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Letter to Senate on Intent to Negotiate FTA with Thailand

02/12/2004

The Honorable Ted Stevens
President Pro Tempore
United States Senate
Washington, D.C. 20510

Dear Senator Stevens:

In accordance with section 2104(a)(1) of the Trade Act of 2002 (the Trade Act), and pursuant to authority delegated to me by the President, I am pleased to notify the Congress that the President intends to initiate negotiations for a free trade agreement (FTA) with Thailand. We expect these negotiations to get underway by June 2004, and we will be consulting closely with the Congress regarding these negotiations, as required by the Trade Act.

The Administration is committed to bringing back trade agreements that open markets to benefit our farmers, workers, businesses, and families. With the continued help of Congress, we can move promptly to advance America's trade interests.

An FTA with Thailand will help foster economic growth and create higher paying jobs in the United States by reducing and eliminating barriers to trade and investment between Thailand and the United States. It would increase benefits to consumers through increased competition in both countries. The FTA will also enable us to address market access impediments in Thailand, including high tariffs on agricultural goods, unjustified use of sanitary and phytosanitary measures, restrictive licensing practices, inadequate protection of intellectual property rights, an unpredictable and nontransparent customs regime, and certain limitations on access for U.S. service providers.

We believe the United States has much to gain in pursuing a negotiation with Thailand. Thailand already is our 18th largest trading partner with \$19.7 billion in total trade during 2002. The increased access to Thailand's market that an FTA would provide would further boost trade in a wide range of both goods and services, enhancing employment opportunities in both countries. Negotiation of an FTA would level the playing field for U.S. exports from two perspectives. Many of Thailand's products already enter the U.S. market duty free under the Generalized System of Preferences. An FTA would make duty-free treatment reciprocal. In addition, an FTA would give U.S. exports the comparable preferential treatment to that which Thailand affords goods from its ASEAN and other preferential trading partners.

An FTA with Thailand would be particularly beneficial for U.S. agricultural producers who have urged us forward. The United States is one of the largest suppliers of agricultural products to the Thai market, which was the 16th largest market for U.S. farm exports in 2002. Elimination of Thailand's high duties and other barriers in the agricultural sector would create new opportunities for U.S. farmers in this major market. For this reason, agricultural groups have consistently cited Thailand as one of the potential FTA partners of most interest to them.

We also will seek improved market access through eliminating high tariffs and non-tariff barriers

on industrial goods of export interest to the United States. We are sensitive to Congressional concerns on automotive issues and will consult closely with Congress and U.S. auto manufacturers and workers in developing our positions on this issue. We also will seek to eliminate certain restrictions that make it difficult for U.S. service providers to operate in the Thai market, and to address other barriers to U.S. goods and services.

We recognize the concerns that have been raised by U.S. industry about the deficiencies in Thailand's protection of intellectual property and in its customs regime. We have held detailed and extensive discussions on these issues with Thailand throughout the 16 months under our bilateral Trade and Investment Framework Agreement (TIFA) and have made progress on specific issues, including the efficiency and predictability of the Thai customs process and the increased coordination of the Thai agencies responsible for intellectual property enforcement. Addressing these issues, as well as other areas such as strengthening measures against the production of illegal optical discs, will be essential for the successful conclusion of these negotiations. In this regard, we will seek to include provisions that bring Thailand's intellectual property and customs regimes up to the standards set in our other recent FTAs, as indicated below in our specific negotiating objectives.

An FTA also would encourage greater liberalization of foreign investment between the United States and Thailand. The United States already is the second largest investor in Thailand. An FTA would build upon the preferential access afforded U.S. companies under the U.S.-Thailand Treaty of Amity and Economic Relations, one of U.S. industry's highest priorities.

We believe an FTA would help strengthen our cooperation with Thailand in multilateral and regional fora. We shared the concerns expressed by some Members of Congress regarding Thailand's commitment to the multilateral trade agenda following the WTO Ministerial meeting in Cancun. Since then, the Thai government has reiterated its strong commitment to achieving multilateral liberalization of agricultural trade and to concluding the Doha Development Agenda. Thailand also has stated its intention to continuing to actively cooperate with the United States in all international trade fora. Thailand also did an excellent job hosting last October's successful APEC meetings, at which all 21 APEC members called for the resumption of the Doha negotiation based on the text developed at Cancun.

An FTA with Thailand also would advance President Bush's Enterprise for ASEAN Initiative (EAI), under which we are working to enhance our trade and economic ties to ASEAN countries. Our FTA with Singapore entered into force on January 1, 2004. In addition, we have TIFAs with Thailand, Indonesia, the Philippines, and Brunei Darussalam, and have nearly concluded negotiations on a TIFA with Malaysia. Under these TIFAs, the United States is seeking to address outstanding bilateral issues and enhance our coordination on regional and multilateral issues. In addition, we are meeting the need for a stronger U.S. economic presence in the region and laying the groundwork for FTAs with these nations, when ready. ASEAN members already are negotiating FTAs with many of their other major trading partners. An FTA with Thailand would promote U.S. interests in the region, encourage the negotiation of trade agreements with the high standards inherent in FTAs with the United States, and reinforce a strong U.S.-ASEAN relationship that is a force for stability and development in Southeast Asia.

In addition to complementing our cooperative efforts with Thailand on global and regional trade issues, an FTA would further enhance our broader relationship with Thailand. An FTA would reinforce the shared interests of the United States and Thailand and promote common values, facilitating our efforts to work together on a wide range of issues. Thailand already is a key ally in the region on military and security matters. We are partners in the global war on terrorism, and the extensive ties between the U.S. and Thai militaries bolster U.S. strategic interests in the region.

While we see substantial benefits in pursuing an FTA with Thailand, we also are considering carefully other issues that some Members of Congress and non-governmental organizations have raised regarding Thailand's policies. There are an array of difficult human rights, labor, environment, and governance issues. We will continue to consult closely with Congress as we consider how to address these issues in the context of an FTA. We recognize other concerns raised by Members of Congress, and the Administration looks forward to continued consultations with Congress on the full range of issues.

Initial consultations with the Congressional Oversight Group (COG) and other Members of Congress regarding the FTA negotiations with Thailand have been positive, and our decision to move ahead with negotiations with Thailand was strongly influenced by the bipartisan expressions of interest we have received from Members of Congress and U.S. industry. The Administration will continue to consult closely with the Congress, including the Congressional Oversight Group, throughout the negotiation process.

Our specific objectives for negotiations with Thailand are as follows:

· *Trade in Goods:*

- Seek to eliminate tariffs and other duties and charges on trade between Thailand and the United States on the broadest possible basis, subject to reasonable adjustment periods for import-sensitive products.

- Seek to eliminate non-tariff barriers in Thailand to U.S. exports, including permit and licensing barriers on agricultural and other products, restrictive administration of tariff-rate quotas, unjustified trade restrictions that affect new U.S. technologies, and other trade restrictive measures that U.S. exporters identify.

- Seek to eliminate government practices that adversely affect U.S. exports of perishable or cyclical agricultural products, while improving U.S. import relief mechanisms as appropriate.

- Pursue a mechanism with Thailand that will support achieving the U.S. objective in the WTO negotiations of eliminating all export subsidies on agricultural products, while maintaining the right to provide *bona fide* food aid and preserving U.S. agricultural market development and export credit programs.

- Pursue fully reciprocal access to Thailand market for U.S. textile and apparel products.

· *Customs Matters, Rules of Origin, and Enforcement Cooperation:*

- Seek rules to require that Thailand's customs operations are conducted with transparency, efficiency, and predictability, and that customs laws, regulations, decisions, and rulings are not applied in a manner that would create unwarranted procedural obstacles to international trade.

- Seek rules of origin, procedures for applying these rules, and provisions to address circumvention matters that will ensure that preferential duty rates under an FTA with Thailand apply only to goods eligible to receive such treatment, without creating unnecessary obstacles to trade.

- Seek terms for cooperative efforts with Thailand regarding enforcement of customs and related issues, including in the area of trade in textiles and apparel.

· *Sanitary and Phytosanitary (SPS) Measures:*

- Seek to have Thailand reaffirm its WTO commitments on SPS measures and eliminate any unjustified SPS restrictions.
- Seek to strengthen collaboration with Thailand in implementing the WTO SPS Agreement and to enhance cooperation with Thailand in relevant international bodies on developing international SPS standards, guidelines, and recommendations.
- *Technical Barriers to Trade (TBT):*
 - Seek to have Thailand reaffirm its WTO TBT commitments and eliminate any unjustified TBT measures.
 - Seek to strengthen collaboration with Thailand in implementing the WTO TBT Agreement and create a procedure for exchanging information with Thailand on TBT-related issues.
- *Intellectual Property Rights:*
 - Seek to establish standards to be applied in Thailand that build on the foundations established in the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights and other international intellectual property agreements, such as the World Intellectual Property Organization (WIPO) Copyright Treaty, the WIPO Performances and Phonograms Treaty, and the Patent Cooperation Treaty.
 - In areas such as patent protection and protection of undisclosed information, seek to have Thailand apply levels of protection and practices more in line with U.S. law and practices, including appropriate flexibility.
 - Seek to strengthen Thailand's laws and procedures to enforce intellectual property rights, such as by ensuring that Thai authorities seize suspected pirated and counterfeit goods, equipment used to make such goods or to transmit pirated goods, and documentary evidence.
 - Seek to strengthen measures in Thailand that provide for compensation of right holders for infringements of intellectual property rights and to provide for criminal penalties under Thai law that are sufficient to have a deterrent effect on piracy and counterfeiting.
- *Trade in Services:*
 - Build upon rights in the U.S.-Thailand Treaty of Amity and Economic Relations to develop broader disciplines to address discriminatory and other barriers to trade in Thailand's services markets. Seek improved transparency and predictability of Thai regulatory procedures, specialized disciplines for financial services, and additional disciplines for telecommunications and other sectors as necessary.
 - Pursue a comprehensive approach to market access, including any necessary improvements in access to the telecommunications, financial services, professional services, or other sectors.
- *Investment:*
 - Seek to establish rules that reduce or eliminate artificial or trade-distorting barriers to U.S. investment in Thailand, while ensuring that Thai investors in the United States are not accorded greater substantive rights with respect to investment protections than U.S. investors in the United States, and to secure for U.S. investors in Thailand important rights comparable to those that

would be available under U.S. legal principles and practice.

- Seek to ensure that U.S. investors receive treatment as favorable as that accorded to domestic or other foreign investors in Thailand and retain the preferences they currently receive under the U.S.-Thai Treaty of Amity and Economic Relations and to address unjustified barriers to the establishment and operation of U.S. investments in Thailand. Provide procedures to resolve disputes between U.S. investors and the Government of Thailand that are in keeping with the Trade Promotion Authority goals of being expeditious, fair, and transparent.

- *Electronic Commerce:*

- Seek to have Thailand affirm that it will allow U.S. goods and services to be delivered electronically to its market and to ensure that Thailand does not apply customs duties to digital products or unjustifiably discriminate among products delivered electronically.

- *Government Procurement:*

- Seek to establish rules requiring government procurement procedures and practices that are fair, transparent, and predictable for suppliers of U.S. goods and services that seek to do business with Thailand, and that ensure that U.S. suppliers receive treatment as favorable as that accorded to domestic or other foreign suppliers in Thailand.

- Seek to expand access for U.S. goods and services to Thailand's government procurement market.

- *Transparency/Anti-Corruption/Regulatory Reform:*

- Seek to make Thailand's administration of its trade and investment regime more transparent, and pursue rules that will permit timely and meaningful public comment before Thailand adopts trade- and investment-related measures.

- Seek to eliminate Thailand's government regulations or other measures that discriminate against or deny full market access for U.S. exporters or investors.

- Seek to ensure that Thailand applies high standards prohibiting corrupt practices affecting international trade and investment and enforces such prohibitions.

- *Competition:*

- Address possible issues involving competition-related matters, if appropriate.

- *Trade Remedies:*

- Provide a safeguard mechanism during the transition period to allow a temporary revocation of tariff preferences if increased imports from Thailand are a substantial cause of serious injury or threat of serious injury to the domestic industry.

- Make no changes to U.S. antidumping and countervailing duty laws.

- *Environment:*

- Seek to promote trade and environment policies that are mutually supportive.

- Seek an appropriate commitment by Thailand to effectively enforce its environmental laws.
 - Establish that Thailand will strive to ensure that it will not, as an encouragement for trade or investment, weaken or reduce the protections provided for in its environmental laws.
 - Help Thailand strengthen its capacity to protect the environment through the promotion of sustainable development, such as by establishing consultative mechanisms.
- *Labor, including Child Labor:*
 - Seek an appropriate commitment by Thailand to enforce effectively its labor laws, particularly those relating to internationally-recognized labor rights and prohibiting the worst forms of child labor.
 - Establish that Thailand will strive to ensure that it will not, as an encouragement for trade or investment, weaken or reduce the protections provided for in its labor laws.
 - Based upon review and analysis of Thailand's labor law and practices, establish procedures for consultations and cooperative activities with Thailand to strengthen its capacity to promote respect for core labor standards, including compliance with ILO Convention 182 on the worst forms of child labor.

- *State-to-State Dispute Settlement:*

- Encourage the early identification and settlement of disputes through consultation.
- Seek to establish fair, transparent, timely, and effective procedures to settle disputes arising under the agreement.

In addition, the FTA with Thailand will take into account other legitimate U.S. objectives including, but not limited to, the protection of health, safety, environment, essential security, and consumer interests.

We are committed to concluding these negotiations with timely and substantive results for U.S. workers, consumers, businesses, and farmers, and will pursue these specific objectives, keeping in mind the overall and principal U.S. negotiating objectives and priorities that the Congress has identified. We look forward to continuing to work with the Congress as negotiations with Thailand begin, and we commit to work with you as we bring them to a successful conclusion.

Sincerely,

Robert B. Zoellick

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