



May 22, 2012

The Honorable Ron Kirk
United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

Dear Ambassador Kirk:

While our organizations urge the complete exclusion of tobacco products from trade agreements, including the Trans-Pacific Partnership (TPP) Agreement that the United States is currently negotiating with eight other countries, we are writing to strongly support the Administration's effort to take a major step forward to protect public health. While the actual proposal has not been made public, if the broad description provided by the United States Trade Representative (USTR) is correct, this proposal should ensure that the tobacco industry will not be able to use anything in the TPP as a weapon to prevent the countries involved from adopting or maintaining measures to reduce tobacco use and the harm it causes to public health.

USTR indicated originally that it intended to present this proposal during the 12th round of negotiations that took place in Dallas, Texas between May 8 and May 18, but did not do so. The public health importance of this effort cannot be overstated. We urge the U.S. to present this proposal as soon as possible; to resist pressure from the tobacco industry and its allies to weaken or water down the proposal; and to negotiate to have the proposed language included in the TPP agreement as the minimum that should be included with regard to tobacco products.

There are three reasons to single out tobacco products in the Trans-Pacific Partnership. 1) Tobacco products are truly unique. 2) There is a global consensus about the need to reduce tobacco use and the best ways to do so. 3) The existing "public health exception" in many trade agreements has not prevented the tobacco companies from suing or threatening countries that engage in good faith public health measures.

Tobacco products are uniquely lethal. There is a global consensus that nations should act to reduce tobacco use. Trade agreements should not undermine the authority of governments to do so. Tobacco products killed 100 million people in the 20th century and will kill one billion people in the 21st century unless governments take urgent action. Tobacco products are unlike any other legal consumer product as they are highly addictive, cause disease and death, and are the number one preventable cause of death in the world.

There is a global consensus that governments should be doing everything possible to reduce consumption of tobacco products and the resulting harms from that consumption. This consensus is reflected in the world's first public health treaty, the World Health Organization's Framework Convention on Tobacco Control, under which 175 countries have made legally binding commitments to enact effective tobacco control measures. Thus, the global goal of reducing tobacco usage is in contrast to the usual free trade goal of expanding access to and consumption of products.

There is an urgent need for this action in the Trans-Pacific Partnership. Tobacco companies and their allies increasingly have abused existing trade and investment agreements to challenge legitimate tobacco control measures adopted by the United States, Australia, Uruguay, Norway and other countries. The broad public health exceptions in those earlier agreements have failed to stop the tobacco companies from challenging legitimate tobacco control measures. A USTR proposal that would specifically protect tobacco control measures from challenges by private tobacco companies as well as governments under the Trans-Pacific Partnership Agreement would be a major step forward to address the unique harms caused by tobacco.

The tobacco industry and its allies have attacked the U.S. for protecting tobacco control measures because it undermines their current strategy to intimidate countries that dare to act boldly. They have already falsely argued that excluding tobacco products from trade agreements will hurt U.S. tobacco farmers and cost US jobs. While we would have preferred otherwise, the Administration's proposal addresses only manufactured tobacco products, and not tobacco leaf. It will also not have any impact on the American exports or imports; it simply protects the US and other countries that take action to reduce tobacco use.

Trade agreements should not promote or increase use of these deadly products, nor should they stop any nation from taking effective action to reduce tobacco use and save lives.

Sincerely,

American Academy of Family Physicians
American Academy of Pediatrics
American Association for Cancer Research
American Association for Respiratory Care
American Cancer Society – Cancer Action Network
American Heart Association
American Lung Association
American Thoracic Society
Campaign for Tobacco Free Kids
National Latino Tobacco Control Network
Oncology Nursing Society
Partnership for Prevention