

Multistate Tax Commission



Resolution No. 00-8

Resolution Regarding International Trade Agreements and Federal Fast-Track Legislation

WHEREAS, the exchange of goods, services and information for consideration with other nations is an integral part of the United States economy and is essential for national economic growth; and

WHEREAS, the U.S. system of federalism, in which certain powers are delegated to the States, is a fundamental reason for the success of the United States as a free, democratic society; and

WHEREAS, trade with other nations is governed by international trade agreements negotiated principally by the United States Office of the Trade Representative (USTR); and

WHEREAS, such agreements, embodying principles of free trade, must be harmonized with traditional American values and federalism; and

WHEREAS, state and local taxes determined valid under the U.S. Constitution are, by that determination, consistent with free trade within the United States and should, therefore, be considered consistent with international free trade; and

WHEREAS, Congress adopted in the implementing legislation for the Uruguay Round Trade Agreements provisions advocated by the Multistate Tax Commission that provide certain procedural protections for states; and

WHEREAS, since the Uruguay Round Agreements, the Federal Government, including Congress and the United States Office of the Trade Representative, have shown sensitivity to issues of federalism and has further shown a willingness to protect and defend legitimate state interests in negotiating other international trade agreements; and

WHEREAS, international dispute settlement procedures, nonetheless, still provide a basis for challenges under international trade agreements to constitutionally valid state tax policies and practices that unfortunately have the potential to grant special state and local tax treatment to non-U.S. enterprises more favorable than that afforded to U.S. enterprises; and

WHEREAS, previous sessions of Congress have also considered legislation granting the President of the United States authority to negotiate international trade agreements under “fast-track” procedures; and

WHEREAS, future proposed international trade agreements might also pose additional threats to state tax sovereignty; now, therefore, be it

RESOLVED, that the Multistate Tax Commission respectfully urges that Congress, in any future legislation granting “fast-track” authority to the Executive Branch to negotiate trade or other agreements affecting international commerce, instruct U.S. negotiators to ensure compatibility of the rules of the international trading system with the federal structure of government in the United States and other federal systems by:

1. Recognizing the sovereignty of sub-national governments in nations with federal systems, including the United States; and
2. Providing opportunities for sub-national governments to defend, or assist in the defense of, their laws before international trade dispute settlement bodies; and
3. Involving sub-national governments in federal systems in the development of international trade agreement rules which affect them; and be it further

RESOLVED, that the Multistate Tax Commission urges Congress to include in any future implementing legislation for trade agreement provisions protecting state and local governments comparable to provisions in the Uruguay Round implementing legislation, including, but not limited to a provision barring any private rights to action based on international dispute settlement panel rulings; and

RESOLVED, that the Multistate Tax Commission encourages the inclusion in future trade agreements or implementing legislation for such agreements provisions that protect from preemption state and local taxes determined to be consistent with the U.S. Constitution and that ensure that non-U.S. taxpayers will not be granted more favorable state and local tax treatment than U.S. taxpayers; and

RESOLVED, that the Multistate Tax Commission shall continue to monitor the negotiations of international trade agreements and the development of “fast-track” legislation to ensure that state tax sovereignty interests are reasonably protected.

Adopted this 28th day of July 2000 by the Multistate Tax Commission.

Dan R. Bucks, Executive Director