

Submission on CPTPP Amendment Bill

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SUMMARY

We oppose ratification of the TPP-11 in its present form, because its remaining investor-state dispute settlement (ISDS) provisions endanger our efforts to deal with climate change.

OVERVIEW

Engineers for Social Responsibility is a New Zealand civil society organisation whose members are largely professional engineers. Over the last five years we have published a number of educational peer-reviewed papers on various aspects of climate change. These may be accessed on our website www.esr.org.nz.

The TPP in its current form is strongly aligned to protecting relatively short-term corporate business interests rather than addressing more important and wider environmental and other issues. In particular, there is no reference to climate change, even though this is the most urgent and critical issue currently facing us. However, the TPP provisions directly affect our ability to take necessary climate protection measures.

Like other recent trade agreements, the TPP has provision for investor-state dispute settlement (ISDS). This process allows foreign investors to challenge laws or policies of governments that place additional costs on them, or that may affect their future profits, via an independent tribunal rather than through domestic legal systems.

Cases of this type are currently being lodged globally at a rate of around one a week. The majority relate to issues concerning mineral and fossil fuel recovery and other environmental matters. Many of these cases relate directly or indirectly to climate change.

The separate submission from Professor Jane Kelsey makes clear that the TPP-11 provides little protection from ISDS actions, with the possible exception of the side letter with Peru. Should the US rejoin in the future then it would be relatively easy to reactivate ISDS. There is a clear conflict between the Government's stated intention to negotiate new trade treaties without ISDS, and its acceptance of TPP-11.

The COP21 international agreement, reached in Paris in late 2015, set a goal of:

Holding the increase in the global average temperature to well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5 °C above pre-industrial levels.

Achieving this will require rapid reductions in greenhouse gas emissions, with a goal of reaching zero net anthropogenic emissions during the second half of the 21st century. This means that around 80% of currently known fossil fuel reserves will need to remain unused in the ground.

In order to play its part in this process, and to meet its own commitment under COP 21 (to reduce New Zealand's greenhouse gas emissions to 30 percent below 2005 levels by 2030), the New Zealand government may well have to take steps such as:

- * Limiting or completely stopping the recovery of coal, oil, or other fossil fuels from New Zealand deposits and sources.

Under the TPP as currently drafted such actions could result in crippling financial problems for our country when the activities are carried out by foreign companies or the fossil fuel deposits are under foreign ownership and the investor-state dispute provisions apply.

The most urgent priority right now, and in the coming period, is to reach agreement on how countries can work together to hold climate change down to limits which may provide some protection for the continued way of life of humans and other living species.

This includes nations working together on climate-related issues, including:

- * Phasing out the use of fossil fuels as rapidly as possible.
- * Controlling other environmental issues that are affecting climate change.
- * Reducing the costs and environmental damage caused through trade by allowing nations to become more reliant on their own resources.
- * Creating a workable international system of carbon charges that allows imports and exports to take place without causing unfair competition.

The above are not going to be achievable under the TPP in its current form, and so we oppose ratification under this Amendment Bill.