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Transparency and Anti-Corruption

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

TPP’s Transparency and Anti-Corruption chapter promotes good governance and addresses the corrosive effects of bribery and corruption on trade, investment, and government policies related to trade and investment.

Toward this end, the chapter ensures that U.S. exporters, service suppliers, investors, and other interested stakeholders in TPP have ready access to information about the laws, regulations, and other rules affecting trade or investment in TPP markets; guarantees due process rights; commits TPP Parties to have and enforce anti-bribery laws; and promotes rules against conflicts of interest in government. The chapter guarantees the full rights of governments to regulate for public health, environmental quality, and other public-policy goals.

CHAPTER OVERVIEW

Publication

The Transparency and Anti-Corruption chapter requires TPP Parties to ensure that, to the extent possible, their laws, regulations, and administrative rulings related to any matters covered by the TPP Agreement are publicly available and that regulations are subject to notice and comment.

Due Process Procedures

TPP Parties agree to ensure certain due process rights for TPP stakeholders in connection with administrative proceedings, including prompt review of any administrative action through independent and impartial judicial or administrative tribunals or procedures.

Measures to combat corruption

Each TPP Party commits to adopt or maintain laws that criminalize the offering of an undue advantage to a public official (or the solicitation of such an advantage by a public official), as well as other acts of corruption in matters affecting international trade or investment. Parties also commit to effectively enforce their anticorruption laws and regulations.

Promotion of integrity among government officials

TPP Parties agree to work to adopt or maintain a code of conduct for their public officials, as well as measures to decrease conflicts of interest. They also commit to increase training of public officials, take steps to discourage gifts, facilitate reporting of possible corruption, and provide for discipline of public officials engaging in acts of corruption.

Annex on Transparency and Procedural Fairness for Pharmaceuticals and Medical Devices

The Annex to the Transparency and Anti-Corruption chapter recognizes the importance of key principles intended to facilitate high-quality healthcare and continued improvements in public health for TPP partners' patients and the public. This annex will help ensure transparency and due process with respect to listing and reimbursement procedures in relevant national healthcare programs operated by national healthcare authorities. These transparency and due process requirements are best practices that are fully reflected in U.S. law and practice, including in the Medicare National Coverage Determination process. They require no changes to any U.S. healthcare program nor will they affect the U.S. government's ability to pursue the best healthcare policy for its citizens, including future reforms or decisions on healthcare expenditures or cost containment. The commitments in this Annex are not subject to investor-state dispute settlement.

NEW FEATURES

Corruption and governance issues are significant problems in many countries, which often harm U.S. exporters. TPP contains the strongest disciplines on transparency and anticorruption of any U.S. trade agreement. We expect that these will set a new high standard for action against corruption, including commitments to adopt, maintain, and enforce criminal laws to prevent corruption by public officials, to maintain codes of conduct to promote integrity among public officials, to adopt laws criminalizing corruption in accounting practice and to effectively enforce their anticorruption laws. At the same time, we expect TPP to set a new standard for transparency, including the maintenance of robust systems for allowing public input prior to the adoption of new laws and regulations and, once new measures are adopted, for easy access to information on how they operate.

IMPACT

The U.S. has been a leader in combatting international bribery and corruption since the passage of the Foreign Corrupt Practices Act in 1977. Succeeding decades have brought considerable achievements in this battle, notably with the creation and wide adoption of the OECD's Anti-Bribery Convention in 1997 and its broadening at the United Nations in 2005.

The challenge of bribery and corruption remains large, however, and

its price for the public and American businesses and workers remains high. American firms and their workers—given the U.S.’ strong anti-bribery laws and enforcement—likely lose opportunities for exports, jobs, and growth. The impact on governments and politics abroad is even more profound.

TPP’s Transparency and Anti-Corruption chapter provides an opportunity to make progress in the long campaign against corruption in global trade and investment, and to promote good governance. The challenges in this area include:

- Variable and sometimes irregularly enforced national laws against bribery and corruption;
- Opaque rulemaking, encouraging favoritism and deterring merit-based success in trade, investment, and procurement; and
- Lack of public input into laws and regulations before they are passed and promulgated.

In addition, we are seeking to address specific issues that may arise related to transparency and due process in the health sector. Our goal is to ensure transparency and procedural fairness in applicable systems, not to modify a TPP country’s system of healthcare or rights to determine healthcare expenditures and reimbursement rates.

