

The Trans-Pacific Partnership

A Trade Agreement that is Destructive of God's People and Planet

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Summary

The U.S. is currently negotiating the Trans-Pacific Partnership, a trade agreement among 12 Pacific-Rim nations. It is being written in secret. While the exact details of the draft agreement are unknown, its general outlines are familiar. Leaked information has revealed that it is based on, and extends, the North American Free Trade Agreement (NAFTA), the 1994 treaty between the U.S., Canada, and Mexico that has harmed all three countries. The TPP, and all other NAFTA-based trade agreements, must be stopped.

Introduction

Over the past 25 years as globalization's impact on our lives has expanded, so have national and international economic concerns. Income inequality has increased in the U.S. and in most other countries; despite great wealth, poverty entraps millions in the U.S. and billions around the world; and the degradation of creation accelerates. Economic globalization is certainly not the sole cause of any of these grave conditions but it has played an important role. In 2003, the UCC's General Synod expressed concerns about globalization in a Pronouncement titled [A Faithful Response: Calling for a More Just, Humane Direction for Economic Globalization](#).

In 2004 the international Church expressed its deep distress about the state of the economy and the earth. Meeting in Accra, Ghana, the World Communion of Reformed Churches – a fellowship of 57 million Christians in 214 member denominations located in 107 countries, a group that includes the United Church of Christ – approved the [Accra Confession](#).

The Accra Confession stated, "We believe that the integrity of our faith is at stake if we remain silent or refuse to act in the face of the current system of neoliberal economic globalization." It went on:

We believe that any economy of the household of life given to us by God's covenant to sustain life is accountable to God. We believe the economy exists to serve the dignity and wellbeing of people in community, within the bounds of the sustainability of creation. We believe that human beings are called to choose God over Mammon ...[We] commit ourselves, our time and our energy to changing, renewing, and restoring the economy and the earth, choosing life, so that we and our descendants might live (Deut. 30:19).

This document was subsequently [affirmed](#) by the UCC's General Synod and recommended to the whole church for prayer study and discernment.

The statement recognizes that God has given the world abundant resources, enough for all if we share. We are called to manage and allocate these resources responsibly and sustainably. We are called to ensure that all God's people are at God's banquet table, especially the poor and marginalized. But our current form of economic globalization, shaped by "free trade" agreements, is distorting God's world and God's economy of life.

What is the Trans-Pacific Partnership?

The Trans-Pacific Partnership (TPP) is an economic agreement currently being negotiated and written, in secret, by 12 Pacific-Rim countries: the U.S. plus Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam. The U.S. already has trade agreements with six of,

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the TPP participants: Australia, Canada, Chile, Mexico, Peru, and Singapore and these six countries account for most of the trade between the U.S. and the TPP countries.¹ Japan is the one country with which we have significant trade and which lies outside any existing trade agreement.

The TPP is being negotiated in secret. The general public and the media are denied any detailed information about the issues on the table. Even Congress is excluded. So we do not know for sure what the draft agreement contains except for a few chapters that have been leaked. The democratic process has been thwarted. But some 560 advisors, many working for corporate interests, are at the table.²

We do know the TPP is following the pattern and incorporating many of the provisions we first saw in the North American Free Trade Agreement (NAFTA).³ This 1994 treaty between Canada, Mexico, and the U.S. has led to rising inequality in all three countries (including stagnant or falling wages for many), rising corporate profits, and job losses in the U.S. as corporations moved plants to Mexico (and then on to China) in a search for the lowest wages, fewest regulations, and largest subsidies. NAFTA and other trade agreements like it are one important reason that corporate profits are at record highs, as even *Forbes* magazine agrees.⁴

Like NAFTA, most of the TPP does not deal with trade but with other economic issues. Of the TPP's 29 draft chapters, only five address traditional trade issues. The other chapters focus on a range of topics such as environmental standards, food safety, financial regulations, protections for workers and consumers, patent law, energy policy, and even whether local, state, and federal governments can preferentially "buy American" (they cannot, as the TPP is currently written). So under the guise of a "free trade" agreement, treaty negotiators are writing and re-writing the rules of the national and international economies, behind closed doors and in a very undemocratic process.

This treaty, if approved by Congress, will exacerbate the harmful changes begun 20 years ago with NAFTA. It will contribute to the rise in inequality around the world, further enhance corporate power and profits, harm workers and the environment worldwide, and continue the erosion of democracy and national sovereignty. We must oppose the TPP.

The Content of the TPP

Regulations and Protections. The TPP will cover many topics and be hundreds of pages long. According to the Office of the U.S. Trade Representative,⁵ a Cabinet-level position that is responsible for developing and coordinating U.S. international trade and negotiating trade agreements, two of the key features of the agreement are "regulatory coherence" and "competitiveness and business facilitation." The Office of the USTR describes these as follows.⁶

- Regulatory coherence: "Commitments will promote trade between the countries by making trade among them more seamless and efficient."
- Competitiveness and Business Facilitation. "Commitments will enhance the domestic and regional competitiveness of each TPP country's economy and promote economic integration and jobs in the region, including through the development of regional production and supply chains."

Consider "regulatory coherence." Every country tends to have its own regulations governing things like consumer protections, banking regulations, food safety, and environmental and workplace practices. For a company seeking to do business in multiple countries, this is a problem. Keeping track of and coming into compliance with multiple sets of regulations is complicated and time consuming. So the TPP seeks to make this process easier, to make it "seamless and efficient" by making each country's regulations cohere, that is, make them consistent with each other. But while "regulatory compliance" is beneficial to

multinational firms, it is a potential problem for everyone else, especially when it happens in an undemocratic process.

The TPP negotiations involve countries at various stages of development -- from high-income (like the U.S.) to medium- (Mexico, Chile) and low-income (Viet Nam, Malaysia). Bringing all 12 countries' relevant regulations and standards into agreement is a large task. It is also a threat. Which country's standards will be the benchmark, written into law? Among countries at different levels of development with quite different standards and protections – as is true among the TPP countries – coherence has the potential to force large changes in countries' laws. Countries with weaker standards could be convinced to strengthen them. Or countries with stronger, broader protections could weaken them. Or the standards could end up somewhere in the middle. A concern in the U.S. is that our existing consumer protections, workplace standards, environmental regulations, etc. – which many people view as too lax already – will be weakened further. Safeguards that consumers, workers, environmentalists, and various watchdog groups have won after years of effort could be undone as negotiators agree on new standards, behind closed doors, in a room full of people representing corporate interest.

Jobs. According to the USTR, another “key feature” of the TPP is to “promote economic integration and jobs in the region, including through the development of regional production and supply chains.” (A supply chain is the collection of firms that produce all the pieces of a final product. For example, to make a t-shirt, the cotton might be grown by farmers in one country, processed into thread by a factory in a different country, and woven into cloth at a factory in a third country. The shirt might be designed in another country, the fabric cut and stitched in still another, with the whole process (the supply chain for the t-shirt) overseen by a firm in another country. The TPP will “promote... the development of *regional* production and supply chains” (emphasis added), that is, supply chains within the 12-country TPP region. In other words, the TPP will facilitate the outsourcing and offshoring of jobs. Workers in the 12 countries will find themselves competing against each other. Workplace standards may “cohere” at a low level.

Prior to the expansion of globalization that began roughly in the 1980s, firms had an interest in seeing wages rise.⁷ Low paid workers are poor consumers. In 1914, Henry Ford doubled the wages of workers in his manufacturing plants as he recognized that, to be successful as a large-scale manufacturer of cars, his workers need to be paid enough to buy one.⁸ But today, successful companies producing in Asia don't need to pay their workers a wage high enough to buy what they produce (and certainly not a wage high enough to buy what workers in other countries produce). The firm is often producing for consumers in the U.S. or other high-income country; its success does not depend on purchases by its workers or even people in the firm's home country. And U.S. workers don't need high wages to support a strong U.S. economy since they can buy the inexpensive goods made in Asia (if they can even afford those). Economists expect the TPP, like our other recent trade agreements, to cause further job loss in the U.S. For more about the TPP and jobs, see the Economic Policy Institute, [No Jobs from Trade Pacts](#).

Experts are concerned about the impact of the TPP on numerous areas of the economy and our lives. A few are listed below with links provided to more information.

Banking. The TPP is likely to further ease at least some of the already weak regulations of the banking system. It will likely *restrict* regulators' ability to

- limit the size of financial institutions thus making it impossible to shrink too-big-to-fail banks;
- force banks to erect firewalls between more speculative, risky activities and their basic business of providing government-insured checking and savings accounts;
- limit banks' investments in risky instruments like derivatives and credit default swaps; and
- rein in large, potentially destabilizing flows of money between countries.

See Public Citizen on the [TPP and the weakening of already inadequate financial regulations](#)

Food safety. Any of our food safety regulations – for example, those setting standards for acceptable pesticide residues, bacterial contamination, or permissible additives – that are stricter than those in other TPP countries would be in jeopardy. If the standards among the 12 TPP countries differ, then the 12 must agree on a common standard (“regulatory coherence”). All the countries would then have to change their laws and regulations to match it. If the federal government or any state chose to keep its own standard that differed from the one in the TPP, then that government could be sued and forced to pay damages to a corporation that wanted to sell food under the TPP standard. See reports on food safety from the [Institute for Agriculture and Trade Policy](#) and the [Organic Consumers Union](#).

Environment. Environmentalists have multiple reasons to oppose the TPP. It lacks basic, enforceable environmental protections; does not discourage overfishing (an important concern since the 12 countries negotiating the treaty account for roughly one-third of global fishing); does not take a strong stand against illegal wildlife products like elephant ivory or tiger pelts; and does not go far enough to prevent illegal logging. Read a [joint statement](#) from multiple environmental groups, the [Sierra Club’s assessment](#) of the environmental impacts, and Food and Water Watch on the [TPP and the overturning of regulations on fracking](#).

Drug prices. In the TPP negotiations, the U.S. is pushing hard to extend the number of years that pharmaceuticals are under patent. This means drug companies will have more years to charge high, monopoly prices and consumers will wait longer for cheaper generics to come on the market. See Doctors without Borders on the [TPP, patents on pharmaceuticals, and limits on access to needed medications](#).

For more about the impact of the TPP particular aspects of our lives, see resources from the following organizations.

- [Public Citizen](#)
- [Citizens Trade Campaign here and here](#)
- [Expose the TPP](#)

Protecting Investments

The TPP will also enhance the safety of investments made by multinational firms outside their home country. This added protection lowers the firm’s risk and encourages foreign investment. The TPP, like other trade agreements, also gives multinational firms the right to sue governments over the loss of expected profits. This is one of the most controversial aspects of the treaty.

Not surprisingly, trade agreements protect firms’ investments against outright expropriation. But the trade agreements ratified during the past 20 years go much farther. They also allow a corporation to sue a government for passing laws or writing regulations that interfere with the firm’s future profits, even if the laws serve to protect the public health or the environment. This right, given to multinational corporations, exceeds the right of domestic corporations which cannot sue their own government. A U.S. corporation operating in the U.S. may not sue the U.S. government but a foreign firm may (and U.S.-based firms operating in other countries could sue those foreign governments). These disputes between corporations and nations (called investor-state disputes) that have been allowed under trade agreements passed during the last 20 years are increasing, rising from 38 cases in 1996 to 450 in 2011.⁹

Investor-state disputes would be brought in a special, secret court established by the TPP. The dispute would be heard, in secret, by a three-member panel of lawyers. Their decision is final; it cannot be appealed. According to the Corporate Europe Observatory and Transnational Institute:

Just 15 arbitrators, nearly all from Europe, the U.S. or Canada, have decided 55% of all known investment-treaty disputes. This small group of lawyers, referred to by some as an ‘inner mafia’, sit on the same arbitration panels, act as both arbitrators and counsels and even call on each other as witnesses in arbitration cases. This has led to growing concerns, including within the broader legal community, over conflicts of interest. Arbitrators tend to defend private investor rights above public interest, revealing an inherent pro-corporate bias. Several prominent arbitrators have been members of the board of major multinational corporations, including those which have filed cases against developing nations. Nearly all share businesses’ belief in the paramount importance of protecting private profits. In many cases concerning public interest decisions, such as measures taken by Argentina in the context of its economic crisis, arbitrators have failed to consider anything but corporations’ claims of lost profits in their rulings. Many arbitrators vocally rejected a proposal by International Court of Justice Judge Bruno Simma to give greater consideration to international environmental and human rights law in investment arbitration.¹⁰

Consider the following example. It is hypothetical but would be a very real possibility under the TPP. In 2016, scientists learn that a certain chemical is harmful to the environment. Acting within its statutory authority, the U.S. Environmental Protection Agency enacts a regulation prohibiting its use. A multinational firm based outside the U.S. -- that uses the chemical in a now prohibited product that they had planned to sell in the U.S. -- sues our government over the loss of future profits. The firm could win the case and be awarded millions or tens of millions in damages, paid by U.S. tax payers. Even if the firm lost the case, the government would have spent millions on its legal defense.

Here is a real case. The Ethyl Corporation, a U.S. chemical company, produced a gasoline additive called MMT. MMT contains manganese, a chemical known to cause severe neurological damage. MMT had been banned in California in 1977 and the U.S. Environmental Protection Agency banned it in the U.S. in 1995. The Canadian government studied MMT and, in 1997, declared it unsafe and banned the import of the chemical into Canada. Ethyl had been selling the chemical in Canada. Based on its “rights” under the North American Free Trade Agreement (which has investor “protections” similar to those proposed for the TPP), Ethyl sued the Canadian government for the loss of its future profits. After losing an initial ruling before the NAFTA tribunal hearing the case, Canada settled with Ethyl in 1998. Canada reversed its ban on MMT, paid \$13 million in legal fees and damages to the Ethyl Corporation, and issued a statement for Ethyl’s use in advertising, declaring that “current scientific information” did not demonstrate MMT’s toxicity.¹¹

Tribunals established under other trade agreements have already ordered governments to pay over \$3.5 billion in investor-state cases and more than \$14.7 billion remain in pending claims.¹² Today there are hundreds of pending lawsuits that could result in tax payers around the world paying hundreds of millions of dollars to multinational corporations. Read a chilling [report](#) about these tribunals from the *New York Times*.¹³ Read about some of the law suits [here](#), [here](#), and [here](#).

Passing the TPP: Fast Track Legislation

The TPP is being negotiated by the White House and it will be signed by the President before it is made public. (Although at this time in mid-March, 2014, President Obama is offering to share the draft treaty with Congress after the November elections.) Once the treaty is signed, it does not go into effect until it is ratified by Congress.¹⁴ But Congress is considering legislation, called Fast Track,¹⁵ that limits the ability of our elected representatives to amend the treaty or even fully review it.

If Fast Track legislation is approved, Congress would have just 90 days to study the hundreds of pages of legislation and could spend no more than 20 hours to debate it. Congress would be prohibited from

holding hearings on the treaty proposals to obtain expert opinion. Congress would be prohibited from amending the treaty.

The Fast Track rules restricting Congressional oversight of the TPP would apply not only to the treaty itself but also to its “implementing” legislation.

The breadth of issues covered by the treaty means it will touch on many aspects of our economy and our lives. Because the treaty will make the 12 TPP countries’ relevant standards and regulations consistent with each other, some U.S. laws (and laws in the other countries) will need to be changed and brought into compliance with the new TPP standards. The revisions necessary to implement the TPP, that is, to bring existing U.S. law into compliance with it, are called implementing legislation.

Fast Track legislation limits Congressional oversight of the TPP and it also limits oversight of the implementing legislation. The potentially numerous and extensive changes to our laws that will be needed must be approved by Congress within the same 90-day window and with the same bans on hearings, debate, and amendments. Because of the treaty’s breadth, touching on many aspects of our economy and our lives, the implementing legislation could potentially also be very broad.

Fast Track legislation allows Congress to specify “negotiating objectives” for the TPP, provisions our elected officials would like to see, or not see, in the treaty. But these objectives are not binding on the negotiators and they are not enforceable. Whether or not the TPP is in accord with the objectives set by Congress, approval of the TPP and the implementing legislation would still be governed by the Fast Track agreement.

Additional information [here](#) and [here](#).

Conclusion

If Congress approves the TPP and the implementing legislation, it becomes the law of the land. It replaces and supersedes existing U.S. law. Our current protections for workers, consumers, and the environment, and restrictions on corporate power and practices could be undone. Legislation that citizens have spent years getting enacted into law – to regulate banks, protect consumers, ensure workers’ rights, safeguard the environment, etc. – could be overturned.

Trade agreements have become a way for corporations to gain rights, repeal regulations, and expand opportunities for profit – in ways that have been denied in U.S. law. Trade agreements have become a way for corporations to write and rewrite the rules of the U.S. and global economy. Congress must oppose Fast Track legislation and vote against the Trans-Pacific Partnership.

March 2014

Find endnotes online at <http://www.ucc.org/justice/globalization/TPP.html>

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Endnotes

¹ Williams, Brock R. Trans-Pacific Partnership (TPP) Countries: Comparative Trade and Economic Analysis. Congressional Research Service, January 29, 2013 <http://fpc.state.gov/documents/organization/203883.pdf>

² More information on the treaty advisory committee is available from the Washington Post. <http://www.washingtonpost.com/blogs/wonkblog/wp/2014/02/28/how-companies-wield-off-the-record-influence-on-obamas-trade-policy/>

³ NAFTA, implemented in 1994, was the template used to design the World Trade Organization, more than a dozen bilateral trade treaties including CAFTA, and the deal that opened the American market to China—which alone has cost the United States another net 2.7 million jobs. The result has been 20 years of relentless outsourcing of jobs and technology <http://www.epi.org/blog/nafta-twenty-years-disaster/>

⁴ Lenzner, Robert. *Corporate Profits Are At An All-Time Record Peak And Expected To Grow in 2014*. Forbes magazine 11/30/2013. <http://www.forbes.com/sites/robertlenzner/2013/11/30/there-are-far-fewer-bears-on-the-stock-market-today-than-at-the-peaks-in-2000-or-2007/>

⁵ USTR website <http://www.ustr.gov/about-us/mission>

⁶ Outlines of the Trans-Pacific Partnership Agreement <http://www.ustr.gov/about-us/press-office/fact-sheets/2011/november/outlines-trans-pacific-partnership-agreement>

⁷ Obviously, firms could pay only what they could afford and still stay in business. But today, we no longer have what economists call “wage-led economic growth.” Workers at profitable firms typically do not share in a firm’s success through wage increases. Instead, firms buy back shares of stock or increase dividend payouts – boosting share price – and pay exorbitant salaries and bonuses to CEOs.

⁸ Ford Motor Company, News <http://corporate.ford.com/news-center/press-releases-detail/677-5-dollar-a-day>

⁹ Pia Eberhardt & Cecilia Olivet, “Profiting from injustice: How law firms, arbitrators and financiers are fuelling an investment arbitration boom,” Corporate Europe Observatory and the Transnational Institute, Brussels, Amsterdam, November 2012. <http://www.tni.org/sites/www.tni.org/files/download/profitfrominjustice.pdf> See a list of current cases here <http://www.citizen.org/documents/investor-state-chart.pdf> More info <http://citizen.typepad.com/eyesontrade/2013/04/un-report-reveals-record-number-of-investor-state-cases-filed-in-2012-confirming-an-alarming-trend-i.html> United Nations Conference on Trade And Development, “Recent Developments in Investor-State Dispute Settlement,” May 2013.

http://unctad.org/en/PublicationsLibrary/webdiaepcb2013d3_en.pdf

¹⁰ Ibid. Pia Eberhardt & Cecilia Olivet.

¹¹ Public Citizen, NAFTA Chapter 11 Investor-State Cases: Lessons for the Central America Free Trade Agreement, February 2005. http://www.citizen.org/documents/NAFTAReport_Final.pdf

¹² Expose the TPP. How The Trans-Pacific Partnership Would Impact Corporate Power. http://www.exposethetpp.org/TPPImpacts_CorpPowerAttacks.html and NAFTA at 20: A Model for Corporate Rule. By Manuel Perez-Rocha and Stuart Trew, January 14, 2014. <http://fpif.org/nafta-20-model-corporate-rule/>

¹³ DePalma, Anthony, Nafta’s Powerful Little Secret; Obscure Tribunals Settle Disputes, but Go Too Far, Critics Say. *New York Times*, March 11, 2001 <http://www.nytimes.com/2001/03/11/business/nafta-s-powerful-little-secret-obscure-tribunals-settle-disputes-but-go-too-far.html?action=click&module=Search®ion=searchResults%230&version=&url=http%3A%2F%2Fquery.nytimes.com%2Fsearch%2Fsitesearch%2F%3Faction%3Dclick%26region%3DMasthead%26pgtype%3DHomepage%26module%3DSearchSubmit%26contentCollection%3DHomepage%26t%3Dqry53%23%2Ftheir+meetings+are+secret.+their+members+are+generally+unknown>

¹⁴ The U.S. Constitution stipulates that international treaties such as trade agreements must be ratified by a two-thirds vote in the Senate. But Congress has repeatedly redefined these treaties as “congressional-executive agreements” and given the executive branch the authority to negotiate them, sign them, and write the conforming legislation that is necessary to bring U.S. law into compliance with the provisions in the newly negotiated treaty. Under this Trade Promotion Authority, Congress also agrees to give the treaty and conforming legislation an expedited review. The package becomes law after receiving majority support in both houses of Congress. Trade Promotion Authority has come to be called Fast Track. For more information, see Congressional Research Service, *Why Certain Trade Agreements are Approved as Congressional-Executive Agreements Rather than Treaties*, April 15, 2013.

¹⁵ Officially titled The Bipartisan Congressional Trade Priorities Act and known as the Camp-Baucus bill after the people who introduced the legislation, Rep. Dave Camp (R-MI) and Sen. Max Baucus (D-MT).