

Joint Standing Committee on Treaties – TPP-11 Inquiry

To Members of the Committee

I am concerned about the TPP-11, which has been rebadged as the Comprehensive Progressive Trans-Pacific Partnership (CPTPP). I urge you not to endorse the implementing legislation for the TPP-11.

Despite the name change, the TPP-11 still has 30 chapters and 6000 pages of legally binding rules which suit global corporations but mostly restrain future governments from regulating in the public interest. Only 22 clauses have been suspended, but not removed, pending the US re-joining the deal, and many harmful clauses remain, as listed below.

1).The ISDS Clause is bad for democracy. The TPP-11 gives special rights to foreign investors to bypass national courts and sue governments for millions of dollars in unfair international tribunals over changes to domestic laws, even if those laws are in the public interest. Global companies have recently sued governments over medicine prices, protection of the environment, & protection of Indigenous land rights.

The European Court of Justice has recently ruled that ISDS undermines national legal autonomy and is incompatible with EU law, and US Trade Representative Lighthizer has said that the US wants to withdraw from ISDS arrangements in the North American Free Trade Agreement because they are a threat to US domestic laws. It is outrageous that our government continues to include this clause.

2)The Agreement is bad for workers' rights: the labour rights chapter is not fully enforceable in the same way as the rest of the agreement. The TPP-11 also has provisions for more vulnerable temporary migrant workers from Vietnam, Malaysia, Japan, Canada, Mexico and Chile without first testing if local workers are available. This is contrary to the government's own claims that it has reintroduced such testing

3)The Agreement is bad for access to essential services: chapters on trade in services which freeze regulation of services at current levels could restrict future governments from responding to change and regulating essential services like vocational education, energy services and financial services, even if there are demonstrated market failures.

4) The environment chapter is not fully enforceable in the same way as the rest of the agreement and does not mention climate change. Foreign corporations can bypass national courts and sue governments for millions in unfair international tribunals over environmental laws

5)There are no clear economic benefits: Australia already has free trade agreements with all but two of the other TPP-11 countries, and without access to the US market, any economic benefits are likely to be even less than they were under the original deal. Research indicates that Australia has benefited very, very little from the USFTA in contrary to claims made at the time of signing.

The 22 suspended (but not removed) clauses are mostly about medicine and copyright monopolies. Other governments had only reluctantly agreed to US proposals to increase monopolies on biologic medicines and delay access to cheaper medicines, and for longer copyright monopolies, so they could gain access to the US market. Some of these clauses have been suspended, pending the US re-joining the deal. But the intellectual property chapter still reinforces existing monopolies on medicines and restricts the ability of governments to change such regulation in future, for example to reduce monopolies on medicines. All of the suspended clauses could be restored in future if the US re-joins and President Trump has just announced that he intends to re-negotiate the deal – another reason we should not endorse this legislation.

The question from a civil society point of view is still whether these rules that suit global corporations but tie the hands of governments from regulating them are in the interest of most Australians.

Most of the TPP deals with policy issues that are normally decided through open democratic Parliamentary debate. They should not be traded off against small market access gains which will benefit some specific industry sectors, but deliver very little for most Australians.

I repeat my appeal for you to NOT endorse the implementing legislation.

Yours sincerely

Carolyn Allen

