

January 13, 2004

Honorable Robert B. Zoellick
United States Trade Representative
Room 209A
600 17th Street, NW
Washington, DC 20508

Subject: Enhanced Access to Information and Ability to Participate Effectively

Dear Ambassador Zoellick:

Earlier this fall organizations from a number of countries around the globe met to create a network dedicated to promoting access to information and open, transparent government. September 28 marked the first international Right to Know Day, symbolizing the global movement toward increasing the public's right to information.

Around the world, nations are embracing open government as a way of improving government accountability, encouraging public participation in governmental and democratic decision-making, combating corruption, instilling public confidence in governmental institutions, and facilitating open markets. In over 50 countries, citizens now have legal rights to gain access to government information. Over half of these countries have adopted freedom of information laws in the last decade, and seven have done so in the last year. The Turkish Parliament is the latest to enact a Right to Information Law in October 2003, and that same month the Shanghai Municipal Government in China posted for notice and comment on its website a draft Open Government Information regulation applicable to municipal governmental entities.

The United States has, of course, been a leader in these global developments. Our Freedom of Information Act stands as a model legislative statement providing the public with judicially enforceable rights to government information subject only to narrowly construed exemptions. In recent years, the U.S. government has also been at the forefront of promoting transparency around the world. Both the Departments of State and Commerce have participated in and supported efforts to develop open government laws in countries ranging from Latin America to Eastern Europe. Only last month our government sponsored and participated in a program in Rabat, Morocco, on Regulatory Transparency, as part of the Commerce Department's provision of technical assistance related to the Free Trade Agreement now being negotiated between the U.S. and Morocco.

It is against this backdrop that we join to support the American Library Association, the Association of Research Libraries, the American Association of Law Libraries, and the Special Libraries Association in urging that, for all bilateral and regional trade negotiations, the Office of the United States Trade Representative –

- At least 30 days prior to the conclusion of the negotiation phase, post on USTR's website the proposed agreement text and request through the *Federal Register* public comment upon it; and
- Post on the USTR website all comments received in electronic format and a listing of all comments received, updated promptly as new comments arrive.
- Post on the USTR website the text of United States negotiating proposals and any accompanying documents at the time they are submitted to other countries in the course of negotiations.

We are aware that USTR endeavors to take into consideration the diverse views of those who are interested in trade negotiations. In the past your Office has maintained an open door for stakeholders to express their views on actions that might affect domestic policies and programs, and solicitations for public comments have been made through *Federal Register* postings prior to the initiation of trade negotiations. Nonetheless, as a general matter the proposed texts of agreements have not been routinely made available to the public, though they have been shared on an ad hoc basis with interested parties. This not only deprives others of the advantage of access to the principal documents, but also creates the potential for appearance of favoritism or even bias in the process.

Clearly the issues addressed in trade negotiations are expanding and already touch a broad array of programs, policies, laws, and private conduct in the United States. Often groups and individuals whose interests may be affected are not knowledgeable of the intricacies of trade law, do not closely follow trade negotiating activities, and do not have the resources to become and remain insiders in the process. The best way to provide comfort and assurance to these groups and their constituencies is through providing a more transparent process at the Office of the USTR.

To the extent that the countries with whom we are negotiating might object to public disclosure, this obstacle to transparency can be avoided by establishing as a condition to U.S. entry into negotiations that negotiating governments agree in advance to USTR's timely publication of draft texts for public comment. We should also, in the process, be encouraging those governments to adopt on their own similar procedures for conveying information to and obtaining the views of their affected stakeholders. This will ensure that the end result of any negotiation will be more acceptable to those affected in all participating countries.

Congress has made clear in e-government legislation that it values and supports agency use of websites and electronic notices for getting information out to the public more efficiently and for encouraging public input into decision-making. And this administration's "firstgov.com" initiative is intended to make accessing government electronic information more user-friendly. USTR can play an important role in advancing this trend by adopting the recommendations we are supporting.

Yours truly,

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