Petition Seeking Transparency and Debate on Trans-Pacific Partnership Agreement negotiations

A petition signed on behalf of sixteen major New Zealand organisations seeking greater transparency in the current negotiations for a Trans-Pacific Partnership Agreement has been received by Hon Maryan Street, Foreign Affairs and Trade Spokesperson for the Labour Opposition, and supported by the Green Party.

The Trans-Pacific FTA is potentially the most far-reaching international treaty a New Zealand government has negotiated. There is an obligation on its proponents to justify imposing severe constraints on what future democratically elected governments can do.

Repeated requests to release negotiating documents and draft texts have been made of TPPA negotiating parties individually and collectively. The peak union bodies from Australia, New Zealand, Singapore and the United States wrote to all the parties at the time of the first round of negotiations in March 2010 with a number of transparency proposals that would have generated informed debate on the TPPA. Union bodies from Australia, Chile, New Zealand, Peru, Singapore and the US sent further letter to the Trade Ministers of all negotiating parties in May 2010 with more detailed transparency proposals. In February 2011, letters endorsed by civil society organisations from Australia, Chile, New Zealand, Malaysia and the US who collectively represent millions of people, were handed to the heads of delegation negotiators of each party. In New Zealand, that letter was signed by over 850 organisations and individuals and sent to both the Prime Minister and Minister of Trade Tim Groser.

Those calls have gone unanswered. Indeed, even the formal ‘stakeholder’ events at the recent Singapore negotiations were more restricted than previous rounds. This retreat may reflect a concern by the parties that an agreement might not be concluded if the texts were exposed to scrutiny and debate. One industry advocate indicated as much at the ‘stakeholders’ press conference at the Auckland round of negotiations in December 2010. That reasoning is perverse – the fact that informed debate based on detailed analysis of draft texts has resulted in failure of some negotiations confirms the value of disclosure in identifying problems that would otherwise go unremarked until it the agreement was signed.

The petition calls on Parliament to seize itself of this matter and proposes a number of specific initiatives to enhance transparency in the TPPA negotiations.

Unilateral release of New Zealand documents

First, it seeks a parliamentary resolution that requires the New Zealand government to follow its own prior practice and unilaterally release the documents that it has tabled in the negotiations, including draft texts and offers of commitments in services, investment,
government procurement, and market access for goods. It should then call for submissions on those documents.

**Parliamentary resolution seeking release of TPPA texts**

The petition seeks a parliamentary resolution that the New Zealand government should take the lead in securing agreement of the other negotiating parties to the release of draft texts and other documents and create a virtual public space that can provide equal access to information and generate dialogue and debate. This would make the TPPA process a negotiation fit for the 21st century, building on the practice adopted in plurilateral free trade and investment agreements over the past decade.

**Select Committee hearing on the TPPA**

The select committee with responsibility for parliamentary oversight of trade agreements is the Foreign Affairs, Defence and Trade Committee. According to the Parliamentary website, in February 2011 the Committee initiated a briefing from the Ministry of Foreign Affairs and Trade on the process for ratification and accession of International treaties with a focus on bilateral and multilateral treaties requiring new or amending legislation. However, no information is available on that briefing and no submissions were sought from others with an interest in the matter.

The Committee has the power under Standing Order 185(2) to inquire into any matter within its subject area. It should do so as a matter of urgency, whether or not the government releases documentation. While submissions would be more informed with access to draft texts and negotiating documents, sufficient is known about the proposed content of the negotiations to make this a valuable initiative to encourage democratic debate and inform Parliament and the general public of the issues at stake.

12 April 2011
TO THE HOUSE OF REPRESENTATIVES

The petition of Robert John Reid
of 14B Sullivan Avenue, Mangere Bridge, Auckland 2022
General Secretary of the National Distribution Union
and fifteen others

[the New Zealand Council of Trade Unions, FinSec, Maritime Union of New Zealand, New Zealand Tertiary Education Union, Unite Union, Oxfam NZ, NZRise, the Society of Authors, the Public Health Association of New Zealand, the Fabian Society, Global Peace and Justice Auckland, Campaign Against Foreign Control of Aotearoa, New Zealand Not for Sale, Auckland Latin American Community Inc, and the Soil and Health Association of NZ].

Respectfully requests:
That
you, as our elected representatives, take an active role in ensuring that the negotiations on the Trans-Pacific Partnership Agreement (TPPA) are opened to transparent and participatory processes from this time forward.

We are told that the TPPA is supposed to be a 21st century trade agreement. For us, such an agreement must address the challenges that will shape our livelihoods, communities and our planet over the next ninety years - climate change, financial instability, indigenous rights, sustainable livelihoods, food sovereignty, energy scarcity, pandemics, insecurity, inequality and poverty, and impose constraints on corporate greed.

Instead, we understand that the proposed TPPA would intrude far behind our national borders to not only restrict our financial regulation and grant new rights for foreign investors, but also limit how things like healthcare, energy, natural resources and culture will be regulated; how our tax dollars may be spent; what sort of food safety and labelling will be allowed; whether medicines will remain affordable; and more.

What is being proposed and the way it is being negotiated are undemocratic and hypocritical.

First, a TPPA would bind our domestic policies and laws for decades ahead; even when an elected government has a different mandate or faces new realities, its hands will be tied.

Second, New Zealand’s obligations under the agreement would be enforced in international, not domestic courts: as a minimum, the government could face trade
sanctions if it failed to comply; and, at worst, foreign investors could sue the government in a secret international court to enforce their special new rights.

Third, the proposed trade treaty aims to give foreign investors guaranteed rights and enforcement powers that are currently denied to Maori under the Treaty of Waitangi.

Fourth, these negotiations are being conducted in secret, something citizens and legislators would never tolerate for new domestic legislation. A more transparent TPPA process would provide some basic safeguards against errors and identify risks that may not be apparent to negotiators and the government. It could also help convince people that a TPPA really will replace the past trade pact models that benefitted and privileged special interests and multinational firms.

The excuse that greater transparency would undermine negotiations presumes that these proposals would not survive the sunshine of scrutiny. Even the World Trade Organization (WTO), hardly renowned as a bastion of transparency, now posts country documents and negotiating texts on its website for scrutiny. If politicians and negotiators cannot convince the public through robust, open and informed debate about what is being negotiated in our name, the talks should not proceed.

We are demanding, at a minimum, that

(a) the Foreign Affairs Defence and Trade Committee convenes a hearing into the potential implications for New Zealand of the TPPA as a matter of urgency; and

(b) the Parliament resolves that the New Zealand government publish simultaneously on its website all documents that it tables at the TPPA negotiations and proposes to all the other the TPPA negotiating parties at the forthcoming negotiations that they agree collectively to

(i) Create and maintain a public website which governments and civil society can post information and participate as equals in a dialogue and debate;

(ii) Post the draft text of each chapter as it is completed to open them to expert and public scrutiny;

(iii) Post countries’ position papers on specific subjects that are tabled during negotiations; and

(iv) Guarantee that all civil society has equal access to information and engagement with the process, regardless of whether they are supportive or critical of the proposed agreement, ending the privileged treatment that pro-TPPA corporate lobby groups have enjoyed to date.

Failure to agree to such transparency and allow for open debate will further discredit the TPPA negotiating process. It will strip any negotiated text of democratic legitimacy and
the goodwill needed from people and parliamentarians to make it work for the 21st century.

Received by Hon Maryan Street
Member of Parliament

The petition is in the name of Robert Reid, General Secretary of the National Distribution Union and endorsed by the New Zealand Council of Trade Unions, FinSec, Maritime Union of New Zealand, New Zealand Tertiary Education Union, Unite Union, Oxfam NZ, NZRise, the Society of Authors, the Public Health Association of New Zealand, the Fabian Society, Global Peace and Justice Auckland, Campaign Against Foreign Control of Aotearoa, New Zealand Not for Sale, Auckland Latin American Community Inc, and the Soil and Health Association of NZ.