

State of
Washington
House of
Representatives



April 6, 2016

Dear Washington State Members of Congress,

Thank you for your service to our state on the many important issues facing our nation. As members of the Washington State Senate and House of Representatives, we urge you to take a stand against the Trans-Pacific Partnership (TPP). As elected leaders of a trade-dependent state, we have a civic and moral responsibility to ensure that trade agreements do not harm the people of Washington. However, the TPP seriously compromises the ability of the Washington Legislature to enact and enforce statutes that bolster our local economy, guard our public health and safety, and protect our natural resources.

Our concerns are not academic. Because the rules the federal government agrees to in international treaties supersede state law, the TPP would limit our sovereign control in many areas. We are concerned about the impact of:

- Expanded intellectual property rights for pharmaceutical companies that ensure rising drug costs and decreased availability of life-saving medications.
- Non-binding language that nullifies protection of our environment and natural resources.
- Failure to address currency manipulation, a key factor in trade imbalances and job loss in the U.S.
- Weaker Rules of Origin which will have a deleterious effect on our aerospace manufacturing jobs as content required to qualify for tariff reductions is much lower than under NAFTA.
- Failure to include mechanisms for ensuring compliance, much less enforcement, of labor standards, and failure to include a commitment to human rights standards.
- Government procurement language which impedes our ability to promote state and local vendors, thereby limiting our ability to encourage innovation and support local job creation. TPP states that the parties "shall" negotiate for state and local coverage within three years.

Most concerning is the TPP's Investor State Dispute Settlement system (ISDS) which would negatively affect our public policy-making ability and key existing state policies. The Intergovernmental Policy Advisory Committee (IGPAC), in their majority report to the USTR on the TPP described their (and our) concerns:

"Despite some welcome modifications to the TPP investment text, the investment chapter of free trade agreements continues to concern IGPAC, due to the inclusion of the investor state dispute settlement (ISDS) mechanism. IGPAC strongly urges that the mechanism be eliminated from the agreement. In addition to being concerned about cases that can be brought against the United States, IGPAC is concerned that investors from nations with well-developed legal systems appear to have abused these provisions to improperly and frivolously challenge the authority of developing country governments at both the central level and sub-central level."

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ISDS empowers foreign corporations to file claims against nations for unlimited monetary awards in unaccountable private trade tribunals over laws, regulations and government actions/inactions at all levels of government, thereby threatening the system of federalism established in the U.S. Constitution. Tribunal decisions are unbound by precedent and cannot be appealed on the merits. Both directly, and indirectly with the chilling effect of the threat of these actions, ISDS provisions impede the duties of legislative bodies.

This is a real danger. Previous ISDS tribunals have simply ignored trade agreement language aimed at narrowing their ever-expanding interpretations of the obligations of governments to foreign investors. The TPP's *binding* legal language does not address this problem. While TPP's carve-out against ISDS attacks on tobacco control measures shows how a real safeguard could be constructed, other language the USTR claims provides an exception for environmental, health and other regulatory matters includes a clause that makes it entirely useless: it only applies to domestic policies that *do not otherwise violate the agreement* – policies for which no exception is needed. This failure is problematic because the TPP would *double* the number of foreign firms to over 1,000 additional corporations with more than 9,300 subsidiaries in the U.S. able to use ISDS. This unprecedented increase in ISDS liability comes at a time when the types of policies being attacked and the number of ISDS cases are surging.

The National Conference of State Legislatures (NCSL) clearly expressed opposition to ISDS in 2015: *"Specifically, NCSL will not support any BIT or FTA that provides for investor/state dispute resolution. NCSL firmly believes that when a state adopts a non-discriminatory law or regulation intended to serve a public purpose, it shall not constitute a violation of an investment agreement or treaty, even if the change in the legal environment thwarts foreign investors' previous expectations."*

The rights of foreign corporations must not exceed the rights of our citizens when it comes to having the freedom to make and enforce laws in our states. As Congressman Sander Levin said recently, "Trade touches all aspects of our lives, and we are setting an economic framework for generations. We cannot afford to lock-in weak standards, uncompetitive practices, and a system that does not broadly spread the benefits of trade, affecting the paychecks of American families."

Counting ourselves among a growing number of state legislators nationwide, we urge you to defend our constitutional legislative process by opposing the Trans-Pacific Partnership, including voting against it, should it come before Congress.

Yours in Service,

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Handwritten signature of Brady P. Walkinshaw in black ink.

Rep. Brady P. Walkinshaw

Handwritten signature of Sherry Appleton in black ink.

Rep. Sherry Appleton

Handwritten signature of Eileen Cody in black ink.

Rep. Eileen Cody

Handwritten signature of Jessyn Farrell in blue ink.

Rep. Jessyn Farrell

Handwritten signature of Joe Fitzgibbon in black ink.

Rep. Joe Fitzgibbon

Handwritten signature of Noel Frame in black ink.

Rep. Noel Frame

Handwritten signature of Roger Goodman in black ink.

Rep. Roger Goodman

Handwritten signature of Mia Gregerson in black ink.

Rep. Mia Gregerson

Handwritten signature of Sam Hunt in black ink.

Rep. Sam Hunt

Handwritten signature of Christopher Hurst in black ink.

Rep. Christopher Hurst

Handwritten signature of Laurie Jinkins in black ink.

Rep. Laurie Jinkins

Handwritten signature of Patty Kuderer in black ink.

Rep. Patty Kuderer

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Handwritten signature of Luis Moscoso in black ink.

Rep. Luis Moscoso

Handwritten signature of Lillian Ortiz-Self in black ink.

Rep. Lillian Ortiz-Self

Handwritten signature of Gerry Pollet in black ink.

Rep. Gerry Pollet

Handwritten signature of Chris Reykdal in black ink.

Rep. Chris Reykdal

Handwritten signature of June Robinson in blue ink, enclosed in a light blue rectangular box.

Rep. June Robinson

Handwritten signature of Cindy Ryu in black ink.

Rep. Cindy Ryu

Handwritten signature of David Sawyer in black ink.

Rep. David Sawyer

Handwritten signature of Mike Sells in black ink.

Rep. Mike Sells

Handwritten signature of Derek Stanford in black ink.

Rep. Derek Stanford

Handwritten signature of Steve Tharinger in black ink.

Rep. Steve Tharinger

Handwritten signature of Sharon Tomiko Santos in black ink.

Rep. Sharon Tomiko Santos