

Secret TPP Text Unveiled: It's Worse Than We Thought

Pact's Fate in Congress Uncertain at Best; Long-Awaited Text Reveals Gaps Between Administration Claims and Actual TPP Terms On Key Congressional, Public Concerns

By [Public Citizen](#)

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Today's long-awaited release of the text of the Trans-Pacific Partnership's (TPP) reveals that the pact replicates many of the most controversial terms of past pacts that promote job offshoring and push down U.S. wages while further expanding the scope of the controversial investor-state system and rolling back improvements on access to affordable medicines and environmental standards that congressional Democrats forced on the George W. Bush administration in 2007.

"Apparently, the TPP's proponents resorted to such extreme secrecy during negotiations because the text shows TPP would offshore more American jobs, lower our wages, flood us with unsafe imported food and expose our laws to attack in foreign tribunals," said Lori Wallach, director of Public Citizen's Global Trade Watch.

"When the administration says it used the TPP to renegotiate NAFTA, few expected that meant doubling down on the worst job-killing, wage-suppressing NAFTA terms, expanding limits on food safety and rolling back past reforms on environmental standards and access to affordable drugs."

On some key issues, the text reveals provisions that will cost TPP support from members of Congress who supported the narrow passage of Fast Track trade authority this summer, and affirm for the many members of Congress who backed past trade deals but opposed Fast Track that the TPP must be stopped.

"Many in Congress said they would support the TPP only if, at a minimum, it included past reforms made to trade pact intellectual property rules affecting access to affordable medicines. But the TPP rolls back that past progress by requiring new marketing exclusivities and patent term extensions, and provides pharmaceutical firms with new monopoly rights for biotech drugs, including many new and forthcoming cancer treatments," said Peter Maybarduk, director of Public Citizen's Access to Medicines program. "The terms in this final TPP text will contribute to preventable suffering and death abroad, and may constrain the reforms that Congress can consider to reduce Americans' medicine prices at home."

The text also confirms that demands made by Congress and key constituencies were not fulfilled.

“From leaks, we knew quite a bit about the agreement, but in chapter after chapter the final text is worse than we expected with the demands of the 500 official U.S. trade advisors representing corporate interests satisfied to the detriment of the public interest,” said Wallach.

Today’s text release confirms concerns about TPP that were based on earlier leaks and reveals ways in which the TPP rolls back past public interest reforms to the U.S. trade model and expands anti-public-interest provisions demanded by the hundreds of official U.S. corporate trade advisers:

Worse anti-public-interest provisions relative to past U.S. trade pacts

- The TPP Intellectual Property Chapter would roll back the “May 2007” reforms for access to medicines.
- The TPP Environment Chapter would roll back the “May 2007” reforms by eliminating most of the seven Multilateral Environmental Agreements that past pacts have enforced.
- The TPP Investment Chapter would expand the scope of policies that can be challenged and the basis for such challenges, including for the first time ever allowing ISDS enforcement of World Trade Organization intellectual property terms and new challenges to financial regulations.
- With Japanese, Australian and other firms newly empowered to launch ISDS attacks against the United States, the TPP would double U.S. ISDS exposure with more than 9,200 additional subsidiaries operating here of corporation from TPP nations newly empowered to launch ISDS cases against the U.S. government. (About 9,500 U.S. subsidiaries have ISDS rights under ALL existing U.S. investor-state-enforced pacts.)
- The TPP E-Commerce Chapter would undermine consumer privacy protections for sensitive personal health, financial and other data when it crosses borders by exposing such policies to challenge as a violation of the TPP limits on regulation of data flows.
- TPP “Sanitary and Phytosanitary” chapter terms would impose new limits on imported foods safety relative to past pacts. This includes new challenges to U.S. border inspection systems that can be launched based on extremely subjective requirements that inspections must “limited to what is reasonable and necessary” as determine by a TPP tribunal. New language that replicates the industry demand for a so-called Rapid Response Mechanism that requires border inspectors to notify exporters for every food safety check that finds a problem and give the exporter the right to bring a challenge to that port inspection determination meaning new right to bring a trade challenge to individual border inspection decisions (including potentially laboratory or other testing) that second-guesses U.S. inspectors and creates a chilling effect that would deter rigorous oversight of imported foods.

Anti-public-interest provisions that are the same as past U.S. pacts

- The TPP Investment Chapter would eliminate many of the risks and costs of relocating American jobs to low-wage countries, incentivizing more American job offshoring.
- The TPP procurement chapter would offshore our tax dollars to create jobs overseas instead of at home by giving firms operating in any TPP nation equal

access to many U.S. government procurement contracts, rather than us continuing to give preference to local firms to build and maintain our public libraries, parks, post offices and universities.

- Contrary to Fast Track negotiating objectives, the TPP would grant foreign firm greater rights that domestic firms enjoy under U.S. law and in U.S. courts. One class of interests – foreign firms – could privately enforce this public treaty by skirting domestic laws and courts to challenge U.S. federal, state and local decisions and policies on grounds not available in U.S. law and do so before extrajudicial ISDS tribunals authorized to order payment of unlimited sums of taxpayer dollars.
- There are no new safeguards that limit ISDS tribunals’ discretion to issue ever-expanding interpretations of governments’ obligations to investors and order compensation on that basis. The text reveals the same “safeguard” Annexes and terms that were included in U.S. pacts since the 2005 Central America Free Trade Agreement (CAFTA) that have failed to rein in ISDS tribunals. CAFTA tribunals have simply ignored the “safeguard” provisions that are replicated in the TPP and as with past pacts, in the TPP such tribunal conduct is not subject to appeal.
- The TPP would ban the use of capital controls and other macroprudential financial regulations used to prevent speculative bubbles and financial crises.

Please see a [bullet point analysis](#) of key TPP investment, food safety, labor and environmental, market access, rules of origin, procurement, and other provisions prepared by labor and public interest experts for more details. More detailed analyses of each chapter will be available next week.

The TPP can take effect only if the U.S. Congress approve it given the rules about conditions for the TPP to go into effect. The TPP’s fate in Congress is uncertain at best given that since the trade authority vote, the small bloc of members of the U.S. House of Representatives who made the narrow margin of passage possible have expressed concerns that the text release shows were not addressed.

Ten U.S. presidential candidates have pushed anti-TPP messages in their campaigning, stoking U.S. voters’ ire about the pact.

An unprecedented number and wide array of organizations oppose any attempt to railroad the TPP through Congress by using the Fast Track process. Groups united on this extend well beyond labor unions and include consumer, Internet freedom, senior, health, food safety, environmental, human rights, faith, LGBTQ, student and civil rights organizations.

“Now that Congress and the public can scrutinize the actual text, the reality that it fails to meet Congress’ demands and its terms would be harmful to most Americans will replace the administration’s myth-based sales job for TPP, further dimming the TPP’s prospects in Congress,” Wallach said.

Public Citizen is a national, nonprofit consumer advocacy organization founded in 1971 to represent consumer interests in Congress, the executive branch and the courts.

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