

Senator Nick Xenophon's additional comments

'TPP: I have studied this dumb deal...'

1.1 I thank the committee and, in particular, the secretariat for the effort they have put into summarising the background to the Trans Pacific Partnership (TPP) agreement, outlining the key issues and examining the treaty-making process.

1.2 The committee has examined various aspect of the agreement and, coupled with the circumstances that have arisen since the inauguration of US President Donald Trump, has made two recommendations, both of which I support but they do not go far enough.

The future of the TPP

1.3 In relation to the future of the TPP the committee has recommended 'the Australian Government should defer undertaking binding treaty action until the future of the Trans-Pacific Partnership Agreement is clarified through further negotiations with Australia's major trading partners'.

1.4 One of the criticisms expressed of the TPP, including by the JSCOT, has been the lack of sufficient analysis of the national benefit of entering into such a deal. Shallow rhetorical statements cannot be used to make the case. Analysis of agreements after their implementation invariably shows that the claims made by Government and free trade spruikers just don't stack up.

1.5 The Productivity Commission has revealed predictions of growth and jobs from Free Trade Agreements (FTAs) have rarely been delivered because the economic models employed exaggerate the benefits, ignore many of the costs and assume away unemployment effects.

1.6 The Australian National University's study of the outcomes of the Australia-US FTA after 10 years showed the preferential agreement diverted trade away from other countries. Australia and the United States have reduced their trade by \$US53 billion (\$71 billion) with the rest of the world and are worse off than they would have been without the agreement. That study concludes that 'deals that are struck in haste for primarily political reasons carry risk of substantial economic damage'.

1.7 Past Governments have claimed that Australia's FTAs with Japan, South Korea and China would lead to tens of thousands of additional jobs. Yet economic modelling, by the Canberra based Centre for International Economics, estimates that by 2035 those three FTAs will have produced a total of only 5400 additional jobs. That's less than 300 jobs a year. The same study indicates that the three North Asia FTAs – with Japan, Korea and China – taken together will boost total Australian exports by only 0.5 per cent. They'll boost imports by 2.5 per cent. These FTAs are more like 'import agreements' than export agreements.

1.8 I am not against the expansion of trade or negotiating free trade agreements. Trade is the lifeblood of our economy. But we need to take a more strategic approach to trade; indeed a much more hard-headed approach that supports a diverse economy including our manufacturing industry.

1.9 Manufacturing is in crisis. Over 200,000 manufacturing jobs have disappeared since 2008, and the rate of job loss has accelerated. Manufacturing employment fell 6 per cent in 2015 alone. There was never anything inevitable about this. What we have been witnessing has to a large extent been driven by the policy decisions of successive governments. The decline in Australian manufacturing output and employment is not typical of other industrial countries. Australia is well behind our counterparts – and now has the smallest share of manufacturing in total employment of any OECD country.

1.10 All successful manufacturing nations, the United States, Japan, Germany, South Korea, and others have negotiated trade agreements that expand trade but still enable them to use government procurement and other active government policies to develop globally competitive manufacturing industries.

1.11 The government has negotiated poorly in the South Korea, Japan and China FTAs, conceding far more than our trading partners. They have struck deals at any cost, going for quantity, not quality.

1.12 The 'success' of this policy is evident in Australia's huge current account deficits. In 2015, Australia exported just under \$100 billion in total value of manufactured products, but imported \$246 billion. The deficit in manufacturing is the biggest single contributor to Australia's ongoing current account deficits which have driven rising international debt, now exceeding \$1 trillion.

1.13 In addition to an inadequate business case there are other significant flaws in the agreement. One of these is the sovereignty sapping ISDS provisions. The committee rightly quoted the powerful and attention demanding extrajudicial statements of none less than the former Chief Justice of High Court, Justice Robert French AC, which is worthy of repeating:

Arbitral tribunals set up under ISDS provisions are not courts. Nor are they required to act like courts. Yet their decisions may include awards which significantly impact on national economies and on regulatory systems within nation states...The possible inclusion of an ISDS provision in the TPP has become an issue of intense debate with some critics seeing it as a Trojan horse for the enhancement of the power of international corporations at the expense of national sovereignty and interests.

1.14 Other flaws in the agreement are well articulated in the committee's report.

1.15 The TPP is a dumb deal.

Recommendation 1

1.16 Even if a suitable replacement economy for the United States is found, the TPP or a similarly styled agreement should not be accepted or ratified by the Australian government.

Reform to the treaty-making process

1.17 The committee highlighted bipartisan agreement to reform the treaty-making process and made a recommendation that 'the Australian Government expedite widely supported reforms to the treaty-making process in order to assist the completion of future trade agreements'.

1.18 The Senate committee joined JSCOT in endorsing 'the need to permit security cleared representatives from business and civil society to see the Australian Government positions being put as part of those negotiations' and the need for independent modelling and analysis of a proposed trade agreement to be undertaken by the Productivity Commission, or equivalent organisation.

1.19 I support these reforms but note that the committee's recommendation can be strengthened by ensuring that the text of these agreements be subject to the scrutiny of the Parliament prior to the agreement being signed.

Recommendation 2

1.20 That the Australian Government expedite widely supported reforms to the treaty-making process in order to assist the completion of future trade agreements and for that reform to include the need for the text of these agreements to be subject to the scrutiny of the Parliament prior to the agreement being signed.

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