

May 15, 2012

The Honorable Ron Kirk  
United States Trade Representative  
600 17th Street, N.W.  
Washington, D.C. 20509

Dear Ambassador Kirk:

We are gratified to learn that the Obama Administration plans to modify its proposals on how tobacco control measures should be treated during negotiations this week on the Trans-Pacific Partnership (TPP), a trade pact with nine Pacific Rim nations. Tobacco use is the leading preventable cause of death worldwide, and the only legal substance that, when used as intended, kills people. It is a scourge unlike any other. Tobacco companies have recently accelerated their use of trade rules to attempt to delay and reverse tobacco control measures in the U.S., Australia, Uruguay, Norway, and Ireland. Curtailing these loopholes is of the utmost urgency.

The Administration's proposal, as we understand it, offers commendable changes to trade policy, but might be improved even more as TPP negotiations continue.

On the very positive side, if the reports are accurate, the proposal affirms that tobacco is a unique product. The proposal offers some affirmative defense against disputes by other countries, or by tobacco companies themselves, by creating a "safe harbor" for evidence-based tobacco control measures approved through regulatory public health agencies. In the event that a trade violation is asserted, the country's own standards for judging the necessity of the measure would have preponderant weight.

There are weaknesses in this proposal, however, that we hope the trading partners will address this week in Dallas. First, the language of the proposal should be made public. Second, measures adopted by legislatures are not included, and they should be. Third, a country's own standards should be determinative, as they currently are in the case of national security, not just "strongly considered." Fourth, tobacco control measures should not be subject to the "investor-state" rules that enable challenges by tobacco companies.

Finally, the U.S. must discontinue pressure to eliminate tariffs on tobacco leaf and tobacco products, a practice dating back only to 2002. Raising the price of tobacco products is an effective strategy for discouraging initiation of use and encouraging quitting. A healthy trade policy must not tie nations' hands on the use of tariffs. For these and other reasons, we have a long history of supporting the removal of tobacco, tobacco products, and tobacco control measures from trade agreements.

As health care and public health professionals, we have come a long way since the 1964 Surgeon General's report on smoking and health. It is now part of our clinical training

and practice to counsel our patients and the public not to smoke and to help them quit. Similarly, we believe that responsible representatives of the business community can find grounds for supporting changes in trade policy that have the potential to save countless lives as well as public and private health-related expenditures.

We commend the Administration on advancing this important proposal in the TPP negotiations, which may contribute to reducing the enormous burden of disease related to tobacco use.

Sincerely,

American Academy of Pediatrics  
American Academy of Family Physicians  
American College of Obstetricians and Gynecologists  
American College of Physicians  
American College of Preventive Medicine  
American Medical Association  
Center for Policy Analysis on Trade and Health

cc:

Dr. Howard Koh, U.S. Department of Health and Human Services. [howard.koh@hhs.gov](mailto:howard.koh@hhs.gov)

TPP Negotiators:

Barbara Weisel, Assistant USTR. [Barbara\\_Weisel@ustr.eop.gov](mailto:Barbara_Weisel@ustr.eop.gov)

Australia: Siobhan Purcell; [Siobhan.purcell@dfat.gov.au](mailto:Siobhan.purcell@dfat.gov.au)

Brunei Darussalam: Ani Aziz; [anizuraunu.aziz@mfa.gov.bn](mailto:anizuraunu.aziz@mfa.gov.bn)

Chile: Nicolas Concha; [nconcha@direcon.gob.cl](mailto:nconcha@direcon.gob.cl)

Malaysia: Peter Brian; [pbrian@miti.gov.my](mailto:pbrian@miti.gov.my)

New Zealand: Mary Thurston; [mary.thurston@mfat.govt.nz](mailto:mary.thurston@mfat.govt.nz)

Peru: Sayuri Bayona; [sbayona@mincetur.gob.pe](mailto:sbayona@mincetur.gob.pe)

Singapore: Roger Lee; [Roger\\_EH\\_Lee@mti.gov.sg](mailto:Roger_EH_Lee@mti.gov.sg)

United States: Michelle Carrillo; [mcarrillo@ustr.eop.gov](mailto:mcarrillo@ustr.eop.gov)

Vietnam: Quyen Anh Ngoc; [NgocQA@moit.gov.vn](mailto:NgocQA@moit.gov.vn)