

September 9, 2011

The Honorable Ron Kirk  
United States Trade Representative  
600 17<sup>th</sup> Street, NW  
Washington, DC 20508

Dear Ambassador Kirk:

I write to continue our discussion about the ongoing negotiations for a Trans-Pacific Partnership agreement (TPP).

As you know, the TPP negotiations provide the ability to shape the rules of trade and investment throughout the Pacific region in a manner that enables the vital sectors of the 21<sup>st</sup> Century U.S. economy to compete, flourish and create good-paying American jobs. Importantly, a properly constructed TPP will ensure that trade and investment flows are not distorted by unacceptable labor and environmental practices. There are critical 21<sup>st</sup> Century issues that need to be addressed in the TPP discussions that go beyond obtaining adequate market access for American goods and services. These include:

- Ensuring that state-owned enterprises (SOEs) are not used to provide artificial economic advantages.
- Obtaining the adequate and balanced protection of intellectual property among TPP partners. This is essential for U.S. innovation and economic growth.
- Applying the rules that govern physical goods and services to the digital marketplace because the Internet increasingly represents the shipping lane of the 21<sup>st</sup> Century. Specifically, binding rights to move data electronically, across borders, over the Internet must be a central objective of the U.S. trade agenda in TPP and elsewhere.
- Incorporating labor standards and obligations to protect the environment, consistent with what are found in the most recent U.S. bilateral agreements including specific commitments to prevent overfishing and illegal logging.

The U.S. and global economy is rapidly changing, and the rules of trade that are negotiated in the TPP must reflect this new reality, and that includes thinking anew about textiles and apparel. Earlier this summer, the U.S. TPP textile negotiators advanced a highly restrictive Rule of Origin (ROO) proposal for apparel, singling out this industry for special protection. Not only is such protection not needed or wanted by the U.S. apparel and retail industry, it does not reflect the 21<sup>st</sup> Century realities that this industry faces in order to compete.

As the Chair of the Senate Finance Subcommittee on International Trade, I am increasingly concerned that the apparel ROO proposal, and the rigid adherence to it expressed by the U.S. textile negotiators, will undermine our larger strategic objectives in the TPP discussions.



Providing substantial market access through immediate tariff reductions and a common ROO like those applied to durable goods should be on the negotiating table if the U.S. is going to reasonably expect to obtain strong commitments on our strategic interests, particularly on those related to the 21<sup>st</sup> Century issues.

The ROO that was advanced – commonly referred to as “yarn-forward” – generally requires that any textile or apparel good be produced from yarns and fabrics made within TPP countries in order for it to benefit from any tariff preference under the TPP. In addition to the strategic challenges that I fear will result if U.S. negotiators cling to the current proposal, there are substantive problems with the offer. The yarn-forward ROO is inconsistent with the Pacific region’s textile and apparel supply chain, and with our imperative to promote job growth within the TPP community, particularly the U.S. Despite what proponents of the U.S. proposal may say, the intent behind yarn-forward is to create captive markets for U.S. yarn and fabric producers.

The yarn-forward rule is an unusually restrictive approach. At my request, the independent Congressional Research Service examined a sample of the bilateral trade agreements to which the non-U.S. TPP countries are a party. A sample of agreements was selected to most closely represent the dynamics that are expected in the TPP negotiations. According to the analysis, the Japan-Malaysia Economic Partnership agreement, the India-Singapore arrangement, the European Union-Chile FTA, the China-Peru FTA, and the Australia-New Zealand agreement, contain ROO for apparel that are far more flexible than the proposal tabled by the U.S. in the TPP.

U.S. textile negotiators claim that the restrictive yarn-forward proposal is designed to promote more value-addition of textile and apparel within TPP countries by limiting their ability to source inputs from outside the TPP community. The logic behind the proposal is to encourage further value-addition within the TPP community at the expense of production outside the TPP community, no matter what the commercial reality is. In advancing the yarn-forward ROO, the U.S. is promoting an import substitution policy for the TPP region and creating higher barriers against non-TPP countries that will work to isolate TPP countries from their economic counterparts.

In order to better understand the level of value-addition that occurs in TPP countries, and with respect to textiles and apparel in particular, and determine whether a special ROO for textiles and apparel is warranted, I sought the technical help of the independent U.S. International Trade Commission (ITC). The ITC staff estimate that typically between 40- and 60-percent of the value-addition of textiles and apparel exported from TPP countries (excluding the U.S.) occurs within TPP countries. Exports of apparel from Vietnam derive over 50-percent of their value within Vietnam.

In order to understand whether this level was so low that it deserved a special ROO within the TPP like the one advanced by the U.S., I asked for additional assistance by the ITC staff and learned that these levels of value addition are very similar to the value addition that occurs in other leading export sectors from TPP countries, such as electronics and machinery. Given that the value addition that occurs in TPP countries with respect to textiles and apparel is largely no different than the other key export sectors, there is little justification for a special ROO for textiles and apparel. Interestingly, exports of apparel from Mexico, which have been under the yarn-forward ROO in the North American Free Trade Agreement for more than 17 years, derive just 17.8-percent of their value from activity that occurs in Mexico.

The implication is that there is substantial cutting, sewing and finishing in TPP countries while far simpler or fewer processing steps occurs in Mexico. Moreover, Mexico's experience does not suggest that the restrictive yarn-forward ROO is effective in fostering more value-addition within Mexico.

The yarn forward ROO does not reflect the commercial reality of the region's supply chain. The restrictive nature of yarn-forward lies in producers' inability to obtain qualifying fabric to turn into apparel. The data below, which was compiled by the staff of the ITC, show:

- In 2009 (the most recent year available), Vietnam imported \$5.4 billion of yarns and fabrics, of which \$158 million of which originated in TPP countries.
- In 2010, Peru imported \$740 million of yarns and fabrics, of which \$76 million originated in TPP countries.
- In 2010, New Zealand imported \$514 million of yarns and fabrics, of which \$127 million originated in TPP countries.
- In 2010, Malaysia imported \$1.2 billion of yarns and fabrics, of which \$127 million originated in TPP countries.
- In 2009 (the most recent year available), Chile imported \$473 million of yarns and fabrics, of which \$67 million originated in TPP countries.
- In 2010, Australia imported \$2.1 billion of yarns and fabrics, of which \$343 million originated in TPP countries.
- In 2010, Singapore imported about \$1 billion in yarns and fabrics, of which \$225 million originated in TPP countries.
- This type of data is unavailable for Brunei.

Although these data do not provide a full picture (because complete data is unavailable), it is revealing. Together these countries imported about \$11.4 billion in yarns and fabrics, of which \$1.1 billion originated in TPP countries. This suggests that within TPP countries there is little production of the type of yarns and fabrics desired by apparel industries there. Furthermore:

- In 2010, TPP countries (excluding the U.S. and Brunei) imported about \$13 billion of fibers, yarns and fabrics, and exported about \$15 billion in finished apparel.<sup>1</sup>

This indicates that there is very little importation of fiber for yarn production among these TPP countries. Taken together the data strongly suggests that the non-U.S. TPP apparel producers are heavily reliant on foreign fabric that is not produced within the TPP environment; therefore it is difficult to suggest that a yarn-forward rule would create significant benefits for TPP apparel producers in the absence of a reordering of the region's textile and apparel supply chain. Ambassador Kirk, the objective of U.S. trade policy should be to facilitate the fair exchange of goods and services not re-engineer trade flows and supply chains.

We should instead focus on where the jobs are. It is important to recognize that within the textile and apparel supply chain most of the manufacturing jobs are associated with turning fabric into a finished garment.



U.S. textile negotiators suggest that a yarn-forward ROO will encourage investment in yarn and fabric production within TPP countries, but the data suggests that any purported incentive would come at the expense of downstream apparel manufacturing which would be unable to procure fabric produced with yarn from TPP countries. If we want to promote employment within the TPP region, the most appropriate ROO would promote apparel manufacturing over yarn and fabric production.

Most importantly, the manufacturing of textiles and apparel represent only a small portion of the overall value of, and jobs created by, the finished merchandise. Much of the value of a finished garment is derived from the design, marketing, transportation and sale and this occurs mainly in the United States. The best ROO for creating more high skilled, well-compensated American workers is one that promotes finished apparel production within the TPP community, and that is something the yarn-forward rule will not do.

I respectfully submit that unwisely clinging to a protectionist ROO proposal on textiles and apparel may have the unintended result of sacrificing America's modern objectives in exchange for very little. I urge you to consider accepting a much more flexible and simple ROO on textiles and apparel as a means to achieve an acceptable, high standard, truly 21<sup>st</sup> Century agreement that advances broad U.S. economic interests and values. I look forward to working with you on this issue and others as the TPP negotiations continue.

Sincerely,



Ron Wyden  
United States Senator

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<sup>1</sup> Data for Vietnam and Chile is from 2009, which is the latest such data is available. Data from Brunei is from 2006, which is the latest year for which such data are available.