

## Article notes

### Citizen Trade Policy Commission

#### Articles from October, November and December 2015

**Fast Track Timeline for TPP;***(Institute for Agriculture and Trade Policy, November 2015)*- This basic timeline illustrates the 3 phases of Fast Track approval for the TPP:

1. President's timeline- the earliest that the President can sign the TPP is 2/3/16;
2. In Between the President and Congress- a minimum of 30 days after the President signs the TPP before it is submitted to Congress; and
3. Congress' Timeline- Congress has a maximum of 90 days to vote on the TPP

**The Trans-Pacific Partnership Trade Accord Explained;** *(NY Times, 10/5/15)* – This article provides a basic description of the TPP and what some of the major issues of contention have been.

**TPP Text Needs Further Work After Japan; Release Not Expected For Weeks;** *(Daily News, 10/29/15)*- From the perspective of early October 2015, the article reports that due to drafting and legal review issues, the TPP text is not anticipated to be released until sometime after Thanksgiving of 2015.

**State's Leadership on Healthy Food and Farming at Risk Under Proposed Trade Deals;** *(Institute for Agriculture and Trade Policy, November 2015)*- This brief article, authored by CTPC member Sharon A. Treat, discusses the several ways in which state agriculture policy could be threatened by the proposed TPP and TTIP. The threats identified in the article include regulatory cooperation; food labeling laws could be challenged as technical barriers to trade and the challenge to state laws presented by ISDS.

**The Trans-Pacific Partnership: Overall U.S. Benefits;** *(USTR; November 2015)*- This summary document lists the benefits to the U.S. of the TPP. Major highlights include:

- The elimination of over 18,000 different taxes on Made-In America exports;
- The strongest worker protections of any previous free trade agreements;
- The strongest environmental protections of any previous free trade agreements;
- Small businesses will benefit from global trade; and
- E-commerce, open internet and digital freedom will be protected.

**Trans-Pacific Partnership- Maine: Supporting Made-In-America Exports and Jobs;** *(International Trade Administration, Department of Commerce; October 2015)*- This summary document expounds on the benefits which Maine will enjoy from the TPP. These benefits include:

- The elimination of all foreign import taxes on industrial and consumer goods which include:

- Information and communication technologies;
- Fish and fish products;
- Health products;
- Transportation equipment; and
- Forest products.
- Additional access to new international markets;
- Increased savings and competitiveness for Maine businesses; and
- Promotion of fairness and American values through strengthened environment and labor protections.

**Ag groups largely positive about TPP text; (Politico, 11/5/15)**- This article reports that many agricultural trade and commodity groups are tentatively pleased with the TPP. In particular, many of these organizations are in favor of aspects of the TPP which:

- New tools to handle disputes over animal and product safety;
- Clearer biotechnology policies; and
- Better market access for beef and pork products.

**Business Coalition Urges Congress To Subject TPP Deal To Close Scrutiny; (Inside US Trade; 11/5/15)**- This article reports that the TPP Coalition , which is made up of agriculture, manufacturing, information and communications technology, merchandising, processing, retailing and servicing organizations, has urged Congress to carefully consider the TPP in its entirety. The article makes it clear that the TPP Coalition has not endorsed the TPP at this point and that ultimately the coalition members are likely to differ on their final conclusions about the TPP.

**Labor Reform in Vietnam, Tied to Pacific Trade Deal, Depends on Hanoi's Follow-Up; (NY Times, 11/5/15)**- This article reports that a side deal to the TPP specifies that Vietnam will pass laws to allow independent unions to form, allow them to strike and to seek help from established unions in the US.

**Poliquin's Statement on the Release of the TPP Text; (Congressman Bruce Poliquin; 11/5/15)**- This press release from Maine Congressman Bruce Poliquin states his belief that the full text of the TPP needs to be released and carefully reviewed by members of Congress. The press release also contains a copy of a letter sent by the Congressman to President Obama stating these beliefs.

**Trans-Pacific Partnership Text Released, Waving Green Flag for Debate; (NY Times, 11/5/15)**- This article reports on the release of the complete TPP text and discusses the likely political divide that will ensue regarding whether to approve the agreement or not. The article reports that left leaning factions, including many members of the President's own party will oppose approval and that the President is likely to have to rely on Republican support in Congress to secure approval of the agreement.

**How the five most contentious issues in Obama's big trade deal turned out; ( Washington Post, 11/6/15)** – This article reports on how five of the most controversial issues in the TPP actually turned out:

1. **Intellectual property protection**- In general, the TPP provides strong copyright and patent protections;
2. **Investor-State Dispute Settlement (ISDS)**- There are conflicting opinions on the treatment of ISDS in the TPP. Advocates claim that ISDS has been modified to promote transparency, allows frivolous suits to be thrown out, excludes tobacco products from the ISDS process and protects governments' ability to regulate policy areas like health, safety and the environment. Critics maintain that the changes are less than substantive and that the process still undermines the ability of a government to regulate effectively.
3. **Labor and human rights provisions**- The TPP extends provisions of other recent FTAs which:
  - a. Allow labor unions to form and operate freely;
  - b. Eliminate forced and child labor; and
  - c. Prohibits employment discrimination

Labor and human rights groups like the language but are concerned about enforcement issues.

4. **Environmental provisions**- Like the labor and human rights provisions, the TPP is seen as containing improved environmental provisions but many environmental organizations are skeptical about effective enforcement of these provisions.
5. **Currency**- The TPP did not directly address currency manipulation but does include a side agreement requiring more transparency when a country decides to devalue its currency.

**How Obama's Trade Deal Might Stir Up Your Dinner; ( NPR, 11/8/15)**- This story reports on how some of the provisions of the TPP might significantly affect the food that we eat:

- **Food safety**- The TPP may provide countries with new opportunities to claim that food safety laws are, in effect, barriers to trade;
- **GMOS**- The TPP appears to contain flexibility for countries to regulate “products of biotechnology” but there remains considerable doubt as to how this authority translates into practice;
- **Dairy, Meat and Booze**- Because the TPP eliminates more than 18,000 tariffs, international access to food markets is likely to result in cheaper prices; and
- **Labeling Issues**- The TPP allows for latitude in labeling requirements but also requires consistency for domestic and foreign food products.

**230-235 House votes for TPP; (Politico, 11/10/15)**- This article reports that as of early November, there were approximately 230 to 235 votes in the House of Representatives for approval of the TPP.

**TPP's clauses that let Australia be sued are weapons of legal destruction, says lawyer; (The Guardian, 11/10/15)**- This article reports on the contention of the Chairman of a leading arbitration firm that the use of ISDS in the TPP continues to pose a significant threat to the sovereignty of Australia and other member nations of the TPP.

**Benton protester at it again, opposing Trans-Pacific Partnership outside New Balance; (Centralmaine.com, 11/11/15)**- This news story reports on the protest against the TPP conducted by Kim Cormier, resident of Benton and member of the Occupy Augusta movement, against the TPP. Ms. Cormier is quoted as saying that “*The Trans-Pacific Partnership is the dirtiest trade deal that no one has ever heard of... It’s been negotiated in secret for about four years and Congress just got the full text recently, Obama supports — it’s like a death knell — like NAFTA times 10.*”

**Congress should give TPP a thumbs up; (Boston Globe, 11/11/15)**- In this opinion piece, the author Jeffrey Frankel, urges support for the TPP and maintains that the agreement contains many desirable provisions including the establishment of US-like rules on the environment and public safety, “cracking down” on human trafficking in Malaysia and allowing the formation of independent labor unions.

**The TPP SPS chapter :not “a model for the rest of the world”; (Institute for Agriculture and Trade Policy, 11/12/15)**- This advocacy piece, authored by Steve Suppan, argues that despite claims from the USTR that the TPP chapter on Sanitary and Phytosanitary (SPS) measures should be considered as a model for the rest of the world, that the SPS chapter is modeled on current US model of market access as opposed to risk assessments for public safety and the environment. Mr. Suppan advocates for a very close reading of the SPS chapter and a precise understanding of what its provisions actually accomplish.

**Froman Seeks ITC TPP Analysis As Soon As Possible In Request Letter; (Inside US Trade, 11/12/15)** – This article reports that USTR Michael Froman has formally requested that the International Trade Commission initiate a required study and analysis of the TPP that will be submitted no later than May of 2016. This statutory deadline conflicts with the earliest possible signing of the TPP by President Obama which could take place on February 3, 2016.

**US State legislators ‘shocked’ by EU trade deal implications; (ttip2015.eu, 11/12/15)**- This blog piece reports on the negative reactions of state legislators in Vermont and that of CTPC member Sharon A. Treat, regarding the possible implications of ISDS and the procurement and regulatory cooperation chapters in the TTIP.

**As Obama heads to Malaysia, human trafficking stance questioned; (Reuters, 11/19/15)**- This article discusses Malaysia’s comparatively poor record on human trafficking and how it is

alleged that the Obama administration has manipulated its own ranking process to give Malaysia a more favorable rating which would allow it to participate in the TPP.

**Investors have controversial new rights to sue countries. Here's why this matters for the U.S.;** (*Washington Post, 11/30/15*) – This article discusses the ISDS process and its inclusion in the TPP. The author, Rachel Wellhausen, provides a number of reasons why ISDS is disadvantageous for the US:

- ISDS does not do what is supposed to do- ISDS is supposed to be used in developing nations with less stability to encourage companies may want to do business in a sovereign entity. In fact, foreign countries benefit from foreign investment rendering ISDS as largely unnecessary;
- Countries that get sued lose future investment and rethink regulations- ISDS has a downside for all countries in that it allows investors to sue any of them thereby discouraging future investment in countries that have been sued; and
- ISDS does not get the US government off the hook for American firms' disputes- The political controversy that often occurs when an American company sues another country tends to create difficult political situations which the US then has to try to resolve.

**SUMMARY OF KEY ISSUES IN THE TRANS-PACIFIC PARTNERSHIP (TPP)**

**AGREEMENT;** (*Sharon Anglin Treat, 12/1/15*) – This article, authored by CTPC member Sharon A. Treat, provides her opinion on how a number of important topics turned out in the TPP:

- The TPP has a relative lack of transparency and accountability;
- The TPP needs to be carefully reviewed to determine whether the US will experience a net loss or gain in jobs as well as the net gain(loss) for imports and exports;
- Many environmental organizations contend that the TPP chapters on environmental protections are relatively weak;
- With regards to healthcare and pharmaceutical costs, the TPP creates new monopoly rights for certain pharmaceuticals which will keep prices relatively high and creates opportunities for pharmaceutical companies to enter into legal challenges regarding regulations that attempt to reduce the price of pharmaceuticals;
- The TPP significantly weakens procurement procedures and regulations which have allowed governments to use procurement contracts to buy local;
- The TPP has effectively used the lowest common denominator approach to establish regulatory standards which will lower food safety standards in many countries;
- The TPP makes extensive use of technical barriers to trade standards to weaken food labeling and consumer protection regulatory measures; and
- The use of ISDS in the TPP poses a significant threat to domestic policy laws and regulations. However, the exclusion of tobacco products from the ISDS process is a modest improvement in the TPP.

**AFL-CIO's 10 CRITICAL PROBLEMS WITH THE TPP; (AFL-CIO, November 2015)**- This web posting from the AFL-CIO lists the largest concerns of that labor organization with the TPP:

1. The TPP allows currency-manipulating countries to kill U.S. jobs.
2. The TPP lets foreign corporations bypass U.S. law.
3. The TPP allows climate change to go unchecked.
4. The TPP doesn't strengthen international labor rights protections.
5. The TPP could allow public services to be permanently outsourced.
6. The TPP allows foreign state-owned enterprises to continue to undermine small business.
7. The TPP's weak rules of origin benefit China and other non-TPP countries.
8. The TPP takes America out of "Buy American."
9. The TPP gives global banks even more power.
10. The TPP makes affordable medicines harder to find.

**Chamber Policy Panel Recommends TPP Support, But Hints At Need For Changes; (Inside US Trade, 12/1/15)**- This article reports that the U.S. Chamber of Commerce is moving closer to endorsing the TPP but is likely to recommend certain changes. In addition, significant members of the Chamber such as tobacco companies, pharmaceutical corporations, financial services providers and the Ford Motor Company have indicated their opposition to the TPP while other major companies have indicated their support for the TPP.

**UNITED STATES INTERNATIONAL TRADE COMMISSION public hearing announcement; (USITC, 12/2/15)**- The USITC issued this announcement of a public hearing to gather public comment on "Trans-Pacific Partnership Agreement: Likely Impact on the U.S. Economy and on Specific Industry Sectors." The USITC hearing will be held in the main hearing room at 500 E Street SW, Washington, DC, beginning at 9:30 a.m. on Wednesday, January 13, 2016.

**WTO Authorizes Over \$1 Billion in Sanctions Unless U.S. Guts Popular Country-of-Origin Meat Labels, Disproving Obama Claim That Trade Pacts Can't Undermine Public Interest Policies; (citizen.org, 12/7/15)**- This press release reports that the WTO has imposed a more than \$1 billion annual trade sanction on the US unless its current regulations regarding country of origin meat labeling are repealed. The press release goes on to make the point that this action on the part of the WTO effectively refutes President Obama's assertion that FTAs do not require any country to change their laws.

**The TPP's Investment Chapter: Entrenching, rather than reforming, a flawed system; (Columbia Center on Sustainable Investment, CCSI Policy Paper, November 2105)**- This lengthy policy analysis of the use of ISDS in the TPP holds that while the use of ISDS in the TPP represents some improvements, the ISDS mechanism is still fatally flawed by stating: "At their core, ISDS and investor protections in treaties establish a privileged and powerful mechanism for foreign investors to bring claims against governments that fundamentally affect how domestic law is developed, interpreted and applied, and sideline the roles of domestic individuals and institutions in shaping and applying public norms."

**Secret TPP Text Unveiled: It's Worse than We Thought; (AFL-CIO, Machinists Union, Sierra Club, Food and Water Watch, Public Citizen, Public Citizen's Global Trade Watch, Public Citizen's Access to Medicines program; November 2015)-** This lengthy document, authored by a number of public interest and labor organizations, holds that an analysis of the recently released TPP shows many significant flaws which include:

- The TPP would make it easier for corporations to offshore American jobs;
- The TPP would push down our wages by throwing Americans into competition with Vietnamese workers making less than 65 cents an hour;
- The TPP would flood the United States with unsafe imported food;
- The deal would raise our medicine prices, giving big pharmaceutical corporations new monopoly rights to keep lower cost generics drugs off the market; and
- The TPP includes countries notorious for severe violations of human rights, but the term "human rights" does not appear in the 5,600 pages of the TPP text.

**How the TPP Will Affect You and Your Digital Rights; (Electronic Frontier Foundation, 12/8/15)-** This article maintains that the TPP is harmful to the preservation of digital rights. The author, Maira Sutton, asserts that by excluding large constituencies from the negotiating process that the TPP will significantly reduce digital rights for many segments of society which include:

- General audience
  - Excessive copyright terms
  - Loss of autonomy and control over legally purchased devices;
  - Prohibited use of copyrighted material in personal videos.
- Innovators and Business Owners
  - Digital Rights management (DRM) can significantly hinder innovative business development
- Libraries, Archives and Museums
  - Excessive copyright terms will decrease availability of all creative works in the public domain
- Students
  - Excessive copyright terms will decrease availability of all creative works in the public domain
- Impacts on Online Privacy and Digital Security
  - Reduced security and privacy
- Website Owners
  - Reduced flexibility to display copyrighted materials- even if legally permitted
- Gamers
  - Reduced flexibility for online sharing and streaming
- Artists
  - Loss of flexibility in creative works for new projects
- Journalists

- Increased penalties for disclosing corporate “trade secrets” even for corporate instances of wrongdoing
- People with Sensory Disabilities
  - No digital exceptions from regulations



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**US seen waiving tariff on 80% of Japanese autoparts; (*asia.nikkei.com; 9/30/15*)-** This article reports that under the terms of the proposed TPP, the US will eliminate import tariffs of more than 80% of auto parts that are made in Japan.

**Pacific Trade Deal Talks Resume, Under Fire From U.S. Presidential Hopefuls; (*New York Times; 9/30/15*)-** This article reports that, as of late September 2015, that the TPP negotiations are scheduled to resume. The article also reports on criticism of the TPP from Republican presidential candidate Donald Trump and Democratic presidential candidate Senator Bernie Sanders.

**Latest TPP Biologics Proposal Is a Step in the Wrong Direction; (*AARP; 10/1/15*)-** This blog piece from the AARP strongly criticizes the inclusion of “monopoly protection for biologic medicines” by arguing that such provisions would prolong high drug prescription costs for consumers.

**Overnight suspense over TPP: On verge of completion, big trade deal hit by delay; (*National News Watch.com; 10/4/15*)-** This article reports that, as of early October 2015, the TPP negotiations have almost been finalized but have encountered negotiation snags over issues relating to pharmaceuticals and dairy products.

**TPP DONE AT THE DIPLOMATIC LEVEL, NOW GOES TO THE POLITICIANS; (*The Nelson Report; 10/5/15*)-** This article reports that TPP negotiations have been finalized and further reports on the reactions from prominent elected officials and different organizations; these reactions include the following:

- Representative Paul Ryan, House Chair of the Ways & Means Committee- in favor of a strong TPP but reserves final judgment until the text is available for congressional review;
- Representative Sander Levin, ranking Democrat of the Ways & Means Committee- the TPP is to be lauded for the inclusion of a carve-out for tobacco in the ISDS process but other topics including the treatment of currency manipulation are unsatisfactory;
- Senator Orin Hatch, Senate Chair of the Finance Committee- feels that the reported agreement falls “*woefully short*”;
- Senator Ron Wyden, ranking Democrat on the Finance Committee- advocates for close examination of the TPP text and favors a strong agreement; lauds reported provisions on currency manipulation, labor rights and the tobacco carve-out for the ISDS process;
- US-ASEAN Business Council- strongly supports the negotiated agreement;
- Emergency Committee for American Trade- looks forward to reviewing the text and supports an agreement which is “*standard, comprehensive and commercially meaningful*”;

- Business Roundtable- while the details are unavailable, the TPP has the “*potential to help U.S. businesses, farmers and workers sell more goods and services to 11 countries in the Asia-Pacific region, which would support American jobs and U.S. economic growth*”;
- American Apparel & Footwear Association- intends to review the final text and is hopeful that “*that the final agreement contains provisions to enable our members-as well as the millions of U.S. workers they employ and the billions of customers they serve-to benefit from the deal as soon as it is implemented*”;
- United States Fashion Industry Association- also looks forward to reviewing the final text of the agreement and is “*hopeful that the TPP will indeed be a high-standard agreement that recognizes the 21st-century global value chain and economic contributions of these companies, which work hard to create high-quality jobs in the United States and affordable, high-quality apparel products for American families*”;
- Information Technology Industry Council- the test of a successful TPP will be “*whether it is an agreement that will support jobs, drive sustainable growth, foster inclusive development, and promote 21st century innovation.*”;
- U.S. Business and Industry Council- categorically rejects the proposed agreement by objecting to the treatment of currency manipulation and stating that the TPP is “*completely inadequate to serve the interests of American manufacturers, workers, farmers, and other segments of the US economy*”;
- Public Citizen’s Global Trade Watch- skeptical as to whether the TPP will receive congressional approval and stated that “*There is intense controversy in many TPP countries about the pacts’ threats to jobs, affordable medicine, safe food and more.*”;
- Public Citizen’s Access to Medicine Program- generally not in favor of the negotiated agreement though the TPP does “*contribute to preventable suffering and death*”.

**FACT SHEET: How the Trans-Pacific Partnership (TPP) Boosts Made in America Exports, Supports Higher-Paying American Jobs, and Protects American Workers; ( White House Press Release; 10/5/15)**- This press release from the White House makes the following points favoring adoption of the TPP:

- The agreement eliminates over 18,000 different taxes on Made-in-America exports;
- The agreement includes the strongest worker protections of any trade agreement in history;
- The agreement includes the strongest environmental protections of any trade agreement in history;
- The agreement helps small businesses benefit from global trade;
- The agreement promotes e-commerce, protects digital freedom and preserves an open internet;
- The agreement levels the playing field for US workers by disciplining state-owned enterprises;
- The agreement prioritizes good governance and fighting corruption;
- The agreement includes the first ever Development Chapter; and
- The agreement capitalizes on America’s position as the world leader in services exports.

**TPP: The end of the beginning; (Brookings Institute; 10/5/15)**- This article makes the point that completion of the TPP negotiations is yet the beginning of a long review and approval process by the signatory nations.

**The Trans-Pacific Partnership Trade Accord Explained; (New York Times; 10/5/15)**- This article provides a useful and comprehensive summary of the various components of the TPP;

**Vilsack: TPP text to be released within 30 days; (Politico; 10/6/15)**- This article reports that the US Agriculture Secretary Tom Vilsack has stated that the text of the TPP will be publicly released within 30 days and makes the following points about the TPP:

- Agriculture is a “*big winner*” in the TPP;
- Tariff cuts will affect almost every commodity group;
- The TPP will use “*science-based determinations*” with regards to the importation of products;
- The agreement will promote transparency in the biotech regulatory process; and
- US dairy producers will have increased access to the Canadian and Japanese markets.

**Trade agreement praised and panned; (Sciencemag.org; 10/6/15)**- This article presents two differing perspectives from the scientific community regarding the recently negotiated TPP. One camp holds that the agreement will:

- Lower consumer costs for manufactured goods and agricultural products;
- Enhance labor and environmental protections; and
- Strengthen rules against counterfeiting and intellectual property theft.

Another viewpoint argues that the TPP has serious disadvantages which include:

- Restricting access to biologic drugs through excessive intellectual protection; and
- Despite claims to the contrary, there are fears that tobacco companies could still challenge public health laws through the ISDS process.

**Ed Fast says text of TPP trade deal available within days; (cbc.ca; 10/8/15)** – This article from the Canadian Broadcast Centre states that Canadian Trade Minister Ed Fast is promising that a “*provisional*” copy of the TPP will be released in the “*next few days*”;

**Administration Pushes To Clear Way For TPP Consideration In Congress; (Inside US Trade; 10/8/15)**- This article reports that the Obama administration intends to advance the TPP for consideration in Congress as soon as possible and intends to promote it through the use of press conferences, fact sheets and speeches.

**Germany mobilizes against EU-U.S. trade deal; (Politico.com; 10/9/15)**- this article reports on the widespread opposition of many in the German public to the proposed TTIP. The article cites several sources:

- A non-representative survey of some 3,000 app users showed that 88% of the respondents did not believe that Germany would benefit from the TTIP; and
- In a recent poll, 51% of Germans said they opposed the TTIP and 31% were in favor of it.

**How the controversy over drug prices could take down Obama’s massive trade deal;**

*(Washington Post; 10/9/15)*- This article reports that the proposed protections for pharmaceutical patents and subsequent pricing pose a serious threat to Congressional approval of the TPP. Some critics feel that the protections included in the agreement are seriously lacking while other critics feel that the proposed protections are excessive. The opposition from either point of view may combine to threaten adoption of the TPP by Congress.

**Why support TPP? Critics should read the agreement and keep an open mind;**

*(The Guardian; 10/11/15)*- This opinion piece maintains that critics of the TPP should carefully consider the actual contents of the proposed agreement. The author suggests that the agreement represents a balance of sorts by:

- Giving tobacco companies, pharmaceutical companies and other corporations less than they had advocated for; and
- Providing more provisions than expected that are favorable to environmentalists;

**Trading Away Land Rights: TPP, Investment Agreements, and the Governance of Land;**

*(triplecrisis.com; October 2015)*- This article reports on the inclusion of certain investment provisions in the TPP and other FTAs that have the potential to significantly impede a government’s ability to “manage land and other natural resources in the public interest”. The authors suggest that the ISDS provisions could be used to challenge government regulations in this policy sphere.

**TPP Drug Reimbursement Rules Likely Deviate From Past U.S. Trade Pacts;**

*(Inside US Trade; 10/15/15)*- This article reports that the TPP contains provisions governing the amount of allowable reimbursements for the cost of drugs are significantly weaker than recent FTAs. A significant difference is that the TPP calls for a review process of reimbursement decisions that can be conducted by the pharmaceutical company in question whereas previous FTAs require an independent review to take place.

**Letter from Langdon: Farmers Pay the Cost of ‘Free’ Trade;**

*(dailyyonder.com; 10/12/15)*- This opinion piece, written by Richard Oswald, President of the Missouri Farmers Union, maintains that the TPP will result in a situation where, “American farmers will face upheaval and more dislocation, while corporate agriculture thrives”.

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#### Articles from July, August and September 2015; and other miscellaneous articles

**International trade agreements challenge tobacco and alcohol control policies; (Drug and Alcohol Review; November 2006)**- This lengthy scholarly article discusses the recent advent of free trade agreements that contain alcohol and tobacco provisions which have the effect of providing a basis by which public health measures can be challenged as unfair restraints to trade.

**PREEMPTING THE PUBLIC INTEREST: How TTIP Will Limit US States' Public Health and Environmental Protections; (Center for International Environmental Law; August 2015)**- This 29 page report, authored by CTPC member Sharon Anglin Treat, reviews the inclusion of a proposed chapter on Regulatory Cooperation in the TTIP. The contents and conclusions of this report will be discussed by Ms. Treat in a separate presentation during the 9/24/15 meeting of the CTPC.

**As Nations Try to Snuff Out Smoking, Cigarette Makers Use Trade Treaties to Fire Up Legal Challenges; (FairWarning.org; November 2011)**- This article discusses the significant efforts made by leading tobacco companies (and certain governments such as the Ukraine, Honduras and the Dominican Republic) to use free trade agreements to challenge the use of public health measures to control the use of tobacco throughout many countries including Australia, Namibia and Canada.

**A rallying cry for a better trade system ; (Institute for Agriculture and Trade Policy; 7/23/15)**- This article, authored by CTPC member Sharon Anglin Treat, discusses her recent tour of EU member nations and the concerns shared by many individuals in these countries regarding the possibility that the TTIP will include provisions that seek to harmonize regulatory standards regarding environmental and public health. The net effect of harmonized regulatory standards is projected to be the weakening of existing environmental and public health laws and regulations.

**The TPP Issues in-depth; (Politico; 7/24/15)**- This article provides a useful summary and brief description of the major issues that will be addressed in the TPP. These issues include:

- Autos- an effort will be made to level the playing field by reducing and/or eliminating existing tariff and non-tariff trade barriers pertaining to the import and export of automobiles;
- Currency- mitigate the use of currency manipulation as a trade barrier;
- Dairy- create a level playing field for 4 major dairy producing nations: the US, Canada, Japan and New Zealand;
- Geographical indications- provide reasonable safeguards against the use of protections for products associated with a particular region or country;

- Government procurement- provide a balance in market access to public procurement contracts;
- Investor-State Dispute Settlements- come to an agreement on the use and form of ISDS;
- Labor and environment- the inclusion of enforceable labor and environmental provisions;
- Pharmaceuticals- resolving the push by large pharmaceutical companies for extensive patent protections for expensive drugs;
- Pork- resolving conflicts over the continued use of tariffs on pork products, an issue which is very important to US pork producers;
- Rice- resolving Japan's determination to retain high tariffs on rice to protect its domestic rice industry;
- State-owned enterprises- limit the unfair use of SOEs to produce artificially inexpensive domestic products through the use of extensive subsidies;
- Sugar- address the relatively large governmental subsidies paid by the US to domestic sugar producers thereby opening the opportunity for more sugar imports;
- Tobacco- determine whether a meaningful tobacco carve-out will be included; and
- Textiles and footwear- address to what extent "rules-of-origin" provisions will be included.

**Historic trade pact could be undone by ... cheese?; (Politico; 7/26/15)**- This article discusses the numerous trade issues that could derail final agreement on the TPP. These issues are identified by country and topic and include:

- The desire of Canada to protect its dairy and produce producers;
- Japan's intentions to protect its rice farmers; and
- The US being pushed by large pharmaceutical companies to extend protections on certain expensive new drugs.

**Prosperity Undermined: The Status Quo Trade Model's 21-Year Record of Massive U.S. Trade Deficits, Job Loss and Wage Suppression; (Public Citizen's Global Trade Watch; 8/15)**- This lengthy paper examines the record pertaining to actual results of the past 21 years of free trade agreements. The conclusions include the following:

- US trade deficits have significantly increased during this time period thereby eliminating domestic jobs and slowing economic growth;
- US agricultural exports are diminishing while agricultural imports are increasing;
- Almost 5 million manufacturing jobs have been lost in this time period;
- The offshoring of more technical and higher paid jobs is increasing;
- The loss of manufacturing capacity is eroding local property and income tax revenues;
- Some of the recent FTAs such as NAFTA ban "Buy American" procurement requirements;
- Middle class wages in the US have remained stagnant;
- Privileges accorded to foreign investors have accelerated the offshoring of US production capacity;

- Manufacturing jobs lost to offshoring and other trade factors have forced workers to take lower paying jobs;
- Current trade policy has effectively limited the wages of remaining jobs;
- The bargaining powers of US workers has been eroded by offshoring;
- The current trend of lower wages has outweighed any possible economic gains from access to cheaper imported goods; and
- The disparity in US income inequality has significantly increased during this time period.

**Analysis of August 2015 Leaked TPP Text on Copyright, ISP and General Provisions;**

***(Association of Research Libraries; 8/15)***- This article reviews and discusses recent leaks of the proposed TPP chapter on intellectual property. The article concludes that the current leaked text is preferable to previous versions leaked in 2014. Specific topics include:

- Copyright term- not yet agreed to with a wide range of proposals;
- Technological protection measures- a modification of previous proposals which allowed limitations and exceptions; and
- Internet service providers- current text provides more flexibilities for internet regulation.

**Tobacco Opponents, Advocates Fight For USTR's Favor On TPP Carveout; (Inside US**

***Trade; 8/6/15)***- This article discusses the current fight between members of Congress regarding whether to include a significant carve-out in the TPP. Senate Majority Leader Mitch McConnell (R- Kentucky) is not in favor of such a carve-out while Senate Minority Whip Dick Durbin (D- Illinois) favors inclusion of a carve-out.

**Corker Blasts State's Malaysia Trafficking Upgrade, May Seek Subpoena; (Inside US Trade;**

***8/6/15)***- This article reports on the opposition of Senate Foreign Relations Committee Chairman Bob Corker (R- Tennessee) to the recent decision of the State Department to upgrade Malaysia's status regarding the prevalence of modern day slavery and human trafficking. The upgrading of Malaysia's status on this issue is significant in that recent fast track legislation requires that nations with a low ranking on this human rights issue will not be accorded the "privileged status" necessary to participate in a trade agreement such as the TPP.

**The Trans-Pacific Partnership Agreement and Implications for Access to Essential Medicines; (Journal of the American Medical Association; 8/20/15)**

– This article discusses the negative implications of proposed provisions to the TPP regarding extended patent protections for certain highly needed pharmaceuticals. In brief, these proposals are likely to significantly reduce the availability of affordable drugs that are crucial to poorer countries that are TPP members.

**The programmed disappearance of the family farm; (ledevoir.com; 8/24/15)**- This article, translated from the original French in which it was written, reports that the current system of dairy farm management and milk production in Canada is threatened by the politics of trading off on certain issues in the TPP. The ultimate result of trade concessions to Japan and New Zealand may mean the opening of Canadian dairy markets to American dairy imports thereby imperiling the existing Canadian system.

**U.S. Official Sees TPP Ministerial Within Weeks; Australian Envoy More Cautious; (Inside US Trade; 9/9/15)** – This article reports on a recent statement from a high ranking US official who asserted that TPP negotiations may be finalized within the next several weeks. This prediction was somewhat contradicted by a statement from the Australian Ambassador to the US who suggested that a final TPP agreement would not be reached until November.

**Malmstrom-Froman TTIP Stocktaking Set For Sept. 22 In Washington; (Inside US Trade; 9/9/15)** – This article reports that EU Trade Commissioner Cecilia Malmstrom will be meeting with USTR Michael Froman on September 22 to assess the current state of negotiations on the TTIP. The reported goal of this meeting is to finalize an outline of the trade agreement by the end of 2015.

**EU Proposes New Trans-Atlantic Court for Trade Disputes; (Dow Jones Business News; 9/16/15)**- This article reports that the EU has proposed an alternative to ISDS for use in the TTIP to resolve trade disputes. The EU proposal for a Trans-Atlantic Court is modeled on the International Court of Justice in The Hague and would feature the appointment of permanent judges and use of an appeals system.

**EU seeks to remove obstacle to trade deal; (Financial Times; 9/16/15)**- This articles adds additional detail to the previous report regarding the EU proposal for a trade dispute mechanism which would replace the ISDS in the TTIP. The additional details to the EU proposal include the following:

- The investment court would be comprised of 5 judges from the US, EU and other countries;
- Cases would be heard by a panel of 3 judges representing the US and the EU;
- All court proceedings would be open to the public; and
- Case documents would be posted on-line.



## Article notes

### Citizen Trade Policy Commission

#### Articles from June, July and August 2015; and other miscellaneous articles

**TTIP and Digital Rights; (European Digital Rights; no date)**- This paper lists the concerns that a network of 33 civil and human rights organizations from 19 European countries have about the TTIP and how it pertains to digital rights. With regards to the TTIP, their concerns include:

- Lack of transparency;
- Respect for the rule of law and democracy;
- Data protection;
- Privacy;
- “Intellectual Property”;
- Net neutrality; and
- The use of ISDS

**Transatlantic Investment Treaty Protection –A Response to Poulsen, Bonnitche and Yackee; (Centre for European Studies; March 2015)**- This scholarly article suggests several alternatives to including ISDS in the TTIP:

1. Provide for nation-to-nation arbitration which would be unwieldy and inevitably lead to international controversy;
2. Allow the home nation to block any claims brought by investors; this approach could be modified to allow the home nation to be a third party intervener;
3. Allow the exhaustion of local remedies before allowing use of ISDS;
4. Adopt a fixed or flexible time frame for pursuing local remedies; and
5. Exclude substantive investment provisions entirely from the TTIP thereby eliminating any need for ISDS.

**TPP May Set Stage for More Challenges Of U.S. Laws After WTO Ruling on COOL;(International Trade Daily; May 29, 2015)**- This article makes the connection between a recent WTO decision that overturned a US country-of-origin labeling law and the likelihood that a similar ruling could result from the adoption of the TPP.

**Wikileaks Releases Largest Trove of Trade Negotiations Documents in History on Proposed “Trade in Services Agreement,” Exposes Secret Efforts to Privatize and Deregulate Services; (Wikileaks; June 3, 2015)**- This news release from Wikileaks holds that recently leaked text from the ongoing TISA negotiations proves that adoption of TISA is likely to lead to extensive domestic deregulation of the financial industry as well as almost any other domestic regulation that can be construed as affecting a service industry.

**Huge trade deal hinges on Big Pharma protections; (Politico; June 3, 2015)**- This article reports that the pharmaceutical industry is heavily pressuring the Obama administration to include provisions in the TPP which would establish a 12 year protection on prices for costly drugs that are crucial for poorer, underdeveloped nations thereby effectively banning the use of cheaper, generic drugs during that time span.

**Revealed Emails Show How Industry Lobbyists Basically Wrote The TPP; (techdirt.com; June 6, 2015)**- This blog piece discusses the close relationship that industry lobbyists have with the USTR regarding the specific contents of the TPP. The author highlights the following passage:

*“ What is striking in the emails is not that government negotiators seek expertise and advice from leading industry figures. But the emails reveal a close-knit relationship between negotiators and the industry advisors that is likely unmatched by any other stakeholders. ”*

**Divided EU lawmakers postpone vote on U.S. trade deal; (Reuters; 6/9/15)**- This article reports that the European Parliament recently took a preliminary, but crucial vote on whether to take a unified stance on the TPP; the vote failed.

**Confidential LAC Report Says TPP Falls Short On Automotive, SOE Rules; (Inside US Trade; 6/5/15)**- This detailed article reports on a confidential report issued by the Labor Advisory Committee (LAC) in September of 2014 regarding the TPP. The report outlines two major criticisms of the TPP:

1. The report alleges that the TPP will weaken rules of origin for automobiles, thereby resulting in the future migration of American auto jobs to other TPP countries; and
2. The report also claims that the TPP is weak regarding the lack of disciplines and rules for State-owned enterprises (SOE); specifically, the TPP will lack provisions that adequately address mergers and acquisitions.

**MEMO: Three Burning Questions about the Leaked TPP Transparency Annex and Its Implications for U.S. Health Care; (Citizen.org; 6/10/15)**- This blog piece questions the recently leaked provisions of the TPP text entitled, “Annex on Transparency and Procedural Fairness for Pharmaceutical Products and Medical Devices”. The author raises three fundamental questions about this part of the TPP:

1. *What guarantees are there that the TPP’s requirements would not override existing procedures for Medicare?* The author maintains that the relevant parts of the TPP are sufficiently vague so that the agreement could be used to override certain Medicare procedures.
2. *Would the TPP constrain pharmaceutical reform efforts in the US?* The author suggests that current efforts to negotiate the price of prescription drugs on behalf of Medicare beneficiaries would be at considerable risk under the provisions of the TPP; and

3. *Could the inclusion of this Annex in the TPP bolster the case of a pharmaceutical company that is suing the United States?* The author concludes that the inclusion of ISDS in the TPP would indeed increase the chance of success for such a legal action.

**TPP Transparency Chapter ANNEX ON TRANSPARENCY AND PROCEDURAL FAIRNESS FOR PHARMACEUTICAL PRODUCTS AND MEDICAL DEVICES,**

*(Wikileaks, 6/10/15)* – This release from Wikileaks asserts several claims regarding the recently leaked Transparency Chapter of the TPP:

- It seeks to regulate state schemes for medicines and medical devices;
- It will force healthcare authorities to give more information about national decisions on public access to medicine to large pharmaceutical companies;
- It grants corporations greater opportunities to challenge policy decisions that they regard as harmful to their interests;
- It will create obstacles to efforts to reform Medicare by the US Congress; and
- The text of this chapter cannot be publicly released until four years after the TPP is signed into law.

**Why Does Obama Want This Trade Deal So Badly?;** *(The New Yorker; 6/11/15)*- This column, authored by William Finnegan, entails a basic review of the President Obama's Fast Track authority proposal and the TPP and examines the reasons that many people oppose both proposals. Most prominently, a lot of opposition from Congressional Democrats is based on the allegations that NAFTA resulted in the loss of hundreds of thousands of manufacturing jobs in the US. Also cited as reasons used to oppose these proposals is the lack of transparency, extreme secrecy and inclusion of ISDS.

**What will TTIP mean for food and climate?;** *(Food Climate Research Network; 6/16/15)*- This bog piece offers a number of concerns about how the TTIP may affect food production and climate:

- It could stifle the enforcement of, and development of, agricultural rules and regulations as well as those pertaining to consumer protection and public safety;
- Use of the ISDS provides a means by which corporations can override governments;
- It could override the current EU authority to ban on the use of GMO foods; and
- It could be used to end the current US limitations on crude oil and natural gas exports, thereby increasing the use of these energy sources which consequently will hasten global warming.

**Letter from US Senator Jeff Sessions to President Obama;** *(6/5/15)*- This letter, authored by US Senator Jeff Sessions (R- Alabama), asks President Obama to provide the legal and constitutional basis used to justify the secrecy by which the text of the TPP agreement is being denied to members of Congress and the American public.

**Trade agreements should not benefit industry only; (The Boston Globe; 6/23/15)** – This opinion piece, authored by US Senator Elizabeth Warren (D- Massachusetts), questions why major trade agreements have been designed to favor large multinational corporations and suggests that modern trade agreements should benefit all segments of American society. Senator Warren assails the use of ISDS in trade agreements by stating:

*“Leading economic and legal experts have called on America to drop ISDS from its trade deals. Hillary Clinton recently called ISDS “a fundamentally antidemocratic process.” The conservative Cato Institute agrees, noting that ISDS is “ripe for exploitation by creative lawyers” looking to challenge the “world’s laws and regulations.”*

*And here lies the double standard at the heart of our trade deals: Once they sign on, countries know that if they strengthen worker, health, or environmental standards, they invite corporate ISDS claims that can bleed taxpayers dry. But countries also know that if they fail to raise wages or stop dumping in the river — even if they made such promises in the trade deal — the US government will likely do nothing. “*

**Leaked: What’s in Obama’s trade deal; (Politico; June 2015)**- This article discusses the contents of the recently leaked TPP chapter on intellectual property and emphasizes the chilling effect that this chapter will have on the availability of cheaper generic drugs that are crucial to underdeveloped countries. The article also focuses on the USTR’s apparent willingness to support the position of leading pharmaceutical manufacturers who have advocated for these provisions.

**Just Before Round of Negotiations on the Proposed 'Trade in Services Agreement' (TISA), Wikileaks Releases Updated Secret Documents; (Huffington Post; 7/2/15)**- This article reviews the recent Wikileaks release of leaked chapters of the ongoing TISA negotiations. These leaked documents include chapters on:

- Financial Services;
- Telecommunications Services;
- Electronic Commerce; and
- Maritime Transport.

The article’s concerns about these chapters are summarized in the following excerpt:

*“The documents, along with the analysis, highlight the way that the TISA responds to major corporate lobbies’ desire to deregulate services, even beyond the existing World Trade Organization (WTO) rules. This leak exposes the corporate aim to use TISA to further limit the public interest regulatory capacity of democratically elected governments by imposing disciplines on domestic issues from government purchasing and immigration to licensing and certification standards for professionals and business operations, not to mention the regulatory process itself.”*

**U.S. Chamber of Commerce Works Globally to Fight Antismoking Measures; ( *New York Times*; 6/30/15)-** This article reports on recent efforts of the US Chamber of Commerce to use international trade agreements to fight antismoking laws and regulations.

**O&A on TTIP to leading trade expert Dr Gabriel Siles-Brügge, University of Manchester;(*uniglobalunion.org*; 7/6/15) –** This blog post consists of an interview with trade expert Dr Gabriel Siles-Brügge, University of Manchester. In the course of the interview, Dr. Siles-Brügge makes the following points:

- The TTIP negotiations are being hastened by fears that delays will result in further opposition and a “diluted” TTIP;
- The recent actions within the European Parliament (EP) to modify a version of the ISDS within the TTIP includes the following elements:
  - moving towards a permanent roster of arbitrators;
  - including an appellate mechanism;
  - clarifying the relationship to domestic courts (so that foreign investors have to choose whether to take their case to domestic courts or arbitration tribunals) and
  - enshrining the ‘right to regulate’ in the investment protection text.
- Recent arguments in favor of including ISDS in the TTIP include:
  - EU-US investment flows can be boosted by providing investors with greater legal security, as there are both EU and US jurisdictions where courts are either slow/unreliable in upholding investor rights or indeed outright discriminate against foreign investors;
  - including ISDS in TTIP is necessary to set a precedent, and to ensure that such provisions can be included in a future investment agreement with China (such as the EU is currently negotiating); and
  - TTIP provides an opportunity to reform the flawed system of BITs (which some supporters admit had their problems) and replace it with a new, improved system that protects investors while fully recognizing the ‘right to regulate’ of states.

**Exclusive - U.S. upgrades Malaysia in annual human trafficking report: sources; (Reuters; 7/9/15)-** This article reports that the Obama administration has approved a measure which removes Malaysia from the lowest category of countries that contain the worst human trafficking centers. The article alleges that this move clears the way for Malaysia to be included as a signatory in the proposed TTP.

**U.S.-Canada Dairy Spat Sours Trade Talks; (Wall Street Journal; 7/10/15)-** This article reports on a disagreement between the US and Canada which threatens adoption of the proposed TPP. In short, the US objects to current Canadian policy which establishes dairy prices that are determined through a calculation the average costs of production; production is regulated through the use of a quota system and is protected through the use of tariffs.

**U.S. firm sues Canada for \$10.5 billion over water; (CBC News; 7/9/15)**- This article reports that Sun Belt Water Inc. of California is suing the Canadian government under the provisions of NAFTA for its prevention of the importation of fresh water from British Columbia to the US.

**TPP Deal Puts BC's Privacy Laws in the Crosshairs; (theyee.ca; 7/16/15)**- This opinion piece, authored by Scott Sinclair, explains how the proposed TPP will establish the rights of companies to freely move digital data such as financial transactions, consumer tendencies, online communications and medical records across international borders.

**Yeutter sees 'slim' prospects for TPP agreement at Hawaii session; (agri-pulse.com; 7/15/15)**- This article reports that former USTR Clayton Yeutter has significant doubts that the US and other countries will be able to finalize TPP negotiations in late July.

**The TPP's Bad Medicine: The Draft Agreement's Intellectual Property Protections Could Go Too Far ; (Foreign Affairs; 7/13/15)**- This opinion piece, authored by Fran Quigley, maintains that the TPP text regarding intellectual properties protections are likely to go too far in that they will severely restrict the international availability of crucial generic drugs at an affordable cost. Mr. Quigley also holds that the US is pushing for these protections in the TPP over the objections of many other nations participating in the TPP negotiations.

**UACT Letter to TPP Negotiators; Re: Effects of TPP provisions on cancer patients and their families; (Union for Affordable Cancer Treatment; 7/26/15)**- This document consists of a letter from the UACT to the TPP negotiators regarding their concerns over possible provisions in the TPP which would inhibit access to affordable cancer treatment.

**Article notes**  
**Citizen Trade Policy Commission**

**Articles from May 2015**

**EU Text for TTIP- Initial provisions for CHAPTER [- Regulatory Cooperation; (EU, 5/4/15)**

This document represents the EU draft for the chapter on Regulatory Cooperation for inclusion in the TTIP. This proposed chapter was the subject of a May 5, 2015 memo from CTPC member Sharon A. Treat; that memo describes this proposed chapter thusly:

***Regulatory Cooperation.** In Europe, this topic is becoming as controversial as ISDS, and has the potential to be equally controversial here. It was the subject of negotiations in both the February and April rounds. The EU has offered a text on “horizontal regulatory cooperation,” with new provisions aimed at legislators and regulators on the EU member state and U.S. state level. A leaked draft of the sub-central regulatory cooperation proposal would require designated officials at the central level of government — the U.S. federal government or the European Commission — to pass on requests from each side to engage with their respective sub-central regulators.<sup>1</sup> In the U.S this would likely be OMB’s Office of Information and Regulatory Affairs (OIRA), which currently reviews federal regulations.*

*The purpose of the chapter as a whole would be to require trade impact assessments of legislation and regulations before they are enacted or adopted, and further to promote a convergence or equivalence of regulations in both the EU and U.S. This raises a number of concerns at the U.S. state level. Obviously, if laws and regulations are harmonized at the federal U.S. and EU level but state laws remain different, it begs the question as to how those laws will fare if challenged in an ISDS proceeding as overly burdensome or “more trade restrictive than necessary.” Even without directly reaching into the state legislative process, state laws could be vulnerable to additional challenges stemming from this chapter.*

*However, the EU regulatory cooperation chapter does, in fact, reach down to the state level. It would require a federal agency to share information and engage in consultations about proposed state laws and regulations if requested by a new ongoing international “Regulatory Cooperation Body” made up of U.S. and EU trade and federal agency bureaucrats. It is really unclear how this would work but at the very least, it could have a chilling effect on new proposals subjected to trade impact assessments and international consultations, and the EU proposal would also subject existing laws and regulations to trade impact review.*

*Although toned down from earlier EU proposals, which required state legislators and governors to send an annual advance list of laws and regulations to be introduced, it still raises concerns about state sovereignty and potential federal and international*

*interference with the legislative process and state government in general. We also need to consider whether we really want significant taxpayer dollars going to hire additional staff at OMB to monitor state legislatures and governors, and a multitude of state agencies ranging from the Maine Seed Potato Board to the Maine Milk Board, and share that information with U.S. and EU trade regulators.*

**TPA Backers, Opponents Scramble to Lock In Votes Ahead of Senate Action; (Inside US Trade, 5/1/15)** This article discusses the efforts made to secure votes in the Senate for the President's Trade Promotion Authority (aka "Fast Track") legislation. As of early May, it was anticipated that votes from 10 Democratic Senators (including Senator Angus King, I-ME) would be needed to pass this legislation in the Senate.

**Digby Neck Quarry Bilcon Case, Tribunal Decision and Dissent; (Janet M. Eaton PhD; 5/11/15)** This scholarly paper reexamines the decision of an ISDS arbitration panel which overturned the ruling of a Canadian joint federal-provincial panel which disallowed an application by a US company for an environmental permit to complete a mega-quarry in Nova Scotia. The author argues that the arbitration decision to overturn the governmental panel's environmental decision was unwarranted and consequently has provoked mounting criticism of the ISDS mechanism- especially in light of the upcoming TPP and TTIP trade agreements.

**Trade and Trust; (New York Times opinion piece; 5/22/15)** This opinion piece, authored by NY Times columnist Paul Krugman, maintains that the arguments offered by the Obama administration in favor of the TPP are lacking in intellectual honesty. Mr. Krugman suggests that the alleged benefits of free trade such as the lowering of trade tariffs and trade barriers have already been largely achieved over the past 70 years. Instead, the main purpose of the TPP is to strengthen intellectual property rights and to change the way that trade disputes are resolved and he argues that these changes may not be advantageous for the US. Mr. Krugman alleges that a breach in trust has occurred when the USTR claims that these changes may be good for the US economy; the real truth is that these changes are good for large international corporations.

**Dairy Groups Praise Senate Passage of TPA, Call for Quick House Action; (AgWeb; 5/23/15)** This joint press release from the National Milk Producers Federation and the U.S. Dairy Export Council applauds the recent vote in the US Senate to approve TPA (Fast Track Authority) and urges the US House of Representatives to also quickly approve the TPA legislation. These two groups maintain that the TPA helps to ensure appropriate congressional influence over trade agreements like the TPP and is necessary to encourage other trading partners to make their best negotiating offers. Ultimately, these dairy groups favor the TPP as a reflection of the fact that the US now exports 1/7<sup>th</sup> of its total milk production.

**Trade is about consumers buying things they desire; (Boston Globe opinion piece; 5/25/15)** This opinion piece, authored by Boston Globe columnist John E. Sununu, points out that ultimately, consumers in the US and elsewhere, will buy whatever goods they truly desire- with or without a trade agreement such as the TPP. He also maintains that sooner or later, trade provides the opportunity for cheaper goods and a more efficient process. He suggests that TPA merely provides additional leverage for the President to obtain a favorable trade agreement and that contrary to the assertion of some, that domestic competition has been more responsible for



the loss of jobs than international competition. He concludes by noting the curious alliance of many Republican lawmakers and the President with a few Democratic supporters that have banded together to work for passage of TPA and the TPP.

***New Balance's voice heard on tariffs; (Boston Globe; 5/27/15)*** This article reports on the likelihood that the TPP will include a phased-out approach to footwear tariffs. Achieving a phase-out of tariffs is regarded as a victory of sorts for New Balance which is the only remaining domestic athletic footwear manufacturer in the US. Conversely, the decision to include a phased-out approach of unspecified length is considered to be somewhat of a setback for Nike which is a leading athletic footwear manufacturer that depends solely on footwear manufactured outside of the US; Nike had lobbied strongly for an immediate end to footwear tariffs. New Balance has footwear manufacturing plants that are located in Maine and Massachusetts with a total of nearly 1,400 jobs. The article prominently mentions the efforts of Maine Senators Susan Collins and Angus King in helping to ensure a phased-out approach to footwear tariffs.

***A realistic debate about free trade; (Boston Globe opinion piece; 5/27/15)*** This opinion piece, authored by Boston Globe columnist Scott Lehigh, addresses the question of whether the TPP will positively affect the current level of income inequality in the US. Mr. Lehigh suggests that based on previous FTAs and current projections, any loss in domestic manufacturing jobs will be more than offset by gains of jobs in the services sector. However, one particular study predicts that the median wage in the US will decrease by 0.6 percent. Mr. Lehigh appears to conclude that the losses resulting from the TPP will more than outweigh any gains for most American workers but cautions that free trade is an extremely complicated topic that defies easy and obvious conclusions.

**Article notes**  
**Citizen Trade Policy Commission**

**Articles from April 2015**

***Amid Slow Talks, EU Leaders Ponder How To Pitch TTIP To Skeptical Europe; (Daily News, 4/1/15)***

This article discusses the significant controversy that the proposed TTIP has generated in many EU countries. One suggested cause is the inability of the US to make significant concessions in the TTIP negotiations because of prolonged delays in the TPP negotiations. The article also highlights the unprecedented amount of opposition to the TTIP within EU countries. Some EU leaders are expressing doubts as to whether a consensus within the EU can be reached to support a final version of the TTIP.

***Round two in America's battle for Asian influence; (The Financial Times; 4/1/15)***

This article highlights the recent US failure in leading a boycott of the Asian Infrastructure Investment Bank which was sponsored by and initiated by China. The TPP negotiations, led by the US, pointedly exclude China and this omission bothers many of the US's Asian trading partners. The degree to which the TPP is successful is seen as a crucial measure of US economic prowess in Asia.

***Jobs in the balance: New Balance, Maine officials keep close eye on Pacific Rim trade agreement; (MaineBiz, 4/6/15)***

This article focuses on the effect of TPP negotiations that could result in the possible elimination of footwear tariffs to the remaining shoemaking industry in New England- specifically Maine and Massachusetts. New Balance has 3 factories in Maine and 2 in Massachusetts with 850 and 600 jobs respectively. A rival footwear manufacturer, Nike, has all its footwear imported from Asian countries such as Vietnam and China. New balance is strongly opposed to the elimination of footwear tariffs and claims that such a move would result in the loss of most, if not all, of its manufacturing jobs in New England. In contrast, Nike supports elimination of the existing tariffs and claims that that change would result in "new footwear design, marketing, distribution and retail jobs". The article also mentions the general support of Maine's congressional delegation to maintain some form of the existing footwear tariffs and also highlights statements from CTPC member Sharon Treat indicating her concerns about the possible loss of footwear jobs and the detrimental consequences that the TPP may have on local procurement regulations and programs.

**What Vietnam Must Now Do; (NY Times; 4/7/15)**

This opinion piece was authored by a prominent Vietnamese sociologist Tuong Lai (aka Nguyen Phuoc Tuong). Mr. Lai strongly advocates that Vietnam must approve and be a part of the TPP. His reasoning is several fold:

- By joining the TPP, Vietnam can help realign geopolitical relations in Asia and help stem China's growing economic influence in the region;
- As another consequence of joining the TPP, Vietnam would become more completely integrated with the rest of the world's economy and thereby significantly that country's GDP; and
- Finally, joining the TPP would increase the efforts to truly democratize that country.

**TPP Is A Mistake; (Forbes, 4/9/15)**

This opinion piece was authored by Jean-Pierre Lehmann. Mr. Lehmann makes the following points:

- Assuming that the TPP is solely about Asia and that the TTIP is about Europe is wrong. The TPP includes many countries from the South American continent plus Australia and New Zealand as well as a number of Asian countries but excludes China, South Korea, India and Indonesia. Similarly, the TTIP excludes non-EU countries such as Iceland, Norway, Switzerland and Turkey;
- The TPP is most accurately thought of as a "geopolitical ploy with trade as a decoy";
- The US is the driving force behind the TPP and is doing so to safeguard its own economic interests and thereby contain those of China;
- The economies of South American countries and Asian countries have very little intersection and not much to gain from joining the TPP; and
- The geopolitical tensions that would be exacerbated from adoption of the TPP would have a significantly destabilizing effects on the efforts to achieve "greater global economic integration, peace, equity and prosperity".

**Dallas Buyers Club judgment: Trans-Pacific Partnership could be worse news for online pirates; (smh.com, 4/12/15)**

This Australian newspaper article reports on the likelihood that adoption of the TPP could significantly assist efforts to reduce the piracy of such popular movies as the "Dallas Buyers Club" which has frequently been illegally copied and distributed in Australia. TPP provisions pertaining to the protection of Intellectual Property will be used to further prohibit the online distribution and downloading of these movies.

**Flipper vs. Fast Track: World Trade Organization Again Rules Against ‘Dolphin-Safe’ Labels, Says U.S. Policy Still Violates WTO Rules, Must Go; (Public Citizen; 4/14/15)**

This news release from Public Citizen reports that the World Trade Organization (WTO) recently issued a ruling against a current US policy regarding voluntary “dolphin safe” food labeling. This policy has been effective in significantly reducing the number of dolphin deaths due to tuna fishing. The WTO ruling held that such a policy is a “technical barrier to trade” and must be rescinded. The article also suggests that this ruling regarding a popular and successful environmental protection measure is likely to have a detrimental effect on President Obama’s current Fast Track Authority proposal in that use of a FTA has usurped a domestic regulation.

**Special courts for foreign investors; (The Hill; 4/15/15)**

This blog piece critically addresses the inclusion of the ISDS mechanisms in the TPP and TTIP and suggests that this issue is significantly hindering the chances of President Obama’s Fast Track authority proposal of being approved. The author lists many of the popular criticisms of ISDS which include:

- ISDS allows multinational corporations to bypass the US judicial system and thereby rely on ISDS tribunals which are not required to make use of legal precedent and do not afford any appeals procedures;
- The ISDS process can be used by investors to challenge domestic antitrust enforcement decisions as well as any domestic rule, regulation or law that is seen as an obstacle to anticipated profits permitted under the terms of the FTA in question;
- The ISDS process is not available or open to individual citizens or groups but is instead restricted to international corporations or foreign investors; and
- It is estimated that, on average, it costs \$8 million for a government to defend itself in an ISDS proceeding and that does not include the costs of any settlement or damages that are awarded to investors.

**Obama’s trade agreements are a gift to corporations; (Boston Globe; 4/17/15)**

This opinion piece, authored by Boston Globe columnist Robert Kuttner, takes a position that is strongly critical of the TPP and the TTIP. In making his argument against these FTAs, Mr. Kuttner makes the following points:

- These FTAs are not really trade agreements but are more accurately described as gifts to corporations that “claim to be retrained by domestic regulations”;
- The ISDS mechanisms allow corporations to take end runs around national governments;
- President Obama’s Fast Track proposal is unpopular with many congressional Democrats as well as significant numbers of congressional Republicans; and
- These FTAs are conceived of and authored by multinational corporations and offer little real hope for economic policies that would actually increase the standard of living for the populations of signatory nations.

**Obama's new trade deal represents massive executive overreach; (The Hill; 4/17/15)**

This blog piece maintains that TPP and other FTAs are an example of massive executive overreach. The author, Kevin L. Kearns, maintains that the President's Fast Track authority proposal represents an abrogation of the congressional duty to meaningfully review and approve trade agreements. Mr. Kearns also points out that the administration initiated the TPP and the TTIP negotiations without congressional approval or input.

**Don't Let TPP Gut State Laws; (Politico; 4/19/15)**

This opinion piece was authored by Eric T. Schneiderman who is the Attorney General for the State of New York. AG Schneiderman maintains that the use of the ISDS mechanism in the TPP will serve to weaken and undermine many state laws and regulations. He also points out that the ISDS process creates a separate system of justice that is designed to address the claims of foreign investors that they are unfairly being denied potential profits. He maintains that the ISDS mechanism could be used to undue state laws pertaining to wage theft, predatory lending and consumer fraud.

**Fact or Fiction: Does the Hatch-Wyden-Obama Trade Promotion Authority Bill Protect U.S. Sovereignty Over Domestic Policy?; (acslaw.org, 4/20/15)**

This article, authored by Sean M. Flynn, examines the current Trade Promotion Authority (Fast Track) proposal that will be put before Congress for a vote in the very near future. Mr. Flynn makes the following points:

- The language in the bill that purports to ensure that no part of the TPP or the TTIP can or will infringe or negate any federal, state or local law or regulation has actually been included in every FTA approved by Congress since NAFTA; and
- The statutory language in question will not actually ensure that federal, state and local laws will not be superseded by an FTA but will instead provide for the prevalence of international law under the approved FTA and thus allow for the use of the ISDS measures to bind the US (and other signatory nations) to the outcomes of that process.

**Newly Leaked TTIP Draft Reveals Far-Reaching Assault on US/EU Democracy; (Common Dreams; 4/20/15)**

This article reports on the inclusion of a chapter in the TTIP dealing with "regulatory cooperation". As stated in the article, regulatory cooperation is defined as "*the harmonization of regulatory frameworks between the E.U. and the U.S. once the TTIP negotiations are done, ostensibly to ensure such regulations do not pose barriers to trade*". The article maintains that this chapter is extremely detrimental to democratic protections and in effect, will institute a "regulatory exchange" which will "*force laws drafted by democratically-elected politicians through an extensive screening process*". The article concludes that inclusion of this proposed chapter in the TTIP represents a dramatic increase of corporate power.

**US owes allies a clear path forward on Pacific trade talks; (Boston Globe; 4/20/15)**

This editorial from the Boston Globe strongly supports the compromise Fast Track authority proposal that has been developed by several members of Congress from both parties. The editorial maintains that the proposal is a fair one that deserves support from all members of Congress regardless of whether individual members of Congress are in support of either the TPP or the TTIP. The authors suggest that the proposal adequately provides the opportunity for meaningful review and that if the FTA in question does address certain policy issues, then the Fast Track authority will be suspended and the FTA will be open to amendments from Congress.

**TTIP negotiators get an earful from American critics; (euractive.com, 4/24/15)**

This article highlights and compiles a number of criticisms regarding the TTIP. Included in the article is the following comments regarding CTPC member Sharon Treat:

*'Sharon Anglin Treat, a representative of the National Caucus of Environmental Legislators, said the trade agreement could gut stricter rules enacted by states, such as laws in Massachusetts and New Jersey to label or restrict bee-killing pesticides. "US state laws and regulations do diverge from US federal law and EU regulations," Treat said. "That divergence is a hallmark of the US system of federalism and is enshrined in our Constitution." '*

**On Trade: Obama Right, Critics Wrong; (NY Times, 4/29/15)**

This op-ed piece was authored by NY Times columnist Thomas L. Friedman. Mr. Friedman supports adoption of the TPP and TTIP but not for the economic reasons that are often cited. Instead, he bases his support on the assertion that these FTAs will support and strengthen our national security in an increasingly unstable world. Mr. Friedman suggests that these FTAs offer an opportunity for the *"coalition of free-market democracies and democratizing states that are the core of the World of Order to come together and establish the best rules for global integration for the 21st century, including appropriate trade, labor and environmental standards. These agreements would both strengthen and more closely integrate the market-based, rule-of-law-based democratic and democratizing nations that form the backbone of the World of Order."*

## Article notes

### Citizen Trade Policy Commission

#### Articles from February 2015

#### **'“Regulatory cooperation” and the U.S. states: A threat to federalism and democracy, and to public health and the environment’ (Sharon Treat, 2/2/15)**

This testimony was submitted by CTPC member Sharon Treat, representing the National Caucus of Environmental Legislators, to the Round 8 TTIP (Transatlantic Trade and Investment Partnership) negotiations in Brussels, Belgium. Ms. Treat makes the following points in her testimony:

- 35 states, including Maine, have exercised their prerogative to enact legislation which either bans or regulates toxic chemicals ;
- In taking this action, the states have exercised their constitutional rights to enact laws to protect the public health and welfare that go beyond any action taken by the federal government;
- Based on leaks of the current TTIP negotiations, it is clear that stakeholders representing international chemical corporations are attempting to fashion regulatory coherence provisions in the TTIP which would supersede or override the provisions of state laws with the ultimate goal of nullifying any state law that exceeds the level of federal regulation;
- The end result of this scenario could be the creation of trade regulations by unelected officials that supersede domestic state regulations voted upon and created by elected representatives of the people.

#### **TTIP Fact Sheets; (Trade Europa, 2/10/15)**

Trade Europa, a part of the European Union, has published a lengthy series of fact sheets and position papers regarding the 24 chapters of the TTIP. These documents are intended to reflect the current state of TTIP negotiations and reflect the EU position on each chapter. When read in its electronic form, this document provides links by which each of fact sheets and position papers can be downloaded or viewed. As one example, the fact sheet regarding “Trade in goods and customs duties in TTIP” has been printed out to accompany the original article.

#### **Tall Tales of the TPP (and TTIP); (FOE, 2/27/15)**

This blog piece authored by Friends of the Earth (FOE) makes a series of points which are highly critical of the TPP (Trans Pacific Partnership) and the TTIP and the manner in which these prospective trade agreements are being promoted. These points include:

- FOE disagrees with the USTR claim that the investment chapters of both agreements are similar to US law, More specifically the inclusion of Investor-State Dispute Settlement

(ISDS) provisions in both agreements is quite dissimilar to US law and sets up a process which undermines the sovereignty of our democratic process;

- This piece suggests that inclusion of ISDS provisions provide greater rights for investors than does the US Constitution;
- FOE also maintains that the 3 person tribunals set up under ISDS are not in the public interest and instead protect corporate privilege; and
- The blog asserts that ISDS provisions upset a current balance between investor protection and public regulation.

### **Articles from March 2015**

#### ***A Compromise to Advance the Trade Agenda: Purge Negotiations of Investor-State Dispute Settlement; (Cato Institute, 3/4/15)***

This article, written by Daniel J. Ikenson of the Cato Institute, advocates for the elimination of ISDS provisions as a means of advancing the prospects of trade agreements currently under negotiation such as the TPP and the TTIP. The author maintains that these trade agreements have been maligned by different interest groups representing labor, environmental protection and an anti-global perspective and that much of the criticism has its roots in opposition to ISDS provisions. The author agrees with the criticisms of ISDS and maintains that the inclusion of these provisions in trade agreements is unnecessary to advancing the goal of free trade. He suggests 8 reasons why ISDS should be dropped from the TPP and the TTIP:

1. ISDS is overkill;
2. ISDS socializes the risk of foreign direct investment;
3. ISDS encourages discretionary outsourcing;
4. By extending special privileges to foreign corporations, ISDS exceeds “national treatment” obligations;
5. ISDS challenges will result in challenges to US laws and regulations;
6. ISDS is prone to exploitation by creative lawyers;
7. ISDS reinforces the myth that trade primarily benefits large corporations; and
8. Dropping ISDS would improve US trade negotiating objectives.

#### ***Exports not the basis of sustainable local food economies; (Bangor Daily News, 3/11/15)***

This Op-Ed column was authored by Representative Craig Hickman and CTPC member Sharon Treat. The authors cite the 2014 CTPC assessment authored by the Institute for Agriculture and Trade Policy and the Maine Farmland Trust which suggested that many significant agricultural laws and regulations in Maine could be superseded by ISDS provisions which are likely to be included in the TPP and the TTIP. The authors maintain that ISDS provisions could be used by foreign investors to sue the State of Maine for laws that undermine their expected profits. The authors also suggest that many “buy local” preferential agricultural programs in Maine could be eliminated by adoption of the TPP and the TTIP.



**Trade deal attack on safe food and sustainable agriculture ; (FOE, 3/12/15)**

This blog piece from FOE suggests that the so-called “Fast Track” legislation currently under consideration by Congress would have a significantly detrimental effect on current local, state and federal laws that seek to ensure safe food and sustainable agriculture. The threat to these laws and regulations lies in the “up or down” vote that Fast Track will permit. Under the Fast Track proposal, Congress would not have the ability to amend certain parts of trade agreements which in this case would threaten these laws and regulations pertaining to agriculture which seek to protect the public health and welfare. In addition, adoption of the pending trade agreements would subject all signatories to the lowest common denominator of regulation which, depending on the country in question, may have the effect of diminishing the existing level of regulation pertaining to the safety of agricultural products.

**TTIP Ag Rapporteur Says Parliamentary Votes For TTIP Deal Are Lagging; (Inside US Trade, 3/13/15)**

This article reports that the Socialists & Democrats (S&D) party, which is the second largest party in the European Parliament, is divided over how the TTIP should treat the following issues:

- Agricultural issues;
- Sanitary and phytosanitary (SPS) rules; and
- Investor-State dispute settlement mechanism (ISDS).

The article states that support from the S&D is crucial for final approval of the TTIP in the European parliament. Many S&D members are strongly opposed to inclusion of an ISPS chapter and instead favor the use of well-developed court systems that already exist in many European countries.

**Australian Official Says Nine TPP Chapters Closed, Others Nearing Conclusion; (Inside US trade, 3/13/15)**

Another article from Inside US Trade reports that Australia’s chief negotiator for the TPP has stated that the TPP is nearing completion. According to this report, 9 chapters have been finalized:

1. Competitiveness and business facilitation;
2. Cooperation and capacity building
3. Cross-border trade in services
4. Customs
5. Development
6. Regulatory coherence
7. Small and medium enterprises
8. Telecommunications
9. Temporary entry

The article also quotes the Australian official as saying that most of the other TPP chapters are nearing the final stages of negotiation.

**Lawmakers Seek Protection For U.S. Footwear Industry; Differ On Details; (Inside US Trade, 3/13/15)**

This article reports that three members of Congress from New England, including US Senator Susan Collins from Maine, have sent a letter to USTR Michael Froman urging that the TPP avoid the elimination or phasing out of tariffs on those products identified as sensitive by US footwear manufacturers. This approach differs somewhat from another letter from members of Congress from Arkansas to USTR Froman which advocates for an approach in the TPP which mirrors the language used in the US-Korea free trade agreement which stipulates a 12 year phase out of tariffs on sensitive footwear.

**New global fund to help countries defend tobacco control; (BBC, 3/18/15)**

The BBC reports that a new global fund in the amount of \$4 million has been established by Bloomberg Philanthropies and Bill and Melinda Gates Foundation to assist developing countries in defending tobacco control measures from challenges made under the provisions of FTAs by cigarette manufacturers. The creators of this fund maintain that tobacco control measures are at risk from the industry's use of FTAs for litigation whereas the manufacturers hold that they are protecting their investments and certain intellectual property rights.

**Five reasons to fret about Obama's trade agenda; (Financial Times, 3/19/15)**

The authors of this opinion piece maintain that after more than 5 years of negotiations, the TPP will remain a tough sell in the US Congress for the following reasons:

1. Congress is looking increasingly messy with continuing partisan disputes.
2. Trade remains a tough sell in the US; actual experience with NAFTA belies claims of job creation from FTAs.
3. The left is strongly opposing President Obama on trade; this includes trade unions and prominent members of the president's own Democratic party.
4. Members of the right, particularly those members of Congress who identify with the Tea Party, are opposed to the President's proposal.
5. Time is running out; Fast Track Authority needs to be approved and the TPP to be ratified before the presidential election year in 2016.

**TPP in Focus: Investment and Investor-State Dispute Settlement –The Need for Reform; US Congress blog, 3/20/15)**

This blog piece, authored by Representative Sander Levin, ranking Democratic member of the House Committee on Ways and Means, advocates for reform of the ISDS mechanism that is contemplated for inclusion in the TPP. Representative Levin maintains that use of ISDS needs to

be reformed in light of its past history of use in FTAs such as the TPP and lists several current proposals that have been suggested to protect the rights of sovereign nations in the TPP:

1. Clarifying the “minimum standard of treatment” obligation;
2. Inclusion of a provision which allows TPP signatories to agree that certain investor claims can be dismissed;
3. Inclusion of a provision that clearly states that investment obligations cannot exceed the substantive rights granted under domestic law; and
4. The right of sovereign governments to limit cross-border transfer of funds to prevent a financial crisis.

**Letters to Members of Congress; (various interest groups, 9/10/14 and 3/23/15)**

20 public interest groups gathered together to write a letter to members of Congress dated 3/23/15. This letter asks Congress to ensure that trade legislation currently under consideration by Congress be amended to accomplish a high level of executive transparency for trade agreements like the TPP. The letter maintains that executive transparency must include public access to trade agreement texts.

Another letter dated 3/23/15 was sent to members of the US Senate and signed by 6 prominent nonprofit organizations. This particular letter urged that Senators reject the President’s Fast Track Authority proposal so as to preserve Congressional authority to meaningfully review and approve the detailed contents of FTAs such as the TPP.

Another letter, dated 9/10/14, was sent to Senator Ron Wyden (D- Oregon) who at the time was Chair of the Senate Finance Committee. This letter was jointly signed by approximately 100 national organizations and also advocated for rejection of the President’s Fast Track Authority proposal and suggested that it be replaced with a “new system for negotiating and implementing trade agreements that provides for more congressional and public accountability” .

**Fast Track attack: Chemical safety and food labels under fire in TPP and TTIP; (FOE Blog, 3/24/15)**

This bog piece, authored by Friends of the Earth, maintains that the President’s Fast Track Authority proposal will pave the way for quick adoption of both the TPP and the TTIP. The blog asserts that the consequence of adoption of these FTAs will result in the undermining of chemical safety and food labeling requirements that currently exist under US law.

**Canadian Newspaper Article Regarding NAFTA Arbitration Panel Decision; (The Globe and Mail, 3/24/15)**

This newspaper article reports that a NAFTA arbitration panel ruled against the Canadian government regarding a claim by a US company that it was denied a fair hearing pertaining to a permit application to expand a quarry in Nova Scotia. The panel’s decision opens the way for the private company to seek \$300 million in damages against the Canadian government.

***Analysis of Leaked Trans-Pacific Partnership Investment Text; (Public Citizen, 3/25/15)***

This publically released memorandum from Public Citizen examines and analyzes the contents of a recently leaked copy of the TPP chapter on Investment. The analysis includes the following conclusions:

- Foreign investors will be granted significantly expanded substantive and procedural rights which go beyond those granted in domestic law;
- ISDS tribunals will be authorized to oversee suits by investors which seek to sue governments for domestic policies which violate investor rights established by the TPP; and
- The use of the ISDS mechanism in the TPP will elevate a significant number of foreign investors to a status equal to that of sovereign governments and allow them to avoid the established judicial process.

***Trans-Pacific Partnership Seen as Door for Foreign Suits Against U.S.; (New York Times, 3/25/15)***

This newspaper article reports on the leaked investment chapter of the TPP discussed in the previous analysis conducted by Public Citizen. The article identifies many of the same potential consequences from the ISDS mechanism that were discussed in the Public Citizen analysis.

***The flaws in the geopolitical case for the TPP; (The Financial Times, 3/25/15)***

This opinion piece suggests that past advocacy for the TPP and other recent FTAs has often been based on an assumption that FTAs provide a strategic geopolitical advantage for signatory nations. The author challenges that assumption by suggesting that many nations have actually seen little geopolitical advantage after signing such an FTA and that the motivation to do so may be more rooted in a “*grudging acceptance*” that signing an FTA may be necessary to retain existing access to the US market. The author characterizes the TPP and other recent FTAs as “*a US model agreement that contains a decreasing proportion of actual free trade and an increasing proportion of intellectual property protection*”.

***How the Leaked TPP ISDS Chapter Threatens Intellectual Property Limitations and Exceptions; (Sean Flynn via InfJustice.org, 3/26/15)***

In this analysis, the author (Sean Flynn), asserts that the recently leaked Investment Chapter of the TPP is best understood as providing a broad definition of “investment” which would allow “*private companies the ability to enforce public international law whenever a local regulation ‘either directly or indirectly’ expropriates any ‘investment’.* (Art. 11.7). *The term ‘indirectly’ opens the process to consideration of what in U.S. constitutional law is referred to as a ‘regulatory taking’ -that is a regulation or regulatory action that diminishes the value of property, even if the government does not take ownership of the property. ...The term ‘investment’ is incredibly broad, including every asset that an investor owns or controls, directly or indirectly, that has the*

*characteristics of an investment, including such characteristics as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk.”*

**Interview: Green solidarity on the U.S.-Europe trade deal; (FOE, 3/30/15)**

This blog piece from Friends of the Earth consists of an interview with Bill Waren, FOE staff member. During this interview, Mr. Waren made the following points regarding FOE concerns about the TTIP:

- The TTIP regulatory review provisions have little to do with actual trade and are mostly concerned with provisions designed to accomplish deregulation of domestic rules, regulations and laws;
- If existing environmental and public safety laws and regulations are deemed to be interfering with future investor profits under the TTIP, the ISDS mechanism can be used to sue governments for “*potentially billions in financial damages*”;
- With the reduced regulation anticipated in the TTIP, it is likely that the US will increase exports of “dirty energy” (re fossil fuels) to EU nations; and
- A primary concern of the US public is the Fast Track legislation being proposed by President Obama. This legislation will frustrate meaningful public access to both the TPP and TTIP texts thereby resulting in a lack of substantive congressional review and approval.

**Independent Expert calls for an end to secret negotiations of free trade and investment agreements until public consultation and participation is ensured and independent human rights impact assessments are conducted; (Alfred de Zayas, 3/31/15)**

This article represents opinions regarding the current FTA negotiation and approval process authored by Alfred de Zayas, a US citizen who was appointed as the first Independent Expert on the promotion of a democratic and equitable international order by the UN Human Rights Council in 2012. In this opinion piece, Mr. de Zayas makes the following points:

- The secrecy surrounding the current negotiations regarding the TPP, TTIP and TISA (Trade in Services Agreement) have effectively excluded key stakeholder groups from the negotiating process. These groups include labor unions, environmental protection organizations, food safety organizations and health professionals;
- The Fast Track proposal disenfranchises meaningful public participation and review of the potential FTA agreements; and
- By allowing investors to sue governments over domestic regulations that are claimed to interfere with industry profits, the inclusion of the ISDS mechanism in FTAs will have a negative impact on human rights. Potential regulations that are at risk include social legislation, labor laws, minimum wage provisions and environmental and health protection measures.