

TRANS-PACIFIC PARTNERSHIP AGREEMENT

CHAPTER SUMMARY: TECHNICAL BARRIERS TO TRADE

The Technical Barriers to Trade (TBT) Chapter sets out the basic rights and obligations of TPP Parties when putting in place technical regulations and standards. These technical requirements take a wide range of forms and include design and content requirements, safety standards and testing procedures. Technical requirements are supported by assessment and certification procedures.

The TBT chapter does not take away Australia's right to impose technical requirements, standards or labels to products imported and sold in Australia. It does not create technical requirements or standards for specific products.

MORE INFORMATION ON THE CHAPTER

The Chapter's primary aim is to facilitate trade, including by eliminating discriminatory barriers to trade and those that are more trade restrictive than necessary. It also enhances transparency and promotes good practice and greater regulatory cooperation.

Australia's two way goods trade with TPP countries was valued at \$162 billion in 2015-16, with exports to TPP countries worth \$75 billion. Many exports are subject to technical barriers to trade, often referred to as non-tariff barriers (NTBs), in the form of licences, technical requirements and standards or labelling requirements. According to many businesses, the greatest deterrent to exporting is the complexity of the regulations they face entering new markets. Reducing unnecessary NTBs and improving access to information on technical requirements and certification procedures will reduce transaction costs to the benefit of Australian exporters. Closer cooperation between TPP Parties on technical regulations and a better understanding of each TPP Party's regulatory systems will also improve public safety and benefit Australian consumers.

Incorporating the WTO TBT Agreement

The WTO TBT Agreement commits members to apply technical regulations in ways that are non-discriminatory, do not create unnecessary barriers to trade, and based on international standards. The TPP reaffirms these obligations and extends the level of commitment on the development of international standards, guides and recommendations. The Chapter acknowledges that such standards support greater regulatory alignment and good regulatory practice.

Conformity assessment

The Chapter builds on the WTO TBT Agreement's commitments on conformity assessments. These are the processes used to determine whether a product meets the technical requirements for entry into a market. The additional commitments encourage information sharing and engagement between TPP Parties, including additional procedures to review complaints and the treatment of conformity assessment



bodies outside the importing TPP Party's territory. TPP Parties are encouraged to enter into mutual recognition agreements for bodies responsible for setting standards and making assessments, and to improve transparency regarding the reasons for refusal of recognition of conformity. Consistent with WTO rules, fees for any assessment of conformity would be charged based on the cost of services rendered.

Compliance period for technical regulations and conformity assessment procedures

The Chapter establishes timeframes for the entry into force of new or altered regulations. It also provides exporters with a reasonable time period to demonstrate the conformity of their goods with the relevant technical requirements.

Cooperation, trade facilitation, and transparency

The Chapter encourages TPP Parties to take into account the mechanisms that exist to ensure products conform to their technical requirements. This could include the mutual recognition of standard setting bodies in each other's territories or adopting existing regional and international mutual recognition arrangements.

TPP Parties recognise the importance of exchanging information to improve, promote and harmonise good regulatory practice across the region. Cooperating more closely on technical standards and harmonising approaches to conformity assessment reduces the complexity of requirements across the region, leading to lower costs of doing business.

The Chapter aims to improve transparency in the development and imposition of technical regulations in TPP countries. It commits TPP Parties to allowing members of the public to provide comments on in the development of technical regulations. The Chapter also requires TPP Parties to publish proposals for new or updated technical regulations and conformity assessment procedures in sufficient detail to allow others to assess the impact on trade.

Information Exchange and Technical Discussions

The Chapter provides the right to request information on any issue arising under the Chapter, with the aim of improving the information flow between TPP Parties. The TPP Party responding to such a request is obliged to provide information within a reasonable period of time. TPP Parties can also request technical discussions on issues that have an impact on trade.

Committee on Technical Barriers to Trade

A Technical Barriers to Trade Committee will be established, comprising representatives from all TPP Parties. The Committee's responsibilities will include promoting good regulatory practice, monitoring the implementation of the commitments in the Chapter, providing a conduit for technical discussions, and encouraging cooperation between governments and non-governmental bodies.

Annexes

The Chapter includes annexes concerning wine and distilled spirits, organic products, information and communications technology products, proprietary formulas for pre-packaged foods and food additives, cosmetics, medical devices and pharmaceuticals. These annexes add further clarity to TPP Parties' obligations and promote greater regulatory coherence across the region.

The Wine and Distilled Spirits annex provides guidance on labelling including specific minimum requirements for labels for wine and spirits products. Importantly, key consumer information such as product name, country of origin, net contents and alcohol content need to be clearly displayed within a “single field of vision” on the bottle. The annex does not limit a TPP Party’s ability to impose other labelling requirements. Standardising labelling requirements will reduce uncertainty for producers and exporters, lowering the costs of doing business. Australia’s wine exports to TPP countries were worth \$925 million in 2015-16.

The annex on Proprietary Formulas for Prepackaged Foods and Food Additives provides TPP Parties with additional guidance to ensure the confidentiality of commercially sensitive information for proprietary formulas and in implementing technical requirements such as labelling. The annex stipulates that nothing shall prevent a TPP Party from applying labelling standards in accordance with international standards, such as those set by Codex.

Separate annexes covering Pharmaceutical Products, Medical Devices and Cosmetics provide further commitments relating to the technical requirements of these industries. They share a range of overlapping themes, including avoiding unnecessary duplication in approvals processes and sharing information on requirements and regulatory bodies. TPP Parties are encouraged to consider international standards, recommendations and guidance when determining technical requirements and to take a risk based approach, as appropriate, in assessing applications. TPP Parties would commit to basing product approvals on safety, quality clinical data, design and product quality information. The Chapter also covers review and appeal mechanisms.

The annexes do not seek to negotiate specific requirements or standards for these products. Australia’s ability to set requirements and standards, including for testing and certification will not be affected. Improving the information available to importers and exporters, reducing unnecessary delays in approvals and improving standard setting across the region will benefit producers and consumers. Australia’s global exports in these three industries were worth over \$5.9 billion in 2015-16.

The annex on Information and Communications Technology Products (ICT) provides guidance on the application of technical requirements and conformity assessment obligations to ICT products that use cryptography or that have an electromagnetic capability.

The Organic Products annex encourages parties to exchange information on matters relating to organic production and certification and to work towards improved international guidelines and standards. It further encourages parties to consider expeditiously a request for equivalence of standards and technical regulations or conformity of procedures. The annex does not apply to standards set by non-government bodies. Australia does not have an official government standard for organic products. The annex has no impact on Australia’s current organics industry certification.