



Leak of Secret Trade Doc Reveals Sovereignty-destroying Courts

Why has the Obama administration kept the Trans-Pacific Partnership agreement text secret from Congress and the American people? A newly leaked TPP chapter reveals at least one huge reason: The TPP text proposes creating tribunals (courts) that could overrule the decisions of our state and federal courts, as well as our local, state and federal laws — and our state and national constitutions.



The tribunals would be presided over by arbitrators (judges) appointed by the secretary-general of the International Centre for Settlement of Investment Disputes (ICSID), an institution of the World Bank Group. The ICSID is housed at the World Bank's headquarters complex in Washington, D.C. The ICSID receives its funding from the World Bank, and the ICSID's governing Council is chaired by the president of the World Bank. So the proposed TPP tribunals are, in essence, a means for transferring judicial authority over vast areas of domestic law to "arbitrators" picked by the World Bank — and the central bankers and the giant commercial/investment bankers that run the World Bank.

On March 25, the international organization WikiLeaks [released](#) the "Investment Chapter" of the still-classified Trans-Pacific Partnership agreement that the Obama administration has been [secretly negotiating](#) for the past several years. Despite [repeated calls](#) from members of the U.S. Senate and House of Representatives, as well as legal scholars and [law professors](#), for the administration to make good on its pledges of transparency, the TPP negotiations have remained a closed, secret process — except for the representatives of major corporations and Wall Street banks, along with other privileged "stakeholders," who are not only given access to the TPP documents, but even allowed to participate in negotiations.

The WikiLeaks release of the TPP's Chapter 2 on investment should assist patriots who are trying to build opposition to this dangerous agreement that represents a giant step toward regional and global government. It also confirms what *The New American* has reported over the past several years: that TPP was following in the footsteps of NAFTA, the WTO, and other "free trade" arrangements that are rapidly eroding U.S. national sovereignty and independence.

Among the significant articles included in Chapter 2 is "Article II.21: Selection of Arbitrators." This section tells us, among other things: "The Secretary-General [of ICSID] shall serve as appointing authority for an arbitration under this Section." It states further: "if a tribunal has not been constituted within 75 days from the date that a claim is submitted to arbitration under this Section, the Secretary-General, on the request of a disputing party, shall appoint, in his or her discretion, the arbitrators not yet appointed."

As we have noted in previous articles, [Secretary of State John Kerry](#) has been a key operative in overseeing the TPP negotiations. While he was a U.S. senator, Kerry supported and voted for NAFTA. Years later, when NAFTA tribunals began overruling U.S. law and U.S. court decisions, Kerry used the



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innocence-through-ignorance defense, claiming to have been completely blindsided by the Chapter 11 tribunals that were in the agreement he voted for. “When we debated NAFTA,” Kerry told the *New York Times*, “not a single word was uttered in discussing Chapter 11. Why? Because we didn’t know how this provision would play out. No one really knew just how high the stakes would get.” But it is not true that “no one really knew” of the danger from the tribunals; This publication, along with others, warned of this very danger. But Senator Kerry and other NAFTA supporters chose to ignore, or scoff at, those warnings. Moreover, it was *his duty to know* what was in the agreement before voting for it; the claim of ignorance is a self-incriminating excuse.

In its unauthorized release of the purported TPP text on March 25, WikiLeaks provides this description:

This is an advanced January 2015 version of the confidential draft treaty chapter from the Investment groups of the Trans Pacific Partnership (TPP) talks between the United States, Mexico, Canada, Australia, Malaysia, Singapore, Peru, Vietnam, New Zealand and Brunei Darussalam. The treaty is being negotiated in secret by delegations from each of these 12 countries, who together account for 40% of global GDP. The chapter covers agreements on investments from one TPP nation to another, including empowering foreign firms to “sue” other states’ governments, as well as regulations around investor-state dispute settlements and tribunals. This document was prepared by TPP investment chapter negotiators in advance of the informal round of negotiations held in New York City 26th January to 1st February, 2015.

The WikiLeaks release also highlights another audacious feature of the TPP that we have reported previously: Not only are the negotiations being conducted in secrecy, and not only are the TPP text documents being withheld from the public and the public’s elected representatives, but even more outrageous is the effort by the TPP negotiators to keep the agreement (or at least certain portions of the agreement and the negotiating process) secret for *four years after it goes into effect!* At the beginning of the newly released Chapter 2 is this classification notice:

Derived from: Classification Guidance
dated March 4, 2010
Reason: 1.4(b)
Declassify on: Four years from entry into
force of the TPP agreement or,
if no agreement enters into
force, four years from the close
of the negotiations.

* This document must be protected from
unauthorized disclosure, but may be mailed or
transmitted over unclassified e-mail or fax,
discussed over unsecured phone lines, and
stored on unclassified computer systems. It
must be stored in a locked or secured building,
room, or container.

So much for the “transparency” that President Obama, U.S. Trade Representative Michael Froman, Secretary of State John Kerry, and other TPP advocates constantly proclaim is central to the TPP process.



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