

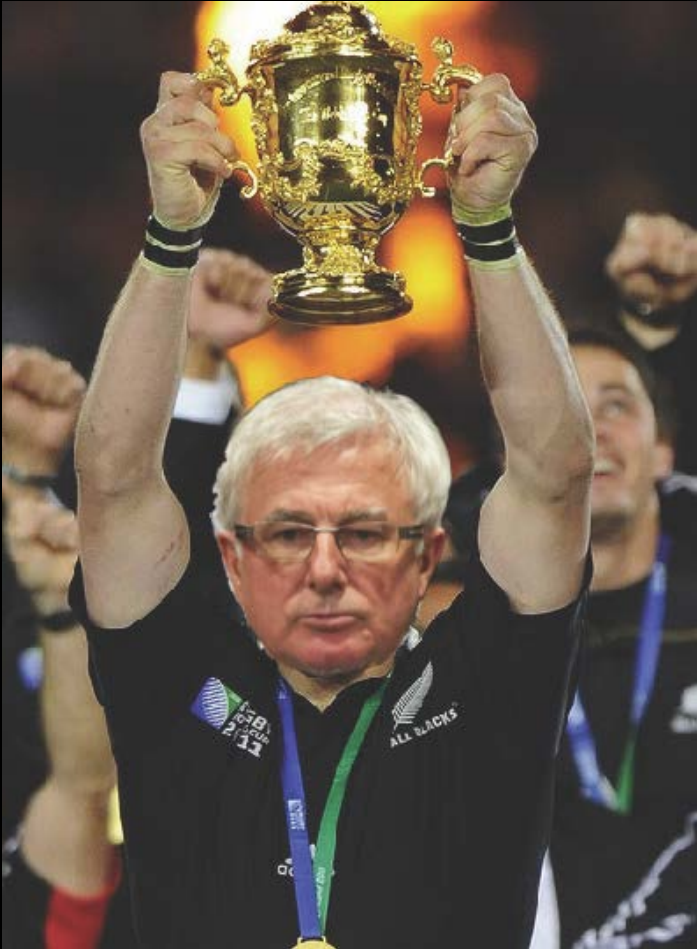
TPPA: A 21ST Century Trade Agreement?

Dr Erik Monasterio



ASSOCIATION OF SALARIED MEDICAL SPECIALISTS

TOI MATA HAUORA



A Deal For The 21st Century?

The **free-trade** oxymoron



NEGOTIATORS GUARANTEES

- No additional cost to medications.
- No effect on PHARMAC
- Fundamentals of PHARMAC untouched
- Corporation will not sue the Government- No threat to NZ sovereignty

REASSURANCE AFTER DEAL COMPLETED

NZrs will not face increased medicine costs

NO extension to data exclusivity or monopolies for
Biologics, beyond 5 years

PHARMAC and Tobacco carve-out from ISDS

“Almost inconceivable” that anyone would take court
action against NZ under the TPPA

T Groser (Q +A, 11 October 2015)



25,000-30,000 Protesters



ANALYSIS OF THE TEXT: MEDICATIONS

1. Review mechanism potentially allowing industry challenges to PHARMAC
2. Medsafe notification to originator about generic applications
3. **Biologics** "either eight years of clinical trial data protection for biologics" or "*effective market protection*" that delivers a "comparable outcome" to 8 years of market exclusivity
4. The 8 year arrangement will be reviewed 10 years

USTR



"TPP will require, for the first time in a trade agreement, Parties to provide an extended term of effective market protection for biologic medicines, a key element of future medical advancement..."

ISDS

A Trade deal for the 21st Century?

- Host countries rule of law is insufficient
- George Kahale *"is seriously flawed, and in my view it needs a complete overhaul"*
- Alfred de Zayas *"must be abolished" fundamentally in conflict with international covenants on human rights and "the very essence of sovereignty and self-determination"*

(UN General Assembly 26 Oct 2015)

**Figure 10. Most frequent home states
(total as of end 2013)**

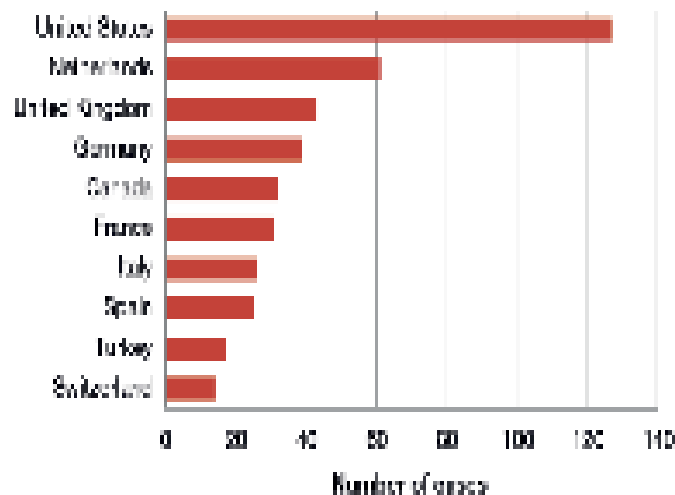
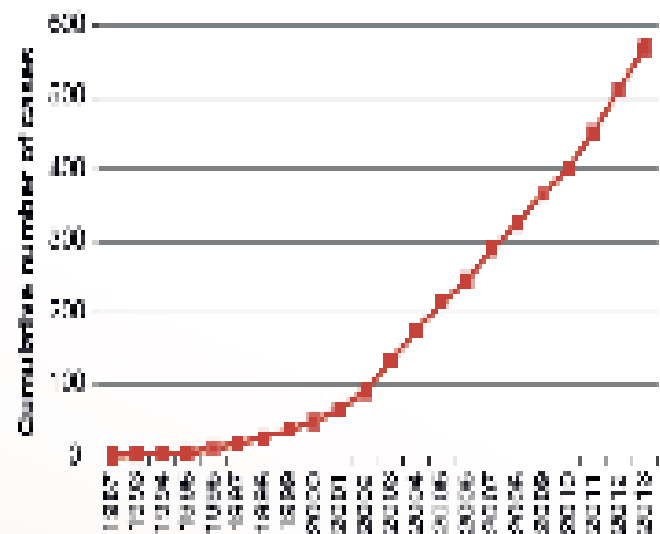


Figure 8. Known ISDS cases (total as of end 2013)



ISDS

Tobacco carve out

- allows a state to *elect to deny* the benefits of the ISDS with respect to claims brought by investors
- does not provide a guarantee for "tobacco control" under international law.

ISDS

Protection of Health

- *“Inherent right to regulate to protect public welfare, including in the areas of health and the environment” (Preamble Section)*
- “General exceptions rule” does not apply to the investment chapter

Technical Barriers to Trade chapter

- Intend to remove or streamline 'barriers to trade'
- Lead to challenges to regulations with a public health purpose.
- TBT wine and spirits annex may limit health warnings

Climate Change **NOT MENTIONED**



