

PREVENTING TOBACCO COMPANIES' INTERFERENCE WITH TOBACCO CONTROL THROUGH INVESTOR-STATE DISPUTE SETTLEMENT UNDER THE TPP

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ABSTRACT

As tobacco companies campaign to discourage the adoption of strict tobacco control policy through aggressive international litigation, investor-State arbitration remains a constant threat to better global health. Following years of negotiations, however, the Trans-Pacific Partnership Agreement (“TPP”) has yet to ease such a threat.

The majority of TPP countries are parties to the WHO Framework Convention on Tobacco Control. This paper argues that these countries have strong justification to prioritize public health, especially concerning tobacco control; and further to prevent tobacco companies’ interference with tobacco control through Investor-State Dispute Settlement (“ISDS”). Based on this, this paper proposes that excluding tobacco control measures from the ISDS would provide an effective and simple solution to reduce tobacco litigation and to safeguard tobacco control.

KEYWORDS: *TPP, FCTC, investor-State arbitration*

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