



## CPTPP suspensions explained

The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) is a treaty that incorporates the provisions of the original Trans-Pacific Partnership Agreement, except for a limited number which CPTPP countries agreed by consensus to suspend. These provisions remain part of the CPTPP Agreement, but they will have no application under international law. The text of the original TPP Agreement is available on the [DFAT website](#).

### Can the provisions be unsususpended?

The provisions will remain suspended until CPTPP countries decide otherwise by consensus.

### What are the suspended provisions?

Chapter (number)	Suspended Provision	Effect of the suspension
<b>Customs Administration and Trade Facilitation (5)</b>	Article 5.7.1(f): Express Shipments <i>Suspend second sentence</i>	Each CPTPP Party has agreed not to assess customs duties on express shipments valued at or below a fixed amount as set under its domestic law. That amount is currently set at \$1,000 under Australian law.  There will no longer be an obligation for Parties to review the threshold below which no duties on express shipments are charged.
<b>Investment (9)</b>	1. 9.1 Definitions  <i>Suspend "investment agreement" and "investment authorisation" and associated Footnotes (5 - 11)</i>  1. 9.19.1 Submission of Claim to Arbitration	This narrows the scope of Investor-State Dispute Settlement (ISDS). Foreign investors can no longer make an ISDS claim for violation of private investment contracts with the Government, or investment authorisations.  Foreign investors can still bring an ISDS claim for a violation of an investment obligation, such as expropriation or the minimum standard of treatment. Expropriation is where a government takes over, or nationalises, an investor's property.  The minimum standard of treatment means a government has to treat a foreign investor fairly, such as giving them due process in a local court.

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	<p><i>a(i) B and C; (b)(i) B and C (investment authorisation or investment agreement), chausette, footnote 3</i></p> <p>1. 9.19.2 Submission of Claim to Arbitration</p> <p><i>Footnote 32</i></p> <p>1. 9.19.3 Submission of Claim to Arbitration</p> <p><i>(b) delete investment authorisation or investment agreement</i></p> <p>1. 9.22.5 Selection of Arbitrators</p> <p>2. 9.25.2 Governing Law</p> <p>3. Annex 9-L Investment Agreements</p>	
<p><b>Cross-Border Trade in Services (10)</b></p>	<p>Express Delivery Services – Annex 10-B <i>Suspend paragraph 5 and 6</i></p>	<p>Parties are no longer obliged to refrain from cross-subsidising express delivery services with revenues derived from monopoly postal services. There will no longer be a requirement for each Party to ensure that its postal monopoly refrain from abusing its monopoly position when supplying express delivery services. This provision would not have required Australia to make any legislative or competition policy changes.</p>
<p><b>Financial Services (11)</b></p>	<p>Minimum Standard of Treatment in Article 11.2</p>	<p>Foreign investors in the Australian financial services sector will not be able to bring an ISDS claim against</p>

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	<i>Suspend sub-paragraph 2(b); footnote 3 and Annex 11-E</i>	Australia for violating the minimum standard of treatment obligation.
<b>Telecommunications (13)</b>	Resolution of Telecommunications Disputes - Article 13.21.1(d)	This suspends a process for reconsideration of decisions made by telecommunications regulatory bodies.
<b>Government Procurement (15)</b>	Conditions for Participation - Article 15.8.5 <i>Suspend commitments relating to labour rights in conditions for participation</i>	The suspended provision clarifies that procuring entities may promote compliance with international labour rights as part of their procurement processes. Australia's government procurement processes are not affected.
	Further Negotiations - Article 15.24.2 <i>Suspend "No later than three years after the date of entry into force of this Agreement"</i> <sup>1</sup>	CPTPP countries have agreed to delay the TPP's in-built agenda to enhance government procurement commitments by two years. That is, instead of commencing negotiations within three years from the entry into force of the Agreement, the Parties will commence negotiations five years after entry into force.
<b>Intellectual Property (18)</b>	Article 18.8: National Treatment Footnote 4 <i>Suspend final two sentences</i>	This suspension relates to technical aspects of non-discriminatory treatment obligations with respect to copyright works, phonograms and performances. This provision would not have required Australia to make any legislative changes.
	Article 18.37: Patentable Subject Matter <i>Suspend Paragraph 2 and Paragraph 4, second sentence</i>	There will no longer be a requirement that patents be made available for either new uses of known product, new methods of using a known product or new processes of using a known product. Also there will no longer be a requirement that patents be available for inventions derived from plants. These provisions would not have required Australia to make any legislative changes.
	Article 18.46: Patent Term Adjustment for Unreasonable Granting Authority Delays	There will no longer be a requirement to adjust, upon request, a patent's term of protection to compensate the patent owner if there are unreasonable delays in a patent office's issuance of patents. This provision

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		would not have required Australia to make any legislative changes.
	Article 18:48: Patent Term Adjustment for Unreasonable Curtailment	There will no longer be a requirement to adjust a pharmaceutical patent's term of protection to compensate the patent owner for unreasonable curtailment of the effective term of a patent as a result of the marketing approval process for a pharmaceutical product. This provision would not have required Australia to make any legislative changes.
	Article 18.50: Protection of Undisclosed Test or Other Data	There will no longer be a requirement for five years of protection for test or other data submitted to a regulatory authority for the purposes of obtaining regulatory approval to market a pharmaceutical product. This provision would not have required Australia to make any legislative changes.
	Article 18.51: Biologics	There will no longer be a requirement for five years of protection for test or other data submitted to a regulatory authority for the purposes of obtaining regulatory approval to market a biologic pharmaceutical product, along with other measures. This provision would not have required Australia to make any legislative changes.
	Article: 18.63: Term of Protection for Copyright and Related Rights)	There will no longer be a requirement for a copyright term of protection for the life of the author plus 70 years. This provision would not have required Australia to make any legislative changes.
	Article 18.68: Technological Protection Measures	There will no longer be a requirement for civil remedies and criminal penalties for the circumvention of technologies that control access to protected copyright works. This provision would not have required Australia to make any legislative changes.
	Article 18.69: Rights Management Information	There will no longer be a requirement for civil remedies and criminal penalties for altering or removing information attached to a protected copyright work that identifies the work, author or terms of use of the work. This provision would not have required Australia to make any legislative changes.

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	Article 18.79: Protection of Encrypted Program- Carrying Satellite and Cable Signals	There will no longer be a requirement for civil remedies and criminal penalties for decoding encrypted satellite signals without authorisation. This provision would have required minor regulatory amendments in Australia.
	Article 18.82: ISP Liability and Annexes 18-E and 18-F	There will no longer be a requirement for a legal framework for online service providers to cooperate with rights holders in deterring online copyright infringement. This provision would not have required Australia to make any legislative changes.
<b>Environment (20)</b>	Conservation and Trade (measures 'to combat' trade) - Article 20.17.5 <i>Suspend "or another applicable law" and footnote 26</i>	There will no longer be a requirement for CPTPP countries to take measures to combat trade in wild flora and fauna that were taken or traded in another jurisdiction, in violation of the laws of that jurisdiction. This provision would not have required Australia to make any legislative changes.
<b>Transparency and Anti-corruption (26)</b>	Transparency and Procedural Fairness for Pharmaceutical Products and Medical Devices <i>Suspend Annex 26A - Article 3 on Procedural Fairness</i>	This suspension concerns processes to ensure the transparency and procedural fairness of systems related to the listing and pricing of pharmaceutical Products and Medical Devices. This provision would not have required Australia to make any legislative changes.
<b>Annex IV – State- Owned Enterprises and Designated Monopolies</b>	Malaysia <i>Suspension of: "after signature of this Agreement"</i>	Malaysia is to commence certain commitments with regard to its State-Owned Enterprise, Petronas, from date of entry into force of the CPTPP, rather than from the date of signature.
<b>Annex II – Investment and Cross-Border Trade in Services</b>	Brunei Darussalam – 14 – Coal – paragraph 3 <i>Suspension of: "after the signature of this Agreement".</i>	Brunei Darussalam is to commence certain commitments with regard to coal from date of entry into force of the CPTPP, rather than from the date of signature.

1. The Parties agree that negotiations referred to in Article 15.24.2 shall commence no earlier than five years after entry into force of the CPTPP Agreement, unless the Parties agree otherwise. Such negotiations shall commence at the request of a Party.