

Congress of the United States
Washington, DC 20515

March 25, 2014

Ambassador Michael Froman
Office of the United States Trade Representative
CC: Tiffany Enoch (USTR-2014-0005-0001)
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508

SENT VIA FEDERAL E-RULEMAKING PORTAL
RE: REQUEST FOR COMMENTS FROM THE PUBLIC ON THE CREATION OF
THE PUBLIC INTEREST ADVISORY COMMITTEE

Dear Ambassador Froman:

We write to express our comments on USTR's newly proposed Public Interest Trade Advisory Committee.

First, we commend the USTR in taking a first step toward recognizing that modern free trade agreements – which are significantly focused on regulatory harmonization standards that could restrict U.S. domestic policy options – impact a broad range of interests. Especially with respect to intellectual property chapters, the current advisory system has so far been inadequate in reflecting the full range of interests affected. Creation of public interest advisors for trade policy is one means toward better balancing the current system.

We call for the USTR to implement a stronger public interest advisory system that promotes three key values: balance, participation and inclusion.

Balance. The trade advisory system should have equal numbers of representatives of different substantive view points on each major policy issue negotiated. As a recent Washington Post article (from Nov 26, 2013) shows, industry voices currently make up 85% of the membership of trade advisory committees. The addition of one public interest committee will not balance this system.

For example, with issues like intellectual property, at minimum there should be true balance of viewpoints. Representatives of IP owners should be balanced with that of users – including both industry and consumer users. Thus, for example, if there are five representatives of brand name patented drug suppliers on an ITAC, their views should be balanced with five representatives of users – including generic companies, patients and researchers.

Participation. The trade advisory system should afford public interest representatives full participation at every level of the Advisory Committee system. Segregating public interest representatives into their own cross-cutting tier two committee is inadequate in

this regard. Tier two committees do not meet as frequently with USTR negotiators as tier three industry advisory committees do. AFL-CIO President Richard Trumka has noted, for example, that the mid-level Labor Advisory Committee meets just twice a year in full committee meetings, whereas tier three committees normally meet six times a year.

Because tier two committee members are not permitted to attend meetings on other tiers, the more frequent communication of tier three committees to the USTR will remain free from critical review by public interest representatives.


Establishing the committee as one with broad cross cutting issues will prevent committee members from dealing in the kind of detail that other industry advisory committee members do. A meeting with the PITAC would need to include all public interest issues under the entire agreement, whereas a meeting of the Intellectual Property ITAC can focus on just intellectual property issues. Those issues are broad enough – spanning controversial issues from access to affordable medicines to modern rules for the regulation of content transmitted on the internet. Representing those issues – which require many different experts – on one cross cutting committee will dilute the input that can be given.


There is already precedent with the Labor and Environment tier two committees for representing specific substantive issues. USTR should consider creating narrower, and consequently more effective, public interest committees dedicated to other particular issues, including digital civil liberties, public health, and trade and development.

Inclusion. We call on the membership of the PITAC to be open to any group or individual who offers relevant expertise and represents relevant interests subject to trade agreement negotiations. In Ambassador Froman's original announcement at CAP, he defined academics as being a legitimate constituency in that regard. But the Federal Register notice inviting comments and applications appears to prohibit individual academics from applying for membership. This is, in our view, a mistake. PITAC membership should be open to academics, which represent an important interest and expertise in areas of law subject to international negotiations. We encourage the USTR to open the process in this regard and repost an appropriate notice and application period open to academic applications.

In the end, we in Congress are looking to improve the trade negotiation process in a way that fosters genuine understanding by tall the various stakeholders. We urge UTSR to makes every honest attempt to hear and act upon the advice and consensus of all parties, despite their often divergent interests.

Sincerely,


Susan A. Davis
Member of Congress


Rick Larsen
Member of Congress