

June 13, 2013

Michael Froman
Assistant to the President
The White House
1600 Pennsylvania Ave., NW
Washington, DC 20500

Dear Mr. Froman,

As you know, trade agreements have considerable impact on our economy. Trade agreements affect access to foreign markets and our levels of imports and exports, as well as a wide variety of significant public policy issues, including wages, jobs, the environment, monetary policy, the Internet, pharmaceuticals, and financial services.

It is no surprise that many citizens are deeply interested in tracking the trajectory of trade negotiations and the language under consideration. But if members of the public do not have reasonable access to the terms of the agreements under negotiation, then they are unable to offer real input into the process. Without transparency, the benefit from robust democratic participation – an open marketplace of ideas – is considerably reduced.

President Obama made transparency and inclusion a centerpiece of his election, and in many areas, he has opened the doors of government to ensure that the product of governing can withstand public scrutiny and is not the product of back-room deal making.

While I have no doubt that the President's commitment to openness is genuine, I am concerned about the Administration's record of transparency regarding the Trans-Pacific Partnership. Specifically, I am troubled by the Administration's unwillingness to provide to the public the composite bracketed text relating to the negotiations. As you know, the composite bracketed text includes not only proposed language from the United States but also proposed language from other countries. These different proposals are brought together in one text, and negotiations focus on ironing out the various proposals and getting to agreement on common language. The lack of transparency in this area is troubling because, as you know, the bracketed text serves as the focal point for actual negotiations. I appreciate the willingness of the USTR to make various documents available for review by members of Congress, but I do not believe that is a substitute for more robust public transparency.

In 2001, as part of the Free Trade Area of the Americas (FTAA), President George W. Bush made public a draft agreement that included bracketed text. In releasing the text, then-U.S. Trade Representative Robert Zoellick said:

“Free trade within the Western Hemisphere will expand U.S. access to markets for American workers, consumers, farmers and businesses, and we believe that the availability of the text will increase public awareness of and support for the FTAA.”

Although the Bush Administration released a scrubbed version of the bracketed text that did not reveal which nation had authored which text and preserved anonymity, the disclosure nonetheless allowed outside observers to track the text under consideration and provide detailed feedback. There is no reason why the half-measure toward transparency taken by the Bush Administration should not be replicated with regard to the TPP.

I have heard the argument that transparency would undermine the Administration's policy to complete the trade agreement because public opposition would be significant. This argument is exactly backwards. If transparency would lead to widespread public opposition to a trade agreement, then that trade agreement should not be the policy of the United States. I believe in transparency and democracy, and I think the U.S. Trade Representative (USTR) should too.

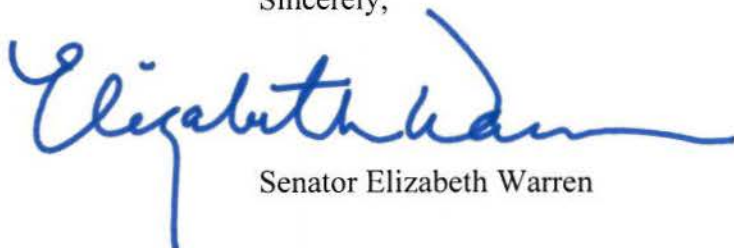
In addition, I have been made aware that the head of the USTR's Labor Advisory Committee last Thursday wrote a letter to the Acting USTR, Miriam Sapiro, expressing concern that the quality and nature of information made available even to that group has limited their ability to provide proper input on behalf of their membership, the working people of this country. This is further indication that the lack of transparency, openness and accountability is a pervasive problem regarding negotiations on the TPP.

In that context, I would appreciate answers to the following questions as soon as possible:

1. If you are confirmed to the position of USTR, would you be willing to immediately make fully public the bracketed text of the TPP?
2. If not, would you be willing to immediately make public a scrubbed bracketed text – the half-measure toward transparency adopted by the Bush Administration during the FTAA negotiations?
3. Would you please provide me with a complete accounting of the level of detail in the negotiating text that is available to the appointed members of the statutory advisory committees, including whether they have complete access to the negotiating proposals of the U.S., counter or original proposals of our trading partners, bracketed text and any other supporting documents that would enable them to provide complete and accurate input and advice to assist the Administration in the development and negotiation of the TPP?

Thank you very much for your cooperation, and I look forward to hearing from you soon.

Sincerely,

A handwritten signature in blue ink, appearing to read "Elizabeth Warren", with a long, sweeping underline that extends to the left and then curves back under the name.

Senator Elizabeth Warren