

City Council of Philadelphia
Philadelphia, PA
May 2, 2002

RESOLUTION

Opposing the granting of "Fast Track" trade promotion authority by the United States Congress to the President of the United States, which authority threatens to undermine, if not destroy, the power of municipalities and States to protect their police and regulatory powers against the demands of foreign corporations.

WHEREAS Fast Track "Trade Promotional Authority" (TPA), soon to be voted on in the United States Senate, circumvents democratic procedures by eliminating Congress' right to amend trade agreements submitted to it for approval by the President, thereby also sharply limiting citizen input into Congressional deliberations on trade issues; and

WHEREAS, trade agreements negotiated in recent years have severely constrained the exercise of local government authority to protect the health and welfare of local residents; and

WHEREAS, for example, Chapter 11 of the North American Free Trade Agreement ("NAFTA") has provisions which allow investors to seek monetary compensation from a signatory government through international arbitration if that government, or any of its subdivisions, such as cities or states, "expropriates" the investor's investment; and

WHEREAS, there is no clear definition of "expropriates" in NAFTA; and

WHEREAS, the nature of international arbitration is such that municipalities and the public are not allowed to participate in the process, although they may be deeply affected by the result; and

WHEREAS, due to the lack of transparency of the arbitration process under NAFTA and the lack of a clear definition of "expropriates," claims made pursuant to Chapter 11 of NAFTA may sharply penalize, if not eliminate, the legitimate police power of local governments; and

WHEREAS, negotiations are now in progress to finalize a variety of new trade agreements, including creation of a Free Trade Area of the Americas (FTAA) among 34 nations of the Western Hemisphere, creation of bilateral agreements such as a U.S.-Chile agreement, and expansion of the General Agreement on Trade in Services (GATS); and

WHEREAS, these negotiations, if conducted on a "fast track" basis, may well result in the inclusion in these trade agreements of provisions similar to Chapter 11 of NAFTA, as well as a variety of other infringements on national sovereignty, all of which would serve to insulate multi-national corporations from state and local government regulatory power; and

WHEREAS, for instance, certain "investment provisions" on the negotiating table are intended to increase foreign investor rights by allowing challenges to core functions of state and local government such as zoning, protection of ground water and other natural resources, law enforcement by courts, and sovereign immunity; and

WHEREAS, certain "procurement provisions" are likely to be negotiated which would require that government purchasing decisions be based only on price and performance, without considering state and local purchasing preferences focusing on recycled content, small business, minority and women-owned business, and avoidance of goods made with forced child labor; and

WHEREAS, provisions on "trade in services" are likely to be added which would require that regulation of business services be limited to the "least burdensome" approach, as opposed to the

traditional standard that regulation must merely have a rational basis for protecting the public interest; and

WHEREAS, potential new "market access" rules, already present in the General Agreement on Trade in Services, may forbid many traditional strategies for protecting the public interest, such as exclusive supplier contracts, certificates of need for hospitals and schools, or limits on the corporate form of service providers, such as hospitals, which deliver vital public services; and

WHEREAS, serious concerns about these possible new rules and provisions and Fast Track have been set forth by the National League of Cities, the National Conference of State Legislatures, the National Association of Counties, and the Pennsylvania and national AFL-CIO and other unions including UNITE, United Steelworkers of America, United Food and Commercial Workers, and the Teamsters; and

WHEREAS the Constitution of the United States of America under Article IV Section 4 states that the federal government shall guarantee to every state in the union a republican form of government; and

WHEREAS a foundation principle of republican government is the citizens' right to lobby their elected representatives for the inclusion of amendments, changes to agreements, enactment of domestic laws borne from trade agreements, and for those elected representatives, if they so choose, to include amendments to reflect the needs of their constituents; *therefore,*

Resolved by the Council of the City of Philadelphia that the Council expresses its strong opposition to proposed legislation granting Fast Track "Trade Promotion Authority" to the President for the negotiation of international trade agreements, and urges Philadelphia's Congressional delegation to work in every way possible to defeat it; and

Resolved further, that a true and correct copy of this resolution shall be delivered to George W. Bush, President of the United States, U.S. Trade Representatives, Honorable Robert A. Brady, Congressman, 1st District, Honorable Chaka Fattah, Congressman, 2nd District, Honorable Robert Borsky, Congressman, 3rd District, Honorable Arlen Specter and Honorable Rick Santorum as the sincere sentiments of this legislative body.