



February 3, 2016

United States Senate
Washington, DC 20510

Dear Senator:

We are writing to express support for the provision in the Trans-Pacific Partnership (TPP) that gives governments the option to exclude tobacco control measures from Investor-State Dispute Settlement (ISDS) challenges. The provision will protect the rights of current and future TPP participating nations to adopt public health measures that reduce tobacco use without fear of facing lengthy and expensive trade disputes initiated by tobacco companies. Our organizations consider this to be a historic and meaningful step forward for global trade and investment agreements that will help to protect public health and reduce the death and disease caused by tobacco products.

The TPP rightly acknowledges the unique harms tobacco products cause. There is good reason for singling out tobacco control measures for a narrowly tailored exemption from ISDS challenges under the TPP. Tobacco products are the only consumer products that kill when used exactly as intended. Globally, tobacco kills more than 6 million people each year, including nearly 500,000 in the United States. Tobacco is also unique in being subject to the only international health treaty, which the U.S. has signed and 180 nations have ratified. Unless effective tobacco control policies are implemented in the U.S. and around the world, the World Health Organization states tobacco will cause one billion people to die this century.

The TPP tobacco control exception will protect the sovereign rights of the U.S. and other TPP governments to effectively regulate tobacco products through measures such as requiring

package restrictions, labels that warn of the dangers of tobacco use, restrictions on the marketing of tobacco products, and creation of smoke-free areas. The provision will protect effective, commonsense public health measures that the tobacco industry has a history of challenging in practically every available legal forum and jurisdiction, including before trade and investments' dispute settlement panels. It is important to understand that this limited provision does not impact the interests of other businesses under the TPP.

This provision is necessary as countries around the globe implement tobacco control policies to protect their citizens. The tobacco industry has responded by using ISDS provisions in trade and investment agreements to both challenge these domestic tobacco control efforts and to intimidate other countries from adopting such policies. Philip Morris International has repeatedly filed or threatened to file costly trade and investment disputes with the aim of defeating tobacco control measures or intimidating governments into inaction. Australia recently defeated such a challenge but only after a lengthy delay and at a cost to taxpayers of over \$50 million in legal fees. Uruguay, a small country, has incurred millions of dollars of legal costs in battling such an investment dispute which has dragged on for five years. In the absence of the TPP provision, the U.S. and other nations could face future tobacco industry ISDS challenges as they adopt effective tobacco control policies to reduce tobacco caused disease and death. The tobacco industry's behavior is a real and direct threat to public health around the world and justifies the TPP tobacco control provision.

It is important to note that the TPP tobacco control provision does not cover tobacco leaf except when in the possession of manufacturers for the production of tobacco products. The focus of the exception is to protect the ability of TPP partner nations to enact, and to protect from direct industry challenge, tobacco control policies regarding manufactured tobacco products. The provision does not and is not intended to interfere with the livelihood of tobacco leaf growers. It is unfortunate that the tobacco industry and its allies use the age-old strategy of raising the alarm of the tobacco growers to protect the tobacco manufacturing industry interest in addicting new consumers. The fact is that tobacco growers stand to gain benefits under the TPP, such as tariff reductions, which those advocating for protection of the tobacco companies simply ignore.

Our organizations believe that protecting the right of TPP countries to implement non-discriminatory tobacco control policies to protect the health of their citizens free of direct tobacco company challenges is critical, and that is exactly what the TPP tobacco control provision does – nothing more and nothing less. As you evaluate the TPP, we urge you to recognize the positive effect the TPP tobacco control provision will have on public health.

Sincerely,

Action on Smoking & Health
American Academy of Family Physicians
American Academy of Oral and Maxillofacial Pathology
American Academy of Oral Medicine
American Academy of Otolaryngology—Head and Neck Surgery
American Academy of Pediatrics
American Association for Respiratory Care
American Cancer Society Cancer Action Network
American College of Chest Physicians
American College of Physicians
American College of Preventive Medicine
American Congress of Obstetricians and Gynecologists
American Dental Hygienists' Association
American Heart Association
American Lung Association
American Medical Association
American Psychological Association
American Public Health Association
American Society of Clinical Oncology
American Thoracic Society
Americans for Nonsmokers' Rights
Association of Schools and Programs of Public Health
Association of State and Territorial Health Officials
Campaign for Tobacco-Free Kids
Community Anti-Drug Coalitions of America
March of Dimes
National African American Tobacco Prevention Network
National Association of County & City Health Officials
National Network of Public Health Institutes
Prevention Institute
Society for Cardiovascular Angiography and Interventions
Society for Public Health Education
Society for Research on Nicotine and Tobacco
The University of Texas MD Anderson Cancer Center
Trust for America's Health