



## NATIONAL CONSUMERS LEAGUE

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Dear Representative:

The National Consumers League, the nation's pioneering consumer and labor advocacy organization founded in 1899, urges you to oppose of the Trans-Pacific Partnership (TPP) trade agreement if presented to you this year, or if presented at any time in its current form. We are not against fair trade and know that there can be benefits for consumers and workers, but we are concerned that the TPP as currently negotiated would unduly risk undermining important safety, health, and other interests of consumers.

TPP addresses so-called "non-tariff trade barriers," implicating important government regulatory policies that have only an incidental, and often unintended, effect on international trade. We are also concerned that industry interests have been given far greater access and voice during the too often secretive negotiation process. Even the advisory committee system Congress created 40 years ago to provide for outside public input has come to be dominated by industry, with only one consumer representative out of roughly 600 advisors.

We are also concerned that TPP includes provisions, not found in past trade pacts, that allow international food shippers to challenge food safety inspection procedures at the border. Other TPP provisions could enable pharmaceutical companies to challenge Medicare drug listing decisions and Medicaid reimbursements.

The risk that the TPP will become a vehicle for undermining important consumer protections is further exacerbated by the inclusion of the Investor-State Dispute Settlement procedure, or ISDS. This procedure allows industry to bypass the established regulatory agencies and courts, and to demand compensation from governments in private arbitration tribunals based on claims that consumer protection rules are reducing foreign corporate profits.

We have recently seen how a World Trade Organization case brought by Mexico and Canada against U.S. Country of Origin labeling requirements – requirements supported by more than 90 percent of American consumers, passed three times by Congress, and upheld by the U.S. Courts – resulted in severe penalties that would be imposed on the United States unless those requirements were eliminated. Congress, under threat, obliged and abolished what we believe are strong consumer protections: Country of Origin Labels for beef and pork imported from Canada and Mexico. We are concerned that the TPP will lead to more industry-driven challenges to consumer protections, and that ISDS will provide an open avenue for doing so.

ISDS enlists private arbitrators, largely drawn from the ranks of the international business community and their legal advisors, who are likely to have less affinity for the public policy interests that governments are responsible for promoting and protecting. These private judges do not undergo the same scrutiny and oversight that apply to the U.S. federal judiciary. Furthermore, this private process is much less open to meaningful input from members of the public who may be substantially

affected. While a private ISDS tribunal may elect to entertain an amicus brief from a non-corporate or non-governmental entity, for example, it is not required to do so, and there is no right for even directly affected parties to intervene, as there is in U.S. federal courts and the courts of other nations. ISDS has begun to be employed as a basis for challenging a broader range of government regulatory actions.

This risk is particularly apparent in the many situations where the regulatory decision contains some element of site-specific or issue-specific discretion, where the black-letter statute or rule in question unavoidably requires interpretation by the national, state, or local government decision maker. The risk is also particularly high where the host government does not possess the financial resources for sustained litigation against a powerful multinational corporation; but even the United States might potentially be dissuaded from devoting the resources to pursue and defend strong regulatory policies as vigorously as it should.

In short, there is no actual need, and therefore no justification, for including ISDS in this agreement. And there is considerable risk of significant harm to the public. ISDS does not belong in the TPP, and its inclusion is a fatal flaw.

For these and other reasons as set forth above, we urge you not to approve the TPP now, or at any time in its current form. Trade agreements need to be sensitive to and protective of the interests of consumers and workers, and not driven by, or predominantly shaped by, the interests of industry in an effort to weaken legitimate regulatory requirements they face in the United States and around the world.

Respectfully,



Sally Greenberg  
Executive Director  
National Consumers League