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Competition Policy

The Trans-Pacific Partnership (TPP) levels the playing field for American workers and American businesses, leading to more Made-in-America exports and more higher-paying American jobs here at home. By cutting over 18,000 taxes different countries put on Made-in-America products, TPP makes sure our farmers, ranchers, manufacturers, service suppliers, and small businesses can compete—and win—in some of the fastest growing markets in the world. With more than 95 percent of the world’s consumers living outside our borders, TPP will significantly expand the export of Made-in-America goods and services and support American jobs.

EXECUTIVE SUMMARY

The Competition Policy chapter will help ensure that Asia-Pacific markets have a foundation in principles of fair competition, consumer protection, and transparency through rules that require TPP partners to maintain legal regimes that prohibit anticompetitive business conduct, as well as fraud-

ulent and deceptive commercial activities that harm consumers. This will help to guarantee that markets in TPP members are genuinely open to made-in-America manufactured goods, farm products, and services, as it simultaneously promotes consumer protection in all TPP countries.

CHAPTER OVERVIEW

Effective Competition Laws

Through the Competition Policy chapter, TPP members agree to adopt or maintain national competition laws that proscribe anticompetitive business conduct and work to apply these laws to all commercial activities in their territories. To ensure that such laws are effectively implemented, TPP Parties will establish or maintain authorities responsible for the enforcement of national competition laws. This chapter will not require any U.S. laws and regulations to be changed, as we already meet these commitments.

Consumer Protection

TPP members agree to adopt or—as in the case of the United States—maintain laws that proscribe fraudulent and deceptive commercial activities that cause harm or potential harm to consumers. Parties also agree to cooperate, as appropriate, on matters of mutual interest related to competition activities, including in the enforcement of consumer protection laws.

Procedural Fairness

As TPP countries strengthen their competition policy laws and their enforcement, the Competition Policy chapter includes a range of obligations related to procedural fairness, including rules that ensure a person subject to an enforcement action has a reasonable opportunity to be represented by counsel, to provide evidence in its defense, and that the enforcement authority adopt a series of transparency procedures.

Private Rights of Action

TPP Parties agree to provide an independent right to seek redress for injury caused by a violation of a Party's competition law or, to provide persons with a right to request that a Party's competition authority initiate an investigation and to seek redress after the finding of a violation of competition

law.

Cooperation and Transparency

TPP Parties agree to cooperate in the area of competition policy and competition law enforcement, including through notification, consultation and exchange of information. They also agree to ensure that final decisions finding a violation of competition law are made publicly available, while ensuring that business confidential information is protected.

Dispute Settlement

Consistent with previous U.S. Free Trade Agreements (FTAs), dispute settlement will not apply to competition policy provisions. However, the TPP Parties do agree to enter into consultations on issues related to the chapter, upon the request of another Party.

NEW FEATURES

Establishing a regional standard on competition policy will benefit U.S. companies and consumers, providing for fair competition and promoting consumer protection. New features in TPP's Competition Policy chapter include establishing detailed rules on procedural fairness in competition law enforcement, consistent with U.S. law and practice. Similarly, it provides a regional standard requiring Parties to adopt or maintain laws proscribing fraudulent and deceptive commercial activities.

IMPACT

Competition policy systems vary widely in the Asia Pacific. Some countries have advanced systems of anti-trust law and guarantee consumer rights, but take different approaches to achieve these ends. Some have no competition policy laws at all; others use opaque systems in which case filings can appear to be arbitrary or designed to reduce the market share of U.S. or other foreign businesses. This issue appears to be a rapidly growing challenge to American exporters, especially, but not only, in sectors where U.S. businesses and workers are perceived to be world technological leaders.

TPP's Competition Policy chapter encourages effective and transparent competition policy systems that encourage market-based competition and protect consumers against monopoly tactics. These principles are

meant to be the foundation of transparent laws ensuring fair competition in the Asia-Pacific region, and ensuring that regulatory actions rest on objective and transparent criteria and are taken in a manner that does not discriminate against foreign or specifically U.S. businesses. As we create this larger environment of fair competition and consumer protection, the United States will retain full authority over the administration of American laws applied to competition within the United States.

