

December 3, 2015

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

Dear Ambassador Froman:

I am pleased to transmit the report of the Industry Trade Advisory Committee on Energy and Energy Services (ITAC-6) on the Trans-Pacific Partnership Trade Agreement (TPP), reflecting consensus and individual advisory opinion(s) on the proposed Agreement.

Sincerely,



Barbara Tyran  
Chair  
Industry Trade Advisory Committee on  
Energy and Energy Services (ITAC-6)

The Trans-Pacific Partnership Trade Agreement (TTP)

Report of the  
Industry Trade Advisory Committee on Energy and Energy Services

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Industry Trade Advisory Committee on Energy and Energy Services (ITAC-6)

Advisory Committee Report to the President, the Congress and the United States Trade Representative (USTR) on the Trans-Pacific Partnership Trade Agreement (TPP)

**I. Purpose of the Industry Trade Advisory Committee on Energy and Energy Services (ITAC 6) 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 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 of 2002.

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, ITAC 6 hereby submits the following report.

**II. Industry Trade Advisory Committee on Energy and Energy Services (ITAC 6) Report**

ITAC-6 members have reviewed the Trans-Pacific Partnership Trade Agreement (TPP) and agree with its overall reflection that all energy fuel sources deserve support.

The proposed greater alignment of national standards with relevant international technical standards is constructive, where practicable, as well as development of common approaches regarding matters under discussion in non-governmental, regional, plurilateral and multilateral bodies or systems that develop standards.

Open trade opportunities without restrictions enable energy companies to compete on a more level playing field. The elimination of tariffs for many energy products and services will benefit US trade relations. Committee members noted that additional trade access to Brunei, Japan, Malaysia, New Zealand and Vietnam will benefit US competitiveness in those nations. The inclusion of foreign national restrictions in Brunei on enterprise establishment for some sectors, including some mining and quarrying products and services, is disappointing. Similar restrictions are in place for Vietnam for minerals, oil and gas mining, and energy distribution.

Chapter 2: National Treatment and Market Access. National Treatment should ensure, generally, that imports be treated no less favorably than the same or similar domestically-produced goods once they have passed customs.

Chapter 9: Investment identifies general investment protection measures and establishes a rules-based framework that should protect against local policies that inhibit US investment or expropriations of investment in member countries.

Chapter 17: State Owned Enterprises (SOEs). The TPP goes beyond previous agreements in addressing the distortions SOEs can cause in markets. It is the first FTA to seek to address comprehensively the commercial activities of SOEs that compete with private companies in international trade and investments. Even with the exceptions made for specific parties, we acknowledge the importance of this provision.

Given that there is no specific chapter devoted to energy, the greatest area of comments regards Chapter 20: Environment. Individual Committee members supported the recognition that enhanced cooperation to protect and conserve the environment and sustainably manage natural resources would bring benefits to sustainable development, strengthen environmental governance and complement the objectives of this Agreement. The acknowledgment of mutual supportiveness between trade and environmental policies on issues of mutual interest was noted.

Article 20.15 discusses the transition to a low emissions and resilient economy. Some ITAC-6 members agreed that domestic circumstances and capabilities should be reflected, but collective action was required. This is consistent with Article 20.12 (Cooperative Frameworks) which encourages cooperation to address matters of joint or common interest, noting prospective areas of cooperation such as: energy efficiency; development of cost-effective, low-emissions technologies; alternative, clean and renewable energy sources; sustainable transport and infrastructure development; and sharing of information and experiences in addressing this issue. Committee members agreed that, as appropriate, the Parties shall engage in cooperative and capacity-building activities related to transitioning to a low emissions economy.

### **III. Brief Description of the Mandate of the Industry Trade Advisory Committee on Energy and Energy Services (ITAC 6)**

ITAC-6 provides detailed policy and technical advice, information, and recommendations to the Secretary of Commerce and the USTR regarding trade barriers and the implementation of trade agreements negotiated under Sections 101 and 102 of the Trade Act of 1974, as amended, and Sections 1102 and 1103 of the 1988 Trade Act. ITAC 6 also performs such other advisory functions relevant to U.S. trade policy as may be requested by the Secretary and the USTR or their designees.

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

ITAC-6 concludes that the TPP adequately promotes the economic interests of the United States and achieves the applicable overall and principle negotiating objectives set forth in the Trade Act of 2002.

Remaining comments of ITAC-6 are covered in **Section II: Industry Trade Advisory Committee on Energy and Energy Services (ITAC-6) Report**

**V. Membership of Committee**

Ms. Barbara Tyran  
Director, Washington and State Relations  
Electric Power Research Institute

Mr. James E. Dankowski  
Government Segment Director  
Eaton Corporation

Ms. Erica Bowman  
Vice President, Research and Policy Analysis  
America's Natural Gas Alliance

Ms. Leslie L. Coleman  
Assistant Vice President, Statistical Services  
National Mining Association

Mr. Gerry Gorman, Ph.D.  
Chief Operating Officer  
LumiSolair LLC

Ms. Shannon S. S. Herzfeld  
Vice President, Government Relations  
Archer Daniels Midland Company

Mr. Gary M. Pacilio  
Director, Global Parts & Aftermarket Operations  
GE Oil & Gas

Mr. Steven J. Sarnecki  
Vice President, Federal and Public Sector  
OSIsoft, LLC