

October 19, 2009

The Honorable Barack Obama
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Obama:

Please find attached a letter that we have sent today to Secretary Locke and Ambassador Kirk regarding a recent blog posting by White House Ethics Czar Norm Eisen that seeks to remove registered lobbyists from the Industry Trade Advisory Committees (ITAC).

Like you, we support increased transparency and public participation in the formation of trade policy. However, we believe these new restrictions on the participation of registered lobbyists on Advisory Committees will severely undercut those goals and result in a policy making process that is less transparent and devoid of much of the expertise that US Government negotiators need to achieve a balanced trade agenda.

The attached letter outlines our strong concerns to this new policy.

We urge that this new policy not be adopted and would appreciate the opportunity to meet with you to craft an approach that better advances our shared goals of greater transparency and public participation in the formation of trade policies.

Respectfully,

Mr. Gregory Dole
Director, Commercial Trade Policy
The Boeing Company

Mr. Brian Petty
Senior Vice President, Government Affairs
International Association of Drilling
Contractors

Mr. V. M. (Jim) DeLisi
President
Fanwood Chemical, Inc.

Mr. Timothy Hoelter
Vice President, Government Affairs
Harley-Davidson Motor Company

Mr. Richard Holwill
Vice President, Public Policy
Altacor, Inc.

Mr. John Easton, Jr.
Vice President, International Programs
Edison Electric Institute

Ms. Ann Barbara Wroblewski
Vice President
International Paper Company

Mr. Steven Stewart
Director, Public Affairs
IBM Corporation

Joseph Mayer, Esq.
Special Counsel for International Trade
Copper & Brass Fabricators Council, Inc.

Mr. J. Robert Vastine, Jr.
President
U.S. Coalition of Service Industries

Mr. George Keller
President
Customs Advisory Services, Inc.

Mr. William Pendleton
Director, Trade Policy
Specialty Steel Industry
of North America

Mr. Stephen Lamar
Executive Vice President
American Apparel & Footwear Association

Mr. James Clawson
President and Chief Executive Officer
JBC International

Mr. Eric Smith
President
International Intellectual Property Alliance

Mr. Wayne Morris
Vice President, Division Services
Association of Home Appliance
Manufacturers

Cc: Norm Eisen
The Honorable Gary Locke
The Honorable Ron Kirk
The Honorable Charles Rangel
The Honorable Dave Camp
The Honorable Max Baucus
The Honorable Charles Grassley

Attachment: Letter to Ambassador Kirk and Secretary Locke on ITACs

October 19, 2009

The Honorable Gary Locke
Secretary of Commerce
U.S. Department of Commerce
Washington, DC 20230

The Honorable Ron Kirk
U.S. Trade Representative
Office of the USTR
Washington, DC 20508

Dear Secretary Locke and Ambassador Kirk:

We are writing to express our very strong opposition to the recently announced policy that will remove registered lobbyists from the trade advisory committees. We write this letter in our individual capacities. We are also drawing upon our experience as Chairs of the Industry Trade Advisory Committees (ITAC).

We ask that you forward our comments to the appropriate individuals in the White House, including Norm Eisen. Further, we ask that you use your knowledge of the Advisory Committee system and the important role it plays in the development of a balanced trade policy, to register your opposition to this policy and seek to have it changed. Finally, we ask that you facilitate a meeting between the individuals listed below and the appropriate White House officials so we can address this directly with them.

Our comments reflect the sentiments shared by hundreds of advisors – both those who are registered as lobbyists and those who are not – from across the Advisory Committee system. Many of these individuals have served in the Advisory Committee process with distinction for years. Some have participated since the Advisory Committee process was created in the 1970's. They undergo security clearances and participate at their own time and expense – whether it is at meetings in Washington, negotiating sessions throughout the United States, or WTO Ministerial meetings at all corners of the globe. They take their Advisory Committee responsibilities seriously to provide professional balanced advice that will help open markets for U.S. goods and services, promote US competitiveness, maintain jobs in exporting industries, and encourage broad and sustained economic growth.

With this in mind, we share with you a number of substantive and procedural concerns relating to this decision.

First, and we must stress in the strongest possible terms that this action will severely undermine the utility of the advisory committee process, the level of advice that the advisory committees provide, and, consequently, the ability of the United States to achieve balanced and effective trade policies. This action contemplates the immediate removal of individuals who have considerable institutional expertise and the essential substantive knowledge in all areas of trade negotiation, policy development, and enforcement. A quick review of the impact of this new policy suggests that dozens of the most active -- and most knowledgeable -- Committee members who generate many of the documents needed by the Committee and our trade negotiators will be dismissed once the new charter term begins. This occurs because individuals who specialize in trade policy matters in their particular sectors often find that such specialization and expertise pushes them above the 20 percent lobbying activity threshold that triggers registration under the Lobbying Disclosure Act (LDA). This means that the characteristics that make many Advisors valuable to the Administration is the same characteristics that are being used to artificially disqualify them from participation in the Committee system.

Moreover, the sudden ejection of over 130 advisors from the system will depopulate many of the committees and instantly remove many voices from around the table. While those individuals may ultimately be replaced, it is highly unlikely that their talents can be and, additionally, long security clearances mean it will take months and years before the Committee system has a full complement of advisors. In many cases, it will be almost impossible to find the individuals with the substantive expertise and experience who can make the commitment and undertake the expense to provide meaningful participation simply to replace the Advisors who leave through natural turnover. The recruitment of these individuals may be even harder once they realize that a number of the trade experts in many industries will not be welcomed to participate in Committee deliberations. In fact, in several Committees, advisors who are not registered have nonetheless indicated that they will likely not seek renewal since the Committees will be void of a significant knowledge base and many important perspectives.

Consequently, this policy will diminish, not enhance, the participation and diversity of the Committees. This will be particularly detrimental for small businesses, which often look to trade associations or other consultants to represent their interests in Washington and on these advisory panels. It will also adversely harm many trade associations who bring together multiple views. Many of these associations are small, which means they do not have the ability to nominate an individual with substantive trade plus sectoral expertise to serve on the Committee as a non-registered lobbyist. Moreover, because Advisory Committee members will be unable to disclose Committee business or share confidential texts with those association staff members, the associations will be unable to serve as a resource, as they do now, for the advisors or trade advisory process. We fail to see how removing hundreds of individuals from service on these Committees, and suddenly disenfranchising the thousands of voices these individuals represent, will help broaden and diversify stakeholder participation on these Committees. A strong and vibrant Committee system needs a balance of multiple industry perspectives to ensure that the Government gets the best possible advice. Hollowing out the Committees is not the way to achieve that goal.

Second, this new policy will undermine the broader goals of transparency with respect to lobbying and which are the hallmarks of the Advisory Committee process. The Advisory Committee system was created in 1974 as an effort to regularize, institutionalize and make more transparent the range of advice that industry provided to the U.S. trade negotiators and policy makers. Since then the process has grown and been modified as the economy has evolved and as trade issues have become more complicated to ensure that U.S. government officials had continuing and improved access to this advice in a transparent manner. Removing registered lobbyists from this system will reverse this process in several ways.

By definition, this action will remove from the Advisory process the only advisors who disclose their advocacy activities. This means the public will have less access to information about the interests, entities, and individuals who are involved in the Committees.

Further, because the policy focuses on registered lobbyists, it actually incentivizes individuals who desire to remain on the Committee to de-register as a registered lobbyist under the LDA. In fact, as a direct result of this policy, a number of current advisors are trying to recalculate or reconfigure their time so that they can de-register and remain compliant under the LDA. This is a deplorable outcome since it will result in less overall transparency on Washington advocacy activities. We should be encouraging more individuals to register and not incentivizing individuals to limit the activities they disclose.

Third, from a process perspective, we are also deeply concerned that this policy was discussed and announced without consultation with the very individuals who are affected. This is particularly troublesome since the principal function of these Committees is to act as **advisory** bodies, yet the advice of these groups was not even sought. Moreover, the announcement (released in a blog on September 23, but not officially communicated to advisors until September 30) came well after the rechartering process had already begun and after many advisors were led to believe that they had met the requirements for reappointment because their circumstances remained unchanged and because they had notified the Advisory Center of their intention to seek reappointment on a timely basis (by September 11).

We understand that public perceptions of lobbyists have been tainted by the criminal and unethical activity of a few individuals. We must stress however that it is wrong to prejudge an entire class of people because of these actions. Most lobbyists are highly professional and ethical individuals who are proud of the role they play in developing balanced public policies. They often have a long tradition of public service with many having served for years in the Legislative or Executive Branches (or both). They are proud to exercise their First Amendment rights every day and, frankly, highly resent being lumped into a category with criminals because of their profession.

However, the implication is quite clear in the new policy that the advice of anyone who is required to be registered as a lobbyist is tainted by this mere fact. Moreover, it is the mere fact of registration – an action that demonstrates an effort to comply with the law – that

disqualifies an individual, even one with decades of service to the Advisory Committee system, to participate on an Advisory Committee.

Inasmuch as the Advisory Committee email to advisors on September 30 established an October 30 date for compliance with this new policy, we ask that our requests in this letter be considered and a meeting with the appropriate individuals from the White House policy office be arranged on an expeditious basis.

Thank you for your time and attention to this important matter.

Respectfully,

Mr. Gregory Dole
Director, Commercial Trade Policy
The Boeing Company

Joseph Mayer, Esq.
Special Counsel for International Trade
Copper & Brass Fabricators Council, Inc.

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