

Talking Cents

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Talking Cents is an ecumenical group charged by the Anglican Diocesan Council to promote an alternative to current economic and political thought, and to encourage debate within the Church. Ministry Units are encouraged to distribute these articles. This issue is contributed by David Hall, a member of the Auckland Anglican Social Justice Working Group.

The Tale of Two Treaties.

In the last few weeks of 2015 New Zealand was involved in two major international agreements – the TPPA (Trans Pacific Partnership Agreement) and the Paris Climate Change Agreement. These two agreements could not be more different in both intent and likely outcome. The TPPA is all about increasing our economy and making us “richer” whereas the Paris Climate Change Agreement is all about saving the world from the negative impact of increasing global temperature.

The TPPA is between 12 countries that surround the Pacific Ocean, most of which have relatively developed global economies including two of the top three largest economies. The Paris Agreement involves nearly 200 countries from throughout the world, in fact it is difficult to think of any country that was not part of the Paris Agreement.

It is not unreasonable to think that two international agreements of such significance would be at least complimentary, but careful examination of the agreements appears to uncover a number of potential conflicts and mutual inconsistencies.

The Paris Climate change agreement was negotiated by nearly 200 countries meeting in Paris at the beginning of December 2015. The meeting was organised by the United Nations and the agreement is actually a UN convention which will need to be ratified by at least 55 countries representing at least 55% of the world’s greenhouse gas emissions before it comes into force. The aims of the convention are:

(a) Holding the increase in the global average temperature to well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5 °C above pre-industrial

levels, recognizing that this would significantly reduce the risks and impacts of climate change;
(b) Increasing the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production;
(c) Making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.

Furthermore the countries agreed to aim to reach "global peaking of greenhouse gas emissions as soon as possible".

Rather than each country agreeing to make a binding agreement to reduce greenhouse gases and achieve the overall aim of limiting temperature increase aspirational targets have been agreed. This means that no penalties can be applied to a country that fails to achieve their target decrease in greenhouse gas emissions. However, what is clear is that the amount of sustainable energy sources – hydro-electricity, wind power, solar panels, geothermal, etc will need to be increased by orders of magnitude, and the burning of fossil fuels for electricity generation, transport, etc will need to decrease by orders of magnitude.

Although fossil fuel emissions are not the only contributor to greenhouse gas emissions they are very significant. How much we can continue to use fossil fuels and still achieve the Paris targets is not easy to determine. Duncan Clark recently wrote in The Guardian:

If we rapidly stopped deforestation and pushed down hard on the other drivers of global warming, we might be able to stretch our fossil fuel budget to 1,000 GT – which would let us burn around a

third of proven reserves. Let deforestation and other warming agents run amok, however, while also aiming for better odds of staying below 2C, and we might have as little as 300 GT left for fossil fuels – which would be closer to a 10th of proven reserves..¹

What can be taken from this analysis is that the fossil fuel industry already has more than sufficient proven reserves to meet any reasonable demand to fossil fuel, **hence it is no longer necessary to look for further reserves.**

And it is this conclusion that potentially could be a conflict with the terms of the TPPA.

The Paris Agreement has some 32 pages of text compared to the approximately 6,000 pages of text in the TPPA. As far as the climate is concerned many of the provisions on foreign investment appear to have significance.

Over the last few years New Zealand has signed a number of Free Trade Agreements that include clauses about protecting investment by foreign companies. This feature of Trade Agreements was initiated in the North American Free Trade Agreement (NAFTA) signed by Canada, Mexico and the US in 1993. These investment clauses allow companies which believe that the action of a Government has restricted or stopped them from profiting their investment to seek compensation from the Government concerned. Philip Morris suing the Australian Government over plain packaging of cigarettes is an example.

The TPPA has possibly the strongest worded clauses on investment and sovereignty. These clauses have the potential to block the New Zealand Government from refusing to grant permits and licenses for the exploration and extraction of minerals including fossil fuels of all kinds. If the NZ Government decided to ban fracking then BP and Shell could take the Government to an “international” tribunal for damages.

Late last year President Obama vetoed legislation to allow an oil pipeline company TransCanada to build a pipeline through the western states of the US from Alberta in Canada to pipe shale oil from the Alberta tar sands (the Keystone XL Project). The veto was for environmental reasons and also

there were questions of indigenous rights of First Nations people in parts of the route.

Now TransCanada is using the provision of NAFTA to seek arbitration to recover some \$23 billion of costs and lost profits from the US Government as a result of the Obama veto.²

Here we are seeing a trade agreement being used to undermine a sovereign country’s ability to take action to limit global warming. Nearly 200 countries in Paris have agreed to take action to limit greenhouse gas emissions, the majority of which are the result of fossil fuel usage. Hence, it would appear that fossil fuel companies could seek compensating from the NZ Government if New Zealand were to stop any further petroleum, natural gas or coal exploration as a response to the Paris Agreement because New Zealand had signed and ratified the Trans Pacific Partnership agreement.

What we have in the TPPA is the democratically elected NZ Government loses its right to make or change laws and policies that they believe is in the best interest of the people of New Zealand if the changes, in the view of foreign governments and/or companies, have adverse effects on the companies. This could apply to plain packaging of cigarettes, food labeling, for fracking.

If a foreign corporation from one of the countries that is part of the TPPA decides it wants to dredge iron sands from the west coast of the North Island and the Government after public hearings says NO then the company can take their case not to our court system but to an Investor-state dispute settlement (ISDS) authority set up under TPPA.

By allowing the TPPA to potentially override urgent actions required to implement the Paris Climate Change Agreement we are saying that it is more important to enhance and protect the “rich” even if this means disastrous climate changes. These changes will see the disappearance of many of the Pacific Island countries, possible widespread famine and loss of productive land. It will be the poorest parts of the world that will be most affected by increasing world temperatures whereas it will be a small number of rich that will benefit from TPPA. As Christians I believe the choice is clear.

¹ <http://www.theguardian.com/environment/ng-interactive/2015/apr/10/how-much-fossil-fuel-are-we-using-right-now>

² NZ Herald 11 January 2016 page B6