This week there has been discussions between leaders from the Pacific Rim over the Trans-Pacific Partnership in Bali, Indonesia at APEC.

President Barack Obama has demanding a ‘trade promotion authority’ from the United States Congress to fast-track the Pacific Rim treaty, the Trans-Pacific Partnership.[1]

The fast-track authority plays a pivotal role in determining the extent to which the United States Congress can engage in a critical review of trade agreements.[2]

The United States Chamber of Commerce has supported a comprehensive Trans-Pacific Partnership, which would enhance the intellectual property rights and investment rights of corporations.[3] Thomas Donohue, the President and Chief Executive Officer of the Chamber, has vowed: ‘We will launch a full-scale lobbying, grassroots, and education campaign to win passage [of the Trans-Pacific Partnership] in Congress.’

However, there has been a growing concern within the United States Congress and in civil society about the impact of the Trans-Pacific Partnership on democracy, jobs, the environment, and public health.

1. Democracy

The United States Massachusetts Democrat Senator Elizabeth Warren has been one of the most eloquent critics of the Trans-Pacific Partnership.

Warren has written to the Obama Administration, complaining: ‘While I have no doubt that President's commitment to openness to genuine, I am concerned about the Administration’s record of transparency regarding the Trans-Pacific Partnership.’[4] She observed: ‘If transparency would lead to widespread public opposition to a trade agreement, then that agreement should not be the policy of the United States.’
Warren opposed the nomination of Michael Froman as the United States Trade Representative because of his failure to prioritize transparency and public debate. She insisted that ‘the American people have the right to know more about the negotiations that will have dramatic impact on the future of the American economy’ and that ‘will have a dramatic impact on our working men and women, on the environment, on the Internet.’

In a rousing speech, United States Congressional Democrat Senator Elizabeth Warren warned of the dangers of the Trans-Pacific Partnership:

‘For big corporations, trade agreement time is like Christmas morning. They can get special gifts they could never pass through Congress out in public. Because it’s a trade deal, the negotiations are secret and the big corporations can do their work behind closed doors. We’ve seen what happens here at home when our trading partners around the world are allowed to ignore workers’ rights, wages, and environmental rules. From what I hear, Wall Street, pharmaceuticals, telecom, big polluters, and outsourcers are all salivating at the chance to rig the upcoming trade deals in their favor.’

She commented: ‘I believe that if people would be opposed to a particular trade agreement, then that trade agreement should not happen.’

Lori Wallach of Public Citizen has expressed similar concerns about the secrecy of the Trans-Pacific Partnership. She has warned on Democracy Now! that the trade agreement is a ‘Trojan Horse’ for transnational corporations:

‘Well, one of the most important things to understand is it’s not really mainly about trade. I guess the way to think about it is as a corporate Trojan horse. The agreement has 29 chapters, and only five of them have to do with trade. The other 24 chapters either handcuff our domestic governments, limiting food safety, environmental standards, financial regulation, energy and climate policy, or establishing new powers for corporations.’

She is concerned: ‘While the text of the treaty has been largely negotiated behind closed doors, more than 600 corporate advisers reportedly have access to the measure, including employees of Halliburton and Monsanto.’

2. **Workers’ Rights**

Will the Trans-Pacific Partnership undermine jobs and working conditions in the Pacific Rim?
James Hoffa, the General President of the International Brotherhood of Teamsters, co-authored a paper with Michael Brune from Sierra Club on fair trade. The pair lamented that ‘free trade agreements like NAFTA have only led to the outsourcing of American jobs, downsizing of our wages and loss of environmental protections’. Hoffa and Brune maintained that ‘it’s time to stop letting big corporations ship our jobs overseas and dump our wages, benefits and protections overboard along the way’. The pair insisted: ‘We don’t need any more free trade agreements; we need fair trade agreements.’

Celeste Drake, a trade specialist at the American Federation Labor and Congress of Industrial Organizations, has been concerned that the Trans-Pacific Partnership will undermine workers’ rights. She warned that ‘global firms that use the United States as a flag of convenience are once again substituting their interests for the national interest in the Trans-Pacific Partnership negotiations.’

Drake emphasized ‘that, for a trade agreement to benefit workers here and abroad, it must prioritize fundamental labor rights, the creation of high wage, high benefit jobs, and balanced and sustainable trade flows’. She insisted: ‘When workers can exercise their fundamental rights, as well as have a secure and hopeful future and sufficient incomes, their demand will help businesses and the global economy grow in a sustainable way.’

There has been concern amongst a number of United States Congressmen and women that the Trans-Pacific Partnership would significantly limit Buy American procurement policies and as a result adversely impact American jobs, workers, and manufacturers.

3. The Environment and Climate Change

Will the Trans-Pacific Partnership transform the Pacific Rim into a Gasland?

Allison Chin, the President of the Sierra Club said: ‘The Trans-Pacific Partnership (TPP) trade pact could subject environmental and public interest laws and safeguards to attack by foreign corporations, threaten our air and water with toxic pollution, and lead to more American jobs being shipped overseas’. She is troubled that ‘the Trans-Pacific Partnership is shaping up to be a stealth affront to the principles of our democracy.’

There has been particular disquiet about the use of state-investor clauses to challenge environmental regulations, such as Lone Pine’s challenge against Quebec’s moratorium on fracking. Ilana Solomon of the Sierra Club maintained:
‘It’s time that governments stop signing trade and investment pacts that put the rights of corporations above the rights of communities and the environment. My right to clean water, clean air, and a healthy planet for my family and community has to come before Lone Pine’s right to mine and profit’. [13]

There has been alarm that the Trans-Pacific Partnership will be used to promote the export of natural gas, particularly to Japan. [14]

There are also tensions between Barack Obama’s promises for action on climate change, and his trade agenda. Ilana Solomon of the Sierra Club has warned: ‘Our current model of free trade is once again interfering with sound climate policy.’ [15]

There has been outrage amongst environmental and climate activists that the United States Trade Representative been promoting tar sands, the Keystone XL Pipeline, and the export of fossil fuels in trade negotiations. [16]

Oregon Senator Ron Wyden and other environmentally-minded senators have written to the Obama Administration about the Trans-Pacific Partnership and the environment. [17] The Senators have argued for a strong environment chapter in the agreement: ‘We think a “21st century trade agreement” must have an environment chapter that guarantees ongoing sustainable trade and creates jobs, and that this is what American businesses and consumers want and expect also.’ The Senators have maintained that ‘it is important that other provisions in the agreement, including those in the investment chapter, do not undermine efforts to protect the environment, protect the legal trade in natural resources, and address the challenges of sustainable conservation.’

4. Public Health

Will the Trans-Pacific Partnership undermine public health initiatives – such as tobacco control measures like graphic health warnings and the plain packaging of tobacco products?

There has been disquiet amongst public health advocates over the Obama administration backsliding on promises to protect tobacco control measures in the Trans-Pacific Partnership.

The recent New York Mayor Mike Bloomberg warned: ‘If the Obama administration’s policy reversal is allowed to stand, not only will cigarettes be cheaper for the 800 million people in the countries affected by the trade pact, but multinational tobacco corporations will be able to challenge those governments — including America’s — for implementing lifesaving public health policies.’ [18] He feared that the Trans-Pacific Partnership ‘would not only put
our tobacco-control regulations in peril, but also create a chilling effect that would prevent further action, which is desperately needed.'

The San Francisco Board of Supervisors led by Eric Mar have ‘unanimously passed Resolution 297-10 urging our trade leaders to change course to protect our health by excluding tobacco and tobacco products from the Trans-Pacific Partnership Agreement and from all future trade agreements.’[19]

Senator Sherrod Brown, a Democrat from Ohio, has written to the Obama Administration: ‘We are not demonstrating global public-health leadership by putting forward a proposal that allows tobacco companies a back door to undermine anti-tobacco safeguards’. [20]

**Conclusion**

The battle over the Trans-Pacific Partnership is not just a matter of international trade debate between the participating countries. There is an intense debate between the Obama Administration and the United States Congress over the treaty-making process, and suitable protections in the Trans-Pacific Partnership for labor rights, the environment, and public health. A number of Democrats have baulked a ‘fast-track’ authority for the Pacific Rim Trade Deal. Representative Rosa DeLauro, a Connecticut Democrat, has commented: ‘We are not just here to rubber stamp what gets done’ by trade representatives. [21] There is a need for the United States Congress to submit any Pacific Rim Treaty to rigorous scrutiny.
Federal oversight of the more than 80,000 chemicals used in the United States is essentially nonexistent. The 34-year-old law meant to regulate chemicals – the Toxic Substances Control Act, or TSCA – makes it nearly impossible to pull harmful chemicals off the market. It also doesn’t require companies to understand the environmental and health consequences of a chemical before it is marketed. The Environmental Protection Agency has managed to ban only five chemicals of those covered by the act.

With the federal government asleep at the wheel, several states are taking action. California just unveiled a far-reaching program to eliminate or reduce hazardous chemicals in hundreds of everyday products. The Green Chemistry Initiative is the most comprehensive effort in the nation to identify toxic chemicals in cosmetics, household cleaners, food packaging and other consumer goods and require manufacturers to look for safer substitutes.

In recent years Maine, Minnesota and Washington state also have launched programs designed to replace chemical-by-chemical regulation with across-the-board policies that address the big picture. Meanwhile, in the last decade more than a third of the states have enacted bans or restrictions on individual chemicals as a growing body of science has linked them to diseases like breast cancer, birth defects and reproductive harm and hundreds of these chemicals have been found in breast milk, our bodies and even newborn babies.

These states are filling the breach left by the utter failure of the nation’s outdated federal toxics law to protect Americans from the health threats hidden on retailers’ shelves. But their pioneering efforts could be swept aside by the outcome of trade negotiations with Europe and by legislation pending in Congress that could roll back state regulation of toxic chemicals.

Reform of a badly broken U.S. chemical law and promotion of free trade might sound like worthy goals. But both initiatives may contain provisions that would roll back the advances California and other places have made in chemical safety, while undermining the strong European regulations that have inspired state-level reforms in the U.S. As currently crafted, the initiatives are linked by an insidious strategy: The chemicals industry is pushing a bill in Congress that would gut state regulation, providing a fig leaf of reform that will in turn facilitate a NAFTA-like trade deal that undercuts Europe’s program – the gold standard of global chemical regulations.

In the trade negotiations, the Obama administration wants to weaken the EU’s chemical regulatory system, known as REACH.
REACH is a common-sense embrace of the precautionary principle – better safe than sorry. It requires manufacturers to disclose detailed health and safety information for all chemicals in commerce, and puts the burden of proof on the manufacturer to show that chemicals are safe. But REACH doesn’t line up with the administration’s vision for a laissez-faire transatlantic economy. The goal is to deregulate economies on both sides of the Atlantic, on the theory that growth will result if government gets out of the way – even if that means undercutting sensible safeguards to protect human health and the environment.

The threat to the states’ public health leadership is even more direct from the TSCA “reforms” being considered in the U.S. Senate. The Chemical Safety Improvement Act, introduced by Sen. David Vitter, R-La., is a step backward from an already bad law.

The Vitter bill would still set too high a burden of proof for the Environmental Protection Agency to restrict harmful chemicals, and the standard set for chemical safety would be far too easy for manufacturers to meet. It would effectively give chemical companies immunity from lawsuits in state courts over death or disability caused by chemicals deemed safe. Most worrisome for California and other states, the Vitter bill would pre-empt state law, allowing dangerous chemicals onto the market despite legislators’ attempts to ban them. If the pre-emption clause were removed and stronger protections added for vulnerable populations and communities, the Vitter bill could mean progress, but as is, it would be a public health and environmental disaster.

The Obama administration’s agenda in trade negotiations and Vitter’s phony reform bill share a common goal: to roll back safeguards in Europe and California that regulate the release of dangerous chemicals into the marketplace and the environment – and ultimately into our bodies and those of our children. We deserve better.

Erich Pica is president of Friends of the Earth U.S.

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Friends of the Earth, U.S. Blog

Stop fast track authority for Trans Pacific trade deal

Posted Oct. 17, 2013 / Posted by: Bill Warren

In collaboration with Republicans in Congress, the Obama administration is expected to soon seek so-called Fast Track or Trade Promotion Authority legislation in order to facilitate ratification in 2014 of a Trans Pacific Partnership trade deal that would gut environmental and climate protections. If you have a chance to talk to your member of Congress, consider asking for a "NO" vote on the Fast Track bill and drive home two points: (1) Fast Track guts congressional authority; and (2) Fast Track will allow the U.S. Trade Representative and the House Republicans to ram the disastrous TPP trade agreement through Congress.

Gutting the constitutional authority of Congress. Presidential fast track authority for negotiating trade agreements and its process for congressional approval eviscerates Congress' constitutional authority and political influence over trade agreements, delegating them improperly to Michael Froman, the U.S. Trade Representative. Fast track hands over to the executive branch powers that the founders of our constitution intended for Congress to exercise, including:

- The power to determine which countries join trade negotiations with the U.S., regardless of whether they are repeat violators of environmental and human rights standards;
- The power to finalize the legal text of trade agreements before Congress votes;
- The power to write domestic legislation implementing a trade deal by rolling back environmental safeguards and other public interest measures;
- The power to circumvent ordinary congressional committee review and submit the legislation directly for a mandatory and expedited floor votes in the House and Senate;
- The power to override House and Senate control of their schedules for floor votes;
- The power to ban any amendments to a trade agreement; and
- The power to override other normal congressional voting procedures, including the Senate's super-majority (60 vote) requirement to end a filibuster (extended debate).

Ramming the TPP trade deal through Congress. The United States is pushing for a Trans Pacific Partnership trade deal that not only integrates the trade policies of Pacific nations, but also deregulates their economies in many areas. Currently, Singapore, Malaysia, Chile, New Zealand, Brunei, Australia, Peru, Vietnam, Canada, Mexico, Japan and the United States are participating in the talks. South Korea and others may seek to "dock onto" the agreement in the very near future. The U.S. negotiating agenda will subordinate the role of governments in environmental protection to corporate profits. U.S. Trade Representative’s agenda for the TPP must be rejected. Friends of the Earth has a long list of concerns and demands. Here are just a few:

- End the secrecy: TPP talks are being held behind closed doors and civil society has been excluded from the most recent negotiations. The TPP negotiating text is kept secret from the public and press, although a few chapters have been leaked.
- No cave on the environment chapter. The environment chapter must include enforceable obligations to implement domestic environmental laws and abide by global environmental
agreements. On that point, the U.S. delegation agrees with environmentalists because Democrats in Congress insist on it, but other negotiating parties strongly resist. There is a growing possibility that U.S. negotiators will cave on the one item on their negotiating agenda that could be good for the environment.

- **No private investment court for rich corporations & investors.** Leaked text of the TPP investment chapter shows that it would authorize foreign investors to seek awards of money damages from business-friendly tribunals in compensation for lost future profits and the cost of complying with environmental and other public interest regulations. Damage awards can run to millions or billions of dollars. For example, La Oroya, Peru is one of ten most polluted places on earth. Renco, a U.S. company, has repeatedly failed to meet its contractual and legal deadlines to clean up the pollution caused by its metallic smelter at La Oroya. Renco has sued Peru before an international investment tribunal, seeking $800 million in damages for the cost of complying with Peru’s environmental and mining laws. Mining, oil drilling and infrastructure construction are the most frequent topics of litigation under international investment agreements. Restrictions on construction of tar sands oil pipelines or on coal, oil or liquefied natural gas export terminals might also give rise to TPP investment suits. Challenges to water pollution measures are a frequent issue in international investment litigation. Land use regulations and smart growth policies similarly are at risk.

- **No patents on plants, animals, other life forms.** Leaked text indicates that TPP provisions on intellectual property would protect corporate patents on plants, animals and other life forms, thus facilitating the theft of traditional knowledge from native peoples and expanding the commoditization of the commons.

- **No corporate-friendly cost-benefit analysis.** Exclude the regulatory coherence chapter, proposed by the United States, that could facilitate business-friendly, cost-benefit analysis to hamstring environmental or other public interest regulations. When used in a reductionist manner as contemplated in the TPP, such cost-benefit analysis amounts to an attempt to measure the immeasurable, such as the risks of synthetic biology, and prevents regulators from implementing the “precautionary principle” in environmental policymaking.

- **No constraints on green criteria in government purchasing.** The TPP government procurement chapter raises concern because governments are beginning to build environmental and other social criteria into their purchasing decisions that might run afoul of international trade rules. International rules on government procurement often seek to confine public purchasing decisions to economic and engineering criteria such as price and performance, thus constraining green purchasing policies by government.

- **No constraints on environmental labeling.** Friends of the Earth has no confirmation that TPP provisions on technical barriers to trade will not mimic or exceed World Trade Organization standards that have been used to successfully challenge U.S. dolphin-safe tuna labeling law and other product labeling measures.

- **No constraints on food safety.** The TPP chapter on sanitary measures might be used to challenge food safety laws based on the precautionary principle such as regulation of pesticide residue, chemical additives or genetic modification.

- **No constraints on clean air regulation.** Friends of the Earth has no assurance that clean air regulations will not be threatened by the TPP. To the contrary, the U.S.-Korea trade agreement, for example, requires that auto emissions standards be relaxed for U.S. auto exports to South Korea.

- **No green light for deforestation, palm oil plantations or destructive corporate farming.** Agriculture and investment provisions of the TPP would likely encourage deforestation to make way for massive palm oil plantations and other forms of corporate farming.
The root problem is that the bulk of the TPP text has far less to do with trade policy per se and much more to do with limiting the role of government as it regulates corporate polluters. **This is not the time to fast track the TPP!**

- We need your help in educating Congress on Fast Track & the TPP, PLEASE Contact: Bill Waren, trade policy analyst, Friends of the Earth, U.S., **wwaren@foe.org**.
- **Click here** to watch Friends of the Earth's video on the Trans Pacific Partnership trade agreement.

*Categories: Advocacy, Blog, Economics for the Earth / Tags: Bill waren*