

TRANS-PACIFIC PARTNERSHIP AGREEMENT

BACKGROUND DOCUMENT: MYTHS VERSUS REALITIES

The following document addresses common misconceptions about the Trans-Pacific Partnership Agreement (TPP) and associated negotiations.

FIRST MYTH: THE TPP WILL PREVENT AUSTRALIA FROM REFORMING COUNTRY OF ORIGIN FOOD LABELLING

REALITY: NO

The TPP does not diminish Australia's ability to regulate food labelling, including reforms to country of origin labelling. The TPP re-affirms a TPP country's rights and obligations under the World Trade Organization (WTO) Agreement in relation to food labelling.

SECOND MYTH: THE TPP WILL LOWER AUSTRALIAN FOOD STANDARDS AND BIOSECURITY ARRANGEMENTS

REALITY: NO

The TPP does not weaken Australian policies or regulations on food standards. The TPP will not restrict Australia's ability to protect our country from imported pests and diseases, or change our existing right to implement quarantine measures to protect human, animal and plant health consistent with WTO norms.

THIRD MYTH: THE TPP WILL RESULT IN HIGHER PRICES FOR MEDICINES AND HAVE A NEGATIVE IMPACT ON THE PHARMACEUTICAL BENEFITS SCHEME.

REALITY: NO

The TPP will not require any changes to Australia's Pharmaceutical Benefits Scheme and will not increase the price of medicines for Australians.

FOURTH MYTH: THE TPP INVESTOR STATE DISPUTE SETTLEMENT (ISDS) PROVISIONS WILL ALLOW FOREIGN COMPANIES TO SUE THE AUSTRALIAN GOVERNMENT JUST BECAUSE A FOREIGN COMPANY MAKES A LOSS ON ITS INVESTMENTS IN AUSTRALIA

REALITY: NO

The TPP ISDS provisions provide an opportunity for investors, including Australian investors, to protect their investments overseas against expropriation and to ensure that they are afforded a certain minimum standard of treatment, and treated in a non-discriminatory manner.

The TPP ISDS provisions do not protect an investor from a mere loss of profits following a change in government policy or regulation and do not prevent a Government from changing its policies or regulating in the public interest. The TPP ISDS provisions incorporate explicit safeguards to protect the



right of governments to take decisions in the public interest, including in the areas of health and the environment, and reduce the chances that foreign investors bring frivolous claims.

For further information on the ISDS provisions in the TPP, refer to: [Outcomes: Investment](#). For more information on ISDS, refer to: [Investor-State Dispute Settlement](#)

FIFTH MYTH: THE TPP WILL UNDERMINE OUR SOVEREIGNTY, INCLUDING THE FINALITY OF OUR COURTS

REALITY: NO

The TPP will not undermine Australian sovereignty. Australia retains the ability to determine domestic laws and Australian courts will retain their exclusive jurisdiction to determine matters of Australian law. Any ISDS tribunal would consider whether there has been a violation of an investment commitment in the TPP. It could not overturn domestic court decisions nor force Australia to change its laws.

SIXTH MYTH: THE TPP WILL REQUIRE CHANGES TO AUSTRALIA'S COPYRIGHT REGIME, INTELLECTUAL PROPERTY ARRANGEMENTS, AND AUDIOVISUAL SECTOR

REALITY: NO

The TPP is consistent with Australia's existing intellectual property arrangements, including our copyright and enforcement regimes. Specifically, the TPP does not require an increase in the term of copyright protection in Australia or include criminal penalties for downloading music, movies or TV shows, or making temporary copies. The TPP does not require internet service providers to monitor, report and penalise breaches of copyright infringement.

The TPP will also not require changes to Australia's policies for local content on television and radio. The Government has retained the ability to introduce measures directed at ensuring that Australian audiovisual and cultural content continues to be made reasonably available to Australian audiences into the future.

SEVENTH MYTH: THE TPP WILL HARM WORKERS' RIGHTS, AND LOWER LABOUR AND ENVIRONMENT STANDARDS

REALITY: NO

The TPP will benefit workers in TPP countries by promoting compliance with internationally-recognised labour rights and by promoting enforcement of labour laws.

The TPP will not affect Australia's ability to set appropriate English language requirements, training benchmarks, licensing requirements or the Temporary Skilled Migration Income Threshold. Australia's TPP commitments are consistent with the approach taken in other free trade agreements, and are also consistent with Australia's existing immigration and workplace relations frameworks.

The TPP aims to promote sustainable development and achieve higher levels of environmental protection in the TPP region. The TPP will promote enforcement of environmental laws and lay the foundations for the TPP countries to work together to address a range of trade-related environmental challenges, including overfishing and illegal wildlife trade.

EIGHTH MYTH: THERE IS NO POINT IN NEGOTIATING THE TPP AS WE ALREADY HAVE FREE TRADE AGREEMENTS WITH MANY TPP COUNTRIES

REALITY: NO

The TPP is more than the sum of its parts. As a region-wide free trade agreement, the TPP presents significant opportunities for job-creating growth in Australia. These include *additional* market access for goods, services and investment with existing FTA partners (such as Japan and the US) and *new* market access into TPP countries with whom Australia has no existing FTA (Canada, Mexico and Peru). The TPP will also streamline trade and investment rules in the region, which will assist integrating economies in the Asia-Pacific region and support Australian participation in regional value chains. The TPP has also broken new ground by addressing a number of 21st century trade and investment challenges, such as competition and electronic commerce.

NINTH MYTH: THE TPP WAS NEGOTIATED IN SECRET

REALITY: NO

In November 2008, the Australian Government publicly announced that Australia would participate in the TPP negotiations. Australia's decision to participate in the TPP negotiations followed extensive consultations involving a wide range of stakeholders and State and Territory Governments.

The Department of Foreign Affairs and Trade (DFAT) engaged in over 1000 TPP stakeholder briefings and consultations between May 2011 and mid-2015. In addition to consultations with State and Territory Government representatives, a wide range of domestic stakeholders were consulted, including representatives from peak industry bodies, individual companies, academics, unions, consumer groups, special interest groups and other organisations representing civil society.

Many stakeholders were consulted on several occasions. In these consultations, DFAT officials updated stakeholders on the progress in the negotiations, discussed Australia's approach to the negotiation of issues of interest, and received views and comments.


Australia's negotiating positions were guided by consultations with a range of stakeholders.

The 12 TPP negotiating parties signed a confidentiality undertaking that required draft treaty text and other documents exchanged to be treated as confidential by all negotiating parties, in order to facilitate candid and productive negotiations. This undertaking did not impeded consultation with stakeholders and allowed for consultation to occur within each negotiating party's established processes.

While the draft negotiating text was not public, consistent with standard practice for the negotiation of international treaties and the confidentiality undertaking, the policy issues themselves were not secret.

In addition, the Government provided briefings to members of Federal Parliament and offered any member of Federal Parliament the opportunity to view the draft TPP negotiating text under conditions of confidentiality. Some parliamentarians have taken up this offer.

Finally, consistent with long-standing treaty-making process, there will be an opportunity for public and Parliamentary scrutiny prior to the TPP being ratified. In accordance with the Government's treaty-making process, the TPP will be tabled in Parliament for 20 joint sitting days to facilitate public



consultations and scrutiny by the Joint Standing Committee on Treaties (JSCOT) before any binding treaty action is taken. Once tabled, the treaty text and an accompanying National Interest Analysis will be published on the JSCOT website and in the online Australian Treaties Library.