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Submission by Pauline Westwood on the Trans Pacific Partnership Agreement

Thank you for allowing me the opportunity to make a submission on this topic.

I am extremely concerned about the Trans Pacific Partnership (TPP) which is being secretly negotiated by our federal government. Our elected members of Parliament will not be allowed to see the texts before they are signed, and even then, they will then be tabled for only 20 days, during which Parliament will be faced with the impossible task of scrutinising the 29 chapters of this massive document.

By contrast, corporations and their advisers are “co-writers” of the treaties, and they have access to drafts from an early stage. Also, US politicians will be given greater access than Australian parliamentarians.

Joseph Stiglitz, the acclaimed American economist, was so concerned by leaked information about proposed restrictions on internet use, expansion of US copyright law to include (amongst much else) extensions on length of copyright, the criminalisation of copyright “infringement”, patenting of surgical procedures and much higher prices for pharmaceuticals, to mention only a few, that he wrote to all TPP negotiators to warn them of the consequences of signing up. Australians have already faced significant price increases to pharmaceuticals due to changes made in AUSTFA. We can now expect further increases, and these will have the greatest impact on seniors and pensioners. Companies will be free to set their own price.

“Investor-state dispute settlement provisions” known as ISDS were first proposed to protect corporations against poor governance practices in underdeveloped nations which might prejudice their interests. It is not clear why they are now being applied to advanced democracies. Accepting ISDS would allow foreign corporations to sue all levels of Australian governments whenever government actions impinge on their profits! John Howard rejected attempts by the US government to impose ISDS on Australia under the Australia-US Free Trade Agreement, arguing that the Australian judicial system was more than adequate to adjudicate in matters of corporate law.

However, Trade Minister Andrew Robb has announced he would agree to ISDS provisions in the hope of accessing greater markets, especially in the US and Canada. He has stated that new safeguards in ISDS clauses prevent unreasonable litigation by means of carve-outs.

Australia is already being sued by Philip Morris over Australia’s plain-packaging legislation, under ISDS provisions of a treaty with Hong Kong. Even where classes of government regulation have been specifically excluded from the ISDS, corporations have sued

regardless. For example, although Uruguay stipulates that its treaty cannot be used to overturn public health regulations, Philip Morris is trying to overturn Uruguay's health regulations regarding tobacco use. Canada is currently being sued for placing a moratorium on fracking to protect its environment and Germany for abandoning production of nuclear power.

Such disputes are not settled by the legal system of the signatory state, but by private international courts composed of lawyers for corporations. Their deliberations will be held in secret, they are not bound by convention, and there is no appeal against their decision. Local companies, on the other hand, will still be subject to Australian law.

Agreeing to ISDS in order to enable Australian companies to sue overseas governments is a perilous proposition. It means that not only will Australian citizens be at risk of having to pay any penalties incurred by federal, state and local governments, but will be asked to do for the sake of indemnifying Australian companies against the risks of investing overseas. This is a case of privatising business profits while socialising business risks, all at tax-payers expense. No future Australian government will be able to confidently develop a legislative program or to adhere to budget commitments, liable as they will be to the possibility of being sued for many millions of dollars. The impact of litigation at the local government level could be catastrophic.

Another invidious result of accepting ISDS is that Australian companies will be at a disadvantage compared to foreign corporations, because they will not be able to sue Australian governments for laws, regulations or policies which may affect their present or future profits. Based on US experience after it ratified NAFTA, many Australian companies will set up operations overseas to enjoy the same benefits as foreign companies. They will take away jobs and taxation revenue, with consequences for employment, government revenue, economic growth and our balance of trade.

Our democracy will be further subverted by the requirement of our governments to consult with foreign corporations before passing any new laws. Foreign companies will have more rights than Australian citizens.

The TPP comes at a time when tariff barriers have already been lowered or removed, and there is little prospect of any economic gains to Australia apart from a couple of rural industries.

Leaks reveal that the vast bulk of the document does not deal with trade at all, but focusses on imposing changes to our domestic legislation, which will require Australia to make legislative changes in areas such as protecting the environment, food safety and food labelling. We may not be able to avoid GMO food. Country of origin labelling may be prohibited and "buy Australian" campaigns forbidden. If this is the case, it will be a violation of our rights as citizens. There is also the prospect of corporations patenting local flora, to the detriment of Australian produce and especially of indigenous medicinal and other crops. Furthermore, Australian producers will lose their "clean and green" advantage under such changes to labelling regimes.

Our intellectual property laws will also be altered to restrict our internet access and criminalise behaviour which is currently regarded as normal usage. Internet providers will be obliged to spy on citizens. Australia will have to pay even more excessively for music and video products.

The prices of our pharmaceuticals will sky-rocket as a result of longer patent periods and “green fielding” to further extend patent periods for minor changes to ingredients.

There will be changes to our laws covering working conditions, industrial health and safety, and a relaxation of standards for entry of foreign workers, at a time of growing unemployment in Australia.

Our public services will have to open up to foreign corporations to be run at a profit. We have already seen the widespread roting and profiteering which followed the opening up of jobs services and further education to corporations. We are now seeing long term evidence of how our once-revered banking system has become corrupted since privatisation, and begun to prey on the very customers banks are supposed to serve.

The more foreign corporations become involved, the less chance our governments will have to regulate against such abuses. The threat of law suits will always temper any government action against a foreign corporation.

Public services are meant to serve the Australian public, not to make profits to be off-shored by huge foreign companies.

There is a risk of our postal system, Medicare, hospitals and prisons being run for profit. We are aware of the many abuses of prisoners taking place in many for-profit prisons overseas. The purpose of our prison system is to rehabilitate prisoners, not to provide cheap labour for local companies and windfall profits to the corporations who run the prisons.

It is ironic that, according to major studies, the Australian public will be asked to make all these sacrifices in exchange for no economic benefit at all. Australia’s Productivity Commission found that the claimed economic benefits of many bilateral and regional trade agreements have been exaggerated, and are in fact insignificant.

Even the US Department of Agriculture in its study *Agriculture in the Trans Pacific Partnership countries* (2014), on page 21, predicted by the year 2025, the net economic value to Australia would be 00.00% or in layman’s language, nil.

If we ratify the TPP in the fond hope of gaining greater market access for some farmers, the costs to the wider community will be catastrophic, far outweighing any highly questionable benefits. Arguably, we will forfeit our ability to preserve our environment and water supplies, protect bio-diversity, control pollution, provide low cost pharmaceuticals and regulate working conditions. In the long term farming communities will also pay a high price.

When our laws are made by foreign corporations, Australia will lose its sovereignty, and we will look back with nostalgia upon those the days when we used to call ourselves a democracy.

I agree to this submission being made public on the DFAT website.

Pauline Westwood