

Why Labour's 5 'Non-Negotiable Bottom Lines' for the TPPA-11 aren't **IT'S OUR FUTURE**

Claim 1: Meaningful market access gains for exporters

Those market access gains were disappointing in the original deal, and don't reflect the overall economic impact of the TPPA. MFAT predicted gains of 0.9% of GDP by 2030, less than exchange rate fluctuations, if you believed the modelling. Labour didn't, saying it 'is not sufficient for us to be confident benefits proposed in the National Interest Analysis will eventuate. ... Questions about whether the deal might secure just an additional nine jobs for the industry went without compelling answer from Government officials. ... Labour joins calls made by submitters calling for further modelling of the TPPA's impacts on employment and wage distribution. We also join submitters calling for a related public health analysis of the TPPA impact.' Since the US has exited the deal the market access gains are even less - tariff reductions in the supply chain of \$222m per year by 2034, of which overseas processors, importers and retailers will grab a significant share. But the government has ignored its own and others' calls for a robust economic assessment of the net impacts, including for employment and distribution, before any deal is signed.

Claim 2: Preserving the right to regulate

The whole purpose of these agreements is to restrict the right of sovereign governments to regulate in the national interest as they see fit, on matters as diverse as banking, foreign investment, government procurement and platform operators like Uber and Amazon. The government relies on a side letter with Australia that promises not to apply investor-state dispute settlement (ISDS) between the two countries. But that was in the original TPPA, and in previous agreements. The Minister says some other countries will sign similar letters, but won't say who or release them until the TPPA-11 is signed. Foreign investors from the remaining TPPA-11 countries can still claim their rights have been breached and bring an investment dispute if, for example, the NZ government revokes licenses to bottle free water for export or imposes user charges, tightens licensing conditions for ISPs, or significantly strengthens environmental regulation on mining. A TPPA-11 with ISDS makes the government's commitment to reject it in all new trade deals futile.

Claim 3: Allow restrictions on foreign purchases of residential property

Nothing has changed in the agreement on that. So Labour is rushing through an Overseas Investment Act amendment to allow it to ban foreign purchases of residential property, before the TPPA comes into force. Another law will redefine cutting rights to forestry as 'sensitive land' before the deadline. Once in force, a NZ government won't be able to tighten restrictions on foreign ownership of other resources, such as water rights, fishing quotas or tradeable carbon credits.

Claim 4: Protecting the Treaty of Waitangi

The Waitangi Tribunal in the TPPA claim advised the Crown to consult the claimants and other Maori on a stronger protection. It hasn't and claims the Treaty exception does the job. The rushed consultations with Maori to redefine forestry cutting rights in the Overseas Investment Act suggest otherwise. The TPPA-11 still requires NZ to adopt the UPOV 1991 convention on plant varieties, which Cabinet and the Wai-262 claim on indigenous knowledge previously saw as non-compliant with the Treaty. It must adopt UPOV91 or pass an equivalent domestic law that is consistent with the Treaty within 3 years of TPPA's entry into force. But MBIE predicts the consultations on reviewing the Act will take 5 years!

Claim 5: Protecting the Pharmac model

It turns out this meant that Pharmac continues to operate. The weapons the TPPA gave to Big Pharma to interfere in its processes and to get stronger monopoly rights on expensive new medicines have been mostly suspended, but not removed, and they are still vulnerable to ISDS. The US will insist on even stronger rights if it re-engages with the TPPA.