the agreement's entry into force.

*Distilled Spirits and Wine:* New Zealand agreed to eliminate immediately upon implementation its 5% tariff on U.S. vodkas, liqueurs, and gins. In addition, Malaysia has agreed to include beverage alcohol, including wines and distilled spirits, within the scope of the agreement and to eliminate tariffs on such products, albeit over a long phase out. Vietnam has agreed to eliminate tariffs on U.S. distilled spirits and wine, but the Committee is disappointed with the long tariff phase outs. Nonetheless, we note that the agreement includes a provision for parties, if they so choose, to accelerate tariff elimination. We urge the United States to avail itself of these provisions at the earliest possible opportunity to seek a more rapid elimination of the tariffs on these products and others subject to longer-term tariff phase-outs.

*Bicycles:* The U.S. bicycle industry is delighted with the TPP's market access provisions. Across the board, E-bikes, bicycles, parts, and accessories will see import tariffs eliminated and the supply chain simplified. This will ultimately translate to lower prices for American consumers purchasing imported bicycles. In most cases, tariffs will be eliminated on imports from and to all TPP members beginning the day the agreement enters into force. Certain products to select countries will experience a longer phase-out period.

*Articles and Equipment for General Exercise:* TPP is a major win for the US manufacturers of general exercise equipment, who are going to see immediate elimination of tariffs in major markets upon entry into force. The global fitness equipment industry is forecasted to grow

steadily in the next few years, and will reach an approximate \$10.6 billion by 2018. Rising concern and awareness for healthy living, physical benefits, and exercise are among the major drivers for fitness equipment demand around the world. Thus, TPP will not only help manufacturers of exercise equipment, but will increase TPP nations' access to healthy living options through more competitively priced high quality exercise equipment.

### **Dispute Settlement**

The TPP dispute resolution process is a key part of the FTA for consumer goods manufacturers. With the implementation of the TPP, there will likely be circumstances where there will be different interpretations of the TPP provisions. As a result, it is critical for makers of consumer goods that there is a relatively quick process in place for the U.S. government to address areas of disagreement and enforce a party's rights.

The dispute settlement procedures in the TPP achieve this goal in that they provide for the prompt resolution of disputes in a transparent process that will allow parties to enforce their rights and take full advantage of the benefits provided by the TPP.

### **Intellectual Property (IP)**

The provisions regarding intellectual property protection for consumer products within TPP are sound. The Agreement comprehensively addresses trade secrets, patent and trademark registrations.

The additional reinforcement through competitive and business facilitation conditions adds to the preservation of Intellectual property. The IPR Chapter of the Agreement provides additional support to processed agricultural products such as wine and other goods that seek to register a Geographic Indication in TPP markets through recognition of collective and certification marks.

We are pleased with the broader scrutiny within the customs administration and trade facilitation provisions of the TPP.

With B2C digital electronic commerce becoming more prevalent in the trade of consumer goods, the rules on "de Minimis" parcel shipments are gaining the attention of consumer goods manufacturers. While higher de Minimis values are seen as a trade-facilitating measure by some industries, other consumer goods sectors are concerned that they can create an opportunity to circumvent IP rules applicable to larger shipments.

In developing TPP countries, we encourage proactive, stronger, and aggressive actions to eliminate consumer product IP violations prevalent within small local counterfeiting operations, open retail trade markets, and resale through local internet sellers.

### **Rules of Origin**

The Rules of Origin chapter of the Agreement establishes the commitment that only "originating goods" will receive the tariff benefits of the TPP. Thus, a good cannot be produced in countries outside the TPP and be considered TPP "originating." These rules are specific to each product,

whether wholly obtained, or produced exclusively from TPP materials, or are subject to product specific rules, which limits the type or amount of non-TPP materials that can be used or if such materials have been substantially transformed into a “TPP product.”

The U.S. distilled spirits industry, for example, is generally very pleased with the product-specific rules that were agreed in TPP. The provisions applicable to most categories of spirits limit the non-originating materials to no more than 10% of the volume of the total alcohol content of the product, thus ensuring that U.S. origin spirits will benefit from the tariff phase-outs. In addition, the rules of origin for bicycles encourage integration of TPP content without either compromising the manufacturing cluster, quality and performance or adding supply chain complexity. Similarly, the product-specific rule of origin for toys recognizes and accommodates the toy industry's global supply chain.

The Rules of Origin chapter now clarifies what minor processes may take place, such as applying country-specific labels, when a good is being transshipped through a non-TPP member without losing that good's TPP originating status. This clarification provides greater certainty and predictability for U.S. exporters who transship their goods through regional hubs.

### **Customs Procedures**

The Customs Administration and Trade Facilitation chapter supports procedures that are predictable and transparent, and that expedite and facilitate trade, which will help link TPP firms into regional production and supply chains. The TPP ensures that goods are released from customs control as quickly as possible, while preserving the ability of customs authorities to strictly enforce customs laws and regulations. TPP parties must cooperate to ensure the effective implementation and operation of the Agreement as well as other customs matters. Under the TPP customs laws must be made public and where possible in English. We support the chapter's focus on risk management, as customs services should focus on high risk goods, while simplifying procedures and clearance for low-risk products. Some benefits to the chapter include the provision of advance rulings, and the allowance for administrative and judicial review and appeal processes. Another positive benefit of the chapter is that express shipments will receive expedited clearance. We encourage TPP parties to develop electronic automation for release of goods, a stated goal in the Agreement, to help facilitate trade and reduce border delays throughout the region.

### **Regulatory Transparency**

Consumer goods are subject to a wide range of regulation, and transparency is critically important to improving the business climate in all markets. The Agreement commits our trading TPP partners to apply robust principles of transparency, including: open dialogue, publically available information, and efficient practices. In particular ITAC-4 applauds the establishment of a Committee on Regulatory Coherence, aimed at ensuring continued dialogue among our trading partners on regulatory best practices. The Agreement emphasizes the need for sovereign nations to implement best practices, similar to notice and comment rulemaking in the United States, where proposed regulatory actions are made publically available with the opportunity for comments prior to finalization. Notice of new regulations and the ability to engage with foreign governments prior to enactment will better serve all trading TPP partners and their ability to do

business globally. Additionally, the Agreement calls on all involved nations, when developing regulations to consider best available, objective information, conduct inter-agency discussion, determine alternative methods, and assess global impact.

### **Conformity Assessment**

Standards and certification procedures which are objectively developed and administered transparently are key to enhancing and promoting trade among and between the parties of the TPP. Recognition and accreditation of conformity assessment bodies outside the party's country can speed time-to-market, reduce financially burdensome repeated testing and level the playing field for U.S. producers, particularly of consumer products which are subject to a myriad of standards. The Committee appreciates that safeguards are put into place in this agreement which assure the confidentiality of legitimate commercial interests, an issue of vital importance to developing technologies and industries. Further, transparency in the development of technical regulations, standards and conformity assessment procedures "on terms no less favorable" than with other parties gives the United States a potent tool to combat non-tariff barriers to trade and to non-objectively produced standards that can stifle trade between the parties. Having published requirements for determining competency of conformity assessment bodies, allowing for comments on proposed standards, and instituting a minimum time of six months for implementation of new regulations will be vital in facilitating trade between the United States and its partners in this agreement. We further support inclusion of for-profit and non-governmental conformity assessment and standard setting bodies within the Agreement.

### **Technical Barriers to Trade (TBT)**

Non-tariff barriers to trade pose a distinct roadblock for consumer goods. ITAC 4 applauds addressing non-tariff barriers such as standards, conformity assessment, and technical regulations within the framework of TPP. In particular, the establishment of a Technical Barriers to Trade committee will serve to promote dialogue among TPP countries, stakeholders, and interested parties.

The TBT Chapter to the Agreement includes – for the first time in any U.S. FTA—important sector-specific annexes. For example, the annex on wine and distilled spirits establishes certain best practices with regard to labeling and certifications for wines and spirits. Such commitments will help to streamline the exporting process and will make complying with various labeling rules more predictable and transparent throughout the TPP countries. For example, some of the provisions that will assist U.S. wine and distilled spirits exporters include:

- Label content including declarations of alcohol and net contents will be streamlined and expiration dates shall not be required for most products;
- Descriptive (traditional) winemaking terms may not be prohibited on labels, unless a country is bound by a prior FTA;
- Wineries will not be required to disclose winemaking practices on a label, unless for health or safety reasons;



- Most certificate requirements will be eliminated for vintage, varietal and regional claims for wine, and with regard to raw materials and production processes for distilled spirits;
- Wine and distilled spirits samples for customs clearance purposes must be of reasonable size;
- TPP parties are encouraged to base their standards for distilled spirits solely on the minimum alcohol content and the raw materials, added ingredients, and the production processes used, consistent with the U.S. approach; and
- Lot codes may be used, provided they are clear, specific, truthful and not misleading and gives suppliers the right to determine where such codes are placed, etc. It also provides that parties may impose penalties if such codes are defaced, erased, etc., which is an important tool to ensuring the authenticity of the products.

### **Related Instruments**

We are very pleased that **Vietnam, Malaysia and New Zealand** have agreed to recognize Bourbon and Tennessee Whiskey as distinctive products of the United States, and that **Japan** has agreed to begin its internal process for affording such recognition. This recognition is a very important tool to ensure that these distinctly American spirits offered for sale in these markets are, in fact, produced in accordance with U.S. laws and regulations for the production of Bourbon and Tennessee Whiskey.

### **VI. Membership of Committee**

Ms. Elena M. Stegemann, NuStep, Inc., Chair  
 Ms. Christine A. LoCascio, Distilled Spirits Council of the United States, Vice Chair  
 Ms. Katherine C. Bedard, Wine Institute  
 Mr. Michael A. Campagna, Peerless Industries, Inc.  
 Mr. Pedro DeJesus, Jr., Esq., Tampico Beverages, Inc.  
 Mr. Paul J. Jones, Esq., Harley-Davidson, Inc.  
 Mr. Carter E. Keithley, Toy Industry association, Inc.  
 Mr. Craig A. Kirby, Esq., Recreation Vehicle Industry Association  
 Mr. Robert B. Margevicius, Specialized Bicycle Components, Inc.  
 Mr. Patrick J. McDonough, Esq., Law Offices of Stewart and Stewart, Representing Libbey, Inc.  
 Ms. Monica J. Oberkofler Gorman, Ph.D., New Balance Athletic Shoe, Inc.  
 Mr. Hugh J. Rushing, Cookware Manufacturers Association  
 Mr. Thomas F. St. Maxens, St. Maxens & Company, Representing Mattel, Inc.  
 Ms. T. Nicole Vasilaros, Esq., National Marine Manufacturers Association