



**ACTU Submission to the Department of
Foreign Affairs and Trade on the proposed
Trans-Pacific Partnership Agreement**

21 June 2010

D No. 22/2010

Introduction

1. The Australian Council of Trade Unions (ACTU) is the peak council for organised labour in Australia. Unions affiliated to the ACTU cover all sectors of the economy, across all states and territories, representing more than 1.8 million workers. The ACTU is an affiliate of the International Trade Union Confederation, a body established to promote and defend workers' rights and interests globally through international cooperation.
2. The ACTU welcomes the opportunity to make this submission to the Department of Foreign Affairs and Trade on the proposed Trans-Pacific Partnership Agreement (TPPA). Our comments consist of general principles and we reserve the opportunity to make additional submissions as the negotiations develop.
3. Our position reflects our experience supporting workers to attain safe, secure and rewarding employment in Australia and internationally. Our comments reflect the ACTU's aim to create and consolidate a commitment to fairness and equality.
4. Furthermore, the ACTU stands committed alongside NZCTU, NTUC-Singapore and AFL-CIO in holding our respective governments accountable for the negotiation of an agreement that is balanced, supports the creation of good jobs, protects the rights and interests of working people, leads to long-term economic development and promotes a healthy environment (see attachment one).

Importance of International Trade

5. The ACTU is committed to promoting and supporting sustainable development in Australia and internationally, and strongly believes international trade – based on the principles of fair trade – is first and foremost a tool for raising living standards because it has the capacity to support:
 - Employment growth
 - Improved social protections
 - Implementation of core labour standards
 - Sustainable environmental standards

- Adherence to human rights conventions and democratic values
6. While the ACTU acknowledges that the World Trade Organisation is in urgent need of comprehensive reform, we nonetheless believe Australia should pursue its trade objectives through multilateral rather than bilateral and regional agreements. This position is informed by a number of considerations including: the transparency of global trade rules, the equitable distribution of benefits, the mitigation of trade diversion, and universal applicability of rules of origin.
 7. Notwithstanding the substantial advantages of multilateral instruments, it is necessary to consider the TPPA on its own terms as a plurilateral agreement, and from the perspective of Australia's interests.

Current Negotiating Parties

8. For many negotiating parties the TPPA will be the second or third trade agreement with another party to the negotiations. Australia already has bilateral agreements with Chile, New Zealand, Singapore and the US. Australia also has an agreement with ASEAN which includes Brunei and Vietnam. These agreements have not met in full the aspirations and/or economic predictions outlined prior to signing.
9. The ACTU encourages DFAT to undertake comprehensive impact assessments of the existing trade agreements, including the impact on wages and employment. Such assessments should be used to inform TPPA negotiations.
10. Furthermore, greater clarity on the relationship between the proposed TPPA and existing trade agreements is needed.
11. As the negotiations proceed, the ACTU urges the Australian government to conduct (and release for comment) comprehensive socio-economic analyses of the potential national, sectoral and regional impacts of the proposed TPPA.

12. The econometric modelling adopted by DFAT for the AUSFTA and SAFTA should not be the model adopted for the TPPA as it is founded on unrealistic projected gains that derive from an assumed complete and comprehensive liberalisation of trade and investment, which history demonstrates does not occur. It also does not consider the social and environmental impacts of PTAs.
13. Furthermore, the CGE modelling utilised by DFAT makes a number of assumptions – many unrealistic – which essentially determine their optimistic ‘findings’. This includes assumptions about full employment, uniform factor pricing, a single ‘representative’ household, purchasing power, capital mobility, trade balances, origin of products, and change. Thus:

‘CGE models allow for considerable structural detail and theoretical precision, they are quantitatively ungrounded: *any* CGE model can be calibrated to precisely replicate *any* real-world economic data set, and hence their quantitative predictions are highly ambiguous, completely dependent on both the theoretical specification and quantitative calibration that has been performed by the modeller. Their quantitative details which these models produce in their results should never be misinterpreted as empirical *reliability*.’¹

14. DFAT has informed stakeholders that the TPPA will be designed from the outset to allow for membership expansion; with DFAT using the term a ‘living agreement’. The text must clearly outline the process for accession. The process should allow for the consultation and engagement of stakeholders from existing party countries.

Investment

15. Over the past decade, substantial commitments to liberalise foreign investment regimes have emerged. The investment chapter of NAFTA is recognised as the most far-reaching investor-state dispute mechanism in effect. It provides investors with a mechanism to seek redress (if believed to have been treated unfairly) and claims for compensation in the courts of signatory countries but also against a signatory government in an international tribunal.

¹ J. Stanford & P. Conroy, *The Potential Employment Impacts of an Australia-China Free Trade Agreement*, AMWU, April 2007, 22.

16. This significantly increases the rights of investors to seek redress because unlike state-state dispute mechanisms, the aggrieved corporation does not depend on the willingness of its government to sign onto the grievance. As a consequence American, Canadian and Mexican investors hold significant rights under NAFTA even though they are not party to the agreement and hold no obligations under the agreement.
17. The inclusion of an investor-state dispute mechanism provides corporations with disproportionate power to lodge claims (as well as threaten litigation) for actual harm or potential imminent harm resulting from local, state or federal government policy and regulation. This undermines the role of local state and federal governments – as well as the democratic process – that are democratically elected for the purpose of developing policies and laws in the public interest.
18. Furthermore, claims lodged (and the threat to lodge claims) by corporations can result in a ‘chilling effect’ on domestic policy making in areas such as environmental protection, public health, culture and the economy – particularly in developing countries of which the proposed TPPA includes – for fear of future litigation. This constitutes a gross imbalance between private rights and the public interest.²
19. Varying interpretations of the ‘fair and equitable treatment’ for foreign investors outlined in investor-state dispute mechanisms – and efforts by corporations to expand the legal meaning of term – can lead to definitions that allow foreign corporations greater rights than those granted to domestic investors. This would require, for example, governments to meet higher standards of consultation (or other procedural treatment) for foreign corporations than those available to local investors and other parties. This is inequitable and the TPPA should ensure that foreign investors are not provided with greater rights than those enjoyed by Australian investors in Australia.

² See 5.11 – 5.13 of AFTINET submission. AFTINET, *Second Submission to the Department of Foreign Affairs and Trade on the Trans-Pacific Partnership Agreement*, Sydney: AFTINET, May 2010, 11.

20. Domestic courts should be the avenue for foreign corporations seeking to address investment disputes. Unlike arbitration, domestic courts allow for public access to hearings and appeal mechanisms. It is the most transparent system for processing claims by corporations that may challenge a broad spectrum of domestic policy and legal matters. Furthermore when international tribunals are established they are based on a commercial arbitral model. This approach focuses on the interests of investors, at the expense of public interest considerations (the basis of law and government policy). The lack of transparency and commercial law focus of state-state dispute mechanisms is also of concern.
21. There is no international consensus on the inclusion of an investor-state dispute mechanism as the most appropriate method for managing investment disputes. This is reflected in the breakdown in negotiations by OECD countries on the Multilateral Agreement on Investment in 1998, after four years of preparatory work and three years of negotiations. Similar concerns are held by a wide range of non-government stakeholders, including trade unions.
22. Lack of agreement on the need to include investor-state dispute mechanisms in trade agreements was also evident in the AUSFTA negotiations. Civil society played a significant role in expressing concerns, with fifty-nine prominent community organisations calling for the exclusion of an investor-state dispute mechanism. The Australian negotiating position that an agreement between two developed countries with advanced legal systems and an established rule of law did not require an investor-state dispute mechanism so that corporations could pursue their rights outside the domestic legal system was also important.
23. Importantly, however, the US government (previously a strong advocate of investor-state dispute mechanisms) agreed to text that did not include of an investor-state dispute mechanism. Reflecting upon the negotiations, Capling and Nossal argues that the powers granted to corporations by Chapter 11 of NAFTA had become 'sufficiently noisome that the commitment to reproduce the NAFTA provisions between industrialised countries with robust legal systems diminished dramatically...[and] the willingness of the United States side to leave investor-state provisions out of the

agreement reflected a growing disaffection in Washington about the unintended consequences of the Chapter 11 provisions of NAFTA.’³

24. Given that the TPPA includes the US (a country with an extensive history of litigation by US companies) and developing countries (which developed countries have previously sought BIT agreements with) there is warranted concern that the inclusion of an investor-state dispute mechanism will be sought in the TPPA. As outlined above, there are a number of reasons why an investor-state dispute mechanism should not be included. Thus, the ACTU seeks assurances that the Australian government will seek the exclusion of an investor-state dispute mechanism in the TPPA.
25. Under the AUSFTA, there was a significant reduction in the ability of the Australian government to review foreign investment proposals. The Australian government should not further undermine the Foreign Investment Review Board’s role in reviewing investments in order to protect the public interest.

Services

26. The ACTU strongly recommends the TPPA adopt a positive list approach with respect to trade in services. A positive list approach is the most appropriate method for avoiding unintended, unforeseen and excessive liberalisation by:
 - Preventing the automatic application of liberalisation obligations to services that do not exist nor are contemplated at the time the agreement is negotiated
 - Preventing inappropriate restrictions on the rights of government to regulate in the public interest
 - Not limiting the regulatory options of future governments when, and after, the new services emerge
 - Checking uni-directional policy movement (towards comprehensive liberalisation) because selections from the ‘negative list’ annex cannot be reversed to the status quo once variations to the existing arrangements are made

³ A. Capling & K.R. Nossal, ‘The Rise and Fall of Chapter 11: Investor-State Dispute Mechanisms in the North American Free Trade Agreement and the Australia-United States Free Trade Agreement’, *Paper Prepared for the Oceanic Conference on International Studies*, Canberra: ANU, 14-16 July 2004, 5.

Impact on Domestic Political Decision-Making

27. The TPPA should not constrain the ability of participating governments to regulate in the public interest, to pursue legitimate social objectives through responsible procurement policies, and to provide affordable and high quality public services.
28. Public services and 'public goods' social services, whether delivered by government agencies or private providers, should be clearly and unambiguously excluded from PTAs. This is consistent with the Australian Labor Party's policy platform which states that bilateral trade initiatives must not impact on the Australian government's capacity to provide public services such as health, education, water, waste, electricity supply or post.

Regulatory Coherence

29. Regulation is important for public interest objectives including consumer protection objectives, services standards, environmental protection and financial stability.
30. Efforts to develop regulatory coherence are complicated by the absence of internationally accepted standards reflected in differing definitions of what constitutes adequate regulation. Assuming a common definition, for example for consumer protection, can be reached, comparable countries may have different ways of achieving consumer protection. Efforts to promote regulatory coherence should respect this diversity and not require parties to adopt regulation developed in overseas jurisdictions that may not be appropriate to the respective domestic contexts of the parties to the agreement.
31. Furthermore, efforts to promote regulatory coherence through the TPPA should not undermine the right of governments to pursue legitimate policy objectives. For example, binding commitments that cannot be modified without providing compensation to affected trading partners should not be adopted. In addition, commitments should not constrain the ability of future governments to regulate in the public interest.

Financial Regulation

32. The global financial crisis demonstrated significant weaknesses in the frameworks adopted at an international and national level for financial regulation as well as the danger of widespread deregulation which allowed the financial system to largely regulate itself. This is reflected in the comments of Allan Greenspan, a former advocate of deregulated financial markets, who admitted that he had 'put too much faith in the self-correcting power of free markets.'⁴
33. The importance of stable and well regulated financial system was reflected not only in the crisis itself but in the response to the crisis presented by the G20 leaders in their Washington Declaration. The declaration outlined a joint commitment to 'implement reforms that will strengthen financial markets and regulatory regimes so as to avoid future crises.'⁵
34. DFAT reported that at the first round of negotiations the parties discussed an interest in progressing regulatory coherence through the TPPA. This may be in recognition that differences and duplications in regulations across countries can add to the difficulties experienced by corporations seeking to sell their products across borders.
35. The Australian government must ensure that any proposals, requiring Australia to alter its regulatory system in an effort to secure greater coherence, do not result in 'lowest common denominator' decision making. This is particularly important for Australia which has a strong financial regulatory system.
36. Furthermore, greater regulatory coherence that results in deregulation of the Australian financial system is unacceptable.

⁴ Cited in E.L. Andrews, 'Greenspan Concedes Error on Regulation', *New York Times*, October 24, 2008, B1.

⁵ Leaders of the Group of Twenty, *Declaration – Summit on Financial Markets and the World Economy*, G20, Washington, November 15, 2008, 2.

37. The robustness of the Australian economy – which stood in stark contrast to that of most OECD countries during the GFC – can largely be attributed to the strength of Australia’s financial systems and its regulatory measures. This is reflected in the 2009 outcomes of the World Economic Forum’s Financial Development Index. During the financial crisis, Australia was one of only a few countries that improved its index and ranking during the height of the crisis.⁶
38. The strength of the Australian financial system is founded in the reform agenda of the 1997 Wallis Report, which recommended strengthening regulatory structures and prudential requirements. The ‘four pillars’ policy also contributes significantly to financial stability.
39. Seeking financial regulatory coherence through trade agreements takes longer-term decision-making responsibility away from state and federal governments; resulting in a process that is less accessible, accountable and responsive to citizens. Furthermore, it removes an avenue previously available to governments – regulatory, structural and macroeconomic reform – seeking to govern effectively when faced with an imminent financial crisis.
40. This was identified in the 2009 *Report of the Commission of Experts of the President of the UN General Assembly on Reforms of the International Monetary and Financial System*. The report emphasised that financial market liberalisation at a multilateral and bilateral level ‘may restrict the ability of governments to change the regulatory structures in ways which support financial stability, economic growth, and the welfare of vulnerable consumers and investors.’⁷
41. This avenue of negotiations is inconsistent with the Washington Declaration. While outlining the importance of international cooperation on financial regulation, it emphasised that ‘regulation is first and foremost the responsibility of national regulators who constitute the first line of defence against market instability.’⁸

⁶ World Economic Forum, *The Financial Development Report 2009*, New York: WEF, 2009.

⁷ United Nations, *Report of the Commission of Experts on Reforms of the International Monetary and Financial System*, UN: Geneva, 2009, 82.

⁸ Leaders of the Group of Twenty, *Declaration – Summit on Financial Markets and the World Economy*, 2.

Pharmaceutical Benefits Scheme

42. The PBS is essential to the affordability of prescription drugs and hence critical to the maintenance of public health in Australia through the controls it exercises on the wholesale prices of medicines. These medicines are then made available at subsidised retail prices. The difference between the wholesale price and the subsidised retail price is the cost of the PBS to taxpayers.
43. No commitments should be given that would undermine the ability of the PBS to control wholesale prices and provide access to more affordable medicines.

Core Labour Standards

44. Consistent with the emerging international consensus on core labour standards, the ACTU believes all PTAs to which Australia is a party must be consistent with, and not undermine, core labour principles (as outlined in the 1998 ILO Declaration on Fundamental Principles and Rights at Work) and universal human rights standards.
45. The ACTU would expect a commitment in the TPPA consistent with the standards of the US-Peru trade agreement. Therefore the ACTU recommends the TPPA:
 - Clearly and comprehensively demonstrate that core labour standards are a fundamental and integrated part of agreements (for example, by referencing core labour standards in the preamble, in an operative article at the start of the agreement, and in a chapter on core labour standards in the body of the agreement)
 - Provide for this obligation to respecting labour rights be monitored and enforced
 - Include procedures for alleged breaches of the core labour standards and settling disputes (and it is recommended that labour matters are submitted to the same dispute settlement procedures as those negotiated for trade questions but should be chaired by a nominee of the ILO)

- Include a non-derogation clause and a commitment by parties to continue striving to improve labour standards, including a commitment to not lower the level of protection provided by domestic legislation in order to enhance trade or foreign direct investment
- Include a commitment by parties to ratify all the core ILO conventions
- Outline the obligations for civil society participation
- Outline a negotiation process that is conducted in an open, democratic and transparent manner (including community consultation at all stages of the agreement-making process)

An Environment Chapter

46. The ACTU strongly encourages the inclusion of an environment chapter in the TPPA.
47. The environment chapter should outline a strong respect and commitment to international principles and standards (including the 1972 Stockholm Declaration on the Human Environment and the 1992 Rio Declaration on Environment and Development) and multilateral environmental agreements as a minimum benchmark for desired domestic environmental behaviour, standards and enforcement
48. It should include a commitment to not reduce environmental standards to encourage investment or trade
49. Finally, the chapter should outline a mechanism for non-compliance including appropriate and commensurate action for non-compliance with environment obligations.

Transparency and Civil Society Participation

50. During the negotiations of previous preferential trade agreements, civil society organisations have been excluded from any meaningful participation in trade agreement negotiations. This is an unacceptable practice and must be rectified for the TPPA negotiations.

51. In conjunction with peak trade union bodies in Chile, NZ, Peru, Singapore and US we call for information on the negotiations that is more regular, abundant and accessible.
52. Therefore we recommend the creation of a joint TPPA website where information about the trade negotiations is posted and updated regularly; including, for example, information about upcoming negotiation rounds, contact information for key negotiating personnel, all white papers, draft texts, offers and counter-offers, trade and other data, press statements and declarations. The website should also allow for civil society to post documents relevant to the negotiations and timely web-chats on specific issues should be scheduled.
53. Furthermore, we call for genuine and regular consultation throughout the negotiation process. Consultations should be substantive, providing as much detailed information as possible to allow all stakeholders (civil society, unions, and employers) to ask pointed questions and form meaningful recommendations.
54. We welcome the decision by the Office of the United States Trade Representative to establish a stakeholder side room at the second round of TPPA negotiations which took place in San Francisco in June 2010.
55. We call on the Australian government to support and actively participate in stakeholder side rooms throughout the TPPA negotiations.
56. For the stakeholder side rooms, we urge for a neutral accreditation process that does not exclude critical voices or favour certain organisations.

Joint Declaration

57. The ACTU in collaboration with the NZCTU, NTUC-Singapore and AFL-CIO released a joint statement on the proposed TPPA. Together we are committed to holding our respective governments accountable for the negotiation of an agreement that is balanced, supports the creation of good jobs, protects the rights and interests of working people, leads to long-term economic development and promotes a healthy environment (see attachment 1).

We thank you for this opportunity to engage in DFAT's consultations on the TPPA. If you would like to discuss further any of the matters raised, please do not hesitate to contact the ACTU.

**LABOR DECLARATION ON THE NEGOTIATION OF
THE TRANS-PACIFIC PARTNERSHIP TRADE AGREEMENT**

March 15, 2010

On March 15, 2010, the governments of Australia, Brunei Darussalam, Chile, New Zealand, Peru, Singapore, the United States of America and Vietnam will commence negotiations for a proposed Trans-Pacific Partnership Trade Agreement (TPPTA). The undersigned unions are not opposed in principle to trade agreements. As always, however, the agreement will not have our support unless it is well balanced, foments the creation of good jobs, protects the rights and interests of working people, leads to long term, balanced economic development and promotes a healthy environment. We set out below what that means in practice. Throughout the negotiations, we urge negotiators to adopt a jobs lens, which asks how decisions at the negotiating table contribute to a coordinated strategy for the promotion of high-quality jobs and sustainable economic development among TPPTA member countries. It is time for a new trade framework that will make a positive difference in the lives of working people. We cannot afford another trade agreement that privileges substantial new opportunities for investors over good jobs for workers. Further, to work well, trade agreements must also be fairly and consistently enforced.

This declaration outlines the substantive and procedural principles for the negotiations, which if respected, will result in an agreement that may benefit us all.

PROCESS

1. A Single, High-Standard, Fair Trade Agreement

For many, the TPPTA represents the second or third potential trade agreement with another party to the negotiations – all of which failed to meet our aspirations. We believe that the only way to truly bring trade policy into the 21st century is for the TPPTA to supersede the existing agreements to the maximum extent possible, bringing them up to the highest standards. Of course, we realize that individual countries, especially developing countries,

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may pose unique challenges that may call for some variation in the text from country to country. However, we believe the core principles should be common to all.

2. Transparency and Civil Society Participation:

In the past, civil society organizations have been excluded from any meaningful participation in trade agreement negotiations. This is unacceptable and must be remedied this time around. All the participating governments must conduct regular and meaningful consultations with their respective civil societies throughout the negotiations – both during and between negotiating rounds. Further, draft texts, proposals and requests should be made available for public review and comment. Without access to such information, informed participation in the negotiating process is impossible. Finally, the respective legislatures must have an opportunity to conduct full and open hearings and to amend the agreement.

SUBSTANCE

3. Worker Rights

Labor rights are an essential component of trade. Workers who are able to exercise their fundamental labor rights are empowered to bargain collectively for better wages and working conditions, ensuring that the benefits of trade accrue not only to capital but also to labor. Unfortunately, most of the agreements among the proposed TPPTA parties contain either no labor provisions or very weak ones. The TPPTA must at a minimum require that each party adopt and maintain laws and regulations consistent with the International Labor Organization (ILO) core labor rights and effectively enforce those rights, as well as all domestic laws with regard to wages, hours of work and safety and health. Further, parties must commit not to derogate from these laws. A violation of these and other labor obligations should be subject to effective dispute resolution procedures with strong remedies up to and including trade sanctions should more cooperative efforts fail. The monitoring of these provisions should include workers' and employers' representatives, and the agencies responsible for enforcement must be adequately resourced.

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Further, as labor laws of each of the potential TPPTA parties fall short, to varying degrees, of the core labor rights, we urge governments to initiate immediately a process, together with workers and employers representatives, to identify ways in which to bring labor laws into compliance with those international minimum standards. Those efforts should be concluded in tandem with completion of any TPPTA.

4. Investment

Most current trade agreements contain investment provisions that allow foreign investors to claim substantive and procedural rights above and beyond those that domestic investors enjoy. Further, flawed investor-to-state dispute resolution mechanisms contain none of the controls, such as an exhaustion of remedies requirement or a standing appellate mechanism that could limit abuse of this private right of action. Under certain existing investment chapters, investors have used the rules on expropriations and the minimum standard of treatment to challenge environmental laws and public health and safety protections, among others. Together, these and other investment provisions may provide foreign investors greater rights than the rights available to domestic investors in their own legal systems. The TPPTA should not include an investor-to-state dispute resolution mechanism, nor should the rules allow for challenges to legitimate public interest regulations. Foreign investors simply must not be given any greater rights than those enjoyed by domestic investors.

5. Services

Except for the very limited situation in which *no* private providers compete with a government provided service, any public service can be subject to the rules of a trade agreement. This allows parties to challenge domestic policies that protect governmental services if they believe these policies put private providers at a competitive disadvantage - even where government involvement is necessary to guarantee access to essential services in areas such as health care, education, and utilities. Services rules also penalize governments that reverse privatizations, even if such privatizations have lowered service quality or have led to less public accountability and access.

The TPPTA must include a broad, explicit carve-out for essential public services, including education, employment services, health care, post, sanitation, social services, transport and

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utilities. Public services should be excluded regardless of whether or not the public provider competes with private providers. In addition, governments must retain their ability to regulate foreign service providers in order to enact and enforce certification and licensing standards, consumer protections, and other public interest laws. We also urge that the negotiations proceed on a positive list approach.

Further, we are concerned that existing trade agreements contain ambiguous language that may constrain the ability of governments to adopt prudential financial regulations, including structural separation between commercial and proprietary trading banking institutions. We urge negotiators to make absolutely clear that efforts by a country to prudentially regulate its financial sector will not run afoul of financial services rules.

6. Environment

Protection of the environment is a critical trade policy objective. Trade rules should require full compliance with an agreed-upon set of multilateral environmental agreements, with effective sanctions for non-compliance. At the same time, the agreement must ensure that other rules, such as investment rules on expropriation, do not jeopardize efforts to enact and enforce environmental laws and regulations.

7. Procurement

Often, governments use procurement policy in furtherance of important public policy aims such as local economic development and job creation. Governments have also conditioned procurement to promote environmental and social goals. Governments should ensure that the procurement chapter does not constrain the ability of central, regional or local governments and authorities to carry out these objectives.

8. Intellectual Property and Health

Intellectual property rules and other provisions in trade agreements have been used to weaken the ability of governments to supply medicines to their citizens at an affordable cost. We oppose any government efforts in the context of the TPPTA to negotiate language that would reduce access to affordable medicines.

9. Consumer Protection

Our domestic consumer safety and trade policies must be crafted to prevent tainted or defective products from reaching our shores and, subsequently, our shelves. Such goods present a serious threat to the general public. Thus, the agreement should include language that would further facilitate cross-border food and consumer and industrial product safety inspections by, for example, giving safety inspectors of a TPPTA member enhanced rights to inspect the facilities of another member. The TPPTA should also include language requiring country of origin labeling, which would clearly identify the origin of food and consumer goods, as well as labeling of GMO-containing goods.

10. Market Access

In many previous trade agreements, tariff reductions have not resulted in new access. We urge negotiators to pay particular attention, and give particular emphasis, to ensuring that any market access expected from the agreement is actually achieved. Effective market access depends on addressing both tariff and non-tariff measures, though we recognize that non-tariff measures to protect health, public safety and the environment serve an important purpose if fairly applied. Further, while taking into account the complexity of the global supply chain, the rules of origin should be negotiated such that the signatories are the primary beneficiaries of any new market access.

11. Trade Remedies

The TPPTA should not in any way weaken trade remedy and safeguard mechanisms.

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12. Competition Policy

We are greatly concerned that the current competition chapter of the P-4 agreement could compromise the right of governments to provide services on a privileged or monopoly basis, and to support economic development. We oppose any move to make the P-4 language with regard to public services enforceable in the TPPTA and urge greater protection for public services and economic development.

13. Temporary Movement of People

We do not believe that a trade agreement is the proper instrument to make commitments on the temporary movement of people.

14. Beneficiaries

Negotiators should ensure that countries not party to the agreement cannot gain its benefits.

The unions that are signatory to this Labor Declaration have a broad range of interests not limited to those mentioned above. We reserve the right to raise other issues jointly or individually, and expect to be consulted on developments in the negotiations as they arise.

Signed,

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