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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

December 2, 2013

AMBER COTTLE, STAFF DIRECTOR
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The Honorable Michael Froman
United States Trade Representative
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

Dear Ambassador Froman:

I fully support the goal of concluding a comprehensive, high-standard Trans-Pacific Partnership (TPP) agreement as early as the end of this calendar year. However, I am increasingly concerned that some of our negotiating partners may not be willing to undertake the high level of ambition necessary for the agreement to be approved by Congress. These concerns span a spectrum of issues in both market access and rules. I would be particularly concerned if some of our negotiating partners are not willing to undertake rules that provide for high levels of intellectual property rights protection, including twelve years of regulatory data protection for biologics and the elimination of restrictions on cross-border data flows.

While I hope you are able to conclude an agreement with all current TPP negotiating partners, I strongly urge you to consider moving forward with only those countries willing to meet the high levels of ambition. I believe that a strong, comprehensive agreement with a group of committed trading partners is far preferable to accepting a weakened agreement merely for the sake of including all countries that entered the negotiations. I also encourage you to, if necessary, consider concluding negotiations on a staggered timetable as countries become willing to meet the high TPP standard.

As you know, there is historical precedent for finalizing negotiations with those partners willing to undertake the necessary level of ambition, even if that final group is smaller than the group that initially came to the table. In May 2004, the United States initiated trade agreement negotiations with the nations of the Andean Community. Those negotiations included Peru, Colombia, and Ecuador, while Bolivia participated as an observer. When it became clear that Peru was willing to undertake strong commitments on market access and rules, the United States concluded negotiations with Peru on December 7, 2005. The United States-Peru Trade Promotion Agreement was approved by the U.S. House of Representatives on November 2, 2007 and by the U.S. Senate on December 4, 2007. Similarly, once Colombia was willing to agree to a high-standard free trade agreement, negotiations with Colombia were concluded on February 27, 2006. Congress supported this approach, and the United States-Colombia Trade Promotion Agreement was approved by both Houses of Congress on October 21, 2011. Because neither Ecuador nor Bolivia was willing to undertake the necessary level of ambition, negotiations with both countries were eventually terminated.

I am hopeful that you will be able to conclude negotiations with all current TPP negotiating partners. But, as history shows, if some of our negotiating partners lack the necessary ambition to conclude a high-standard agreement, it is possible – and preferable – to conclude a strong agreement, rather than allowing a small number of countries to weaken the agreement for all.

I look forward to close consultation with you as you and your negotiators strive to achieve our shared goal of concluding a strong TPP agreement that will receive broad support in the U.S. Congress.

Sincerely,

A handwritten signature in blue ink that reads "Orrin Hatch". The signature is written in a cursive style with a large, circular initial "O".

Orrin Hatch
Ranking Member