

## TPP Text Analysis: The TPP Would Increase Risks to Our Air, Water, and Climate

Based on our initial analysis of the Trans-Pacific Partnership (TPP) text, the Sierra Club confirms that the TPP would not only fail to protect our environment, but would threaten our air, water, and climate.

### The Environment Chapter

- **Multilateral Environmental Agreements (MEAs) Rollback:** The TPP actually takes a step back from the environmental protections of all U.S. free trade agreements (FTAs) since 2007 with respect to MEAs. Past deals have required each of our FTA partners to “adopt, maintain, and implement laws, regulations, and all other measures to fulfill its obligations under” *seven* core MEAs. The TPP, however, only requires countries in the pact to “adopt, maintain, and implement” domestic policies to fulfill *one of the seven* core MEAs – the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). This regression violates:
  - The bipartisan “May 2007” agreement between then-President George W. Bush and congressional Democrats;
  - The minimum degree of environmental protection required under the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, also known as “fast track;” and
  - The minimum obligation needed to deter countries from violating their critical commitments in environmental treaties in order to boost trade or investment.
- **Weak Conservation Rules:** While the range of conservation issues mentioned in the TPP may be wide, the obligations – what countries are actually required to do – are generally very shallow. Vague obligations combined with weak enforcement, as described below, may allow countries to continue with business-as-usual practices that threaten our environment.
  - Illegal Trade in Flora and Fauna: Rather than *prohibiting* trade in illegally taken timber and wildlife – major issues in TPP countries like Peru and Vietnam – the TPP only asks countries “to combat” such trade. To comply, the text requires only weak measures, such as “exchanging information and experiences,” while stronger measures like sanctions are merely listed as options.
  - Illegal, Unreported, and Unregulated (IUU) Fishing: Rather than *obligating* countries to abide by trade-related provisions of regional fisheries management organizations (RFMOs) that could help prevent illegally caught fish from entering international trade, the TPP merely calls on countries to “endeavor not to undermine” RFMO trade documentation – a non-binding provision that could allow the TPP to facilitate increased trade in IUU fish.
  - Shark Finning and Commercial Whaling: Rather than *banning* commercial whaling and shark fin trade – major issues in TPP countries like Japan and Singapore – the TPP includes a toothless aspiration to “promote the long-term conservation of sharks...and marine mammals” via a non-binding list of suggested measures that countries “should” take.
- **Climate Change Omission:** Despite the fact that trade can significantly increase climate-disrupting emissions by spurring increased shipping, consumption, and fossil fuel exports, the TPP text fails to even *mention* the words “climate change” or the United Nations Framework Convention on Climate Change – the international climate treaty that all TPP countries are party to.

### Lack of Enforcement

Even if the TPP's conservation terms included more specific obligations and fewer vague exhortations, there is little evidence to suggest that they would be enforced, given the historical lack of enforcement of environmental obligations in U.S. trade pacts. The United States has never once brought a trade case against another country for failing to live up to its environmental commitments in trade agreements – even amid documented evidence of countries violating those commitments.

For example, the U.S.-Peru FTA, passed in 2007, included a Forestry Annex that not only required Peru “to combat trade associated with illegal logging,” but included eight pages of specific reforms that Peru had to take to fulfill this requirement. The obligations were far more detailed than any found in the TPP environment chapter, and were subject to the same enforcement mechanism. But after more than six years of the U.S. – Peru trade deal, widespread illegal logging remains unchecked in Peru's Amazon rain forest. In a 2014 investigation, Peru's own government found that 78 percent of wood slated for export was harvested illegally.

For years, U.S. environmental groups have asked the U.S. government to use the FTA to counter Peru's extensive illegal logging. Yet to date, Peru has faced no formal challenges, much less penalties, for violating its trade pact obligations. It is hard to imagine that the TPP's weaker provisions would be more successful in combatting conservation challenges.

### **New Rights for Fossil Fuel Corporations to Challenge Climate Protections**

- The TPP would undermine efforts to combat the climate crisis, empowering foreign fossil fuel corporations to challenge our environmental and climate safeguards in unaccountable trade tribunals via the controversial investor-state dispute settlement system.
- The TPP's extraordinary rights for foreign corporations virtually replicate those in past pacts that have enabled more than 600 foreign investor challenges to the policies of more than 100 governments, including a moratorium on fracking in Quebec, a nuclear energy phase-out in Germany, and an environmental panel's decision to reject a mining project in Nova Scotia.
- In one fell swoop, the TPP would roughly double the number of firms that could use this system to challenge U.S. policies. Foreign investor privileges would be newly extended to more than 9,000 firms in the United States. That includes, for example, the U.S. subsidiaries of BHP Billiton, one of the world's largest mining companies, whose U.S. investments range from coal mines in New Mexico to offshore oil drilling in the Gulf of Mexico to fracking operations in Texas.

### **Locking in Natural Gas Exports and Fracking**

The TPP's provisions regarding natural gas would require the U.S. Department of Energy (DOE) to automatically approve *all* exports of liquefied natural gas (LNG) to *all* TPP countries – including Japan, the world's largest LNG importer. This would:

- Facilitate Increased Fracking: Increased natural gas production would mean more fracking, which causes air and water pollution, health risks, and earthquakes, according to a litany of studies.
- Exacerbate Climate Change: LNG is a carbon-intensive fuel with significantly higher life-cycle greenhouse gas emissions than natural gas. LNG dependency spells more climate disruption.
- Increased Dependence on Fossil Fuel Infrastructure: LNG export requires a large new fossil fuel infrastructure, including a network of natural gas wells, terminals, liquefaction plants, pipelines, and compressors that help lock in climate-disrupting fossil fuel production.