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United States Senate

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October 1, 2015

The Honorable Michael Froman
United States Trade Representative
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508

Dear Ambassador Froman,

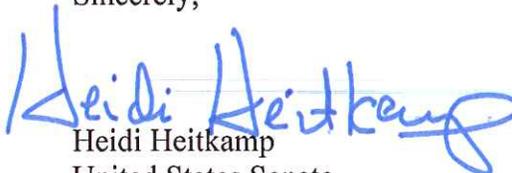
As you meet this week with our Trans-Pacific Partnership (TPP) negotiating partners, I write to re-emphasize the importance of protecting countries' and sub-national governments' ability to regulate to protect public health. Specifically, a final TPP agreement must ensure tobacco products may be regulated and not subject to an investor-state dispute settlement (ISDS) challenge.

As a former state attorney general and litigator in the Tobacco Master Settlement Agreement, I understand the importance of nations' and states' sovereign right to regulate tobacco products to protect public health. It is critical these successful, life-saving initiatives not be undermined by an ISDS challenge. Not only would such challenges be against the true intent of protecting foreign investments, the mere threat of an ISDS challenge from wealthy multi-national companies can have a chilling effect on the desire of other countries to control the use of tobacco products to save lives.

As I have written before, the tobacco industry has a track record of misusing the investor-state process to threaten and intimidate countries that seek simply to reduce the death toll from tobacco use in their country. It has had a devastating impact on public health around the globe already. Following expensive ISDS challenges to Australia and Uruguay's cigarette labeling laws and threats to many others, countries have reconsidered or delayed implementing their legitimate public health policies for fear of lengthy legal challenges. This harms the public interest and undermines public confidence in trade agreements. A final TPP must include a strong safeguard to prevent this type of abuse of the system. Failure to do so will seriously jeopardize my support for the TPP when it is submitted to the Senate for a vote.

Thank you for your continued hard work on behalf of America's farmers, ranchers, and small business to open up new markets and expand export opportunities. I believe, when done right, trade can benefit Americans, but we must ensure these agreements cannot be manipulated to undermine public health.

Sincerely,


Heidi Heitkamp
United States Senate

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