

## PUBLIC HEALTH COMMENTS – PUBLIC INTEREST TRADE ADVISORY COMMITTEE RESPONSE TO FEDERAL REGISTER REQUEST FOR COMMENTS

By

THE CENTER FOR POLICY ANALYSIS ON TRADE AND HEALTH (CPATH)

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### Introduction

The United States Trade Representative (USTR) has announced the formation of a Public Interest Trade Advisory Committee (PITAC) to advise the Administration on trade negotiations. Through the Federal Register Notice of 2/25/14, 79 FR 10596, pp. 10596-10598, USTR is soliciting comments on the proposed scope of activities and scope of viewpoints to be represented on the proposed PITAC, and also solicits applications through the Federal Register by March 25, 2014. The Center for Policy Analysis on Trade and Health (CPATH) is responding to that notice. The Federal Register states:

With the creation of the Public Interest Trade Advisory Committee, a new forum for discussions on public interest aspects of trade issues will be available. The objectives and scope of activities of the Public Interest Trade Advisory Committee include, but are not limited to:

1. Providing the U.S. Trade Representative with policy advice on issues including but not limited to, public health, international development, and consumer protection.
2. Providing the President, the USTR, and Congress with reports on trade agreements, following their conclusions, which include an advisory opinion on whether and to what extent the agreement promotes the interests of the United States.

The Center for Policy Analysis on Trade and Health (CPATH) has played a leading role in documenting and seeking redress for the illegal capture of trade advisory committees by commercial interests, that has insulated the Administration from public discourse and the public interest. We have brought these issues to the attention of policy-makers and the public, through publications,<sup>1, 2</sup> advocacy, litigation,<sup>3</sup> proposed legislation,<sup>4</sup> and testimony to Congress<sup>5</sup> and to the Administration,<sup>6</sup> including the USTR and the Department of Commerce. The *Washington Post*<sup>7</sup> recently updated and corroborated CPATH's observations.

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<sup>1</sup> Joseph Brenner and Ellen Shaffer. Advice and No Dissent: Public Health and the Rigged U.S. Trade Advisory System. *Multinational Monitor*. Nov. 2004 Vol 25 No. 11. <http://www.multinationalmonitor.org/mm2004/112004/brenner.html>

<sup>2</sup> Shaffer, Brenner et al. "Global Trade and Public Health," *American Journal of Public Health (AJPH)*, January 2005. [http://www.cpath.org/sitebuildercontent/sitebuilderfiles/AJPH\\_Jan2005.pdf](http://www.cpath.org/sitebuildercontent/sitebuilderfiles/AJPH_Jan2005.pdf)

<sup>3</sup> Ctr. for Policy Analysis on Trade and Health (CPATH), et al. v. USTR, 540 F.3d 940 (9th Cir 2008).

<sup>4</sup> Ellen Shaffer. Trade. Summary of HR 2293 – The Public Health Trade Advisory Committee Act. July 14, 2009. <http://www.reduceddrugprices.org/read.asp?news=3960>

<sup>5</sup> The Trade Advisory Committee System. Hearing before the Committee on Ways and Means, U.S. House of Representatives, One Hundred Eleventh Congress, First Session. July 21, 2009. <http://www.gpo.gov/fdsys/pkg/CHRG-111hhrg63000/html/CHRG-111hhrg63000.htm>

<sup>6</sup> <http://www.apha.org/membergroups/newsletters/sectionnewsletters/medical/spring10/PUBLIC+HEALTH+RESPONSE.htm>

<sup>7</sup> Christopher Ingraham and Howard Schneider, Industry voices dominate the trade advisory system. *Washington Post*. Feb. 27, 2014 <http://www.washingtonpost.com/wp-srv/special/business/trade-advisory-committees/index.html>

In addition, the public and policy makers are demanding transparency in trade negotiations, and taking action to achieve it. The constraints imposed by requiring absolute confidentiality from committee members are now a matter of national policy and concern.

However, this proposal arises as the trade policy agenda is at a genuine crossroads. The theoretical foundation for global trade policy is glaringly inadequate to address 21<sup>st</sup> century imperatives for sustainable economic development: to generate economic growth, innovation, fulfilling and remunerative employment, and stable markets, while expanding wealth and redressing persistent inequalities in economic, social and political resources and power within and between countries; to protect the environment and climate in developing energy sources; and to promote systems of agriculture that guarantee food security. Neither sober analysis nor credible economic forecasting supports assertions that trade agreements will significantly advance employment, while lowering prices, and improving the global standard of living.

The objective set out at Bretton Woods in 1948 to reduce or eliminate tariffs in order to stimulate cross-border commerce has been substantially accomplished. Trade negotiations presently focus on reducing the permissible parameters for government regulations, and limiting government involvement generally in a wide range of arenas. The framework of deregulation and privatization was set during the Uruguay Round of global trade negotiations that concluded with the establishment of the World Trade Organization (WTO) in 1994. It has proven to be a spectacular failure at creating trade agreements. The WTO Doha Round has limped along since 2002 without appreciable progress towards an agreement. There is popular opposition to two major regional trade agreements that the U.S. is negotiating, one with Pacific Rim nations, the other with Europe.

Further, global trade rules are demonstrably vehicles for destabilizing entire economic sectors, such as Mexican agriculture; blocking access to affordable life-saving medications, propping up prices and discouraging innovation by pharmaceutical companies; and protecting the tobacco industry from government plain-packaging regulations, well-established to play a significant role in curbing the global epidemic of tobacco-related deaths and disease.

**Policy must address the imperative to revitalize the public sector as an essential partner in economic development; to recognize the legitimate role of government measures and the sovereignty of democratic decision-making over commercial incentives, and the value of public enterprises; and to include the public as creative and entitled participants rather than disruptive adversaries.**

**We propose that public health and public interest participants in the PITAC are in a position to generate constructive democratic discussion, analysis and critique of the trade agenda, its processes and its results. The PITAC should promote dialogue and debate with other trade committees and with broad sectors of the interested public and with policy-makers, on every level of trade policy.**

The U.S. must take concrete steps to align our global economic power with our capability and responsibility to direct trade policy purposefully towards democracy, sustainability and equality. We have the opportunity and imperative to integrate public health's perspective and participation as the

U.S. Administration confronts today's challenges in trade negotiations. In the context of the creation and implementation of a **Tier 2 Public Interest Trade Advisory Committee (PITAC), public health's perspective will prove invaluable in determining trade objectives, and in drafting, analyzing and advancing trade proposals that foster these foundational goals.**

Unilever CEO Paul Polman, who disbanded quarterly reporting in the interest of longer term planning, has said that capitalism "is an enormous force to lift people out of poverty. But at the same time, we haven't figured out how to do that without incurring enormous levels of...overconsumption; and frankly, leaving too many people behind. You cannot say that the system properly works if there are over a billion people going to bed hungry."<sup>8</sup>

**I. The Public Interest Trade Advisory Committee Must Have a Broad Scope of Activities to Align Trade Policy with U.S. and Global Objectives for Health and Income Equality, and to Achieve Democratic Transparency**

**I A. In providing the U.S. Trade Representative with policy advice on issues including but not limited to, public health, international development, and consumer protection, the PITAC should play a convening role in identifying and generating dialogue across sectors on global trade objectives.**

**I B. The committee should review the transparency of the process of developing and negotiating trade proposals, and recommendations for a process and timelines to open trade negotiations and trade advisory committee proceedings and records to the public and interested public officials at all levels.**

**I C. The committee should determine, from the perspectives of public health and the public interest, the interests of the United States on several issues related to trade and public health, in order to evaluate whether and to what extent particular proposals and agreements address these interests.**

**The forces that shape the modern world have transformed how trade is conducted, and our ability to protect and improve the public's health.** Since the Trade Act was adopted in 1974, dramatic changes in financial markets, communications technology and transportation have influenced the prosperity and well-being of individuals and nations. In response, trade agreements have moved beyond tariffs and now address a wide range of issues that directly affect population's health and nations' economic and social sustainability. Trade agreements now address:

- Government Procurement affecting local economic development and local jobs;
- Agriculture, affecting the safety and quality of our food and the fate of traditional livelihoods in rural areas;
- Investment, affecting the movement of finance capital and the stability and sustainability of industrial development;

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<sup>8</sup> <http://www.marketplace.org/topics/sustainability/consumed/unilever-ceo-paul-polman-sustainable-business>

- Intellectual Property Rights, affecting access to affordable and safe medicines; advertising, trademarks and marketing for products including tobacco and alcohol; copyrights of books and entertainment media; information technology;
- Services, including clinician licensing, access to health care, patient privacy, public provision of the water supply, distribution of hazardous substances;
- Consumer goods and food processing affecting the safety of these products;
- Domestic Regulations including the administration of public services, and control of hazardous substances, including safeguards against the deadly effects of tobacco consumption;
- Environmental and occupational regulations, affecting the ability of governments to protect the safety and well-being of their people.
- **Information technology** plays an increasingly critical role in the ability of individuals, institutions, communities, businesses and governments to operate effectively, affordably and democratically. Trade is one arena in which competing interests contend over rules for ready and affordable access to the internet, transparency in the public sector, and respect for privacy when appropriate.

It is critically important to assure that the U.S. trade advisory committee system keeps pace with these developments, and provides for effective and timely communication among trade policy-makers, and public health advocates and professionals.

### **Establishing Public Health Objectives for Trade Negotiations**

The PITAC should present and build consensus on public health objectives for trade. These should include:

- 1) **Assuring democratic participation by public health and transparency in trade policy**, including by opening all proceedings and documents of trade advisory committees to the public, and requiring USTR's consultation with all relevant committees of the House and Senate in the development, implementation, and administration of U.S. trade policy, without renewing presidential trade promotion authority (known as "fast track").
- 2) **Developing mutually beneficial trade relationships that create sustainable economic development** for the U.S. and our trade partners in an increasingly interdependent world.
- 3) **Recognizing the legitimate exercise of national, regional and local government sovereignty to protect population health**, and to ensure that countries do not weaken or reduce, as an encouragement for trade, sound policies that contribute to health and wellbeing, including laws on public health, the environment and labor.
- 4) **Excluding tariff and nontariff provisions in trade agreements that address vital human services** such as health care, water supply and sanitation, food safety and supply, and education, including licensing and cross-border movement of personnel in these fields.
- 5) **Excluding tobacco and tobacco products**, which are lethal, and for which the public health goal is to reduce consumption, from tariff and nontariff provisions of trade agreements, including advertising, labeling, product regulation and distribution.

6) **Excluding alcohol products**, which present serious hazards to public health. Policies designed to reduce the harm caused by alcohol products should not be subject to compromise in exchange for other trade benefits.

7) **Eliminating intellectual property provisions related to pharmaceuticals from bilateral and regional negotiations**, as these are more appropriately addressed in multilateral fora, **and promote trade provisions which enable countries to exercise all flexibilities provided by the Doha Declaration on Public Health**, including issuing compulsory licenses for patented pharmaceuticals, parallel importation, and other measures that address high prices and promote access to affordable medicines.

### **I E. Trade agreement enforcement processes have important implications for public health.**

Trade agreements can foster sustainable economic development, democracy, and peace, consistent with public health principles that prioritize achieving and protecting the health and wellbeing of individuals, communities and populations.<sup>9,10</sup> They can also conflict with or subordinate policies that prioritize people's health, and equitable access to health-related services.<sup>11</sup>

The United States has signed multilateral and bilateral trade agreements with significant implications for public health and health care. These agreements can provide a basis for altering domestic U.S. laws and policies, as well as those of our trading partners. Trade rules have a direct impact on public health and domestic policy.

Enforcement of a number of common trade rules requires balancing commercial and health concerns. For example, trade rules that allow nations to adopt and enforce measures necessary to protect human, animal, or plant life or health, also require that such measures cannot arbitrarily or unjustifiably discriminate between countries or be a disguised restriction on international trade. Domestic regulation rules regarding services similarly require that rules for licensing and qualifications, and technical standards, must be no more burdensome than necessary to ensure the quality of a service. Challenges before trade tribunals claiming that public health measures violate trade rules have been successful in almost all cases. Investor-state provisions that allow corporations to file charges against governments have enabled frivolous and damaging disputes. The Metalclad toxic waste site case against Mexico, and the Methanex/MTBE case against the U.S., are classic examples of charges that exposed populations to unjustifiable harm.

## **II. The Committee Must Include Viewpoints on a Wide Range of Interests Related to Public Health and the Public Interest Generally**

**II A. U.S. trade policy committees are mandated by law to represent a range of public interests, but almost exclusively represent industry, finance and commerce. Public health and public**

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<sup>9</sup> Institute of Medicine. The future of public health in the 21st century. National Academies Press, Washington, DC. November, 2002. <http://www.iom.edu/Object.File/Master/4/165/0.pdf>.

<sup>10</sup> World Health Organization. Constitution of the World Health Organization. [http://www.who.int/rarebooks/official\\_records/constitution.pdf](http://www.who.int/rarebooks/official_records/constitution.pdf).

<sup>11</sup> United States Department of State. Metalclad Corporation v. United Mexican States. <http://www.state.gov/s/l/c3752.htm>.

**interest groups are virtually invisible among these committees. The committees substantially influence trade policy.**

The PITAC, to include public health and other public interest representatives, has the potential for being one effective means of providing guidance to U.S. policymakers, and could signal a commitment towards greater transparency, as well as compliance with the Federal Advisory Act, which requires all such committees to be fairly balanced in terms of points of view represented, and the Trade Act of 1974, which specifies interests that should be included on trade committees.

The U.S is currently negotiating major multi-party agreements, including the Trans-Pacific Partnership Agreement (TPP) with 11 Pacific Rim nations, and another with the European Union, affecting a significant percentage of the U.S. and the global economy. These massive and controversial new trade agreements call for intensified transparency and involvement by the public and our elected representatives in Congress at every stage of trade negotiations. Until now, the TPP has been negotiated without meaningful, informed public interest input or debate, yet the finance, pharmaceutical, tobacco, energy, communications, processed foods and health insurance industries have had highly privileged access to government trade negotiators.

The following arenas are of particular concern for public health, and viewpoints representing these concerns must be represented:

- Individuals and organizations that reach across sectors to integrate public and global health priorities and concerns, with global trade and economic sustainability.
- Sustainable economic development
- The rights of national, state and local governments to regulate on a wide range of issues to protect public health;
- Occupational safety and health;
- Health care and other vital human services;
- Movement and licensing of health care workers, including clinicians;
- Access to affordable medicines;
- Alcohol control;
- Tobacco control;
- The Environment.

It is vital for U.S. policymakers and for the U.S. Trade Representative to receive guidance from the public health and consumer communities on the wide range of issues affecting the public's health and health care services, so that the U.S. can appropriately negotiate provisions in trade agreements in a transparent manner and with full attention to medical and health concerns.

## **II. B. Legislative history of trade advisory committees**

The trade advisory committee system was established by Congress in Section 135 of the Trade Act of 1974 to institutionalize domestic input into trade negotiations from interested parties outside the

federal government.<sup>12</sup> Over the years, Section 135 was amended several times to broaden the purposes for which trade advisory committees provide advice to executive branch officials. For example, the law expanded the scope of topics on which the President was required to seek information and advice, from “negotiating objectives and bargaining positions before entering into a trade agreement,” to the “operation of any trade agreements, once entered into,” and on other matters regarding the administration of U.S. trade policy.<sup>13</sup> The law was also amended to include additional interests within the advisory committee structure, such as the services sector and state and local governments. Amended legislation also requires the executive branch to inform the advisory committees of “significant departures from their advice.”<sup>14</sup>

The U.S. trade advisory committee system consists of a three-tier structure: Advisory Committee for Trade Policy and Negotiations (ACTPN) to provide overall trade policy advice to the President (Tier 1); Tier 2 committees which provide general policy advice from representatives of labor, environmental concerns, and state and local governments; and a series of Tier 3 industry and agricultural sector advisory committees providing technical advice and information. The PITAC would be a Tier 2 committee.

Trade advisory committees are subject to the requirements of **the Federal Advisory Committee Act (FACA)**.<sup>15</sup> **FACA requires that each advisory committee covered by the Act be fairly balanced in terms of points of view represented and committee functions performed.**<sup>16</sup> The legislative history of FACA “shows that the fair balance requirement was intended to ensure that persons or groups directly affected by the work of a particular advisory committee would have some representation on the committee.”<sup>17</sup> The FACA fair balance requirement applies to the trade advisory committees established under Section 135 of the Trade Act.<sup>18</sup>

In 2002, the United States Government Accounting Office examined the role, structure, and system of the trade advisory committee system. The GAO Report found that “**new stake holders in the trade process, such as public health...have limited or no participation in the formal committee system, even though topics such as intellectual property are of interest to them.**”<sup>19</sup>

In November, 2003, U.S. health leaders called for caution in negotiating international trade agreements. Former U.S. Surgeon General Dr. David Satcher, joining representatives from the American Medical Association, American Nurses Association, the American Public Health Association, and CPATH, warned the public that new trade rules threaten the ability of nations to protect public health. They issued the historic “**Call for Public Health Accountability in International Trade Agreements.**”

During the 2004 Congressional deliberations on the US-Australia Free Trade Agreement (FTA), members of the House and Senate expressed concerns about the extreme imbalance of representation

<sup>12</sup> GAO-02-876 International Trade p.4; P.L. No. 93-618, 88 Stat. 1996, codified at 19 U.S.C. § 2155.

<sup>13</sup> GAO-02-876 International Trade p.7; Pub. L. 96-39, 93 Stat. 308.

<sup>14</sup> Ibid; 19 U.S.C. 2155(i).

<sup>15</sup> Ibid; 5 U.S.C. App. §§ 1-14.

<sup>16</sup> Ibid. § 5(b)(2).

<sup>17</sup> Ibid. p.57.

<sup>18</sup> GAO-02-876, p. 58; *Northwest Ecosystem Alliance v. USTR*, No. C99-1165R (W.D. Wash. 1999).

<sup>19</sup> Ibid, p. 40.

by commercial interests on trade advisory committees, particularly by the pharmaceutical industry, and lack of representation from public health. Congress raised objections to provisions in the agreement related to pharmaceuticals and intellectual property that they had been unaware of that could have an impact on Congressional efforts to authorize re-importation of drugs. They also expressed concern about the potential impact on current U.S. health care programs, including on Veterans Affairs, Medicare and Medicaid, and urged that such provisions should not serve as precedent for future trade agreements.

Restructuring of the trade advisory committees in August, 2004 did not address the problem of limited or no public health or public interest participation on trade advisory committees. In contrast, there continued to be strong representation in the advisory committee structure from the pharmaceutical industry, the tobacco industry, and other corporations with a direct financial stake in trade and deregulation.

In May, 2005, public health organizations, including the Center for Policy Analysis on Trade and Health, American College of Preventive Medicine, the American Nurses Association, the American Public Health Association, the California Conference of Local Health Officers, the National Association of Community Health Centers, Physicians for Human Rights, and Physicians for Social Responsibility, sent a letter to USTR Rob Portman requesting the Administration to ensure that the concerns of the health of individuals, communities, and populations be taken into account in developing U.S. trade policy. They strongly encouraged appointment of public health representation on 7 relevant existing Tier 3 advisory committees, and the creation of a new Tier 2 public health advisory committee, to provide information, reports, and advice to and consult with the President, Congress, and the US Trade Representative.<sup>20</sup> Public health organizations cited issues considered by US trade advisory committees and provided analysis of the public health and health care interests and work affected. Issues considered by advisory committees which were cited in a report to the USTR as being of relevance and importance to public health included: agriculture; government procurement; health-related services; insurance; investment; intellectual property rights and pharmaceuticals; movement of personnel; regulations regarding hazardous substances including alcohol and tobacco; and transparency.<sup>21</sup>

Pressure from public health and tobacco control groups led to the appointment of a public interest tobacco control representative to the Agricultural Committee on Tobacco, Cotton, and Peanuts in 2005, and subsequent Congressional action in 2009.

CPATH engaged the interest of Congressional leaders in addressing the deficit in public health voice in traded policy. In May, 2009, the Public Health Trade Advisory Committee Act (HR 2293: Doggett-TX and Van Hollen-MD; S 1644: Stabenow and Kennedy) was introduced, which required representation on all Tier 3 trade advisory committees by public health, labor, and public interest groups, and the creation of a Public Health Advisory Committee at Tier 2. In July, 2009, the Subcommittee on Trade of the House Committee on Ways and Means conducted a Hearing on the Trade Advisory Committee System, focusing on how to increase transparency and public participation in the development of U.S. trade policy. Tier 3 committee chairs condemned the bill. CPATH Co-

<sup>20</sup> Letter to USTR Robert Portman, May 2, 2005,

<http://www.cpath.org/sitebuildercontent/sitebuilderfiles/healthrequestustrdoc5-2-05.pdf>.

<sup>21</sup> <http://www.cpath.org/sitebuildercontent/sitebuilderfiles/ustrcommitteeswarrantinghealthrep5-05.pdf>.

Director Ellen R. Shaffer testified as an invited witness, and spoke in favor. Nevertheless, the legislation was not presented for a vote.

### **Transparency and democratic accountability**

The need for increased transparency has been a long-standing concern. The constraints imposed by requiring absolute confidentiality from committee members are now a matter of national policy and concern. Trade advisory committees have been criticized for their composition and their insularity from public discourse and the public interest. As CPATH has documented for years, and the *Washington Post*<sup>22</sup> recently updated, the nearly exclusive population of Tier 3 committees by private industry, and the notable absence of public health and public interest participation. As such, trade advisory committees do not comply with the Federal Advisory Committees Act or the Trade Act of 1974, in terms of fair and balanced representation from the public interest.

Influential members of Congress are among those who have leaked proposed trade documents since 2010. Rep. Sander Levin, ranking minority member of the Trade Subcommittee of House Ways and Means, has openly published proposals to reveal all trade proposals public, including those of our trading partners.

Advisory committee activities have routinely occurred without transparency, outside the purview of public review, discussion, and debate; the one exception being advisory committee reports which are issued on particular trade agreements at the conclusion of negotiations, precluding opportunity for transparent public input during the negotiating process.

Congress and the public are increasingly demanding democratic participation in setting global trade policy, including openly disclosing the terms of pending trade agreements.

We recognize the value and also the limits of the participants on Tier 2 committees. Representatives to the IGPAC, the Labor, and Environment committees have experienced the benefit of briefings by the Administration, and opportunities to communicate their constituencies' viewpoints.

However, under current circumstances, public health and public interest colleagues who might agree to serve on the proposed tier 2 PITAC would face imprisonment if they acted unilaterally to reveal this information publicly.

We therefore commit to encouraging and supporting PITAC members to consistently advance the demand to open committee meetings and minutes to the public, while respecting the interests of individuals to abide by the law.

## **II C. Trade Negotiations, Trade Advisory Committee, and the Public's Health – Specific Recommendations for Inclusion in the PITAC Charter**

### **1. Public Interest Trade Advisory Committee (PITAC) Membership**

<sup>22</sup> Christopher Ingraham and Howard Schneider, Industry voices dominate the trade advisory system. *Washington Post*. Feb. 27, 2014 <http://www.washingtonpost.com/wp-srv/special/business/trade-advisory-committees/index.html>

**Public health representatives to the PITAC should be appointed from among individuals who are nominated by and represent organizations in the United States with an interest in improving and protecting the public health.**

Members of the Public Health Advisory Committee on Trade established should be required to be appointed from among individuals nominated by and representing organizations in the United States with an interest in improving and protecting the public health; and who have expertise in one or more of 5 areas:

- 1) the relationship of trade to sustainable economic development;
- 2) public health regulations and the authority of the Government to regulate in the interest of public health, including by adopting sanitary and phytosanitary rules, technical standards, regulations with respect to the production, distribution, sale, or advertising of tobacco, alcohol, and harmful substances, and standards to ensure clean and safe food, air, and water;
- 3) vital human services and systems, including health care and public health services and systems and water supply and sanitation services and systems, and licensing and cross-border movement of persons employed in the provision of such services or the development of such systems;
- 4) occupational safety and health; or
- 5) matters relating to access to affordable pharmaceuticals.

In the public interest PITAC Members should be precluded from representing for-profit entities, or receive significant financial support from a for-profit entity represented on any other trade advisory committee.

Importantly, the selection of public health advisers on the basis of their expertise who are from organizations in the United States which focus on improving and protecting public health, will ensure that the best technical advice available will be provided from advisers who possess a broad range of expertise in the field of public health.

No individual should be appointed to the PITAC who represents a commercial or for-profit entity with an interest in health services or regulations.

**2. Committee Size**

The President shall ensure that membership of the Public Health Advisory Committee on Trade is of sufficient size to be reasonably representative of the range of organizations and persons in the United States interested in public health.

3. **Adequate Staffing of PITAC** - In addition, all Tier 2 committees, including the PITAC should be adequately staffed.

**4. Improve Transparency and Accountability: Require Consultations with Advisory Committee During Trade Negotiations**

Critical to PITAC's effectiveness in improving U.S. trade policy decision-making will be

the provision of timely advice throughout the trade negotiating process on the potential impact of proposed trade policy and trade agreement rules on protecting and promoting public health in the U.S. and with our trading partners.

The USTR and Secretaries of Agriculture, Commerce, Health and Human Services, Labor and Defense, should consult and receive information from PITAC advisors concerning U.S. trade negotiating objectives, and on terms of trade agreements being negotiated by the United States and the impact of those terms on the U.S. Public health advice should be sought and provided before the commencement of negotiations, throughout the negotiating process, and before a final agreement is reached.

PITAC members should be encouraged and supported in advancing open and transparent committee meetings and minutes available to the public, while respecting the interests of individuals to abide by the law.

#### 5. **PITAC Advisory Committee Reports On Trade Agreements**

PITAC should be required to submit a report on the expected effects of proposed trade agreements no later than the date that the President notifies Congress of the intent to negotiate. Reports should be required to include the extent to which the trade agreement promotes: the economic interests of the U.S.; public health and the environment in the United States, and in any other country affected by the agreement; and equity and reciprocity in particular sectors. Written advisory committee opinions should include any dissenting views.

#### 6. **Public Availability of Reports** – Committee reports will be published and made publicly available on the USTR website.

#### 7. **Appoint Public Health Representative to Tier 1 Advisory Committee on Trade Policy and Negotiation**

We urge the Administration to appoint of at least one public health representative on the Tier 1 Advisory Committee on Trade Policy and Negotiation (ACTPN). An eligible NGO should not receive 20% or more of its total funding from a single commercial, for-profit entity, or 30% of its total funding from commercial for-profit entities.

#### 8. **Appoint Public Health Representatives to the ITACs**

**Public Health Representation would also add value and contribute to the Industry Technical Advisory Committee (ITACs) mission to provide information and advice to assist USTR and DOC in developing trade policies and negotiating positions.**

Additionally, we encourage the Administration also to appoint public health and public interest representatives to all existing tier-3 advisory committees. These corporate-staffed committees are where the critical proposals are generated. Relevant Tier 3 committees warranting additional public health representatives, include Chemicals, Pharmaceuticals, Health Science Products and Services (ITAC 3), Consumer Goods (4), Distribution Services (5), Information and Communications Technologies, Services, and Electronic Commerce (8), Services and Finance Industries (10), Customs Matters and Trade Facilitation (14), Intellectual Property Rights (15), and Standards and Technical Trade Barriers (16).

Currently there is wide representation on these committees by industries that influence health: pharmaceuticals, tobacco, chemicals, alcohol, health care services, and processed foods. There is virtually no representation by public health.