



Australian Government

Australian Government response to the
Senate Foreign Affairs, Defence and Trade References
Committee report:

Proposed Trans-Pacific Partnership (TPP) Agreement

MAY 2017

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The Government thanks the Committee for its consideration of the Trans-Pacific Partnership (TPP) Agreement, and its report, *Proposed Trans-Pacific Partnership (TPP) Agreement*, which was tabled in the Parliament on 7 February 2017.

The Government provides the following responses to the Committee's recommendations.

Recommendation 1

The Committee recommends that the Australian Government should defer undertaking binding treaty action until the future of the Trans-Pacific Partnership Agreement is clarified through further negotiations with Australia's major trading partners.

Response:

The Government notes the recommendation.

The Government is actively engaging with TPP signatories on pathways for giving effect to the TPP.

Recommendation 2

The Committee recommends that the Australian Government expedite widely supported reforms to the treaty-making process in order to assist the completion of future trade agreements.

Response:

The Government notes the recommendation.

The Government believes that Australia's existing treaty-making system is working well, but the Government will continue to explore new options for securing input from stakeholders and disseminating information on free trade agreements.

Government Response to Additional Comments by Coalition Senators

The Government notes the additional comments by Coalition Senators in support of certain recommendations made by the Joint Standing Committee on Treaties (JSCOT) in Report 165, *Inquiry into the Trans-Pacific Partnership Agreement*. The Government has responded to the recommendations of the JSCOT report separately.

Additional Comments – The Australian Greens

Recommendation 1:

The Australian Greens recommend that no measures are taken towards Australia's acceptance or ratification of the TPP.

Response:

The Government does not accept the recommendation.

The Government notes that Australia's participation in the TPP is in the national interest.

Recommendation 2:

The Australian Greens recommend that the Australian Government commit to formally and permanently ending Australia's involvement with the TPP.

Response:

The Government does not accept the recommendation.

The Government notes that Australia's participation in the TPP is in the national interest.

Recommendation 3:

The Australian Greens recommend that legislation be passed, barring the Australian Government from signing the country up to international trade agreements that include ISDS clauses in future.

Response:

The Government does not accept the recommendation.

The Government considers the inclusion of Investor-State Dispute Settlement (ISDS) clauses in free trade agreements on a case-by-case basis.

Recommendation 4:

The Australian Greens recommend that the current trade agreement process is amended to allow for greater transparency, including independent assessments of proposed agreements, the opportunity for genuine community consultation during the negotiation phase and a final ratification process whereby Parliament votes on the whole text of agreements, rather than just implementing legislation.

Response:

The Government does not accept the recommendation.

Under the Constitution, the power for entering into treaties rests with the Executive. Under Australia's existing treaty-making system, the Parliament, through the Joint Standing Committee on Treaties, has the opportunity to review and make recommendations on treaties prior to the Executive taking binding treaty action.

The process requires all trade agreements to be tabled in Parliament with a National Interest Analysis (NIA), which includes a discussion of the foreseeable economic effects of the treaty action and any direct financial costs to Australia. Economic modelling of trade agreements is only one tool to assess whether an agreement is in the national interest. DFAT commissions economic modelling of trade agreements on a case-by-case basis. Statistical and methodological limitations mean that current models are unable to estimate the total impact of a free trade agreement (FTA) on the economy. For example, it is difficult to model accurately the impact of changes to non-tariff barriers, trade facilitation, increased regulatory certainty and other aspects of an FTA such as rules. Moreover, statistics on international trade in services and investment flows are incomplete.

The Government has an extensive program of outreach on its FTA agenda, including broad and regular consultation with all interested stakeholders. The Government will continue to explore new options for securing input from stakeholders and disseminating information on FTAs.

Additional Comments – Senator Nick Xenophon

Recommendation 1:

Even if a suitable replacement economy for the United States is found, the TPP or a similarly styled agreement should not be accepted or ratified by the Australian government.

Response:

The Government does not accept the recommendation.

The Government notes that Australia's participation in the TPP is in the national interest.

Recommendation 2:

The Australian Government expedite widely supported reforms to the treaty-making process in order to assist the completion of future trade agreements and for that reform to include the need for the text of these agreements to be subject to the scrutiny of the Parliament prior to the agreement being signed.

Response:

The Government does not accept the recommendation.

Under the Constitution, the power for entering into treaties rests with the Executive. Under Australia's existing treaty-making system, the Parliament, through the Joint Standing Committee on Treaties, has the opportunity to review and make recommendations on treaties prior to the Executive taking binding treaty action.

The Government believes that Australia's existing treaty-making system is working well, but the Government will continue to explore new options for securing input from stakeholders and disseminating information on free trade agreements.