

The State of Play with TPPA-11

IT'S OUR FUTURE

The original Trans-Pacific Partnership Agreement was signed by the 12 negotiating parties in Auckland on 4 February 2016, in the face of a massive protest led by tangata whenua.

Japan and NZ completed their domestic processes to ratify (adopt) the original agreement during 2016.

In January 2017 US President Trump withdrew the US's participation from the TPPA, after President Obama had been unable to get it through the US Congress.

The 11 remaining countries met 7 times in 2017 to rescue the TPPA minus the US.

Each country tabled a list of provisions in the TPPA that it wanted removed or suspended, but they remain secret.

Apparently, NZ under the National government did not table a list of requests.

The newly elected Labour-NZ First government, supported by Greens, only had input into these negotiations at the very end.

Labour asked other TPPA countries to suspend the right of foreign investors to sue the NZ government in offshore tribunals over new laws and policies (investor-state dispute settlement/ISDS), but it failed.

Australia and NZ already had a side letter saying they would not use ISDS against each other. Some other countries have agreed to do the same, but we won't know which ones until after TPPA-11 is signed.

It appears that Labour did not seek to make other changes or even suspend other provisions, including those of concern to Maori, but again this is secret.

In December 2017 in Vietnam, the 11 remaining TPPA participants agreed to suspend 20 items from the original text, pending the US's re-entry; 4 matters remained to be finalised.

In January 2018 in Tokyo they announced a new deal, one year to the day from Trump's withdrawal.

Canada insisted that it needed changes to protect its culture sector. Reports say it also achieved changes on automobiles, although that was not on the list. These were done through side letters, which remain secret.

The TPPA has been rebranded the Comprehensive and Progressive Agreement on Trans-Pacific Partnership (CPTPP or TPPA-11) even though the substance is the same as the old TPPA.

The TPPA-11 will contain the entire old agreement. Some 22 of the 1000+ original provisions have been suspended, pending US re-entry, but they have not been removed.

They intend to sign the TPPA-11 agreement in Chile on 8 March 2018.

The text of what they agreed remains secret and will not be released until after it has been signed. They say it requires legal checking and translation; but the original TPPA was released without either before signing.

In January 2018 President Trump said he would consider re-entering the TPPA, but the terms would have to be more favourable to the US than the original agreement.

The other countries would have to agree to the US re-joining, and Labour says they could refuse to restore some of the suspended items because the US doesn't have as strong a bargaining position. That's unrealistic.

The US domestic political processes mean any US re-entry will inevitably require more benefits to the US, not less.

The TPPA-11 will reportedly come into force after 6 of the 11 parties have ratified it by completing their domestic processes. Again, the actual text of this provision has not been released.

The new version will be tabled in Parliament, referred to the Foreign Affairs, Defence and Trade Committee which will hear submissions, and report. National has 4 of the 8 seats on the committee, including the chair and deputy chair. Labour have 3 seats and the Greens 1. NZ First does not sit on the committee.

New legislation will then be introduced to Parliament to implement it. National has said it will join Labour and NZ First to pass the law.

The implementing law will likely come into force when the TPPA-11 does. The suspended items would come into force at some later date.

...UNLESS WE STOP THEM...