

**SENATOR ELIZABETH WARREN**  
**FLOOR SPEECH ON THE TRANS-PACIFIC PARTNERSHIP**  
**FEBRUARY 2, 2016**

*\*\*\*As prepared for delivery\*\*\**

On Thursday, twelve countries will sign a massive trade agreement to change the rules for 40% of the world's economy. But the Trans Pacific Partnership won't go into effect unless Congress approves it. I urge my colleagues to reject the TPP and stop an agreement that would tilt the playing field even more in favor of big multinational corporations and against working families.

Much of the debate over this trade agreement has been described as a fight over America's role in setting the rules of international trade. But this is a deliberate diversion. In fact, the United States already has free trade agreements with half of the TPP countries. Most of the TPP's 30 chapters don't even deal with traditional trade issues. No, most of the TPP is about letting multinational corporations rig the rules – on everything from patent protection to food safety standards – all to benefit themselves.

The first clue about who the TPP helps is who wrote it. Twenty-eight trade advisory committees were formed to whisper in the ear of our trade negotiators—to urge them to move this way or that in the negotiations. Who are the special, privileged whisperers? 85% are senior corporate executives or industry lobbyists. Many of the committees – including those on chemicals and pharmaceuticals, aerospace equipment, textiles and clothing, and financial services – are 100% industry representatives. In 15 advisory committees, no one—no one—was in the room who represented American workers or American consumers. No one was in the room who worried about the enforcement of environmental issues or protection against human rights abuses. Nope. Day after day, meeting after meeting, our official negotiators listened to the whispers of those giant industries—and heard little from anyone else.

The second clue about what's going on is that it all happened behind closed doors. The US Trade Representative, Michael Froman, says the U.S. has been working to negotiate this trade deal for over five and a half years. 5 ½ years. But the text of the agreement was hidden from public view until 3 months ago. And when I say hidden, I mean hidden: the drafts were kept under lock and key so that even members of the US Senate had to go to a secure location to see them—and then we weren't allowed to say anything to anyone about what we had seen.

A rigged process produces a rigged outcome. When the people whispering in the ears of our negotiators are mostly top executives and lobbyists for the biggest corporations – and when the public is shut out of the negotiating process –the final deal tilts in favor of corporate interests.

Evidence of this tilt can be seen in a key TPP provision: Investor State Dispute Settlement (ISDS). With ISDS, big companies get the right to challenge laws they don't like, not in courts,

but in front of industry-friendly arbitration panels that sit outside of any court system. Those panels can force taxpayers to write huge checks to big corporations—with no appeals. Workers, environmentalists, and human rights advocates don't get that special right; only corporations do.

Most Americans don't think of keeping dangerous pesticides out of our food or keeping our drinking water clean as trade issues. But all over the globe, companies have used ISDS to demand compensation for laws they don't like. Just last year, a mining company won an ISDS case when Canada denied the company permits to blast off the coast of Nova Scotia. Now, Canadian taxpayers are on the hook for up to \$300 million – all because their government tried to protect its environment and the livelihood of its local fishermen.

And ISDS hasn't been a problem just for other countries. We've seen the dangers of ISDS here at home. Last year, the U.S. State Department concluded, and President Obama agreed, that the Keystone XL pipeline would not serve the national interests of the United States. It was a long fight, but the Administration—applying American law—decided that the pipeline was a threat to our air, to our water, and to our climate and denied the permit.

But the oil company that wants to build this pipeline doesn't think the buck stops with our President. Now this foreign oil company is using the ISDS provision in NAFTA to demand more than \$15 billion dollars in damages from the US—just because we turned down the Keystone pipeline.

The nation's top experts in law and economics have warned us about the dangers of ISDS. Nobel Prize-winning economist Joe Stiglitz, Harvard Law Professor Laurence Tribe, and others recently noted that if ISDS panels force countries to pay high enough fines, the countries will “voluntarily” drop the health, safety, labor and environmental laws that big corporations don't like. That was exactly what Germany did in 2011 when they cut back on environmental regulations after an ISDS lawsuit.

Everyone understands the risks of ISDS. In fact, the issue got so hot over tobacco companies using ISDS to roll back health standards around the world, that the TPP negotiators decided to limit the use of ISDS to challenge tobacco laws. That's a bald admission that ISDS can be used to weaken public health laws. I'm glad tobacco laws are protected from ISDS, but what about food safety laws, or drug safety laws, or any other regulation designed to protect our citizens? Under TPP, every other company—regardless of the health or safety impact—will be able to use ISDS.

Congress will have to vote straight up or down on TPP. We won't have a chance to strip out any of the worst provisions, like ISDS. That's why I oppose the TPP and hope Congress will use its constitutional authority to stop this deal before it makes things even worse—and more dangerous—for America's hard-working families.