

Foreign Affairs, Defence and Trade Committee

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We are concerned about the trade agreement process because it is secret and undemocratic.

Trade agreements are legally binding on governments but are negotiated in secret.

Trade agreements like the Trans-Pacific Partnership (TPP) now deal not only with traditional trade issues like tariffs or taxes on imports, but with a wide range of domestic law and policy which affect our lives, like access to medicines, internet regulation, data privacy, cultural policies, food, tobacco and alcohol regulation, labour rights and environmental policies.

These policy issues should be decided through public democratic parliamentary processes, not secretly traded off behind closed doors

The current process for trade agreements is a secret Cabinet process, not a public process of the whole Parliament. The text is secret until the Prime Minister and Cabinet Ministers make the decision to sign the agreement.

Parliament and the public do not see the text of the agreement until after it has been signed and cannot be changed.

There are growing numbers of examples of public release of trade agreement texts before signing. Since 2003, World Trade Organisation draft texts have been placed on the [WTO public website](#). The Anti-Counterfeiting Trade Agreement (ACTA), text [was released](#) in 2011 before it was

signed. . The EU is negotiating a Transatlantic Partnership (TTIP) with the US, and has agreed in January 2015 to release its [own negotiating documents](#), and the [final negotiated text](#) publicly and to the European Parliament before it is signed.

In Australia, the text is reviewed by a parliamentary committee after it is signed, but neither the Committee nor Parliament can change the text.

Parliament only gets to vote on the implementing legislation, not the whole text of the agreement.

This is unacceptable, because many aspects of trade agreements which limit future government action do not require legislation. For example, legislation is not required for the [right of foreign investors to sue governments](#) for damages in an international tribunal if they can claim that a change in a domestic law or policy “harms” their investment, known as Investor-State Dispute Settlement (ISDS). We recommend the following changes to the trade agreement process:

- the Trade Minister should report to Parliament before trade negotiations begin, with an assessment of potential costs and benefits to Australia. Parliament should decide whether to enter trade negotiations, and define clear benefits to be obtained from the negotiations.
- There should be widespread community consultation during negotiations, including the release of negotiating proposals for public discussion
- The final text of the agreement should be released for public and parliamentary discussion before it is signed, and subject to a public and independent evaluation of its economic, social and environmental impacts to determine whether it is in the national interest
- Following this public discussion and evaluation, Parliament should first vote on the whole text of the agreement to determine if it is in the national interest, or if changes should be made
- If the agreement is approved, Parliament should then vote on any legislation needed to implement it.

Yours sincerely

Vanessa and Robert Howe