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September 6, 2013

Ambassador Michael Froman  
Office of the United States Trade Representative  
600 17th Street NW  
Washington, DC 20508

Dear Ambassador Froman:

The Health Officers Association of California, which represents the physician health officers who oversee public health in California's 61 city and county jurisdictions, opposes the new text concerning tobacco and public health measures under consideration by the United States Trade Representative (USTR) for tabling in the Transpacific Partnership Agreement (TPPA) negotiations currently underway.

This proposal is a major retreat from the policy that was drafted and widely shared in great detail by USTR in 2012, which would have created a "safe harbor" for some tobacco control regulations, and which the USTR itself stated would "explicitly recognize the unique status of tobacco products from a health and regulatory perspective."

Instead, the current USTR proposal on tobacco as it relates to the TPPA is to reaffirm the existing language in the General Agreement on Tariffs and Trade (GATT), which establishes a nation's right to enact health and safety measures, including tobacco measures. This wording is too weak to be legally significant. It fails to cover the investment chapter - where the greatest litigation threat to tobacco-control measures is posed, as litigation against Uruguay and Australia demonstrates.

Current USTR proposal on tobacco for the TPPA leaves the door wide open for the future use of Investor-State Dispute Resolution (ISDR) mechanisms by large international corporations to challenge and overturn federal, state and local laws and regulations which govern tobacco control measures. It is our strongly held view that the tenants of the proposed TPPA should not be used by the tobacco industry to circumvent existing or evolving public health law - either

in the United States or in other TPPA member nations. Tobacco control measures are a firmly established tenant of U.S. national, state, and local law. These important public health measures continue to receive the broad support of elected officials on every level regardless of political affiliation.

Because of its unique relationship with both individual health and public health, tobacco should be carved out from the trade provisions of the TPPA. The efforts of individual nations to control tobacco and combat its adverse health effects should not be interfered or impeded in any way by provisions of the TPPA or any other international trade agreement.

Please feel free to call on us for further information regarding our position on this vitally important public policy issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'BP', with a long horizontal line extending to the right.

Bruce Pomer, MPA  
Executive Director

cc President Barack Obama  
David Agnew, Deputy Assistant to the President and Director of Intergovernmental Affairs  
Senator Dianne Feinstein  
Senator Barbara Boxer