

CHAPTER II

UNDERSTANDING THE TRANS-PASIFIC PARTNERSHIP

This chapter discusses the TPP provisions that are offered to the members. The discussion is started with the full explanation about TPP agreement – definitions, what it offers, etc.

A. Background of TPP

There are pros and cons about joining the Trans-Pacific Partnership. However, as TPP is the biggest FTAs ever joined by 11 countries and fully respects the idea of liberalism, it could build a strong relation amongst member states and expected to be 21st century economic solutions¹.

The Trans-Pacific Partnership is a trade deal between 11 countries, with six other nations intending to join – Cambodia, Indonesia, Republic of Korea, Thailand, Philippines and Taiwan. In short TPP creates basic standards and rules governing trade that all member nations must abide by and it also requires nations with previously closed economies to liberalize.

TPP also increases job opportunities. The reason is because with the Trans-Pacific Partnership – free trade, the market of goods and services from a country

¹ Clarke, John A. *New Solutions for Old Problems in Trans-Pacific and Trans-Atlantic Negotiations*. (n.b.). retrieved 8 December 2016, from http://www.agritrade.org/events/documents/CLARKE_May23.pdf.

becomes more widespread as the main advantage of TPP is market access.² The goods or services are now having a wider scope of market, which previously they can only sell theirs in domestic market because of complicated permits and business licenses, now they will have easier access and ship things abroad. In the other words there is more income. Thus, the number of goods and services produced can be multiplied and the demand for labor increases.

Indonesia, as one of the major countries in Pacific Rim region (with 257 million populations and approx. USD 862 billion GDP, as cited from World Bank), declared its interest to join the trade pact. The discussion goes further to benefits and losses that the country will gain by joining the TPP. Several underlined-issues are the fair competition for small-medium enterprises, the TPP high standards on government procurement, product and services qualities, labor and environment, as well as other fundamental points on State Owned Enterprises, Intellectual Property Rights, and Investor-State Settlement Dispute.³

The TPP agreement establishes an investor-state dispute settlement (ISDS) mechanism,⁴ which grants investors the right to sue foreign governments for treaty violations. For example, if an investor invests in country "A", a member of a trade treaty, and country A breaches that treaty, then the investor may sue country A's

² The Guardian. *TPP or not TPP? What's the Trans-Pacific Partnership and should we support it?* (n.d). retrieved 25 May 2016, from <https://www.theguardian.com/business/2015/oct/05/tpp-or-not-tpp-whats-the-trans-pacific-partnership-and-should-we-support-it>.

³ The New York Times. *The Trans-Pacific Partnership Trade Deal Explained*. (n.d). retrieved 1st December 2016, from http://www.nytimes.com/2015/05/12/business/unpacking-the-trans-pacific-partnership-trade-deal.html?_r=0.

⁴ TPP Final Text. *Chapter 9: Investment*. (n.b.). retrieved 12 December 2016, from <https://ustr.gov/sites/default/files/TPP-Final-Text-Investment.pdf>.

government for the breach.⁵ ISDS is meant to provide investors in foreign countries basic protections from foreign government actions such as freedom from discrimination, protection against uncompensated expropriation of property, protection against denial of justice and right to transfer capital.⁶

Its labor provisions, for example, require nations to allow workers to unionize for more rights and better treatment, that sounds great, and the TV will also create a network and a framework for expanding and enforcing existing international environmental protection agreements. Also, there are clear benefits to removing tariffs in general and other barriers that restrict global trade. The TPP would expand countries trade opportunities with participating countries and lead to greater efficiency of lower costs and increase variety for consumers and a growth in the GDP. A growth that experts estimate could be in the hundreds of billions of dollars with smaller and developing economies benefiting from this the most also by raising regulatory rules and standards for many of China's key trading partners.

These advantages suggest that the TPP might be a good deal. In theory this is a good idea because it protects foreign investment against possible unfair treatment in ordinary courts that may not appreciate bodies coming in and trying to uphold some sort of sanction against the previously drafted legislation but in practice this will mean that for example. Budweiser could sue Vietnam for requiring

⁵ Hernando Otero and Omar Garcia-Bolivar. *International Arbitration between Foreign Investors and Host States*.(n.b.). retrieved 11 December 2016, from http://www.nyulawglobal.org/globalex/International_Arbitration_Foreign_Investors_Host_States1.html.

⁶ Office of the United States Trade Representative. *FACT SHEET: Investor-State Dispute Settlement (ISDS)*.(n.b.). retrieved 11 December 2016, from <https://ustr.gov/about-us/policy-offices/press-office/fact-sheets/2015/march/investor-state-dispute-settlement-isds>.

that all beers sold in Vietnam include a health warning pregnant women on the label when in reality no one should be drinking Budweiser let alone pregnant women and another example case is when states offer public health care, could face lawsuits from big pharma and insurance companies that claim that national care systems restrict their investment opportunities.

According to the TPP draft agreement, there are 30 provisions in total. The writer has taken 8 of 30 provisions that can not be found in any other agreements in order to understand it better.

1. National Treatment and Market Access for Goods

TPP member countries agree to cut off all tariffs barriers on agricultural and industrial goods. The privilege that the TPP provided for the member states increases trade among TPP countries in this market of million of people and will result high-quality jobs in all 11 countries. The deletion of tariffs will be implemented instantly, even though it will take some time to eliminate certain products as agreed in this agreement. The TPP member countries shall announce all related informations concerned to goods trade to assure small, medium or large companies will get advantage of the TPP.⁷

On agricultural products, the member countries will cut off all tariffs and related policies which are hampering the process of export and import, this will

⁷ Trans-Pacific Partnership Draft Agreement. *Chapter: National Treatment and Market Access for Goods*. (n.d.). retrieved 12nd December 2016, from https://www.mfat.govt.nz/assets/_securedfiles/Trans-Pacific-Partnership/Text/2.-National-Treatment-and-Market-Access-for-Goods.pdf.

improve agricultural trade in the area and raise food security. In order to make it happen, TPP member countries agree to support policy reforms such as dismissing export subsidies, limiting the time period on food exports therefore it will provide better food security in the area. The TPP member countries have agreed to be more transparent and cooperated on specific activities regarding agricultural biotechnology.⁸

2. Textiles and Apparel

The TPP Parties agree to eliminate tariffs on textiles and apparel, industries which are important contributors to economic growth in several TPP parties' markets. Most tariffs will be eliminated immediately, although tariffs on some sensitive products will be eliminated over longer timeframes as agreed by the TPP parties. The chapter also includes specific rules of origin that require use of yarns and fabrics from the TPP region, which will promote regional supply chains and investment in this sector, with a "short supply list" mechanism that allows use of certain yarns and fabrics not widely available in the region. In addition, the chapter includes commitments on customs cooperation and enforcement to prevent duty evasion, smuggling and fraud, as well as a textile-specific special safeguard to respond to serious damage or the threat of serious damage to domestic industry in the event of a sudden surge in imports.⁹

⁸ The New York Times. *The Trans-Pacific Partnership Trade Deal Explained*.(n.b). retrieved 21st December 2016, from http://www.nytimes.com/2015/05/12/business/unpacking-the-trans-pacific-partnership-trade-deal.html?_r=0.

⁹ Trans-Pacific Partnership Draft Agreement. *Chapter: Textiles and Apparel*.(n.d.). retrieved 12nd December 2016, from https://www.mfat.govt.nz/assets/_securedfiles/trans-pacific-partnership/text/4.-textile-and-apparel-goods.pdf.

3. Investment

The TPP Parties set out rules that require non-discriminatory investment policies and assure basic rule of law protections. At the same time protection of the member parties' governments' ability of defining legitimate public policy objectives is protected. Basically TPP includes all the investment protections that other investment-related agreements provide. Those are:

- national treatment
- most-favored-nation treatment
- “minimum standard of treatment” for investments in accordance with customary international law principles
- prohibition of expropriation that is not for public purpose, without due process, or without compensation
- prohibition on “performance requirements” such as local content or technology localization requirements
- free transfer of funds related to an investment, subject to exceptions in the TPP to ensure that governments retain the flexibility to manage volatile capital flows, including through non-discriminatory temporary safeguard measures (such as capital controls) restricting investment-related transfers in the context of a balance of payments crisis or the threat thereof, and certain other economic crises or to protect the integrity and stability of the financial system and
- freedom to appoint senior management positions of any nationality.

The principle the TPP Parties agreed upon is that their markets are generally completely open to foreign investors despite where they have made an exception (non-conforming measure) in one of two country-specific annexes. The first allows member parties to only accept not to make these measures more restrictive in the future and to bind any future liberalization. The second one allows parties to decide that they want to have or keep full discretion on certain measures and policies in the future.¹⁰

A mechanism for settling international investment disputes in a transparent and neutral way is also part of the TPP. It also includes mechanisms to prevent abusive and frivolous claims and ensure the right of governments to regulate in the public interest, regarding health, safety, and environmental protection. The procedural safeguards consist of:

- transparent arbitral proceedings, amicus curiae submissions, non-disputing party submissions
- expedited review of frivolous claims and possible award of attorneys' fees
- review procedure for an interim award
- binding joint interpretations by TPP Parties
- time limits on bringing a claim
- and rules to prevent a claimant pursuing the same claim in parallel proceedings.

¹⁰ Trans-Pacific Partnership Draft Agreement. *Chapter: Investment*. (n.d.). retrieved 12nd December 2016, from https://www.mfat.govt.nz/assets/_securedfiles/trans-pacific-partnership/text/9.-investment-chapter.pdf.

4. Intellectual Property

Intellectual Property – IP – provision covers copyrights, trade secrets, trademarks implementation of intellectual property rights, patents, industrial designs and other areas that the member countries have agreed to cooperate. This chapter will ease business processes such as searching, registering and protecting IP rights in the new markets, which is specifically important for small businesses.¹¹

The chapter sets the standards for patents, based on the WTO's¹² TRIPS Agreement¹³ and international best practices. On trademarks, it gives protections for brand names or logos that individuals or businesses use to promote their products in the marketplace. The chapter also demands particular transparency and due process safeguards to the protection of geographical indications, including for geographical indications recognized or protected through international cooperations. These include confirmation of understandings on the relationship between trademarks and geographical indications, as well as safeguards regarding the use of commonly used terms.

In copyright, this chapter forms responsibilities in protecting songs, books, works, softwares and goods or services produced by companies or individuals. This

¹¹ Trans-Pacific Partnership Draft Agreement. *Chapter: Intellectual Property*.(n.d.). retrieved 12nd December 2016, from <http://www.mfat.govt.nz/downloads/trade-agreement/transpacific/TPP-text/18.%20Intellectual%20Property%20Chapter.pdf>.

¹² WTO is an intergovernmental organization that regulates international trade. It is the largest international economic organization in the world.

¹³ The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is an international legal agreement between all the member nations of the World Trade Organization (WTO). It sets down minimum standards for the regulation by national governments of many forms of intellectual property (IP) as applied to nationals of other WTO member nations.

is also obligated the member countries to steadily try to obtain balance in copyright system amongst other things, limitations and restrictions for legal purposes and digital environment is included. And also, this chapter demands its member countries to uphold a copyright safe harbors framework for Internet Service Providers – generally known as ISPs.¹⁴

Lastly, the TPP member countries agree to maintain a valid implementation systems, for example, border measures, civil procedures, criminal procedures and punishment for falsifying copyrighted things for commercial purposes. Certainly, TPP member countries will give legal facilities to avoid manipulation of trade secrets and ensure that the cyber-theft would follow criminal procedures as established by the member countries.

5. Labour

All TPP Parties are International Labour Organization (ILO) members and recognize the importance of promoting internationally recognized labour rights. TPP parties agree to adopt and maintain in their laws and practices the fundamental labour rights as recognized in the ILO 1998 Declaration, namely freedom of association and the right to collective bargaining; elimination of forced labour; abolition of child labour and a prohibition on the worst forms of child labour; and elimination of discrimination in employment. They also agree to have laws governing minimum wages, hours of work, and occupational safety and health.

¹⁴ Trans-Pacific Partnership Draft Agreement. *Chapter: Intellectual Property*. (n.d.). retrieved 12nd December 2016, from <http://www.mfat.govt.nz/downloads/trade-agreement/transpacific/TPP-text/18.%20Intellectual%20Property%20Chapter.pdf>.

These commitments also apply to export processing zones. The 11 parties agree not to waive or derogate from laws implementing fundamental labour rights in order to attract trade or investment, and not to fail to effectively enforce their labour laws in a sustained or recurring pattern that would affect trade or investment between the TPP parties. In addition to commitments by Parties to eliminate forced labour in their own countries, the Labour chapter includes commitments to discourage importation of goods that are produced by forced labour or child labour, or that contain inputs produced by forced labour, regardless of whether the source country is a TPP party. Each of the 11 TPP Parties commits to ensure access to fair, equitable and transparent administrative and judicial proceedings and to provide effective remedies for violations of its labour laws. They also agree to public participation in implementation of the Labour chapter, including establishing mechanisms to obtain public input.

The commitments in the chapter are subject to the dispute settlement procedures laid out in the Dispute Settlement chapter. To promote the rapid resolution of labour issues between TPP Parties, the Labour chapter also establishes a labour dialogue that Parties may choose to use to try to resolve any labour issue between them that arises under the chapter. This dialogue allows for expeditious consideration of matters and for Parties to mutually agree to a course of action to address issues. The Labour chapter establishes a mechanism for cooperation on labour issues, including opportunities for stakeholder input in identifying areas of

cooperation and participation, as appropriate and jointly agreed, in cooperative activities.¹⁵

6. Environment

As home to a significant portion of the world's people, wildlife, plants and marine species, TPP Parties share a strong commitment to protecting and conserving the environment, including by working together to address environmental challenges, such as pollution, illegal wildlife trafficking, illegal logging, illegal fishing, and protection of the marine environment. The 11 Parties agree to effectively enforce their environmental laws; and not to weaken environmental laws in order to encourage trade or investment. They also agree to fulfil their obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)¹⁶, and to take measures to combat and cooperate to prevent trade in wild fauna and flora that has been taken illegally. In addition, the Parties agree to promote sustainable forest management, and to protect and conserve wild fauna and flora that they have identified as being at risk in their territories, including through measures to conserve the ecological integrity of specially protected natural areas, such as wetlands. In an effort to protect their shared oceans, TPP Parties agree to sustainable fisheries management, to promote conservation of important marine species, including sharks, to combat illegal

¹⁵ Trans-Pacific Partnership Draft Agreement. *Chapter: Labour*. (n.d.). retrieved 12nd December 2016, from https://www.mfat.govt.nz/assets/_securedfiles/trans-pacific-partnership/text/19.-labour-chapter.pdf.

¹⁶ CITES is a multilateral treaty to protect endangered plants and animals. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten the survival of the species in the wild, and it accords varying degrees of protection to more than 35,000 species of animals and plants.

fishing, and to prohibit some of the most harmful fisheries subsidies that negatively affect overfished fish stocks, and that support illegal, unreported, or unregulated fishing. They also agree to enhance transparency related to such subsidy programs, and to make best efforts to refrain from introducing new subsidies that contribute to overfishing or overcapacity.¹⁷

TPP Parties also agree to protect the marine environment from ship pollution and to protect the ozone layer from ozone depleting substances. They reaffirm their commitment to implement the multilateral environmental agreements (MEAs) they have joined. The Parties commit to provide transparency in environmental decision-making, implementation and enforcement. In addition, the Parties agree to provide opportunities for public input in implementation of the Environment chapter, including through public submissions and public sessions of the Environment Committee established to oversee chapter implementation. The chapter is subject to the dispute settlement procedure laid out in the Dispute Settlement chapter. The Parties further agree to encourage voluntary environmental initiatives, such as corporate social responsibility programs. Finally, the Parties commit to cooperate to address matters of joint or common interest, including in the areas of conservation and sustainable use of biodiversity, and transition to low-emissions and resilient economies.

¹⁷ Trans-Pacific Partnership Draft Agreement. *Chapter: Environment*. (n.d.). retrieved 12nd December 2016, from https://www.mfat.govt.nz/assets/_securedfiles/trans-pacific-partnership/text/20.-environment-chapter.pdf.

7. Small- and Medium-Sized Enterprises

TPP Parties have a shared interest in promoting the participation of small- and medium-sized enterprises in trade and to ensure that small- and medium-sized enterprises share in the benefits of the TPP. Complementing the commitments throughout other chapters of the TPP on market access, paperwork reduction, Internet access, trade facilitation, express delivery and others, the Small- and Medium-Sized Enterprise chapter includes commitments by each TPP Party to create a user-friendly websites targeted at small- and medium-sized enterprise users to provide easily accessible information on the TPP and ways small firms can take advantage of it, including description of the provisions of TPP relevant to small- and medium-sized enterprises; regulations and procedures concerning intellectual property rights; foreign investment regulations; business registration procedures; employment regulations; and taxation information. In addition, the chapter establishes a Small- and Medium-Sized Enterprises Committee that will meet regularly to review how well the TPP is serving small- and medium-sized enterprises, consider ways to further enhance its benefits, and oversee cooperation or capacity building activities to support small- and medium-sized enterprises through export counseling, assistance, and training programs for small- and medium-sized enterprises; information sharing; trade finance; and other activities.¹⁸

¹⁸ Trans-Pacific Partnership Draft Agreement. *Chapter: Small and Medium-Sized Enterprises*. (n.d.). retrieved 12nd December 2016, from https://www.mfat.govt.nz/assets/_securedfiles/trans-pacific-partnership/text/24.-small-and-medium-sized-enterprises-chapter.pdf.

8. Dispute Settlement

The Dispute Settlement chapter is intended to allow Parties to expeditiously address disputes between them over implementation of the TPP. TPP Parties will make every attempt to resolve disputes through cooperation and consultation and encourage the use of alternative dispute resolution mechanisms when appropriate. The dispute settlement mechanism created in this chapter applies across the TPP, with few specific exceptions. The public in each TPP party will be able to follow proceedings, since submissions made in disputes will be made available to the public, hearings will be open to the public unless the disputing Parties otherwise agree, and the final report presented by panels will also be made available to the public. Panels will consider requests from non-governmental entities located in the territory of any disputing party to provide written views regarding the dispute to panels during dispute settlement proceedings.¹⁹

Should consultations fail to resolve an issue, Parties may request establishment of a panel, which would be established within 60 days after the date of receipt of a request for consultations or 30 days after the date of receipt of a request related to perishable goods. Panels will be composed of three international trade and subject matter experts independent of the disputing Parties, with procedures available to ensure that a panel can be composed even if a party fails to appoint a panelist within a set period of time. These panelists will be subject to a

¹⁹ Office of the United States Trade Representative. *FACT SHEET: Investor-State Dispute Settlement (ISDS)*.(n.b.). retrieved 11 December 2016, from <https://ustr.gov/about-us/policy-offices/press-office/fact-sheets/2015/march/investor-state-dispute-settlement-isds>.

code of conduct to ensure the integrity of the dispute settlement mechanism. They will present an initial report to the disputing Parties within 150 days after the last panelist is appointed or 120 days in cases of urgency, such as cases related to perishable goods. The initial report will be confidential, to enable Parties to offer comments. The final report must be presented no later than 30 days after the presentation of the initial report and must be made public within 15 days, subject to the protection of any confidential information in the report.

To maximize compliance, the Dispute Settlement chapter allows for the use of trade retaliation (e.g., suspension of benefits), if a party found not to have complied with its obligations fails to bring itself into compliance with its obligations. Before use of trade retaliation, a party found in violation can negotiate or arbitrate a reasonable period of time in which to remedy the breach.

B. What TPP Offers To Its Parties

According to USTR, TPP offers various benefits for countries²⁰:

1. Promote Economic Growth

There is no doubt that TPP is the biggest trade agreement in history.²¹ It is also expected to bring economic growth for the member nations by raising the living

²⁰ Office of the United States Trade Representative. *Summary of Trans-Pacific Partnership Agreement*. (n.d.). retrieved 12nd December 2016, from <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2015/october/summary-trans-pacific-partnership>.

²¹ The Washington Post. *U.S., 11 Nations Formally Sign Largest Regional Trade Deal in History*. (n.b.). Retrieved 12nd December 2016, from https://www.washingtonpost.com/politics/us-11-nations-formally-sign-largest-regional-trade-deal-in-history/2016/02/03/2db4ab26-caa4-11e5-88ff-e2d1b4289c2f_story.html?utm_term=.bbf7dd20cb57.

standards. If the countries' citizens can export their goods and services with no tax and tariffs place on their product, they are expected to have a better life with more income.

Most of the developing countries' problem in boosting the economy lacks resources. For example in agricultural sector, they lack productions due to limited sources with high population growth. The activity remains traditional and has a very low production. If the price of related advanced goods is low, big market and no complicated regulations for the investors to invest, those farmers could increase the production as well as their income.

2. Enhance Innovation, Productivity and Competitiveness

TPP is the first trade agreement in history to have a chapter specifically dedicated to small and medium-sized businesses.²² Provisions that may be of particular value to small businesses include intellectual property provisions, tariff reductions, and prohibitions against local data storage requirements. By creating streamlined rules for trade in all 11 countries, smaller companies that may have previously had lacked the capacity to enforce their intellectual property rights abroad or absorb the cost of high tariffs can more freely move forward with expansion in markets previously out of their reach. TPP member countries have also agreed to create user-friendly websites targeted at small businesses to provide information on TPP and how small firms can take advantage of the new

²² Office of the United States Trade Representative. *FACT SHEET: Investor-State Dispute Settlement (ISDS)*.(n.b.). retrieved 11 December 2016, from <https://ustr.gov/about-us/policy-offices/press-office/fact-sheets/2015/march/investor-state-dispute-settlement-isds>.

agreement.²³

TPP's Intellectual Property (IP) chapter will help country's citizens take full advantage of their country's innovative strengths and help to promote trade and innovation, as well as to advance scientific, technological and creative exchange throughout the region. This will promote high standards of protection, safeguard U.S. exports and consumers against IP infringement, and provide fair access to legal systems in the region to enforce those rights²⁴.

TPP will make it easier for businesses to register their trademarks and protect their intellectual property rights in new markets. The member countries commit to requiring protections for trademarks, geographical indications, works, and performances – such as songs, movies, and software.²⁵ These commitments are backed up by strong enforcement systems, from civil procedures to enhanced criminal penalties for trademark counterfeiting and copyright piracy. This includes penalties for trade secret theft and cyber theft. These provisions are particularly important for small businesses, which often cannot afford the legal resources necessary to protect their intellectual property in foreign countries. TPP will help these companies expand into new markets without fear of losing the valuable intellectual property.

²³ Ibid.

²⁴ Office of the United States Trade Representative. *Summary of Trans-Pacific Partnership Agreement*. (n.d.). retrieved 12nd December 2016, from <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2015/october/summary-trans-pacific-partnership>.

²⁵ Ibid.

3. Support the Creation and Retention of Jobs

By easing investors to invest in the country, many jobs will be created. The corporations are required to have employees retention such as coaching clinic, career development, motivating generations – employees, and other related program so the organizations or corporations have ability to retain its employees.

4. Reduce Poverty in the Country and Raise Living Standards

Reducing poverty in a country is one of what TPP offers to the members. It is related with point number three. By creating jobs, it is expected to reduce the poverty in the country.

5. Promote Transparency, Good Governance, Enhanced Labor and Environmental Protections

TPP includes provisions that will help ensure private-sector businesses compete on level playing field with state-owned enterprises. These government-backed businesses often receive subsidies and preferential regulatory treatment to engage in commercial activity. This makes it harder for other nations' businesses to gain a foothold in those countries.²⁶ TPP prohibits these SOEs or designated monopolies from discriminating against enterprises, goods or services from foreign countries.

²⁶ The Washington Post. *U.S., 11 Nations Formally Sign Largest Regional Trade Deal in History*.(n.b.). Retrieved 12nd December 2016, from https://www.washingtonpost.com/politics/us-11-nations-formally-sign-largest-regional-trade-deal-in-history/2016/02/03/2db4ab26-caa4-11e5-88ff-e2d1b4289c2f_story.html?utm_term=.048a3783ae67.

TPP's Transparency and Anti-Corruption chapter promotes good governance and addresses the corrosive effects of bribery and corruption on trade, investment, and government policies related to trade and investment. Toward this end, the chapter ensures that U.S. exporters, service suppliers, investors, and other interested stakeholders in TPP have ready access to information about the laws, regulations, and other rules affecting trade or investment in TPP markets; guarantees due process rights; commits TPP Parties to have and enforce anti-bribery laws; and promotes rules against conflicts of interest in government. The chapter guarantees the full rights of governments to regulate for public health, environmental quality, and other public-policy goals.

TPP has the strongest protections for workers of any trade agreement in history²⁷, requiring all TPP Parties to adopt and maintain in their laws and practices the fundamental labor rights as recognized by the International Labor Organization²⁸ (ILO), including freedom of association and the right to collective bargaining; elimination of forced labor; abolition of child labor; and the elimination of employment discrimination. It also includes commitments, again required for all TPP Parties, to have laws governing minimum wages, hours of work, and occupational safety and health. All these are fully enforceable and backed up by trade sanctions.

One of the Trans-Pacific Partnership agreement concerns is environmental

²⁷ Ibid.

²⁸ A United Nations agency dealing with labour issues, particularly international labour standards, social protection, and work opportunities for all.

issues. This pact emphasizes the importance of having a good environment for any industries or companies. The signatories recognize the sovereign of each party to establish its own levels of domestic environmental protection. Furthermore, each party also recognizes that it is inappropriate to promote trade and investment by reducing the environmental protection or endangering environment in order to achieve significant amount of benefits.

According to the Office of the United States Trade Representative, the TPP includes the most robust enforceable environment commitments of any trade agreement in history.²⁹ The USTR notes that the TPP requires signatories to fulfill their obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) to protect and conserve iconic species.³⁰ According to the USTR, TPP is the first trade agreement to prohibit harmful fisheries subsidies, such as those that contribute to overfishing.³¹ The USTR asserts that TPP signatories are required to combat illegal fishing, promote sustainable fisheries management practices, and protect wetlands and important natural areas, combat wildlife trafficking, illegal logging, and illegal fishing and protect the marine environment from ship pollution, including by implementing their obligations under MARPOL³² (an international agreement to prevent marine

²⁹ Office of the United States Trade Representative. *Preserving Environment*.(n.b.). retrieved 11 December 2016, from <https://ustr.gov/tpp/#preserving-the-environment>.

³⁰ Ibid.

³¹ Ibid.

³² One of the most important international marine environmental conventions. It was developed by the International Maritime Organization in an effort to minimize pollution of the oceans and seas, including dumping, oil and air pollution. The objective of this convention is to preserve the marine environment in an attempt to completely eliminate pollution by oil and other harmful substances and to minimize accidental spillage of such substances.

pollution).