

Key U.S. Interests in the TPP Negotiations

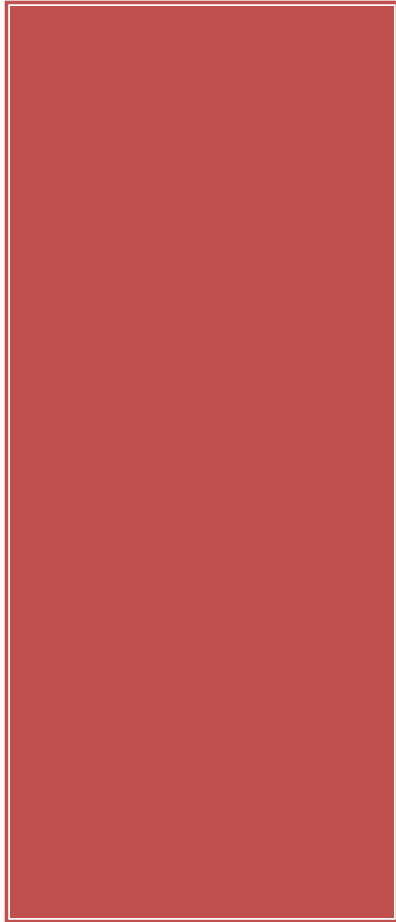
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Common Objectives



Five Features to Define the TPP

1)

“Next-
generation,
transformative
agreement”



Comprehensiveness and Market Access

... Comprehensiveness

... Market Access for Goods, Services and Investment

- + Stronger rules on SPS
- + Stronger rules on TBT
- + Non-discriminatory access for services and investment on a negative list basis

Investment: 3 Basic Sets of Rules

NON-DISCRIMINATION

NT/MFN treatment of new and existing investors and investment on a negative list basis

Exceptions need to be focused and limited

BASIC PROTECTIONS

‡Treatment in accordance with international law, including fair and equitable treatment & full protection and security

‡Prompt, adequate & effective compensation for direct and indirect expropriations

‡Ban on local content/technology and similar performance requirements

‡Free movement of capital

ENFORCEMENT

Investor-state dispute (ISD) settlement for breaches of:

- * investment agreements, and
- * core investment provisions

State-to-state dispute settlement

Enforceable and Investment-Promoting Rules: Current Reality

‡In April 2011 Australia stated its rejection of the basic enforceability tool for investment

LOTS OF INVESTMENT MYTHS

Myth 1: Investment Obligations Undermine Governments' Right to Regulate in the Public Interest

- ‡ Basic rule of law: non-discrimination, fair treatment
- ‡ Carefully developed
- ‡ What should be above the law?

Myth 2: ISD Panels Are Unaccountable, Undemocratic and Rife with Conflicts

- Expert, respected arbitrators
- Strong ethics rules
- Neutral Referees

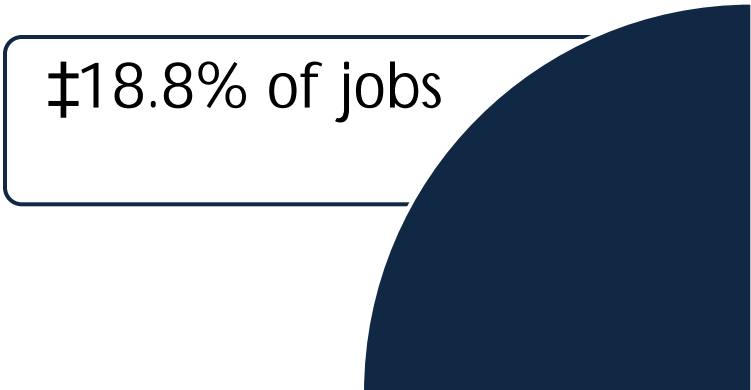
Myth 3: ISD Enforcement Has Led to a Costly Onslaught of Cases

- ‡ Trillions of dollars of investment, over 2,700 agreements
- ‡ 46 cases in 2011; 450 cases total worldwide

Myth 4: Investment/Financial Services Obligations Prevent Countries from Addressing Crises

- ‡ Governments retain significant flexibility
- ‡ Prudential exception provides governments ability to take measures necessary for the stability of financial system

Intellectual Property: IP-Intensive Industries and the United States



±18.8% of jobs

±60.7% of exports

±34.8% of GDP

±42% higher wages

Source: U.S. Department of Commerce, Intellectual Property and the U.S. Economy: Industries in Focus (2012)

Intellectual Property: Important for All

Strong IP protections benefit IP-producers and users:

- ...Innovation and Competitiveness
- ...Growth
- ...Jobs
- ...Safety and Quality of Life

Intellectual Property: Key Issues

- ... High-standard protections for patents, copyright, trademarks and trade secrets;
- ... Robust protections for IP rights online;
- ... The protection of encrypted signals;
- ... Anti-camcording disciplines;
- ... Robust deterrent enforcement, including criminal remedies;
- ... Terms of protection consistent with U.S. law; and
- ... High-standard and effective protection of innovators' data, including patent-term extension, patent linkage and data protection.

Innovation and E-Commerce



“New technologies will generate new opportunities for trade and investment among us, but also may raise potential new trade issues we need to address in the agreement so that we can promote trade in these products and services and ensure that all of our economies can benefit. For example, developments in the digital economy, such as cloud computing, create new issues not previously envisioned. Addressing them will facilitate use of this technology, particularly benefitting SMEs, which will comprise the vast majority of companies in the TPP countries and are the source of most job creation.”

Source: Trans-Pacific Partnership (TPP) Trade Ministers' Report to Leaders, Endorsed by TPP Leaders, Honolulu, HA, November 2011

Key Innovation/E-Commerce Issues TPP

- ... Cross Border Data Flows – ensuring that governments do not prevent electronic data from crossing borders.
- ... Local Infrastructure Requirements – Prohibition against local data storage requirements or use of domestic technology.
- ... Privacy – Reasonable requirements for privacy of electronic commerce and associated information.
- ... Protection of Intellectual Property – Build upon existing standards to ensure protections that will increasingly spur innovation and economic opportunities.
- ... Market Access – No limitations on foreign direct investment.
- ... Transparency and Independent Regulator.

Competition Policy and a Level Playing Field

%dPromote a competitive landscape in each country, including through the implementation and enforcement of competition laws by antitrust authorities that are aimed at enhancing consumer welfare.

%dPromote more open markets and a competitive landscape in each country.

%dAddress systemic competitiveness issues, including those related to state-owned and state-favored industries.

Supply and Production Chains: Key Goals

Supply Chains are critically important for all industries, all sectors, all levels of development

Efficient Supply Chains expand investment, enhance development, and spread the benefits of trade

Access to Global Supply Chains expand opportunities for SMEs by linking them with larger companies and opening new markets and consumers around the world

TPP presents a unique opportunity to simplify the movement of goods among TPP members and create a multiplier effect to improving the benefits of all parts of the agreement for all TPP countries

Enforcement



• Provide binding and neutral dispute settlement for all key disciplines, including state-to-state dispute settlement and investor-state dispute settlement.

• Develop rapid response enforcement mechanism to resolve food and agricultural disputes quickly and fairly

• Promote strong and clear commitments to ensure stronger enforcement.

Living Agreement



Why Does an Ambitious, Comprehensive and High-Standard Outcome Matter?

Creating Jobs

Raising Living Standards

Improving Competitiveness

