



Several UN Sustainable Development Goals are irreconcilable with Obama's Trans Pacific Partnership trade deal¹

From September 30 to October 2nd, 2015 Trade Ministers from 12 countries negotiating the Trans Pacific Partnership (TPP) met in Atlanta to finalise a gigantic trade deal, which threatens global sustainable development.

This came just days after President Barack Obama spoke at the United Nations, committing the United States to implement the UN Sustainable Development Goals, a new plan to address the global challenges of climate change, environmental degradation, poor health, and poverty.ⁱ Obama said the UN goals are "not charity but instead is one of the smartest investments we can make in our own future."ⁱⁱ

Yet while President Obama made these promises in New York, members of his White House staff in the office of the U.S. Trade Representative were preparing to finalize a TPP trade agreement that will make it difficult or even impossible to achieve some of the UN Sustainable Development Goals.*

The UN Sustainable Development Goals consist of 17 goals and 169 specific targets within these categories.ⁱⁱⁱ Below is an overview of a few of the UN goals and targets that appear irreconcilable with President Obama's negotiating agenda on the TPP trade deal.

Sustainable Development Goal 13

Take urgent action to combat climate change and its impacts.^{iv}

The Investor State Dispute Settlement (ISDS) mechanism included in the TPP investment chapter grants foreign investors access to a secret tribunal if they believe actions taken by a government will affect their future profits.^v This provision is a ticking time-bomb for climate policy, because many government policies needed to address global warming are subject to suits brought before international investment tribunals.

For example, in 2009 Vattenfall, the Swedish energy giant, launched a USD1.9 billion ISDS case against Germany for its decision to delay a coal fired power station and impose stricter environmental standards. To avoid the potentially massive fine looming under ISDS, the government reached a settlement that involved removing additional environmental requirements, enabling the coal plant to begin operating in 2014.^{vi} With the highest carbon content among fossil fuels, coal is a profound threat to the climate.

¹ Contact: Bill Waren, Senior Trade Analyst, Friends of the Earth, U.S., wwaren@foe.org, 202.222.0746

Other TPP chapters like the one covering trade in goods can be the basis for state-to-state suits challenging climate policies. Big fossil fuel companies strongly support the TPP because it would encourage a massive expansion of trade in oil, coal and liquefied natural gas across the Pacific.^{vii} Specifically, the TPP would provide them with legal weapons to counter campaigns launched by climate activists to impose regulations and controls on U.S. fossil fuel exports to the region. The TPP would reinforce industry claim that controls on energy exports are illegal under international trade and investment law.

TPP provisions on market access and trade in goods, if modelled on the WTO General Agreement on Tariffs and Trade, might unnecessarily chill future legislative action on fossil fuel exports, if the claims of some industry lobbyists are accepted. Some apologists for fossil fuels argue that WTO (GATT) article XI:1 on “General Elimination of Quantitative Restrictions” prohibits restrictions on the export of products^{viii} including fossil fuels, to another WTO member, other than duties, taxes or other charges^{ix}.

Also, the TPP would with no doubt accelerate the already alarming surge in the number of international trade disputes related to renewable energy and climate policies^x, such as the WTO Appellate Body ruling in the Ontario “feed-in tariff” case.^{xi} In that case Ontario’s comprehensive program to promote renewable energy was successfully challenged under the WTO agreement related to allegedly discriminatory government purchasing policies.

Sustainable Development Target 12.4

By 2020, achieve the environmentally sound management of chemicals and all wastes throughout their life cycle, in accordance with agreed international frameworks, and significantly reduce their release to air, water and soil in order to minimize their adverse impacts on human health and the environment.

Sustainable Development Target 3.9

By 2030, substantially reduce the number of deaths and illnesses from hazardous chemicals and air, water and soil pollution and contamination.

How can President Obama reconcile his commitment to meet sustainable development target 12.4 on environmentally sound management of chemicals with the TPP chapter on Technical Barriers to Trade (TBT) which promises to thwart higher standards of chemicals regulation? A growing body of scientific evidence is demonstrating that many [chronic illnesses on the rise in the industrialized world are linked to exposure to toxic chemicals](#), including many cancers, learning disabilities, asthma, Alzheimer’s and Parkinson’s disease, and fertility problems.^{xii} The [effects on wildlife](#) can be similarly profound. For example, synthetic chemicals are causing infertility in animals, from alligators, to polar bears, to some species of fish.^{xiii}

Global corporations seek to use this TPP chapter to undercut chemical safety standards. The goal of TPP negotiators is to include “TBT-plus” provisions in the TPP that are more restrictive than tough World Trade Organization standards.^{xiv} This call for “TBT-plus” is astounding given that several TBT challenges in the WTO paired with allegations of discrimination under the GATT agreement on Trade in Goods have succeeded in undermining important environmental and public health measures.^{xv} According to the World Trade Organization, these so-called TBT standards, including those that apply to regulation of dangerous chemicals” involve significant costs for producers and exporters.^{xvi}

Sustainable Development Target 12.7

Promote public procurement practices that are sustainable, in accordance with national policies and priorities

The TPP also is also likely to be hard to reconcile with the U.S. commitment to act on Sustainable Development Target 12.7 by promoting public procurement practices that are sustainable. While we do not know the details of the secret TPP text of the Chapter on public procurement, we do know that procurement chapters in free trade agreements generally restrict local purchasing preferences, endangering local purchasing of healthy and sustainably produced foods.^{xvii} Government procurement rules that are intended to foster local production of clean energy are clearly at risk.^{xviii} The award of public contracts would generally have to be based on product cost and performance. This could restrict requirements for products to be made with recycled or organic materials or meet energy efficiency standards.

Sustainable Development Target 2.4

By 2030, ensure sustainable food production systems and implement resilient agricultural practices that increase productivity and production, that help maintain ecosystems, that strengthen capacity for adaptation to climate change, extreme weather, drought, flooding and other disasters and that progressively improve land and soil quality

The record of past U.S. trade agreements strongly suggests that the TPP is likely to increase the volatility of agricultural markets, putting sustainable family farms at risk and increasing corporate control of markets and production practices.^{xix} Under TPP rules, corporate confined animal feeding operations (CAFOs) can be expected to flourish all around the Pacific Rim, at the expense of rural communities whose air and water would be polluted.^{xx}

It can be further expected that many family farmers will be reduced to working as contractors for global pork and poultry giants who own the animals while the farmer absorbs the production costs and risks.^{xxi} With the TPP, family farmers will suffer; global agribusiness giants will prosper; and the rural environment will be despoiled.^{xxii}

Sustainable Development Target 3.8

Achieve universal health coverage, including financial risk protection, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all

The U.S. is making demands in TPP negotiations that would deny the seriously ill access to affordable medicines and strengthen the monopoly pricing power of global pharmaceutical giants, by forcing changes in domestic laws related to patents, use of medical test data, and government purchasing of drugs for public health care programs.^{xxiii} Of particular concern are provisions in the latest leaked draft the TPP chapter in intellectual property related to life saving medicines called “biologics.” Pharmaceutical companies would be granted monopoly pricing power for periods of up to 12 years, even if the drug is not patented.^{xxiv}

SELECTED ENDNOTES

ⁱ United Nations, Sustainable Development Summit 2015, 25-27 September
<http://www.un.org/sustainabledevelopment/summit/>

ⁱⁱ Cara Anna, Obama makes forceful defence of new development goals, Associated Press, September 27, 2015, <http://news.yahoo.com/obama-us-allies-address-un-summit-russia-speaks-043647985.html>;

ⁱⁱⁱ “The Sustainable Development Goals, or SDGs, are made up of 17 general goals with 169 targets, including an end to extreme poverty and hunger, providing universal access to clean water and protecting the world’s oceans. The initiative is supported by 193 countries, the United Nations, the World Bank and countless non-profits, and establishes the international development agenda for the next 15 years. The SDGs replace the 2000-2015 Millennium Development Goals, which aimed to half extreme poverty globally. The SDGs set similarly broad targets, with little policy prescription about how to get there. While this makes a consensus easier to reach, it fails to address some of the key drivers of poverty and climate change – corporate power, the fossil fuel industry and unjust trade agreements.” Sam Cossar-Gilbert, Opinion: Secret Trade Negotiations Threaten Sustainable Development Goals, Inter Press Service, Sep 25 2015, <http://www.ipsnews.net/2015/09/opinion-secret-trade-negotiations-threaten-sustainable-development-goals/>

^{iv} UN Sustainable Development Knowledge Platform. “The links between climate change and sustainable development are strong. While climate change will know no boundaries, poor and developing countries, particularly the LDCs, will be among those most adversely affected and least able to cope with the anticipated shocks to their social, economic and natural systems. The IPCC projects that by 2080, millions of people will be displaced due to sea-level rise, with densely-populated and low-lying countries, like many SIDS, facing the greatest threat from storm surges and rising seas. Internationally Agreed Development Goals & Climate Change Internationally agreed frameworks and goals have set an agenda for integrating climate change and sustainable development.”
<https://sustainabledevelopment.un.org/topics/climatechange>

^v An investment chapter on the U.S. model creates a separate “court” for foreign capital. Foreign investors can bypass domestic courts and bring suit before special international tribunals designed to encourage international investment. The tribunals are biased. An arbitrator serving on one of these tribunals is likely to be an international commercial lawyer who may alternately serve as “judge” one day and return as corporate counsel the next. Corporate and individual investors are granted property and due process rights that are more broadly defined than in U.S. constitutional law or the practice of nations, generally. Investors may seek awards of money damages, of unlimited size, in compensation for the cost of complying with environmental and other public interest regulations. They may even seek compensation for lost future profits. Damage awards can be large enough to severely stress the public budgets of both small and large countries. The fear of such ruinous judgments can force a country to settle unjust investor claims and to back away from protecting the environment and the public interest. :
<http://www.foe.org/news/archives/2013-05-chevron-fracks-europe-transatlantic-trade--investmen#sthash.MxONFQHf.dpuf>

^{vi} International Centre for Settlement of Investment Disputes , CERTIFICATE VATTENFALL AB, VATTENFALLEUROPEAG, VATTENFALLEUROPE GENERATION AG v. FEDERAL REPUBLIC OF GERMANY, 2011 <http://www.italaw.com/sites/default/files/case-documents/ita0890.pdf>

^{vii} Bill Waren, Friends of the Earth, Control Fossil Fuel Exports, November 2012.
<http://www.foe.org/news/archives/2012-11-control-fossil-fuel-exports-part-1>.
<http://www.foe.org/news/archives/2012-11-control-fossil-fuel-exports-part-1#sthash.iP1pkVq4.dpuf>

^{viii} This claim, of course, may overlook GATT article XX, which provides an exception to the overall agreement on trade in products “**necessary** to protect human, animal or plant life or health” and “related to conservation of exhaustible natural resources” (provided that they are linked to domestic resource

conservation measures). Article XX is not as strongly worded as it should be, but if there were ever a measure that falls under the exception, it ought to be a climate change measure, such as a control on fossil fuel exports. The very survival of the life on the planet as we know it is at stake. Certainly, such export controls are not disguised protectionist measures. Friends of the Earth, nonetheless, believes that if the TPP incorporates all or part of the GATT Article XI:1 even indirectly, by implication, or by reference, then the article XX “necessity” test might be unnecessarily hard to meet, especially as interpreted by an unsympathetic dispute resolution panel. Alternative regulatory schemes for addressing the climate crisis in less burdensome ways for international trade can always be hypothesized. A necessity test, also, inappropriately reverses the deference that domestic courts give to economic regulations. The “related to conservation” test could also be problematic. In addition, the “chapeau” or introductory clause of Article XX requires that application of a measure, such as a fossil fuel export regulation, must not be a **“means of arbitrary or unjustifiable discrimination.”** The term “unjustifiable” is vague and subjective.

^{ix} Article XI: 1 of the WTO General Agreement on Tariffs and Trade (General elimination of quantitative restrictions), available from the WTO at http://www.wto.org/english/res_e/booksp_e/analytic_index_e/gatt1994_05_e.htm.

^x Trade tribunals that focus on theoretical free market efficiency are becoming the de facto forums for resolving international disputes over climate policy. Long delays and ambiguous results in trade litigation of this character can dry up both private and public investment in clean energy.

^{xi} World Trade Organization, Dispute DS 426, Canada – Measures Relating to Feed in Tariff Program, May 6, 2013, available at, http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds426_e.htm.

^{xii} For example, 216 chemicals are associated with increases in breast cancer, including 73 found in consumer products or food. Among the many chemicals suspected of causing learning and developmental disabilities are organophosphate pesticides, such as malathion. Everyday solvents such as methanol and trichloroethylene are associated with Parkinson’s disease. Endocrine disruptors, such as BPA, which is found in plastic and the linings of cans and other food packaging, interfere with hormones and may be associated with adverse health impacts including infertility, early puberty and breast cancer, just to name a few. Bill Warren, Friends of the Earth, Fast Track Attack on Chemical Safety and Food Labels, <http://www.foe.org/news/archives/2015-03-fast-track-attack-chemical-safety-and-food-labels-un#sthash.1LtoCcT1.Dsj5E8Dh.dpuf>.

^{xiii} PFOS (Perfluorooctanesulfonic acid) used in stain repellants is a cancer-causing chemical that has been found in European dolphins, tuna and birds like the common cormorant. [The list goes on](#). Neonicotinoid pesticides are a key factor in the [global die-off of bees](#), which threatens not only their survival but also a vast array of plants and commercial crops that depend upon bees for pollination. <http://www.foe.org/news/archives/2013-06-sinister-partners-transatlantic-trade-agreement-tox#sthash.pHmXqxPR.dpuf>

^{xiii} The WTO TBT agreement contains no exception for environment and public health measures. , http://www.wto.org/english/tratop_e/envir_e/issu4_e.htm

^{xiv} Renee Johnson, Sanitary and Phytosanitary and Non-Tariff Barriers to Trade, Congressional Research Service, March 31, 2014, p.14. <http://nationalaglawcenter.org/wp-content/uploads/assets/crs/R43450.pdf>

^{xv} *US-Tuna II*, available at, [http://www.worldtradelaw.net/reports/wtoab/us-tunamexico\(ab\).pdf](http://www.worldtradelaw.net/reports/wtoab/us-tunamexico(ab).pdf)

^{xvi} World Trade Organization, Technical Information on Technical Barriers to Trade, https://www.wto.org/english/tratop_e/tbt_e/tbt_info_e.htm

^{xvii} Karen Hansen-Kuhn, Who's at the Table? Demanding Answers on Agriculture in the Trans-Pacific Partnership, Institute of Agriculture and Trade Policy, March 4, 2013, <http://www.iatp.org/documents/who%E2%80%99s-at-the-table-demanding-answers-on-agriculture-in-the-trans-pacific-partnership#sthash.ZgEhZJ9B.dpuf>

^{xviii} [Scott Sinclair, Stewart Trew](#), Keeping green energy local and public, Canadian Centre for Policy Alternatives, December 18, 2013 <https://www.policyalternatives.ca/publications/commentary/keeping-green-energy-local-and-public#sthash.uuXL6Oj5.dpuf>

^{xix} Big Meat Swallows the Trans-Pacific Partnership By Ben Lilliston Institute for Agriculture and Trade Policy November 2014, http://www.iatp.org/files/2014_11_05_TTPBigMeat_BL.pdf; Ben Lilliston and Karen Hansen-Kuhn. "From Dumping to Volatility: The Lessons of Trade Liberalization for Agriculture." Trade and Environment Review 2013. UN Conference on Trade and Development. 2013. 276. http://www.iatp.org/files/2013UNCTAD_IATP_COMMENTARY.pdf; Karen Hansen-Kuhn. "NAFTA and U.S. Farmers 20 Years Later." Institute for Agriculture and Trade Policy. November 22, 2013. http://www.iatp.org/blog/201311/nafta-and-us-farmers%E2%80%9920-years-later#_edn1.

^{xx} Carol Hribar. Understanding Confined Animal Feeding Operations and Their Impacts on Communities. National Association of Local Boards of Health. 2010. http://www.cdc.gov/nceh/ehs/docs/understanding_cafos_nalboh.pdf; Environmental Integrity Project. Hazardous Pollution from Factory Farms: An Analysis of EPA's National Air Emissions Monitoring Study Data. March 2011. <http://www.environmentalintegrity.org/documents/HazardousPollutionfromFactoryFarms.pdf>; Steven Wing et. al. "Integrating epidemiology, education, and organizing for environmental justice: community health effects of industrial hog operations." American Journal of Public Health 98 (August 2008): 1390. <http://www.ncbi.nlm.nih.gov/pubmed/18556620> 17. Maya Nadimpalli et. al. "Persistence of Livestock-Asso

^{xxi} John Ikerd. Confronting CAFOs Through Local Control. 2007. <http://web.missouri.edu/ikerdj/papers/Idaho%20CAFOs%20--%20Local%20Control.htm> ; Farm and Ranch Freedom Alliance et. al. "Coalition Letter to Agriculture Committees on Livestock Competition Issues in the 2013 Farm Bill." May 2, 2013. <http://farmandranchfreedom.org/2013-farm-bill-livestock-competition-issues/>

^{xxii} Food and Water Watch. The Economic Costs of Food Monopolies. November 2, 2012. <http://www.foodandwaterwatch.org/reports/the-economic-cost-of-food-monopolies/>

^{xxiii} Public Citizen, Global Access to Medicines Program, How the TPP Endangers Access to Affordable Medicines, <http://www.citizen.org/documents/how-tpp-endangers-access-to-medicines.pdf>

^{xxiv} Third World Network, Preliminary analysis of biologics exclusivity, TWN Info Service on Health Issues 21 August 2015. <http://www.twn.my/title2/health.info/2015/hi150802.htm>