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Controversial Trade Pact Text Leaked, Shows U.S. Trade Officials Have Agreed to Terms That Undermine Obama Domestic Agenda

After Two Years of Closed-Door Negotiations, Trans-Pacific Partnership Text Replicates Alarming Bush Trade Pact Terms That Obama Opposed as Candidate, and Worse

WASHINGTON, D.C.— A [leak](#) today of one of the most controversial chapters of the Trans-Pacific Partnership (TPP) reveals that extreme provisions have been agreed to by U.S. officials, providing a stark warning about the dangers of “trade” negotiations occurring under conditions of extreme secrecy without press, public or policymaker oversight, Public Citizen said.

“The outrageous stuff in this leaked text may well be why U.S. trade officials have been so extremely secretive about these past two years of TPP negotiations,” said Lori Wallach, director of Public Citizen’s Global Trade Watch. “Via closed-door negotiations, U.S. officials are rewriting swaths of U.S. law that have nothing to do with trade and in a move that will infuriate left and right alike have agreed to submit the U.S. government to the jurisdiction of foreign tribunals that can order unlimited payments of our tax dollars to foreign corporations that don’t want to comply with the same laws our domestic firms do.”

Although the TPP has been branded a “trade” agreement, the leaked text of the pact’s Investment Chapter shows that the TPP would:

- limit how U.S. federal and state officials could regulate foreign firms operating *within* U.S. boundaries, with requirements to provide them greater rights than domestic firms;
- extend the incentives for U.S. firms to offshore investment and jobs to lower-wage countries;
- establish a two-track legal system that gives foreign firms new rights to skirt U.S. courts and laws, directly sue the U.S. government before foreign tribunals and demand compensation for financial, health, environmental, land use and other laws they claim undermine their TPP privileges; and
- allow foreign firms to demand compensation for the costs of complying with U.S. financial or environmental regulations that apply equally to domestic and foreign firms.

While 600 official U.S. corporate advisors have access to TPP texts and have a special role in advising U.S. negotiators, for the public, press and policymakers, this leak provides the first access to one of the prospective TPP’s most controversial chapters. In May, U.S. Sen. Ron Wyden (D-Ore.), chair of the Senate Finance Committee’s Subcommittee on International Trade, Customs and Global Competitiveness – *the committee with jurisdiction over the TPP* – filed legislation to open the process after he and his staff were denied access to even the U.S. proposals for the TPP negotiations.

Last month, U.S. Trade Representative Ron Kirk [defended](#) the unprecedented secrecy of TPP negotiations by noting that when the draft of a major regional trade pact was released previously, it became impossible to finish the deal as then proposed.

“The top U.S. trade official effectively has said that the administration must keep TPP secret because otherwise it won’t be able to shove this deal past the public and Congress,” said Wallach. “The airing of this one TPP chapter, which greatly favors foreign corporations over domestic businesses and the public interest and exposes us to significant financial liabilities, shows that the whole draft text must be released immediately so it can be reviewed and debated. Absent that, these negotiations must be ended now.”

The TPP is the first trade pact the Obama administration is negotiating. Today’s leak further complicates the administration’s goal of completing TPP negotiations this fall. Already the TPP timeline was generating political headaches for the Obama re-election campaign, as repeated U.S polling shows that majorities of Democrats, Independents and GOP oppose more NAFTA-style trade deals.

The TPP may well be the last trade agreement that the U.S. negotiates. This is because TPP, if completed, would have a new feature relative to past U.S. trade pacts: It would remain open for any other country to join later. Last month, USTR Kirk said that he ["would love nothing more"](#) than to have China join TPP.

The TPP offered an opportunity to develop a new model of trade agreement that could deliver the benefits of expanded trade without unduly undermining signatory nations’ domestic public interest policies or establishing special privileges for foreign corporations. President Barack Obama and countless members of Congress campaigned on fixing these investment rules to better protect the public interest. But Public Citizen’s analysis of this text shows that the U.S. positions do not reflect any of the changes that [candidate Obama pledged](#) when he recognized the threats posed by the NAFTA-style investment provisions in trade agreements.

The leak also reveals that:

- Australia has refused to submit to the jurisdiction of the “investor-state” private corporate enforcement foreign tribunal system;
- U.S. negotiators are alone in seeking to expand this extra-judicial enforcement system to allow the use of foreign tribunals to enforce contracts that foreign investors may have with a government for government procurement or to operate utilities contracts and even related to concessions for natural resources on federal lands;
- Other countries are proposing safeguards for financial regulation and limits to the corporate tribunals that the U.S. has not supported.

Public Citizen’s analysis of the leaked text and guided tour through its provisions can be found [here](#).

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