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Exceptions and General Provisions

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 General Exceptions chapter ensures that flexibilities are available to the United States and the other TPP Parties that guarantee the full right to regulate in the public interest, including for national security and other policy reasons.

CHAPTER OVERVIEW

The Exceptions chapter ensures that exceptions to the TPP obligations are available for public interest regulation, national security, and other policies a Party considers necessary, paralleling the exceptions contained in our earlier trade agreements.

General Exceptions

The Exceptions chapter incorporates the general exceptions provided for in Article XX of the General Agreement on Tariffs and Trade to the “goods trade” related provisions. This provides treatment parallel to what we are provided in the WTO, which specifies that “nothing in this agreement shall be construed to prevent the adoption or enforcement” of policies to, among other things, protect public morals, protect human, plant, or animal life and health, enforce intellectual property rules against counterfeiting, enforce laws relating to imports of products of prison labor, and conserve exhaustible resources. The chapter contains the similar general exceptions provided for in Article XIV of the General Agreement on Trade in Services with respect to the “services trade” related provisions.

Essential Security Exception

The Exceptions chapter includes an exception, applicable to the entire Agreement, making clear that a Party may take any measure it considers necessary for the protection of its essential security interests.

Taxation Exception

The chapter ensures that only specific provisions of the TPP Agreement apply to taxation measures.

Temporary Safeguard Measures

The chapter defines circumstances and conditions under which a Party may impose temporary safeguard measures restricting transfers—such as contributions to capital, transfers of profits and dividends, payments of interest or royalties, and payments under a contract—related to covered investments. The exception is important to ensure that governments retain the flexibility to manage volatile capital flows, including permitting countries to impose temporary safeguard measures or capital controls restricting investment-re-

lated transfers in the context of a balance of payments crisis, or certain other economic crises, subject to certain conditions and disciplines.

Tobacco Control Measures

Tobacco is a product that poses unique public health challenges, as is reflected in each Party's tobacco control regulations. In order to ensure that each Party has the ability to regulate manufactured tobacco products and protect public health, TPP, for the first time in any trade agreement, builds on structures established in the agreement to give each Party the right to decide that its tobacco control measures for manufactured tobacco products cannot be challenged by private investors under Investor-State Dispute Settlement (ISDS). Other provisions of the agreement, including state-to-state dispute settlement procedures by governments, will continue to apply. This provision does not apply to tobacco leaf; under TPP, U.S. tobacco farmers will have enhanced opportunities to compete fairly in foreign markets by the elimination of foreign tariffs on tobacco leaf.

Disclosure of Information

A basic rule clarifies that no Party is obligated to provide information under the Agreement if it would be contrary to its law or public interest, or would prejudice the legitimate commercial interests of particular enterprises.

IMPACT

U.S. free trade agreements and World Trade Organization rules open markets to American goods and services, while also providing explicit assurance that governments remain free to regulate for the public interest in areas such as public health, environmental protection, national security, public morals, and others. This has been standard practice in all U.S. trade agreements dating to the first multilateral trade agreement in 1947, and is the case in TPP.

