

7. Smokefree 2025

The Smokefree 2025 policy, based on the Maori Affairs Committee inquiry into the tobacco industry in 2011, is a multi-pronged strategy to protect public health and meet New Zealand's obligations under the Framework Convention on Tobacco Control (FCTC). All countries involved in the TPPA, except the US, are parties to the FCTC.

Tobacco companies have already been in battle with governments and public health groups [using trade and investment agreements](#). These have become an important part of the tobacco lobby's toolkit as they try to scare governments away from policies that would set international precedents.

The Australian plain packaging law, introduced in 2012, has come to symbolise this battle. The tobacco industry has assisted countries to lodge challenges at the WTO and brought its own dispute under a bilateral investment treaty. The National government has deferred NZ's plain packaging law pending the outcome of these cases, demonstrating their chilling effect.

[The TPPA would expand the grounds](#) for such challenges, **creating a powerful new basis for threatening governments, alongside the WTO and other agreements**. The tobacco lobby, [and the US negotiators](#), have proposed that:

- **Rules on technical barriers to trade**, which cover labelling and technical standards, have more teeth. Tobacco companies can tie governments up interminably with complaints that policies are not evidence-based and impact unnecessarily on commercial interests.
- **Intellectual property** rules directly protect the use of their trademarks (preventing plain packaging) and close any loopholes in the WTO agreement.
- The **investment rules** guarantee strong protections against changes in policy and law that seriously affect their profits or value of their investment (eg trade marks on packets) and can be enforced directly through international arbitration. Philip Morris is already claiming more than \$1 billion against Australia. That is part of why Australia has rejected investor rights to sue in the TPPA. British American Tobacco and Imperial Tobacco have threatened to use existing agreements against NZ. The TPPA would make that much easier.
- **Regulatory coherence** and **transparency** chapters allow the tobacco companies to demand input into decisions on tobacco control policies, which the FCTC seeks to quarantine them from, and opportunities to contest the evidence. The Australian cases show the tobacco companies use these processes to harass policy makers and to compile dossiers to use in the legal challenges.

[Malaysia](#) has proposed a total carve out for tobacco from the TPPA. In response to PQs from Labour's Annette King, Tim Groser would not say if NZ supports Malaysia.

[The US](#) opposes any public health exception for the investment chapter. It has proposed its own meaningless exception that reflects a compromise between its tobacco companies and the public health lobby.

The tobacco industry uses free trade and investment agreements to pressure governments and sue them if they do not back down. The TPPA would provide powerful new tools to attack New Zealand's Smokefree policies.