

# United States Senate

WASHINGTON, DC 20510

February 13, 2013

COMMITTEES:  
APPROPRIATIONS  
BANKING, HOUSING,  
AND URBAN AFFAIRS  
BUDGET  
ENVIRONMENT AND  
PUBLIC WORKS

Hon. Barack Obama  
President of the United States  
The White House  
Washington, DC 20500

Dear President Obama:

Without question, trade is an important part of our nation's foreign and economic policies. Trade solidifies our relationships with other nations, establishes the rule of law internationally, and encourages international educational and cultural exchange. When free and fair, trade can encourage competition in the market, offer consumers a wider selection of better quality products at lower prices, and raise living standards around the world. Moreover, for America to be prosperous long-term, we must be able to export our goods and services to growing international markets. Oregon, in particular, has many jobs that depend on trade.

You have stated that our trade policies should be oriented towards strengthening the American middle class and building thriving export and manufacturing sectors. In your State of the Union yesterday, you prioritized concluding the Trans-Pacific Partnership (TPP). Given the strategic importance of the Asia-Pacific region economically, you have repeatedly emphasized the need to make it the gold-standard for a 21<sup>st</sup> century trade agreement. Although I have expressed concern about past trade agreements, I write today to emphasize my support for getting the TPP right. Late last year, I joined letters led by Senator Al Franken (on a range of issues) and Senator Ron Wyden (on the environment) that set forth a number of views I share. I would like to offer now several additional thoughts and suggestions for how to make the TPP an agreement I can support.

First, the TPP must specifically and powerfully address the multi-tiered industrial policies that are particularly prominent in the Pacific region and that pose a serious threat to a free and open global trading regime. Policies that should be addressed include:

- trade-distorting subsidy programs and practices, such as major, inappropriate grants for cheap land and utilities, preferential loans from export development banks, and discriminatory or unaccountable tax rebates;
- broad-based industrial subsidies such as strategically misaligned currencies, discriminatory policies that favor state-owned enterprises, and artificially cheap financing from state-owned banking systems; and

- strategic non-tariff barriers, such as mandatory joint venture requirements, forced technology transfers, opaque approval processes, and discriminatory technology standards.

The policies noted above are fundamentally at odds with U.S. economic and political traditions. Even when federal and state governments have attempted to match some of the industrial subsidies available abroad, basic democratic protections such as transparency and taxpayer accountability, as well as tight budgets, have tended to limit their scope. In contrast, some less democratic governments have been able to adopt policies that, although arguably wasteful in the short-run, have over time been able to achieve long-run shifts in supply chains and industrial competitiveness. Moreover, with companies from emerging markets increasingly investing abroad, including in the U.S., the subsidies they receive, especially in the form of beneficial financing arrangements, could put U.S. companies at a disadvantage even on U.S. soil. The TPP presents an opportunity to address the risks – and waste – from foreign industrial policies in forceful ways.

Second, the TPP should take a new and creative approach to stopping the global “race to the bottom” on labor and environmental practices by mandating enforceable minimum standards in these areas. Maintaining basic labor and environmental standards are fundamental to a fair and level playing field in trade and are at the core of what it means to live in a middle class society. Recent FTAs improved upon earlier agreements by including provisions relating to labor and environmental standards, but much more needs to be done. Instead of resting on past progress, the TPP should raise the bar by including clear and appropriate standards requiring adherence to basic labor rights, fair wages, and specific environmental protections, along with clear and appropriate new enforcement tools.

One approach to consider would be using our existing anti-dumping laws as a model to enforce minimum labor and environmental standards, an innovation that would take advantage of the ability for FTAs to go beyond WTO requirements.<sup>1</sup> In this scenario, if a TPP party exports goods that are produced by workers paid less than a “fair wage,” those goods could be subject to an enforcement action that would raise the price of the import to what it would have cost to produce if a fair wage had been paid. The “fair wage” could be determined according to an agreed-upon, reviewable formula that would take into consideration the local cost of living.<sup>2</sup> A similar approach could be used to implement minimum environmental standards.<sup>3</sup> Implemented properly, this novel approach would create a “race to the top” in global markets – leveling the playing field for U.S. manufacturers and workers, raising living standards for foreign workers,

<sup>1</sup> Joel Paul, “Fair Wages for Fair Trade,” *Huffington Post*, Oct. 10, 2012, available at [http://www.huffingtonpost.com/joel-richard-paul/fair-wages-for-fair-trade\\_b\\_1944379.html](http://www.huffingtonpost.com/joel-richard-paul/fair-wages-for-fair-trade_b_1944379.html).

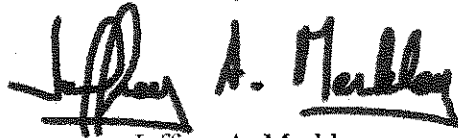
<sup>2</sup> A number of private efforts are already seeking to make just such a calculation. See, for example, data and analysis from the Fair Wage Network, [www.fair-wage.com](http://www.fair-wage.com).

<sup>3</sup> See, for example, the work of the Sustainable Apparel Coalition, <http://www.apparelcoalition.org/>.

and stimulating consumer demand overseas for U.S. exports. It could even benefit U.S. corporations that already adhere to good labor and environmental standards overseas but are competitively disadvantaged relative to less scrupulous competitors.

As you enter the next and critical stage of TPP negotiations, I hope you can keep the priorities I have outlined in mind. In the end, the success of our trade policies, like our economic success more broadly, should be measured by whether they move America's middle class forward and help advance a vibrant, diverse economy with a robust manufacturing sector. I look forward to working with you to make trade with Asia a source of economic strength for U.S. businesses and workers.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey A. Merkley". The signature is stylized with a large, looped "J" and "M".

Jeffrey A. Merkley  
United States Senator

cc: Hon. Ron Kirk, U.S. Trade Representative  
Hon. Rebecca Blank, Acting Secretary of Commerce