

Seniors Climate Action Network (Dunedin)

Submission on the TPPA

SCAN Aims

1. **Raising awareness** of climate change, among senior citizens, and working towards a low-carbon future.
2. **Encouraging** young people, to value resilience and to experience a low-carbon lifestyle, through spending time with them and organizing events.
3. **Taking action** (submissions, petitions), to put the planet and future generations ahead of profit.
4. **Changing lifestyles** to new patterns of living, to lower our own carbon footprint at household, community and national levels.
5. **Celebrating** and publicizing positive change that is already happening in the world.

Introduction

We are a group of senior citizens concerned about climate change and its effects on future generations and on the environment. We undertake to do everything we can to ensure the next generation does not inherit problems from the present generation's failure to move to a low carbon economy. We see the TPPA as locking New Zealand into a regime of increasing carbon emissions which will be disastrous.

Climate Change

- World leaders are agreed that the biggest crisis facing the planet at this time is climate change. The United Nations Framework Convention on Climate Change (UNFCCC) came into force in 1994 and has been ratified by 195 countries. At the Paris Summit in December last year all countries agreed to reduce greenhouse gas emissions to limit the rise in global temperatures by no more than 1.5 C.
- **Yet** the US negotiators have ensured that the words "climate change" do not appear in the TPPA, even though they were there in earlier drafts. The relationship between trade and climate change and the need for coherence in the policies, has also disappeared from the final wording. Measures taken by future

New Zealand governments to reduce carbon emissions in line with the UNFCCC could contravene the TPPA conventions and we could be subject to trade sanctions, penalties, and even legal action. Trade agreements apparently take priority over the UNFCCC.

- The New Zealand government has made a commitment to reduce carbon emissions by 11% of 1990 levels. As our emissions have almost doubled in the last 25 years strong measures to reduce emissions will be necessary. Fossil fuel exploration and mining and burning of coal are two activities which will have to be phased out if New Zealand is to meet its commitments. Agriculture must be brought under the ETS or similar scheme to reduce carbon emissions.
- Any legislation brought in by the New Zealand government to curb carbon emissions is likely to affect the profits of carbon polluting industries. Large companies from TPP member states are permitted, under the TPP rules, to make submissions to the government and under the ISDS are able to sue the NZ government for compensation. This undermines the accountability of the government to New Zealand citizens and makes a mockery of democracy.
- Moves to shift New Zealand away from fossil fuels, such as altering electricity regulation, could bring significant challenges under ISDS. These risks are highlighted by an ISDS case for 1.4 billion Euro, brought by Swiss power company Vattenfall against Germany. In that case, a coal electricity plant owned by Vattenfall was made to comply with environmental regulations around climate change and water quality. The parties settled out of court on unknown terms.
- Corporations have also used investor-state cases as pressure tactics to avoid having to pay for environmental damages. After an 18-year struggle to get Chevron to clean up billions of gallons of toxics it released into Amazonian streams and rivers used by local inhabitants for drinking water and into open pools in the jungle, an Ecuadorean court ordered the corporation to pay \$18 billion for cleanup. Chevron turned to an "investor-state" tribunal under the U.S.-Ecuador Bilateral Investment Treaty as a last chance to evade justice. In February 2012, that tribunal ordered Ecuador's government to interfere with the country's independent court system to halt enforcement of the ruling. Though an

Ecuadorean court rejected the tribunal's order, the tribunal may still prevent the cleanup from starting if its ruling is recognized by other countries whose cooperation is needed to collect the \$18 billion from Chevron.

- A another recent example of an ISDS challenge is TransCanada filing a notice of intention to claim \$15 Billion in damages from the US government over the cancelling of the Keystone pipeline. If the claim succeeds or settlement is costly this will send a chill over future such policy actions in all TPPA treaty signatories.
- The government has recently introduced a new management system for New Zealand's EEZ which, in the words of the Sustainability Council of New Zealand, has "the spine of a jellyfish", and according to Greenpeace, is "declaring an open season for deep water drilling along our coastlines". If the TPPA is in place, changing this law (as Labour is suggesting it will) would risk major claims from the overseas corporations lining up to drill in our waters. It will be a legal defense under the TPPA to show New Zealand attracted the companies to its shores. New laws limiting fracking could face similar challenges.
- Much is happening around the world to move to a low carbon future with technological innovations often led by small companies. The TPPA is designed to ensure the ongoing hegemony of transnational corporations who seek to maintain their power through existing patents at the expense of low carbon innovations. New Zealand has a history of innovative solutions and could be in the forefront of sustainable technologies but the TPPA locks us into the old technologies.
- The TPPA, if ratified, will have major implications for environmental policy and law with the very real danger of New Zealand and other states being sued when large corporates see their interests being threatened. Such legal challenges have a consequent chilling effect on effective climate change measures.
- SCAN calls on the New Zealand government to not ratify the TPP agreement in the interests of democracy and the health of the planet.