

Fact Sheet #7: Environment & Climate Change

In its more than 6,000 pages of binding rules, the TPPA fails to even mention the words “climate change” - a clear sign it is not “a 21st-century trade agreement,” as some have claimed. In this factsheet we look at the impact the TPPA will have on our environment and global climate change.

WHAT WE GET:

- ⇒ Parties are required to implement provisions in the Convention on International Trade in Endangered Species to protect and conserve iconic species, such as rhinos and elephants. BUT this UN treaty does not provide a legally enforceable prohibition on trade in illegally sourced timber, wildlife, and marine resources and the TPPA does not fix this.
- ⇒ Two forms of fishing subsidy that contribute to overcapacity and overfishing are eliminated under the TPPA, but no similar progress has been made on the overarching issue of illegal, unreported and unregulated fishing.



THE TPP POSES A PANOPLY OF THREATS TO OUR CLIMATE AND ENVIRONMENT. THE WEAK CONSERVATION PROVISIONS OF THE TPP ENVIRONMENT CHAPTER DO NOT CHANGE THE FACT THAT, UNDER THE TPP, GOVERNMENTS WOULD LOSE AUTONOMY TO ENACT POLICIES TO ADDRESS THE CLIMATE CRISIS, WHILE CORPORATIONS WOULD GAIN NEW POWERS TO CHALLENGE CLIMATE AND ENVIRONMENTAL POLICIES.

- Sierra Club Report: How the Trans-Pacific Partnership Agreement threatens our climate

WHAT WE GIVE UP:

- ⇒ The Investor State Dispute Settlement (ISDS) rules could be used to sue the government if increased emissions charges were levied under the Emissions Trading Scheme - or if the mining of fossil fuels was restricted in some way. As a result the ISDS provisions will likely have a ‘chilling effect’ on a government’s willingness to undertake progressive environmental reform, favouring the retention of low standards when these need to rise drastically now.
- ⇒ The TPPA provides assistance to GMO exporting countries by making it harder for other countries to independently regulate GM foods. A combination of information requirements, the TPPA’s dispute procedures, and new working groups, together amount to a significant new level of pressure on TPPA governments to accept GM foods under ‘mutual recognition’ standards – those of the exporter.
- ⇒ Procurement rules restrict government autonomy to mandate “green purchasing,” such as requiring energy to come from renewable sources in government contracts. Such policies could be challenged for having the unintended “effect of creating an unnecessary obstacle to trade.”

TPPA FACTS

OUR ENVIRONMENT IS A CASUALTY UNDER THE TPPA

The TPPA is focused more on the private interests of foreign investors than on pillars of public interest (such as ecological sustainability). The overall result for environmental governance is window dressing on the upside, and serious threats on the downside.

In marked contrast to TPPA chapters that involve core commercial areas such as intellectual property, the environment chapter sets almost no new standards, with each partner country essentially left to set its own.

The basic criteria for TPPA governments is that they make their own laws, which can only be challenged under this agreement if they are laws which in any way affect trade, so it's not in any way the same degree of stringency or breadth of applicability when it comes to environmental protections.

AND WE HAVE NO WAY TO MEANINGFULLY ENFORCE THE MEAGRE ENVIRONMENTAL PROTECTIONS THAT ARE IN THERE

As demonstrated by past free-trade agreements (FTA's), enforcement provisions do not always lead to enforcement, so the agreements must include effective enforcement mechanisms to ensure protection. This is what ISDS does for investors.

Unfortunately, the TPPA lacks such mechanisms for environmental protections, instead using a state-state dispute settlement provision for enforcement. This has been proven time and time again to be an ineffective means of enforcement. After six years of the Peru FTA, for example, illegal logging remains rampant in Peru despite the FTA's eight pages of detailed provisions – stronger and more specific than the TPPA's forestry provisions – that required Peru to reduce illegal logging.

Indeed, the state-state dispute settlement mechanism for environmental provisions in all U.S. trade agreements since 2007 has failed to produce a single formal case against documented environmental violations.

ISDS AND THE THREAT IT POSES TO CLIMATE SOLUTIONS

The TPPA investment chapter gives foreign investors, including some of the world's largest fossil fuel corporations, expansive new rights to challenge climate protections in unaccountable trade tribunals.

This includes the power for investors to demand compensation for climate policies that do not conform to their "expectations" or that they claim reduce the value of their investment.

- These challenges would be brought before trade tribunals, comprised of three private lawyers who could order governments to pay fossil fuel firms for the profits they hypothetically would have earned if the climate protections being challenged had not been enacted.
- Fossil fuel corporations, including ExxonMobil and Chevron, have used similar rules in past agreements to challenge policies. Targeted policies have included a natural gas fracking moratorium in Canada, a court order to pay for oil pollution in Ecuador, and environmental standards for a coal-fired power plant in Germany.

- Sierra Club Report on TPP and Climate Change