



The Trans-Pacific Partnership Agreement

Understanding the TPPA and what it means for New Zealand

Introduction - What is the TPPA?

The Trans-Pacific Partnership Agreement is promoted as a multi-national trade agreement that aims to redefine the mechanism of trade between 12 Asian and Pacific-rim countries including New Zealand, Australia and the USA. However leaked documents from the highly secretive and exclusive negotiations suggest that the

TPPA is may not be primarily about imports and exports. Critics say its obligations will intrude into core areas of government policy and parliamentary responsibilities. There is concern amongst academics, lawyers, trade experts, unions and the general public that this poses threats to the protection of our environment, public health system and worker and consumer rights. Opponents to TPPA say foreign investors and firms could sue New Zealand in a secret international tribunal if our country's parliament or local councils pass laws or regulations that reduce their profits or adversely affect their businesses.

The TPPA Timeline

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| 2005 | Agreement between Brunei, Chile, Singapore and New Zealand called the Trans-Pacific Strategic Economic Partnership or P4 |
| September 2008 | US announced it would like to join talks on an expanded P4 |
| November 2008 | Australia, Peru and Vietnam joined negotiations |
| November 2009 | Obama said US would continue to participate |
| March 2010 | 1 st round of negotiations in Melbourne |
| | First leaks of draft chapters |
| June 2010 | 2 nd round of negotiations in San Francisco, USA |
| October 2010 | 3 rd round of negotiations in Brunei |
| | Malaysia joins the talks |
| December 2010 | 4 th round of negotiations in Auckland |
| February 2011 | 5 th round of negotiations in Chile Leaked draft text from NZ on IP |
| May 2011 | 6 th round of negotiations in Singapore US proposal on 'transparency' for healthcare technologies was leaked |
| July 2011 | 7 th round of negotiations in Vietnam |
| September 2011 | 8 th round of negotiations in Chicago, USA Sections of the US draft IP chapter leaked |
| November 2011 | 9 th round of negotiations in Peru |
| December 2011 | 10 th round of negotiations in Malaysia |
| March 2012 | 11 th round of negotiations in Melbourne |
| May 2012 | 12 th round of negotiations in Dallas, USA Investment chapter draft text was leaked |
| July 2012 | 13 th round of negotiations in USA |
| August 2012 | More of the intellectual property draft text was leaked |
| September 2012 | 14 th round of negotiations in USA Participation of Canada and Mexico approved |
| November 2012 | Thailand asked to join. Japan prevaricates, (but subsequently joined in April 2013) |
| December 2012 | 15 th round of negotiations in Auckland, NZ |
| March 2013 | 16 th round of negotiations in Singapore |

Behind closed doors

All the negotiations surrounding the TPPA are conducted in secret. In February 2011 the international 'Release the Text' campaign presented negotiators with letters from Australia, Chile, Malaysia, the USA and New Zealand asking that the negotiating documents be released. The answer was 'No' stating that the texts could only be released if all the countries in the TPPA agreed.

Why is New Zealand interested in these deals?

The basic argument in favour of New Zealand joining the TPPA is based around enhancing economic growth through expanding international markets and trade opportunities. More specifically its proponents put forward that effective global governance systems or internationally legally binding agreements are a necessary condition for countries to move ahead. And while acknowledging this does pose limits to state sovereignty; these are only accepted in return for reciprocal limitations on the sovereign power of other states involved in the agreement. President Obama sells it as the key to jobs and economic recovery, while protecting home markets.

Rationale 1: The idea that a free trade agreement with the US would open closed doors for Fonterra into the US dairy market.

Rationale 2: The TPPA is important in order to lay the foundations for a Free Trade Area of Asia Pacific that binds all countries of the region to common principals or rules.

So what's troubling about the TPPA?

Critics say the core concerns surrounding the TPPA involve a range of issues – commerce, intellectual property, state-owned enterprise and dispute settlement – which make it much more than a trade agreement.

The TPPA and access to medicines

A leaked negotiating text shows that the US drug company, Big Pharma, would gain leverage over New Zealand's own Pharmaceutical Management Agency (PHARMAC).

Although PHARMAC itself would not be dismantled, under leaked text PHARMAC would:

- Not be able to negotiate a bulk discount for medicines
- Have to give detailed reasons to the drug companies about every purchasing decision
- Give pharmaceutical companies the right to appeal PHARMAC's decisions
- Publish the identities of all decision-makers around the purchasing of medicines.

Opponents say if this text is adopted then government would face significant increases in the health budget, reduced availability of subsidised drugs, or increased prices paid by ordinary New Zealanders.

Investor-State Dispute Settlement (ISDS)

ISDS is a provision in international trade treaties and international investment agreements that grants foreign investors in New Zealand the right to sue the government for making decisions that impact on their investments. These hearings take place in offshore tribunals, bypassing New Zealand's courts and legislation. Australia opposes the ISDS provisions.

The TPPA and Public Health: Tobacco and Alcohol

ISDS could have significant implications for our public health systems as it would influence what laws NZ could pass. Anti-smoking and alcohol purchasing measures taken by our government could be challenged by associated companies, which could in turn result in New Zealand paying millions of dollars in law suits.

The TPPA and environmental protection in New Zealand

Exposing New Zealand to ISDS would also have a significant impact on enforcing environmental protection policies. Over US\$700 million¹ has been paid out by governments to overseas investors in ISDS disputes brought under these circumstances, and 70% of those cases have been challenges to natural resource and environmental policies. By agreeing to ISDS our government may risk paying out huge sums of money to foreign investors for taking steps designed to protect the environment, making them less willing to adopt new environmental protection policies. Critics say this could have catastrophic impacts on our environment, especially in the light of climate change and other global environmental issues.

The TPPA, genetic modification (GM), and food safety

The TPPA could put New Zealand's strong anti-GM stance at risk. Through this agreement the USA is looking at lowering GM labelling rules and promoting the use of GM crops. Those opposing TPPA say this would open our supermarket shelves and our agricultural sector to GM organisms. They also stress NZ's policy surrounding food safety is at risk. The TPPA may change how much

¹ http://www.itsourfuture.org.nz/th_gallery/investor-state-dispute-settlement-isds/

pesticide residue can be present in our food, how food products are preserved and transported, and how rigorous testing is to make sure imported products meet our standards. The critics believe we could ultimately lose the right to decide for ourselves how we protect our people and our unique environment.

The TPPA and capital controls

Leaked TPPA negotiating text indicates that many legal mechanisms that protect New Zealand's capital flows could be compromised. The government would have to permit the free flow of capital related to international investments (including those relating to our currency), government bonds and other 'financial assets'. This effectively forbids the use of regulations to control or restrict the movement of capital, such as financial transaction taxes or minimum stay requirements that deter quick turnaround investments. Opponents say this means New Zealand loses an important mechanism to prevent destabilising impacts.

How does this impact international development?

Critics of TPPA say while the impact of the agreement on New Zealand is going to be problematic, impacts on less developed countries would be worse. The TPPA promotes a 'one size fits all' regime, meaning that countries like Vietnam would be subject to the same conditions as economic power houses like the USA. This would make developing countries vulnerable to resource exploitation, loss of economic control regarding capital flows and tariff tax, and an overpriced health system. Opponents say this would lead to increased poverty and slow economic growth.

Learn more...

Negotiators hope to reach final decisions by the end of 2013. These secret negotiations are being met with strong resistance from lawyers, economists and politicians, as well as the general public, not only within New Zealand, but also in other participating countries particularly the USA. Appropriate people to write to are the Prime Minister John Key and Trade Minister Tim Groser. Visit the 'It's Our Future' website for information. You can also sign an online petition on the Avaaz website and view the latest leaked documents via the links provided below.

Recommended resources

- **It's Our Future** www.itsourfuture.org.nz/
- **AVAAZ** <https://en.avaaz.org/760/tpp-secret-talks-free-trade-agreement>
- **Leaked Documents:** www.citizen.org/documents/Leaked-TPP-Investment-Analysis.pdf
- www.citizenstrade.org/ctc/wp-content/uploads/2012/06/tppinvestment.pdf
- **"Hidden Agendas" E-book by Jane Kelsey. Details from** www.bwb.co.nz