Two major international trade agreements, very similar in nature, are currently being negotiated, the Trans-Pacific Partnership Agreement (TPPA) and the Transatlantic Trade and Investment Partnership (TTIP). The TPPA involves the USA and New Zealand and 10 other Pacific-Rim countries including Australia. The TTIP is between the USA and the European Union. The potential adverse effects of the proposed TTIP agreement have been reviewed by Hilary, and a similar review of the TPPA has recently been published in Australia. Monasterio and Gleeson described the increased influence the TPPA could give pharmaceutical companies in New Zealand, thus reducing the effectiveness of PHARMAC. However, the proposed TPPA could have an adverse impact on many New Zealand health systems, not just in pharmaceuticals.

TPPA negotiations have been conducted in secrecy and the details may not be revealed even after they have been signed. Publicly accessible information has, to date, come from leaks. These factors have made it difficult to have an informed discussion of the pros and cons of the proposals. Even democratically elected members of the UK and New Zealand Parliaments, and Congress in the USA, may know little or nothing about the current content of the TPPA. By contrast, many of the major American-based multinational companies have been closely involved in their development.

There are good reasons to be concerned about these secret negotiations, and it is important to try to assess how they might affect our health systems. The points listed below illustrate how changes aimed at improving the health of the New Zealand population may be prevented by the current TPPA proposals.

The TPPA could enable multinational corporations to maintain their profits at the expense of the individual countries who sign the agreement. If the profits of these multinational companies are reduced by the actions of any individual country, then that country could be sued by the company to recover their lost earnings. Any legal action of a company against a country will be heard outside that country’s legal system, by a group of corporate-appointed lawyers. This system is called Investor-State Dispute Settlement (ISDS). It is a crucial part of the proposed TPPA, and
would allow corporations to sue governments before an ISDS-type arbitration panel. Hearings are conducted in secret. No one else has any representation, and their conclusions cannot be challenged. This system was originally introduced to protect multinational companies when setting up a business in third world countries that lacked any established legal system. It is inappropriate for something like ISDS to be used in countries like New Zealand and Australia whose sophisticated legal and regulatory systems are quite capable of settling any disputes.

The USA can withhold the final steps required to bring a trade agreement into force until the other country has changed its laws in a manner the USA deems suitable under that trade agreement. This is referred to as ‘Certification’ and has significant practical implications.

The secrecy surrounding the TTIP negotiations has caused outrage in Europe. In response, the European Commission has released details of some of these discussions. The New Zealand government has currently declined to release any negotiating information relating to the TPPA. In many of the above situations, the sovereign power of a country to manage its own affairs will therefore be transferred to an overseas multinational company whose existence depends on maximising profits.

The following examples illustrate how the TPPA could affect New Zealand health services, and shows how New Zealand may lose the ability to introduce quite simple measures that would improve public health.

### Tobacco
Tobacco use causes lung cancer, and increases the risk of chronic lung disease, heart attack and stroke. Even the tobacco companies have given up contesting these facts. Australia and Uruguay both decided to introduce plain packaging of cigarettes to reduce smoking and save lives. Philip Morris, a US tobacco company, has taken both countries to an ISDS-type court under previous trade agreements in an attempt to recover lost earnings. So any action by a country that reduces tobacco use under TPPA could face litigation from tobacco companies. The more effective such action, the greater the payment to the company.

### Alcohol
Alcohol abuse causes significant health and social damage in New Zealand. Attempts to reduce alcohol intake, and thereby improve our health, have not been successful. Under TPPA, multinational companies might be able to sue for loss of earnings if effective ways of controlling alcohol use are introduced. Efforts by a country to reduce tobacco and/or alcohol consumption, clearly desirable outcomes, could be inhibited by the mere threat of litigation.

### Obesity
The causes of the obesity epidemic, a global health problem, includes high calorie fast foods and drinks with a high sugar content. If New Zealand managed to control obesity by reducing the consumption of such foods and drinks, then the relevant multinational companies could sue for loss of earnings.

### Access to medicines and medical devices
Monasterio and Gleeson reviewed the likely effects a TPPA agreement might have on the pharmaceutical industry in New Zealand. PHARMAC controls the purchase and subsidies on medicines and vaccines on behalf of the Government. Over the past decade it has made significant savings for the country, despite opposition from the pharmaceutical industry. These actions by PHARMAC are inconsistent with the principles of the TPPA, and would be threatened unless some exclusion arrangements were made. PHARMAC also controls the purchase of medical devices such as stents, heart valves, and pacemakers for heart disease, as well as artificial joints and lenses for cataract surgery, and these too could be affected. The purchase of generic drugs would be more difficult, and could be delayed by making it easier for drug companies to extend patents on proprietary medicines. Some drugs might become unaffordable.

### Public safety issues
TPPA could reduce the effectiveness of Government bodies whose function is to...
protect the health of the public, such as the Health Promotion Agency. Canada and the USA are linked by a trade agreement called NAFTA. A fuel additive, methylcyclopentadienyl manganese tricarbonyl (MMT), was banned by the Canadian Government because it was considered to be a risk to public health. The Ethyl Corporation, the American company who produces MMT, sued Canada and were awarded millions of dollars in damages by an ISDS type court. Canada rescinded the ban.\(^1\)

In conclusion, the TPPA could dramatically affect the way we organise our health systems, and could affect the ability of New Zealand to formulate its own future health policies. If the leaked information is correct, it is possible that the TPPA could interfere with our democratic processes, and consequently the sovereignty of our country.


REFERENCES:

6. Pattemore P and Monasterio E The public has a right to know on TPPA. The Christchurch Press 23rd February 2015.