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May 10, 2013

Re: Docket No. USTR-2013-0019: Transatlantic Trade and Investment Partnership (TTIP)

Mr. Douglas Bell, Chairman  
Trade and Policy Staff Committee  
Office of the United States Trade Representative  
600 17th Street NW  
Room 420  
Washington, DC 20508

Dear Chairman Bell,

The American Cancer Society Cancer Action Network (ACS CAN) is pleased to submit comments in response to the United States Trade Representative (USTR) request for public comments on the proposed Transatlantic Trade and Investment Partnership (TTIP) to assist the development of U.S. negotiating positions. ACS CAN is the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society and we support evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem.

Because of the substantial advancement of tobacco's devastating health consequences made possible through trade agreements, we are advocating that the United States negotiate to include in all trade agreements meaningful provisions that explicitly recognize the unique status of tobacco products as anathema to public health and preserve the sovereign rights of governments to regulate and control them. The USTR has developed a tobacco products general exception proposal to table in the Trans-Pacific Partnership (TPP) negotiations, and we recommend that the U.S. advance a tobacco specific general exception in the TTIP negotiations as well.

Tobacco products are unlike any other legal consumer product. They are highly addictive, have no benefit, and are the number one preventable cause of death in the United States and around the world. Tobacco product use kills 443,000 people in the United States and nearly 700,000 people in Europe annually. Globally, tobacco products killed 100 million people in the 20<sup>th</sup> century, and will kill one billion people in the 21<sup>st</sup> century unless governments take urgent action.

That is why Congress in 2009 passed the Family Smoking Prevention and Tobacco Control Act, granting the U.S. Food and Drug Administration the authority to regulate tobacco products and the marketing of those products. There is also unique global consensus on actions governments should take to address the lethality of tobacco which is reflected in the world's first public health treaty, the World Health Organization's Framework Convention on Tobacco Control (FCTC). 176 parties, including the European Union and all of its Member States, have made binding

commitments to enact effective tobacco control measures pursuant to the FCTC. The European Union has in place a Tobacco Products Directive which it adopted in 2001 and in 2012 the European Commission adopted revisions to the Tobacco Products Directive which would make significant regulatory advances dealing with tobacco product labeling and packaging, characterizing flavor prohibition, and adoption of standards on ingredients and additives which would benefit the public health.

Unlike other areas of trade tensions between the United States and the European Union, there is significant consensus on how to address the tobacco crisis, yet trade agreements continue to allow the tobacco industry to thwart the best efforts of sovereign governments and the public health community to stop the spread of tobacco use. The industry is using trade agreements and investment treaties to generate disputes to undermine labeling and packaging requirements and other ways nations have attempted to advance health objectives. This behavior, if it remains unaddressed, will pollute the trade negotiation environment to the detriment of both trade and health. Several U.S. business associations recently injected themselves, to the benefit of the tobacco industry, into the European Parliament and Council deliberations on the revisions of the Tobacco Products Directive by alleging that such tobacco product regulation would lead to disruption of the TTIP negotiations and potentially violate international trade obligations. Whether in the sovereign tobacco regulation context, or in trade agreement negotiations, or in trade disputes, tobacco interests are intent on blocking effective domestic regulation of tobacco products to the detriment of public health.

A tobacco exception, such as that outlined by the USTR for tabling in the TPP negotiations, that protects tobacco control measures from challenges from private tobacco companies and governments would be a major step forward in addressing trade dispute disruptions generated by the tobacco industry. In fact, such a proposal would affirm a critical area of commonality of interest that already exists between the United States and the European Union. The proposal would provide protection as the U.S. Food and Drug Administration implements the Family Smoking Prevention and Tobacco Control Act of 2009, and as the European Union regulates tobacco products through its Tobacco Products Directive. Maintaining the sovereignty of nations as they take steps to protect their citizens from the ravages of tobacco would not undermine the broader trade goals of TTIP.

We look forward to working with the United States Government as its TTIP negotiating positions are developed and appreciate having the opportunity to comment on this critical trade and health issue. If you have any questions or want to request additional information, please contact Gregg Haifley, Associate Director, Federal Relations at [gregg.haifley@cancer.org](mailto:gregg.haifley@cancer.org) or 202-661-5702.

Sincerely,



Christopher W. Hansen  
President