May 11, 2012

The Honorable Barack Obama
The President
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500-0005

Dear Mr. President:

Earlier this month your Administration briefed our staffs on the negotiations on Trans Pacific Partnership (TPP), including a new and potentially troubling feature. Based on the information conveyed to our staff, we understand that the United States is considering tabling language that, for the first time in a free trade agreement, would carve out a specific class of goods, giving it less access to the protections provided under the TPP.

We do not believe it is appropriate for the Administration to table any carve-out that could potentially disadvantage American-made goods in free trade agreements. Such a carve-out could have consequences far beyond your stated intention of ensuring compliance with American law, and far beyond the specific product identified in the TPP text.

We are concerned that such a carve-out could weaken the protections provided by the agreement, including in the investment and intellectual property rights chapters. It could enable our negotiating partners in TPP and future trade negotiations to respond by proposing or insisting on their own non-tariff barriers in the name of complying with their domestic laws. And while we understand that the Administration considers tobacco to be a special class of product, thus far a limiting principle has not been articulated to ensure that other classes of goods would not be given such treatment in the future.

Given the magnitude of the potential unintended consequences, we urge that your Administration not table any language that would disadvantage a specific product and create a troubling precedent for the future without further consultation and study. We believe that further review and consultation with Congress, relevant state governments, and agricultural industry stakeholders is needed before the United States embraces such a position in trade negotiations.

We also question the appropriateness of United States Trade Representative moving ahead with tabling such a potentially controversial proposal before it has worked with Congress to set the negotiating objectives that normally govern trade negotiations. We look forward to working with you to lay out the appropriate parameters for the TPP when we reauthorize Trade Promotion Authority.

We remain committed to increasing the United States’ role as a leader in global trade, and strongly support the goals of the TPP negotiations.

Sincerely,

MITCH MCCONNELL
SENATE REPUBLICAN LEADER

ERIC CANTOR
HOUSE MAJORITY LEADER

CC: The Honorable Ron Kirk
United States Trade Representative

MM/jl