

February 28, 2012

Dear President Obama,

As organizations dedicated to government openness, scientific integrity and accountability, we are writing to urge you to increase the transparency of the Trans-Pacific Partnership (TPP) Free Trade Agreement (FTA) negotiating process. Currently, without any public access to even the most fundamental draft agreement texts and other documents, important policy decisions that may significantly affect the way we live our lives by limiting our public protections are being made by executive branch trade officials.

On your first day in office you committed to creating an "unprecedented level of openness in Government." Recently, your Administration co-launched the Open Government Partnership, a multilateral initiative that aims to secure concrete commitments from governments to promote transparency and empower citizens. You also have said that your transparency initiative will extend to the Office of U.S. Trade Representative. Administration officials have repeatedly stated that the administration will conduct the most transparent international commercial negotiations ever with inclusion of all stakeholders to ensure that the TPP FTA will meet your goal of a "high standards worthy of a 21st century trade agreement." We support all these goals.

However, multiple aspects of the current negotiations process utterly fail to meet these standards. Instead of new levels of transparency, the process has instituted unprecedented levels of secrecy. Indeed, the extreme secrecy surrounding the process was lauded by a U.S. trade lawyer and former U.S. government trade official involved in decades of negotiations: "This is the least transparent trade negotiation I have ever seen," said Gary Horlick at a Global Business Dialogue Forum on the TPP FTA in late January.

At a minimum, your Administration should provide access to the negotiating texts of the pact's various chapters for all congressional staff, the public, and the press. Such transparency is standard practice for trade negotiations. The World Trade Organization posts negotiating texts on its website for review, and negotiating texts were also made available on the recently-completed Anti-Counterfeiting Trade Agreement (ACTA). However, this practice has not been adopted, to date, in the context of TPP FTA talks. Indeed, to the contrary, parties signed a *Memorandum of Understanding 2010* imposing heightened secrecy for the process.

This extreme secrecy has shut out of the process small business, civil society and other stakeholders who have a direct and long-term interest in the outcome of these negotiations. We understand that members of Congress serving on the Committees whose jurisdiction is directly implicated by the array of policies being negotiated also have had difficulty gaining access to the texts and providing input into the development of the agreement. Yet, under the trade advisory system, representatives from over 600 business interests have direct access and thus, unlike the public and Congress, have the ability to influence an agreement that could have an enormous impact on the public in a myriad of ways.

Greater transparency is essential because these negotiations are of unprecedented scope with respect to both the subject matter and the countries potentially involved. A resulting agreement

could include half of the world – all of Asia and the Pacific Rim countries of the Americas. As you noted at the November Hawaii Asian Pacific Economic Cooperation summit, “[T]he TPP has the potential to be a model not only for the Asia Pacific but for future trade agreements. It addresses a whole range of issues not covered by past agreements, including market regulations and how we can make them more compatible...” This potential is precisely why the TPP negotiations must also be a model of maximal transparency and accountability to the public the pact will affect.

Moreover, the subject matter now being negotiated extends significantly beyond tariffs and other traditional trade matters. As the U.S. will be obliged to bring existing and future U.S. policies into compliance with the international norms established in the pact, this process would establish policies binding on future U.S. Congresses and state legislatures on numerous non-trade subjects currently under the jurisdiction of these domestic legislative bodies. These include patent and copyright, land use, food and product standards, natural resources, professional licensing, government procurement, financial practices, healthcare, energy, telecommunications, and other service sector regulations, and more. Indeed, these texts will affect the cost of prescription drugs, the state of our environment, and our government’s ability to protect the public from tainted food, defective products, safe drugs, and will touch every American family. The enforceability and permanence of such binding rules, with later changes to an adopted pact requiring agreement by all signatory countries, necessitates maximal transparency and extreme care on the front end.

Given these concerns and that draft texts for most chapters are completed, we urge you to mandate public access to these texts, and to establish a model for US transparency in all future negotiations of this sort. The goals of a transparent, collaborative, and participatory government with empowered citizens, as well as a “high-standard, 21st century” agreement that advances the health, safety, enterprise and creativity of the American public, require no less.

Sincerely,

American Association of Law Libraries  
American Library Association  
ARTICLE 19, Global Campaign for Freedom of Expression and Information  
Association of College and Research Libraries  
Association of Research Libraries  
Center for Media and Democracy  
Citizens for Responsibility and Ethics in Washington - CREW  
Collaboration on Government Secrecy  
Feminists for Free Expression  
Freedom of Information Center at the Missouri School of Journalism  
Knowledge Ecology International  
Liberty Coalition  
National Freedom of Information Coalition  
OMB Watch  
OpenTheGovernment.org  
Project On Government Oversight - POGO  
Public Citizen

Reporters Committee for Freedom of the Press  
Special Libraries Association  
Sunlight Foundation  
Union of Concerned Scientists  
US PIRG  
Washington Coalition for Open Government