



October 21, 2014

Dear Ambassador Sasae:

As supporters of strong, comprehensive and pro-growth outcomes in the Trans-Pacific Partnership (TPP) talks, we are highly concerned by the potential inclusion of a provision denying access to investor-state dispute settlement (ISDS) and the investment provisions in a final TPP agreement to tobacco-control measures implemented by a signatory to the TPP.

The well-established investment protections to which every TPP country has already agreed in other treaties and agreements are based on the bedrock traditions of the rule of law. For decades, the United States and other nations have developed these provisions to provide for baseline protections for investors against discriminatory, expropriatory and other unfair government actions and review of government actions by impartial and independent dispute-settlement panels.

These well-accepted and widely agreed provisions have in no way impeded the ability of any government to regulate in the public interest. For example, in submitting the Korea-United States Trade Agreement, which included robust investment protections backed up by ISDS, to the U.S. Congress, the Obama Administration stated: “[T]he United States remains fully free to safeguard the national and public interest ...” Moreover, as reported in *Politico* on October 2, a USTR spokesperson said, “The only requirements created by our investment rules are that governments treat investors fairly and in a manner consistent with principles such as due process, principles already found in U.S. law.”

We are, therefore, very troubled that TPP negotiators may consider reversing course and seek to create an unnecessary, but highly damaging, carve-out to these basic and longstanding principles.

The core rules within investment agreements are based on the right to due process, the right to fair treatment, respect for property, and the right to fair compensation from the state. No product or sector in the United States is exempt from these basic rules under our own legal system, nor should they be. Arbitrarily denying access to any sector or product in the TPP lacks any public-interest justification. Doing so, however, would lead to many unintended consequences by exposing many job-creating sectors to similar calls to deny them the same basic protections that each of our governments respects. Such carve-outs undermine the trade and investment rules-based system and its objectives of encouraging investment, trade, innovation, and jobs.

The final TPP should establish a strong rules-based trading system throughout the Asia Pacific region that will spur economic growth. Proposals that undermine the strong traditions in investment rules, including investment protections, should be rejected.

We request a meeting to discuss this with you at your earliest convenience and that our views be shared with your capital.

Sincerely,

American Farm Bureau Federation
American Meat Institute
Corn Refiners Association
Emergency Committee for American Trade
National Association of Manufacturers
National Foreign Trade Council
National Oilseed Processors Association
United States Council for International Business
United States Hide, Skin and Leather Association
US-ASEAN Business Council
U.S. Chamber of Commerce

cc: Shingo Miyamoto
Mayumi Kobayashi