# *TPP's Hidden Climate Costs*

By Joseph Stiglitz | 03.28.16

*This brief is part 3 in a series on the Trans-Pacific Partnership. Click here to view the rest of the briefs.*

President Obama has said that "no challenge poses a greater threat to future generations than climate change." Yet the word "climate" is conspicuously missing from the Trans-Pacific Partnership (TPP). Worse, many provisions of the proposed trade agreement between the United States and 11 Pacific Rim countries could undermine critical policies and initiatives needed to contain global climate change.

All the evidence suggests that in order to limit global warming to the 2 degrees Celsius that scientists see as critical to avert the worst effects of climate change, we must retrofit global economic structures for production, investment, and trade. Instead, TPP would cement in place a system that treats the environment as distinct from and subordinate to international trade and investment.

Though trade negotiators may treat commerce and climate as separate problems, the emissions giving rise to climate change are in fact an unaccounted cost of the goods and services exchanged in our increasingly complex and globally integrated production and consumption chains. Not paying for these large social costs of pollution in production and global shipping delivers a hidden subsidy to the corporations polluting our global atmosphere.

Any good trade agreement would seek to do away with distorting subsidies to producers. One cannot have fair trade if firms are not required to pay the environmental costs they impose on society, which also present an existent threat to life on this planet. TPP does nothing to prohibit these typically hidden subsidies or others, such as subsidies for fossil fuels, buried within the tax system.

TPP is worse still because it creates the risk of lengthy lawsuits and sizable cash awards to investors for government actions that would rein in many of the current hidden subsidies for greenhouse gas pollution or ban climate-imperiling products and production methods. For instance, under TPP rules, government policies to incentivize more environmentally sustainable goods and services—even with voluntary labeling—can be challenged as illegal "technical" trade barriers unless the government has requested a specific policy exception in the existing agreement. Countries that lose such cases will face millions in sanctions unless they eliminate the policy favoring more socially and environmentally sustainable conditions.

Arguably, the countries party to TPP may not launch such attacks on each other's climate policies, but the agreement's expanded investor rights empower polluters to do so directly. TPP's investor–state dispute settlement (ISDS) system allows foreign investors to sue governments for actions perceived as violating new rights afforded by the agreement and to demand compensation for expected future profits undercut by such policies. This threat creates an explicit obstacle to many government actions to reduce carbon emissions or other forms of climate pollution.

When investors bring disputes, they will be heard in private international tribunals stacked in favor of business interests. Arbitrators in such tribunals have repeatedly interpreted agreements like TPP to mean that changes to the policy environment harming *their* bottom line violate investor rights and deserve compensation, sometimes amounting to billions of taxpayer dollars.

Corporations in carbon-intensive resource extraction and electric utility industries are some of the biggest users of these ISDS mechanisms. In January, the energy company TransCanada launched such a challenge against President Obama's decision to reject the Keystone XL pipeline, demanding $15 billion in compensation using the North American Free

Trade Agreement's (NAFTA) investor arbitration system. TPP would expand the scope of this system.

The threat cuts both ways: Currently the American firm Lone Pine is challenging Canada's moratorium on hydrofracking under the St. Lawrence River. Unlike NAFTA, TPP explicitly would extend actionable investor rights to cover government contracts for the "exploration, extraction, refining, transportation, distribution or sale" of government-controlled natural resources like "oil, natural gas, … and other similar resources."

Other seemingly arcane implications of TPP could also have big consequences for climate change. Current U.S. law requires the Department of Energy (DOE) to assess the economic impact and public interest before approving exports of liquid natural gas (LNG). However, the law also instructs the DOE to approve "without modification or delay" exports to any country with which we have a trade agreement.

DOE assessments make clear that exporting gas benefits gas companies (who can charge higher prices) while harming consumers and other businesses (who will pay more for gas and electricity). But more gas exports will also incentivize intensified hydrofracking, a natural gas extraction technique that is itself associated with significant greenhouse gas emissions. While shifting foreign consumers away from dirtier coal energy would be good, the worry is that the carbon-intensive costs of liquefying, transporting, and then reconstituting gas will more than offset carbon savings. A full public interest analysis might attempt to assess whether that is the case, but if TPP were enacted, U.S. officials would lose the right to review all LNG exports to TPP nations.

Crafted in secrecy with the help of corporate lobbyists, and with an eye to courting votes in a Republican-controlled Congress where climate change denial trumps science, no one should be surprised that TPP falls short of the "gold standard for 21st century international agreements" touted by the Obama administration. President Obama is reaching for a legacy on trade, but TPP's harmful climate impact could dwarf his other laudable achievements.