

Peace and Justice Commission

CONSENT CALENDAR January 29, 2013

To: Honorable Mayor and Members of the City Council

From: Peace and Justice Commission

Submitted by: George Lippman, Chairperson, Peace and Justice Commission

Subject: Oppose the Trans-Pacific Partnership Trade Agreement and Support the

21st Century Trade Agreement and Market Access Act

RECOMMENDATION

Adopt a Resolution:

- 1. Opposing the Trans-Pacific Partnership Trade Agreement and supporting the 21st Century Trade Agreement and Market Access Act;
- 2. Directing the City Clerk to send a letter to Senators Barbara Boxer and Dianne Feinstein urging them to support S.3347, The 21st Century Trade Agreements and Market Access Act, as it is currently worded, sponsored by Senator Sherrod Brown (OH) (introduced 6/27/2012); and
- 3. Directing the City Clerk to send a copy of the resolution to Congresswoman Barbara Lee. Senators Feinstein and Boxer and President Obama.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

At its regular meeting on October 1, 2012, the Peace and Justice Commission adopted the following recommendation:

Adopt a Resolution to oppose the Trans-Pacific Partnership Trade Agreement and support the 21st Century Trade Agreement and Market Access Act.

M/S/C: (Bohn/Nicely)

Ayes: Bohn, Haney, Lippman, Maran, Meola, Nicely, Jailer Shannon, Sochet

Noes: None.

Abstain: None.

Absent: El-Qoulag (unexcused); Kenin (excused); Siegel (unexcused)

RATIONALE FOR RECOMMENDATION

The Peace and Justice Commission, consistent with its mandate to promote peace and justice, locally, nationally and internationally, recommends that the Council support this Resolution to oppose the Trans-Pacific Partnership Trade Agreement and support the 21st Century Trade Agreement and Market Access Act.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

The City Manager takes no position on the Commission's recommendations or the contents of its Report.

CONTACT PERSON

Diana Bohn, Commissioner, Peace and Justice Commission, 510-525-5497 Eric Brenman, Secretary, Peace and Justice Commission, 510-981-5114

Attachments:

- 1. Resolution
- 2. Background & Reference materials with footnotes

RESOLUTION NO. -N.S.

OPPOSE THE TRANS-PACIFIC PARTNERSHIP TRADE AGREEMENT AND SUPPORT THE $21^{\rm ST}$ CENTER TRADE AGREEMENTS AND MARKET ACCESS ACT

WHEREAS, the Peace and Justice Commission advises the City Council on all matters relating to the City of Berkeley's role in issues of peace and social justice (Berkeley Municipal Code (BMC) Chapter 3.68.070); and

WHEREAS, the Trans-Pacific Partnership (TPP) also known as the Trans-Pacific Strategic Economic Partnership Agreement, is a multilateral free trade agreement that aims to further liberalize the economies of the Asia-Pacific region; and

WHEREAS, the TPP is poised to become the largest free trade agreement ever, is currently being negotiated behind-closed-doors between the United States and countries throughout the Pacific Rim, and is specifically intended as a "docking agreement" that as many as half the nations of the world could join over timeⁱⁱ; and

WHEREAS, in order to prevent the negative effects of the TPP, Senator Sherrod Brown has introduced Senate Bill 3347, "The 21st Century Trade Agreements and Market Access Act", which would:

- a) Improve process for United States trade negotiations, include provisions in trade agreements designed to protect US interests, gain real market access, especially for manufactured goods:
- b) Improve coordination of export promotion activities of Federal agencies by the Trade Promotion Coordinating Committee; and
- c) Mandate strengthened commercial diplomacy to increase United States exports as well as protect core labor rights as stated in the International Labour Organization conventions dealing with freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labor; provide for effective abolition of child labor; and set environmental standards;ⁱⁱⁱ: and

WHEREAS, the extreme level of secrecy surrounding the TPP is a rollback in transparency from other international trade negotiations, and is unacceptable in a democracy; and

WHEREAS, in order to prevent the negative effects of the TPP, Senator Sherrod Brown has introduced Senate Bill 3347, "The 21st Century Trade Agreements and Market Access Act", which would improve process for United States trade negotiations, include provisions in trade agreements designed to protect US interests, gain real market access, especially for manufactured goods; improve coordination of export promotion activities of Federal agencies by the Trade Promotion Coordinating Committee, mandate strengthened commercial diplomacy to increase United States exports as well

as protect core labor rights as stated in the International Labour Organization conventions dealing with freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labor; provide for effective abolition of child labor; and set environmental standards among other things.^{iv}

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council opposes the Trans-Pacific Partnership Trade Agreement and supports the 21st Center Trade Agreements and Market Access Act.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley directs the City Clerk to send a letter to Senators Barbara Boxer and Dianne Feinstein urging them to support S.3347, The 21st Century Trade Agreements and Market Access Act, as it is currently worded, sponsored by Senator Sherrod Brown (OH) (introduced 6/27/2012).

BE IT FURTHER RESOLVED that the Council of the City of Berkeley directs the City Clerk to send a copy of this resolution to Congresswoman Barbara Lee, Senators Feinstein and Boxer and President Obama.

Footnotes/background:

21st Century Trade Agreements and Market Access Act

S.3347: 21st Century Trade Agreements and Market Access Act **Sponsor:** Sen. Brown, Sherrod [OH] (introduced 6/27/2012) **Cosponsors** (2) **Committees:** Senate Finance **Latest Major Action:** 6/27/2012 Referred to Senate committee. Status: Read twice and referred to the Committee on Finance.

(http://www.brown.senate.gov/newsroom/press?PageNum_rs=6)

Press Releases, Wednesday, June 27, 2012: With Proposed NAFTA-Style Trade
Deal Threatening to Undermine American Auto and Manufacturing Jobs, Brown
Joins Business & Labor Leaders to Announce Efforts to Reform Trade
Agreements –

Wednesday, June 27, 2012

WASHINGTON, D.C. — with negotiations for the Trans-Pacific Partnership (TPP) slated to continue next week in California, U.S. Sen. Sherrod Brown (D-OH) today joined business and labor leaders to announce a new effort to prevent another NAFTA-style agreement from undermining Ohio manufacturing and automotive jobs. He was joined by James P. Hoffa, president of the International Brotherhood of Teamsters, along with Ford Vice President of International Government Affairs Stephen Biegun, to discuss the need to prioritize support for American manufacturing in the TPP. Brown announced a new bill, the 21st Century Trade Agreements and Market Access Act, which would restore Congressional oversight to trade negotiations and ensure that American trading partners play by the same rules as the U.S.

"It's time for an honest assessment of what our trade agreements have yielded and recognize where changes are in order. After we've seen more than five million jobs lost to our 'trading partners,' in NAFTA, CAFTA, and China, and with new export opportunities not enough to offset our trade deficit, it's time for a new direction in trade policy," Brown said. "The TPP is an opportunity to learn from the past. And that means demanding that our trade partners uphold the same labor, environmental, and human rights standards that we do.

"At a time when too many Ohioans are still looking for work, we cannot sign a lopsided trade agreement that tips the balance against American automakers and workers. The rules of trade and the processes for negotiating the rules matter," Brown continued. "Congress has a role to play, especially when trade agreements increasingly get into policy areas beyond just tariffs—such as services, procurement, and the environment. The 21st Century Trade Agreements and Market Access Act would help ensure that we protect our own interests, gain real market access—especially for autos and manufactured goods— and get the rules right.

"Too often we hear, in the final days of pushing passage of a trade agreement, how important the agreement is to strategic foreign policy interests – and we don't hear about jobs, the middle class, and our standard of living. We should export American products, not American jobs," Brown concluded.

The TPP is a proposed trade agreement that would link several countries in North, Central, and South America with countries in the Asia-Pacific. In addition to the United States, the current TPP countries are Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, and Vietnam; Canada, Mexico, and Japan have also announced their intent to join the TPP. While Congress has the constitutional authority to regulate trade and commerce with foreign nations, for the past several decades, Congress has delegated to the executive branch the authority to select trading partners, negotiate, and sign new trade deals before it votes on the matter. The 21st Century Trade Agreements and Market Access Act would delegate new authority to the Administration to negotiate new trade deals while re-asserting the role of Congressional oversight into the substance of negotiations.

Last year, Brown sent a letter to President Obama raising concerns over the existing automotive trade deficit with Japan and seeking more support for American manufacturing in the TPP. In the letter, Brown requested that the President address a variety of discriminatory policies before allowing Japan to join the TPP, including nontariff barriers and currency manipulation. Brown noted that Japan has instituted a variety of policies that have made it difficult for American and foreign automakers to gain a foothold in the Japanese market. "Japan is the world's third-largest auto market. Yet despite low or zero tariffs, there are a variety of nontariff barriers that have impeded access to Japan's automobile and auto parts market, and overall sales of American-made vehicles and parts in Japan remain low," Brown wrote. "The 2011 National Trade Estimates report – issued by the Office of U.S. Trade Representative – notes data from the Japan Automobile Importers Association (JAIA) that shows registrations in Japan of U.S.-produced motor vehicles fell from 12,666 units in 2008 to 9,314 units in 2009."

Brown's legislation would also require additional compliance reporting and streamline trade and export promotion activities to enable more U.S. producers, ranchers, and small businesses opportunity to reach new markets. Specifically, the bill would also require the following reports be submitted to Congress, in some cases amongst other parties, regarding potential and existing trade agreements:

- A report submitted by the President on the country (or countries) which the Administration intends to negotiate a trade agreement with or is currently in the process of negotiating a trade agreement, including on the country's human rights record, enforcement of international labor rights and environment laws, and other fair trade practices.
- A report submitted by the U.S. International Trade Commission on market access assessments including export opportunities and challenges, as well as the tariff and non-tariff barriers identified by U.S. producers, and information on the purchasing power of a potential trading partner.
- An annual report by the USTR on the progress of commitments a trade agreement partner makes or on upcoming deadlines for commitments, along with subsequent effects of these commitments.

In addition, the 21st Century Trade Agreements and Market Access Act would reform the trade policymaking process by setting binding negotiating objectives that would have to be met and verified by Congress before an administration signs the agreement.

Last year, Brown sent a letter urging President Obama to change course in trade policy and rewrite trade rules to put Ohio jobs and Ohio workers first. He led the House opposition to the Dominican Republic – Central America Free Trade Agreement (CAFTA) in 2005, falling just two votes shy of blocking the agreement after the vote was held open for nearly two hours. The author of the book *Myths of Free Trade* and described as "Congress' leading proponent of American manufacturing," Brown also stood up to President Clinton during debate of the North American Free Trade Agreement (NAFTA) in 1993.

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http://www.brown.senate.gov/newsroom/press/release/with-proposed-nafta-style-trade-deal-threatening-to-undermine-american-auto-and-manufacturing-jobs-brown-joins-business-and-labor-leaders-to-announce-efforts-to-reform-trade-agreements-

June 13, 2012

Trans-Pacific Partnership Agreement

Controversial Trade Pact Text Leaked, Shows U.S. Trade Officials Have Agreed to Terms That Undermine Obama Domestic Agenda

PDF

After Two Years of Closed-Door Negotiations, Trans-Pacific Partnership Text Replicates Alarming Bush Trade Pact Terms That Obama Opposed as Candidate, and Worse

WASHINGTON, D.C.—A <u>leak</u> today of one of the most controversial chapters of the Trans-Pacific Partnership (TPP) reveals that extreme provisions have been agreed to by U.S. officials, providing a stark warning about the dangers of "trade" negotiations occurring under conditions of extreme secrecy without press, public or policymaker oversight, Public Citizen said.

"The outrageous stuff in this leaked text may well be why U.S. trade officials have been so extremely secretive about these past two years of TPP negotiations," said Lori Wallach, director of Public Citizen's Global Trade Watch. "Via closed-door negotiations, U.S. officials are rewriting swaths of U.S. law that have nothing to do with trade and in a move that will infuriate left and right alike have agreed to submit the U.S. government to the jurisdiction of foreign tribunals that can order unlimited payments of our tax dollars to foreign corporations that don't want to comply with the same laws our domestic firms do."

Although the TPP has been branded a "trade" agreement, the leaked text of the pact's Investment Chapter shows that the TPP would:

• Limit how U.S. federal and state officials could regulate foreign firms operating *within* U.S. boundaries, with requirements to provide them greater rights than

- domestic firms:
- Extend the incentives for U.S. firms to offshore investment and jobs to lower-wage countries;
- Establish a two-track legal system that gives foreign firms new rights to skirt U.S. courts and laws, directly sue the U.S. government before foreign tribunals and demand compensation for financial, health, environmental, land use and other laws they claim undermine their TPP privileges; and
- Allow foreign firms to demand compensation for the costs of complying with U.S. financial or environmental regulations that apply equally to domestic and foreign firms.

While 600 official U.S. corporate advisors have access to TPP texts and have a special role in advising U.S. negotiators, for the public, press and policymakers, this leak provides the first access to one of the prospective TPP's most controversial chapters. In May, U.S. Sen. Ron Wyden (D-Ore.), chair of the Senate Finance Committee's Subcommittee on International Trade, Customs and Global Competitiveness – *the committee with jurisdiction over the TPP* – filed legislation to open the process after he and his staff were denied access even to the U.S. proposals for the TPP negotiations.

Last month, U.S. Trade Representative Ron Kirk <u>defended</u> the unprecedented secrecy of TPP negotiations by noting that when the draft of a major regional trade pact was released previously, it became impossible to finish the deal as then proposed.

"The top U.S. trade official effectively has said that the administration must keep TPP secret because otherwise it won't be able to shove this deal past the public and Congress," said Wallach. "The airing of this one TPP chapter, which greatly favors foreign corporations over domestic businesses and the public interest and exposes us to significant financial liabilities, shows that the whole draft text must be released immediately so it can be reviewed and debated. Absent that, these negotiations must be ended now."

The TPP is the first trade pact the Obama administration is negotiating. Today's leak further complicates the administration's goal of completing TPP negotiations this fall. Already the TPP timeline was generating political headaches for the Obama re-election campaign, as repeated U.S polling shows that majorities of Democrats, Independents and Republicans oppose more NAFTA-style trade deals.

The TPP may well be the last trade agreement that the U.S. negotiates. This is because TPP, if completed, would have a new feature relative to past U.S. trade pacts: It would remain open for any other country to join later. Last month, USTR Kirk said that he "would love nothing more" than to have China join TPP.

The TPP offered an opportunity to develop a new model of trade agreement that could deliver the benefits of expanded trade without unduly undermining signatory nations' domestic public interest policies or establishing special privileges for foreign corporations. President Barack Obama and countless members of Congress campaigned on fixing these investment rules to better protect the public interest. But

Public Citizen's analysis of this text shows that the U.S. positions do not reflect any of the changes that <u>candidate Obama pledged</u> when he recognized the threats posed by the NAFTA-style investment provisions in trade agreements.

The leak also reveals that:

- Australia has refused to submit to the jurisdiction of the "investor-state" private corporate enforcement foreign tribunal system;
- U.S. negotiators are alone in seeking to expand this extra-judicial enforcement system to allow the use of foreign tribunals to enforce contracts that foreign investors may have with a government for government procurement or to operate utilities contracts and even related to concessions for natural resources on federal lands:
- Other countries are proposing safeguards for financial regulation and limits to the corporate tribunals that the U.S. has not supported.

Public Citizen's analysis of the leaked text and guided tour through its provisions can be found here. Public Citizen is a national, nonprofit public interest organization based in Washington, D.C. For more information, please visit www.citizen.org.

Addresses:

President Obama: The White House, 1600 Pennsylvania Avenue NW, Washington, DC 20500

Senator Barbara Boxer: 112 Hart Senate Office Building, Washington, D.C. 20510

Senator Dianne Feinstein: United States Senate, 331 Hart Senate Office Building,

Washington, D.C. 20510

Congresswoman Barbara Lee: 2267 Rayburn HOB, Washington, D.C. 20515

Press release: http://www.brown.senate.gov/newsroom/press?PageNum rs=6

ⁱ Definition: Wikipedia, Agreement: http://www.mfat.govt.nz/downloads/trade-agreement/transpacific/main-agreement.pdf

ii Public Citizen: www.citizen.org

Public Citizen: www.citizen.org

iv Bill Text□112th Congress (2011-2012)□S.3347.IS http://thomas.loc.gov

http://thomas.loc.gov/cgi-bin/thomas: S.3347 : 21st Century Trade Agreements and Market Access Act Sponsor: Sen. Brown, Sherrod [OH] (introduced 6/27/2012) Cosponsors (None) Committees: Senate Finance Latest Major Action: 6/27/2012 Referred to Senate committee. Status: Read twice and referred to the Committee on Finance.