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10 Tips for State Legislators to Ensure a Meaningful Role in the Development of U.S. Trade Policy

1) Create a formal mechanism requiring your governor to consult the legislature on trade issues. Occasionally, USTR consults governors directly about trade matters. Yet the very issues that are the subject of consultation, such as state procurement policy and the regulation of services and investment, are generally the prerogative of the legislative branch. These non-tariff rules in “trade” agreements impact states’ ability to set domestic policy regulations, such as procurement, services and investment provisions. Fair trade legislators can introduce and pass legislation that requires the *prior informed consent* of state legislators – and not just governors – before the state can be bound to comply with the non-tariff rules of a trade agreement. Maryland, Rhode Island and Hawaii have already passed similar bills. Contact Public Citizen for more information and model bills.

2) Write a letter to the U.S. Trade Representative (USTR). Ask how the USTR is going to improve its consultation with state legislatures. Request any negotiating documents that mention your state’s laws or have the potential to impact state regulatory authority. Insist that USTR not make any commitments regarding your state until there is full consultation with your state’s attorney general and approval by your state legislature and governor.

3) Build an alternative mandatory consultation process. States can do a lot to improve their internal processes for ensuring a democratic debate around pending trade agreements. However, when it comes to binding the federal government to a policy of consulting states in a meaningful way, this can only be accomplished by changes at the federal level. Now that Fast Track Trade Promotion Authority has expired, states have a once-in-a-decade opportunity to advocate for federal legislation that would require U.S. trade negotiators to secure the *prior informed consent* of states before binding states to provisions in trade agreements that undermine state authority. Share your ideas about what a better process would look like with Public Citizen’s network of state legislators working to safeguard state sovereignty in trade.

4) Hold hearings. If your state has sympathetic committee chairs, hold hearings and invite experts to testify on specific trade issues, such as trade agreements’ impacts on state procurement policy or the WTO services agreement’s impact on state health care initiatives or regulation of gambling. Make the USTR hit the road and explain itself to concerned state officials. The USTR has said it will consult with the “appropriate parties” in the states affected by the negotiations but has not identified who the “parties” are. Make sure that YOU get a say in these negotiations and ask the USTR to explain in a more public manner the state laws and regulations that may be impacted.

5) Establish an Office of Trade Oversight. This state-level office would be designated to monitor trade negotiations and disputes affecting the state economy, as well as analyze pending trade agreements and provide a Trade Impact Report to the governor, the legislature and the public. The office could require the Trade Impact Report to include an audit of the amount of public contract work being performed overseas; an audit of government goods being procured from overseas; a study of trade's effects on state employment levels, tax revenues and retraining and adjustment costs; an analysis of the constraints that trade rules place on state regulatory authority, including but not limited to the state's ability to preserve the environment, protect public health, safety and workers' rights and provide high-quality public services.

6) Spot your SPOC. The USTR has developed a group of state contacts who have been selected to participate in a state consultative mechanism. Each state has a "single point of contact" or SPOC, usually someone in the state Department of Commerce. Find out who your state's SPOC is. Find out who they speak to in the federal government and how often. Is your SPOC an appropriate person for the job? Do they have the necessary expertise? Or should the job be transferred to another office or branch of government? Check out the model bill that shows how you can legislate to create a formal consultative mechanism for the SPOC to report systematically to the state legislature on all USTR communications.

7) Sponsor a resolution. If the legislation is not a viable option in your state, consider a resolution that expresses the sense of the legislature on these matters and advocates for a more democratic model of negotiating the terms of trade at the federal level that enshrines the principles of federalism and state sovereignty. Contact Public Citizen for a model resolution.

8) Consider a Citizen's Commission on Global Trade. Follow the lead of Maine and others and create a special committee comprised of legislators and citizens that holds public hearings on trade issues, calls upon USTR officials to testify and meets on a regular basis to analyze new developments in trade and investment agreements and their potential impacts on the state. Don't wait until a hard-fought state regulation is implicated in a NAFTA or WTO case – get ahead of the curve.

9) Join the trade debate at NCSL. Get appointed to NCSL's Labor and Economic Development Committee. Make sure your views are represented by the committee's policy positions. NCSL's position on trade has been developing over time. Ask NCSL to beef up lobby efforts to represent state legislators' concerns on trade issues in the U.S. Capitol. Contribute ideas for panel topics and speakers at future meetings to make sure your concerns are heard.

10) Defy the trade rules. If you are told that a legislative proposal conflicts with U.S. commitments under the WTO or NAFTA, do not succumb to the chill! Continue to do business as usual at the state capitol. If U.S. trade negotiators have trampled on state law and prerogatives by agreeing to bind state governments to international commercial rules not agreed to by the affected jurisdictions, then that is the federal government's problem. This problem must be resolved by changing the trade rules and how U.S. international commercial policy is made – not by changing state law. Even if a law that corporate or federal government lobbyists are threatening as WTO or NAFTA-illegal *is challenged*, it takes several years for the case to be resolved – giving you the opportunity to launch a public-relations and political campaign in support of your good initiative and demanding change to NAFTA and WTO rules.

For more information, see www.citizen.org/trade/subfederal or contact Saerom Park at 202-454-5127 or spark@citizen.org.