MINERALS COUNCIL OF AUSTRALIA

SUBMISSION TO SENATE LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE INQUIRY INTO THE PROVISIONS OF THE CUSTOMS AMENDMENT (COMPREHENSIVE AND PROGRESSIVE AGREEMENT FOR TRANS-PACIFIC PARTNERSHIP IMPLEMENTATION) BILL 2018 AND THE CUSTOMS TARIFF AMENDMENT (COMPREHENSIVE AGREEMENT FOR TRANS-PACIFIC IMPLEMENTATION) BILL 2018

10 SEPTEMBER 2018

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Purpose of the Bills

The Customs Amendment (Comprehensive and Progressive Agreement for Trans-Pacific Partnership Implementation) Bill 2018 (the 'Customs Amendment Bill') and the Customs Tariff Amendment (Comprehensive Agreement for Trans-Pacific Implementation) Bill 2018 (the 'Customs Tariff Amendment Bill') implement Australia's commitments under the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (TPP-11) trade agreement to reduce tariffs on goods imported from parties to the TPP-11.

The Australian tariff cuts introduced by the Bills are estimated by the Government to reduce customs duty collections by $195 million over the Budget's forward estimates period. That represents a $195 million tax cut for Australian households and businesses.

In return for these tariff reductions TPP-11 parties have agreed to reduce the tariffs they impose on Australian goods. As the TPP-11 parties include several large and fast-growing countries in the region, and have a combined population of 495 million and a combined GDP of $14.2 trillion, this will create significant new export market opportunities for Australian businesses which will, in turn, support jobs in Australia.

Passage of the Bills will not only reduce tariffs for Australian consumers and businesses, it will also contribute to the TPP-11's entry into force. Entry into force of the TPP-11 will see the implementation of its wider range of commitments, which extend well beyond tariff cuts to include liberalisation of services trade and investment, and the introduction of new standards in areas such as environmental protection and labour standards.

Economic benefits for Australia

The benefits of trade liberalisation are well-known and have enjoyed bipartisan support in Australia since the 1980s. Trade boosts growth, supports jobs, improves living standards and forges more competitive local industries. A study by the Centre for International Economics has shown that the trade liberalisation policies adopted by Australia from 1986 to 2016 have boosted real GDP by 5.4 per cent, and increased the average family household's real income by $8,448 a year.[1]

The TPP-11 is the latest in more than a dozen bilateral and regional free trade agreements negotiated by Australia since 1983. It will deliver direct economic benefits in its own right. It will also build on the benefits delivered by the 35 years of trade agreements that have preceded it. And it will pave the way for future trade agreements in the Asia-Pacific region which is so critical for Australia's future prosperity.

Modelling studies

Several modelling studies have estimated the economic benefits which the TPP-11 and/or the original TPP (including the United States) would deliver for Australia and other countries. The most detailed modelling has been carried out by Professor Peter Petri of Brandeis University and Michael Plummer of Johns Hopkins University. Their most recent study finds that by 2030 the TPP-11 will:

- Increase Australia's real national income by US$12 billion (A$15.6 billion) or 0.5 per cent
- Boost Australia's exports by US$23 billion (A$29.9 billion) or 4 per cent (in real terms)
- Increase the stock of direct investment into Australia by US$7.8 billion (A$7.8 billion) and the stock of direct investment by Australian businesses overseas by US$20 billion (A$26 billion)
- Lift real wages, with higher wage increases for lower-skilled workers compared to higher-skilled workers.

[1] References for statistics and information cited in the Executive Summary are provided in the main text of the submission.

A review of 10 modelling studies shows the average finding for Australia is an increase of 0.54 per cent in real GDP, in line with Petri and Plummer's most recent study. A Tufts University modelling study finding job losses under TPP suffers from serious methodological flaws, has been widely criticised by economists and uses inaccurate data and unrealistic assumptions for Australia. Its results lack credibility and contradict Australia's real-world experience.

Market access gains

The TPP-11 will open new markets for Australian manufacturing, agriculture, mining and energy resources and services exports to major export markets such as Japan and Canada, and to fast-growing markets in the Asia-Pacific such as Vietnam and Peru.

Market access gains for mining and energy resources commodities and mining services include:

- Iron ore, copper, nickel: Peru (tariffs eliminated)
- Butane, propane and LNG: Vietnam (tariffs eliminated)
- Refined petroleum: Vietnam (20 per cent tariffs eliminated)
- Mining services: Mexico, Malaysia, Brunei Darussalam, Vietnam, Chile (national treatment commitments will improve market access for mining services)
- Mining and oilfield services: Will also benefit from energy sector and state-owned enterprise reform commitments in the TPP-11.

Economic modelling has estimated that Australia's mining exports will be $1.3 billion higher in real terms in 2030 under the TPP-11.

Opportunities for Australian mining and mining services

The TPP-11 will create new export opportunities for Australian resources exports. While existing market access barriers for most mining commodities are already low in TPP-11 member countries, the agreement eliminates most of the remaining barriers. Implementing the TPP-11 will also lock in and preserve existing market access for Australia's mining commodities in these countries. Furthermore, the TPP-11's services commitments will provide market access for Australian mining services, an area where Australia has world-leading skills and expertise.

The TPP-11 will contribute more broadly to future opportunities for Australian resources by stimulating trade and investment flows, contributing to regional economic growth and more closely integrating the economies covered by the agreement.

Australia's existing mining exports are currently dominated by the North Asian markets of China, Japan and Korea. The TPP-11 includes key Southeast Asian economies, which are sources of potential future growth for resources exports as these economies continue to industrialise and urbanise. There is significant potential to expand Australia's trade relationship with the ASEAN economies, including those already covered by the TPP-11 (Brunei Darussalam, Malaysia, Singapore and Vietnam) and those which have expressed interest in joining the TPP in the future (Indonesia, the Philippines and Thailand). As ASEAN's economies continue to grow, and to industrialise and invest in infrastructure, Australia can be a reliable, competitive, geographically-proximate supplier of the minerals and energy commodities that will be needed to further their development.

The TPP-11 also includes Latin American economies where resources trade with Australia is currently small but where there will be opportunities for Australian mining companies and mining services firms to partner with local businesses in investing in and developing those countries' resources sectors.

TPP-11 will enhance two-way investment opportunities

Two-way investment flows are particularly important for Australia's mining sector. The industry has benefitted from foreign capital in developing Australia's natural resources and building the mining sector into the country's biggest export earner. Many Australian mining companies are also major global businesses in their own right and pursue outbound investment opportunities around the world.

The TPP-11's investment provisions will help Australia to realise both inward and outward investment opportunities.

For inward investment, the benefits will come from Australia's agreement to lift Foreign Investment Review Board (FIRB) screening thresholds for investments in non-sensitive sectors from $261 million to $1,134 million for all TPP-11 countries. This will reduce costs and delays for investors from TPP-11 countries investing in Australia, improving Australia's ability to attract foreign investment that will contribute to local economic and employment opportunities.

For outward investment, the TPP-11's investment disciplines will broadly ensure that the member countries treat each other's investors on the same footing as domestic investors, subject to specific exceptions and carve-outs. For Australian businesses considering investment opportunities abroad, this will create greater certainty and stability.

Investor-State Dispute Settlement

The TPP-11's Investment Chapter contains investor-state dispute settlement (ISDS) provisions which will allow investors to seek mediation and arbitration where they claim that a TPP-11 government has breached the investment commitments it has made under the agreement.

Anti-trade activists frequently argue that ISDS provisions allow foreign investors to challenge government policies in areas such as the environment or healthcare. However, ISDS provisions do not create a wide-ranging ability for foreign investors to challenge any government policies. Disputes under ISDS provisions must involve breaches of the substantive investment commitments governments make under the relevant trade agreement such as the commitments in the TPP-11 not to expropriate property without adequate compensation or not to discriminate against foreign investors compared to domestic businesses. Furthermore, Australia has listed an extensive series of non-conforming measures, or exceptions, for its TPP-11 investment commitments, covering a wide range of existing public polices, legislation and regulations. ISDS provisions cannot be used to challenge such non-conforming measures.

In addition, the TPP-11's ISDS provisions contain extensive safeguards. These safeguards mean the TPP-11 ISDS provisions cannot be used to challenge public policies in areas such as environmental protection, healthcare, education, social services, welfare policy, government service delivery or cultural and heritage protection and conservation policies. The safeguards will also ensure that any claims under the TPP-11 ISDS provisions will be conducted in an open and transparent manner and will be subject to clear procedural rules and legal standards.

Movement of persons

The TPP-11 includes measures streamlining temporary entry of business visitors and related categories of employees between member countries. These flexibilities will complement the TPP-11's market access, investment and services provisions by allowing transfers and postings of senior executives and specialised employees. This will benefit Australian services businesses, including mining services, because services exports are often delivered by locating staff in export markets. There will be similar benefits for Australian businesses making investments in TPP-11 countries by allowing Australian firms to locate key personnel in those economies.

There has been concern about the impact on Australia's labour market of movement of persons provisions in trade agreements. The concern is that commitments under trade agreements to waive labour market testing requirements under Australia's temporary skilled migration programme would lead to an influx of migrant workers at the expense of employment opportunities for Australian residents.

However real-world experience shows that these concerns have not been realised. Immigration statistics show that the number of workers from China granted 457 visas has fallen in the two years since the China-Australia Free Trade Agreement came into effect. The statistics also show no increase in 457 visa grants to workers from Japan and Korea since FTAs with those countries came into effect. In any case, the six TPP-11 countries covered by the temporary entry provisions – Brunei Darussalam, Canada, Malaysia, Mexico, Peru and Vietnam – are not significant sources of temporary migration to Australia. In 2016-17 they accounted for 572 primary 457 visas granted to trades and lower-skilled workers. That represented 1.2 per cent of all primary 457 visas granted in 2016-17.

Strategic benefits for Australia

In addition to the direct economic benefits, the TPP-11 will deliver longer-term strategic benefits for Australia. Even without the US, implementing the TPP-11 will reaffirm Australia's commitment to continued regional economic integration, trade liberalisation and open economies. As the regional trade architecture continues to evolve Australia has an interest in ensuring high quality trade agreements that in turn drive commitments to open and liberal economies and structural reforms.

The TPP-11's strategic value is that it also sets a high standard and commitment to economic reforms in the Asia-Pacific. This is particularly important against the backdrop of rising global protectionism. The TPP-11 sends a global signal that diverse economies can agree to historic reductions to trade barriers and integrate their economies.

The TPP-11 is a major, concrete step in helping to realise Australia's broader, long-term objective of a Free Trade Area of the Asia-Pacific, which would establish a single, high-standard, rules-based trading system spanning the Asia-Pacific as articulated in the Australian Government's Foreign Policy White Paper.

Australia played a leadership role, along with Japan, in reviving the TPP negotiations following the US withdrawal. This means that Australia has had a significant role in shaping the text of TPP-11 and thereby influencing trade rules in the Asia-Pacific and beyond. Support for the TPP-11 will continue to boost Australia's regional relationships, as economies looking to join the agreement in the future, particularly in Asia, will turn to Australia for support for their membership and implementation of the agreement.

PURPOSE OF THE BILLS

The Customs Amendment (Comprehensive and Progressive Agreement for Trans-Pacific Partnership Implementation) Bill 2018 (the 'Customs Amendment Bill') and the Customs Tariff Amendment (Comprehensive Agreement for Trans-Pacific Implementation) Bill 2018 (the 'Customs Tariff Amendment Bill') implement Australia's commitments under the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (TPP-11) trade agreement. The TPP-11 is an agreement to reduce tariffs and other barriers to trade and investment and to improve economic engagement and cooperation between Australia and 10 other Asia-Pacific nations. The Bills implement Australia's commitments to reduce tariffs on goods imported from parties to the TPP-11, subject to rules of origin requirements. In return for Australia reducing its tariffs on imports from TPP-11 countries, those countries have agreed to reduce their tariffs on Australian exports.

The Customs Amendment Bill amends the *Customs Act 1901* to establish rules of origin requirements for imported goods from TPP-11 parties to qualify for preferential access in line with Australia's commitments under the TPP-11. The Bill also establishes administrative procedures for Australian customs authorities to verify that Australian goods exported to TPP-11 parties comply with the relevant rules of origin.[2] The Customs Tariff Amendment Bill amends the *Customs Tariff Act 1995* to provide duty-free and/or preferential rates of customs duties for goods imported from TPP-11 parties which meet the relevant rules of origin requirements.[3] As paragraphs 19 to 24 of the Explanatory Memorandum set out, the amendments provide that TPP-11 originating goods will enter Australia duty free unless they are listed in the new Schedule 8B which the Bill inserts into the Customs Tariff Act, in which case they will be subject to preferential rates of duty set out in the Schedule. In most cases, the goods covered by Schedule 8B will qualify for duty-free access within four years of the TPP-11 entering into force.

These tariff cuts will reduce prices for Australian consumers and Australian businesses using imported materials from TPP-11 countries. The tariff cuts are estimated by the Government to reduce customs duty collections by $195 million over the Budget's forward estimates period.[4] That represents a $195 million tax cut for Australian households and businesses. Import tariffs are taxes on consumer goods and business inputs which increase prices of both imported and domestically produced goods.

In return for the tariff reductions which Australia has agreed to make under the TPP-11, and which are implemented by these Bills, other TPP-11 countries have agreed to reduce the tariffs they impose on Australian goods. This will make Australian goods exports more competitive in those countries. As the TPP-11 parties have a combined population of 495 million people and a combined GDP of US$10.2 trillion (A$14.2 trillion), this will create significant new export market opportunities for Australian businesses.[5] These export opportunities will, in turn, support economic and employment growth. Passage of the Bills will allow Australian exporters to gain access to these benefits.

Passage of the Bills will also contribute to the TPP-11's entry into force and the implementation of its wider range of commitments, which extend well beyond tariff cuts. In addition to the tariff cuts and market access for exporters, entry into force of the TPP-11 will bring benefits for Australia in areas such as services and investment. It will also see TPP-11 countries required to comply with new rules in areas such as environmental protection and labour standards.

As the purpose of the Bills is to implement Australia's commitments under the TPP-11, the remainder of this submission will review evidence on the TPP-11's impact on Australia's economy, outline the

[2] Explanatory Memorandum, Customs Amendment (Comprehensive and Progressive Agreement for Trans-Pacific Partnership Implementation) Bill 2018.
[3] Explanatory Memorandum, Customs Tariff Amendment (Comprehensive Agreement for Trans-Pacific Implementation) Bill 2018.
[4] Explanatory Memorandum, Customs Tariff Amendment (Comprehensive Agreement for Trans-Pacific Implementation) Bill 2018, p. 2.
[5] Department of Foreign Affairs and Trade, 'Australia's Trade and Investment with TPP-11 Countries in 2016-17', 7 March 2018.

market access opportunities it will create for Australian goods exports, discuss its provisions on services, investment, movement of persons, labour standards and environmental standards and identify the strategic benefits for Australia from the TPP-11. The remainder of the submission reflects earlier submissions by the Minerals Council of Australia to inquiries into the TPP-11 by the Joint Standing Committee on Treaties and the Senate Foreign Affairs, Defence and Trade Committee. Material in those submissions reviewing economic analysis and modelling on the TPP-11 has been updated to include the most recent studies.

ECONOMIC BENEFITS FOR AUSTRALIA

The benefits of trade liberalisation are well-known and have been central to Australian economic policy-making, enjoying bipartisan support, since the 1980s. Trade boosts growth, supports jobs, improves living standards and forges more competitive local industries.

By trading with the rest of the world Australia:

- Boosts economic growth and supports jobs
- Generates export income
- Gives consumers lower prices and more choice
- Forges more competitive industries and a more efficient economy
- Gives our manufacturers access to global supply chains
- Helps lift millions of people in developing countries out of poverty.

Trade allows countries to specialise – by concentrating resources in areas they do best, and trading with other countries, they can improve efficiency and boost living standards. A central insight in economic analysis is that there are 'gains from trade' – all countries will be better off if they specialise in activities where they have a comparative advantage and then trade these goods and services for products which other countries can produce relatively more efficiently.

Trade liberalisation gives countries access to export markets, generating export earnings which support domestic demand. By selling into export markets firms can increase their production and improve productivity by gaining economies of scale. Exporting also improves productivity by exposing firms to new ideas, technologies and production methods – 'learning by exporting'.

Trade also means local businesses face greater competition, driving them to improve productivity and keep prices down. By boosting efficiency and productivity and by promoting more efficient allocation of resources, trade contributes to economic growth and higher living standards.

Trade also encourages investment into Australia which helps to expand businesses and create new jobs and brings with it new technology and expertise. Giving local businesses access to imported materials, components, services and other inputs also improves efficiency and keeps prices down.

Households benefit directly from trade liberalisation – removing tariffs reduces prices of consumer items, improving the cost of living for low and middle-income earners. A study by the Centre for International Economics has shown that the trade liberalisation policies adopted by Australia from 1986 to 2016 have boosted real GDP by 5.4 per cent, and increased the average family household's real income by $8,448 a year, compared to what they would have been in 2016 without trade liberalisation.[6] Furthermore, there is evidence that trade liberalisation in Australia has delivered proportionately larger gains for low-income households than for high-income households. A study conducted for the Victorian Government found that trade and investment liberalisation from 1986 to 2016 had increased disposable income for Victorian households in the lowest income quintile by 12.4 per cent, compared to an increase of 11.6 per cent for households in the highest income quintile.[7]

In summary, trade improves economic welfare by allowing countries to specialise, generating export earnings, improving efficiency, keeping prices down and boosting consumers' purchasing power.

Australia has pursued trade liberalisation for more than three decades, by unilaterally reducing its own tariffs and barriers to imports and by negotiating improved access to export markets through bilateral, plurilateral, regional and multilateral trade agreements. The TPP-11 is the latest in more than a dozen bilateral and regional free trade agreements negotiated by Australia since 1983. It will deliver direct

[6] Centre for International Economics, *Australian trade liberalisation: Analysis of the economic impacts,* Report prepared for the Department of Foreign Affairs and Trade, Canberra, October 2017, p. 13-14.
[7] Centre for International Economics, Australian trade and investment liberalisation: Analysis of the economic and distributional impacts on Victoria, Report prepared for the Victorian Department of Economic Development, Jobs, Transport and Resources, January 2018, p. 37.

economic benefits in its own right. It will also build on the benefits being delivered by the 35 years of trade agreements that have preceded it. And it will pave the way for future trade agreements in the Asia-Pacific region which is so critical for Australia's future prosperity.

Modelling studies – key findings

Several modelling studies have estimated the economic benefits which the TPP-11 and/or its predecessor the original TPP (including the United States) would deliver for Australia and other member countries. The most detailed modelling of the TPP and TPP-11 has been carried out by Professor Peter Petri of Brandeis University and Professor Michael Plummer of Johns Hopkins University, along with other colleagues. Petri and Plummer's modelling found that the original TPP (including the United States) would have boosted boost Australia's national income by US$15 billion or 0.6 per cent and its exports by US$29 billion or 4.9 per cent in 2030.[8]

Since President Donald Trump's decision to withdraw the US from the original TPP, three modelling studies have examined the TPP-11. Each of these studies shows that Australia will be better off under TPP-11 compared to not proceeding with the agreement. Two of the scenarios modelled in these studies also find that Australia would be (slightly) better off under TPP-11 than under the original TPP. This is because, under the TPP-11, Australia:

- Does not lose preferential access to the US market, because Australia already has a bilateral free trade agreement (FTA) with the US
- Does not face new competition in the US market from TPP countries which do not have FTAs with the US (Japan, New Zealand, Malaysia and Vietnam).

The first of these three studies, by Petri and Plummer, finds that by 2030 the TPP-11 will:

- Increase Australia's real national income by US$12 billion (A$15.6 billion) or 0.5 per cent
- Boost Australia's exports by US$23 billion (A$29.9 billion) or 4 per cent (in real terms)
- Increase the stock of foreign direct investment into Australia by US$7.8 billion (A$7.8 billion) and the stock of direct investment by Australian businesses overseas by US$20 billion (A$26 billion)
- Lift real wages, with slightly higher wage increases for lower-skilled workers compared to wage increases for higher-skilled workers.[9]

Sectoral analysis in this study shows that Australia's agricultural, mining, manufacturing and services industries will all be better off under the TPP-11, with more open regional markets leading to higher exports and higher domestic output for these sectors. The biggest sectoral gains come for food processing, which sees real output rise by 5.4 per cent by 2030, metals manufacturing (output rises by 2.8 per cent), grains (2.7 per cent), other agriculture (2 per cent) and machinery manufacturing (1.8 per cent).[10]

This modelling study also finds that future expansion of the TPP-11 to a TPP-16 (with Indonesia, Korea, the Philippines, Taiwan and Thailand) delivers gains to Australia larger than the original TPP with the US. By 2030 a TPP-16 would boost Australia's:

- Real national income by US$17 billion (A$22.1 billion), or 0.7 per cent
- Exports by US$37 billion (A$48.1 billion), or 6.3 per cent (in real terms).

A copy of this latest study by Petri and Plummer has been provided to the Committee as an attachment to this submission.

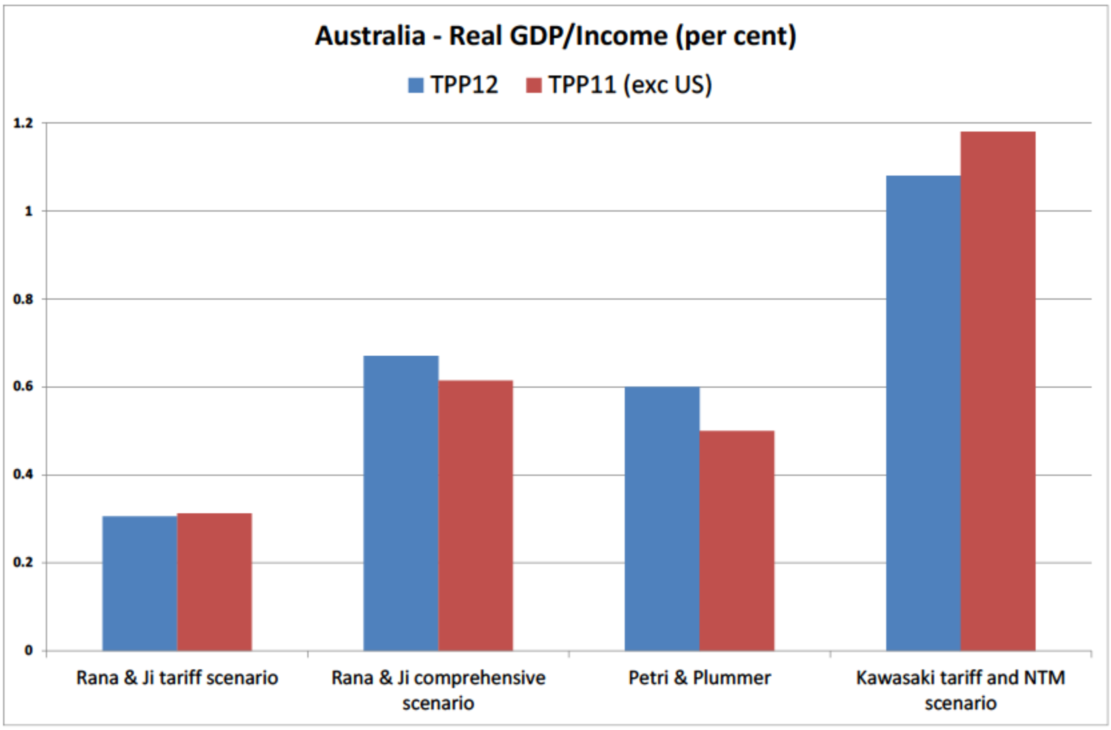
[8] Peter A. Petri and Michael G. Plummer, 2016, 'The Economic Effects of the Trans-Pacific Partnership: New Estimates', Peterson Institute for International Economics, Working Paper 16-2, January 2016.
[9] Peter A. Petri and Michael G. Plummer, 2018, 'Australia Will Gain from Continued Asia-Pacific Trade Integration', Modelling Report for Australian industry groups, September 2018, pp. 10-13.
[10] Petri and Plummer, 2018, p. 14 and p. 26 (Table 9).

The second study, by Kenichi Kawasaki, a senior fellow of Japan's National Graduate Institute for Policy Studies, found that liberalisation of tariffs and non-tariff measures (NTMs) under the TPP-11 would boost Australia's real GDP by 1.18 per cent, compared to 1.08 per cent under the original TPP.[11]

The third modelling study, by Professor Prabdumna Rana and Mr Ji Xianbai of Singapore's Nanyang Technical University, considered two trade liberalisation scenarios for TPP-11 and the original TPP. The first scenario looks only at the impact of the TPP-11's liberalisation of tariffs on goods trade. Under this scenario, the modelling results estimate that the TPP-11 will boost Australia's real GDP by 0.31 per cent, compared to 0.3 per cent under the original TPP. The second scenario examines the impact of the liberalisation of trade in services as well as goods under the agreement. Under this scenario, the modelling finds that the TPP-11 will boost Australia's real GDP by 0.61 per cent, compared to 0.67 per cent under TPP12.[12]

Thus the three recent modelling studies find that the TPP-11 will boost Australia's real GDP and/or real national income over the period to 2030 by between 0.31 and 1.18 per cent (Chart 1).

Chart 1: Modelling comparisons of TPP and TPP-11



Is growth of 0.5 per cent too small to be bothered with?

The Australian Fair Trade and Investment Network has described the estimated 0.5 per cent GDP gain under the TPP-11 as 'tiny'. The Australian Council of Trade Unions has said the World Bank's finding of a 0.7 per cent GDP increase represents 'a minor blip.'[13]

Yet, as noted above, the latest modelling by Petri and Plummer finds the TPP-11 will boost Australia's national income by $15.6 billion in 2030. That represents about $620 a year for every Australian. And

[11] Kenichi Kawasaki, 2017, 'Emergent Uncertainty in Regional Integration – Economic impacts of alternative RTA scenarios', GRIPS Discussion Paper 16-28, National Graduate Institute for Policy Studies, Tokyo, p. 8.
[12] Prabdumna B. Rana and Ji Xianbai, 2017, 'TPP12 vs TPP11: Gainers and Losers', RSIS Commentary, No 029, 15 February 2017.
[13] AFTINET, Submission 45, Joint Standing Committee on Treaties Inquiry into TPP-11, p. 27. ACTU, Submission 57, Joint Standing Committee on Treaties Inquiry into TPP-11, p. 18.

this is not a one-time gain. The increases in incomes accrue every year to reach 0.5 per cent in 2030, and will continue accruing beyond that point. Earlier modelling by the Petri and Plummer team finds that under the TPP-11 Australian GDP is US$6 billion higher in 2020, US$9 billion higher in 2025, and US$14 billion higher in 2030. The cumulative increase in Australia's GDP over the period 2020 to 2030 will amount to US$105 billion, or $136.5 billion (in 2015 dollars). That is an increase of around $5,400 per head of population, in 2015 dollars, over the decade.[14]

Economic growth is the key to improving living standards. It leads to more jobs and higher incomes. It would be perverse to dismiss a reform which will boost economic growth on the basis that the increase is too small. No single trade agreement – or indeed no single wider economic reform – is a magic bullet. Maintaining prosperity and improving living standards requires continuing reform, a combination of measures each contributing their part to growing the economy and improving welfare.

The TPP-11 is but one trade agreement. The modelling studies indicate that it will make a positive contribution to growth in its own right. It will build on Australia's existing network of trade agreements which have made a major contribution to jobs and growth. It will also provide a foundation for further trade liberalisation, both through possible future expansion of the TPP's membership and by encouraging finalisation of other regional trade agreements.

The Centre for International Economics has estimated that Australia's trade reforms over the period from 1986 to 2016 have boosted GDP by 5.4 per cent. This translates into the average family's income being $8,448 higher in 2016 than it would otherwise have been.[15] The reforms examined by this CIE study were two rounds of unilateral tariff cuts and 10 trade agreements. Modelling of many of these individual trade agreements would have generated estimated benefits comparable to those estimated for the TPP-11. To have dismissed each of them on the basis that their benefits were 'too small' would have left Australians materially worse off today.

To assist the Committee in considering the insights modelling studies can provide, and the reasons different studies have different results, the rest of this section: briefly discusses modelling frameworks and methods used by modellers to examine trade agreements; provides a literature review of several modelling studies of the TPP-11 and the TPP; and provides a critique of the Tufts University/Capaldo and Izurieta modelling study which has been presented to the Committee by opponents of the TPP.

Overview of CGE modelling approach

Economic impacts of trade agreements are typically assessed with computable general equilibrium (CGE) models. CGE is the standard modelling framework used to assess the impacts of trade agreements on the economy.

Several CGE modelling studies have been conducted on the TPP and TPP-11 with the results varying across these studies. The differences in results reflect differences in model design, assumptions, parameters and data, including how researchers measure reductions in non-tariff barriers which are not as straightforward to quantify as reductions in tariffs. It also reflects different TPP scenarios in terms of the numbers of countries involved and the content of the agreement. Studies conducted before the finalisation of the original TPP agreement made assumptions about the content, while those conducted more recently have drawn on the text of the agreement which was finalised in late 2015 (and which has been largely replicated by the TPP-11).

[14] Peter A. Petri, M.G. Plummer, S. Urata and F. Zhai, 2017, 'Going it Alone in the Asia-Pacific: Regional Trade Agreements Without the United States', Peterson Institute for International Economics, Working Paper 17-10 (including full data tables at https://piie.com/publications/working-papers/going-it-alone-asia-pacific-regional-trade-agreements-without-united). The data tables show increases in GDP of US$6 billion in 2020, US$9 billion in 2025 and US$14 billion in 2030. Assuming linear increases over the period, the cumulative increase is US$105 billion.

[15] Centre for International Economics, 2017, op cit, pp. 13-14.

CGE modelling is well-suited to estimating the impacts of reductions in tariffs on goods as there is readily available data on tariff levels and on goods trade. Modern trade agreements, however, typically also include provisions liberalising trade in services, investment and non-tariff measures which can act as barriers to trade (such as customs procedures, import licensing requirements, standards and technical requirements). These measures can be more difficult to model and can require assumptions to be made about how they will influence trade costs and economic behaviour. Modellers base such assumptions on economic theory and empirical evidence.

Narayanan et al review different theoretical and technical approaches adopted in CGE modelling of trade agreements.[16] They conclude that CGE models of the type used for multi-sector, multi-regional trade analysis are the only approach that can capture the services, investment and 'behind the border' issues covered in modern trade agreements as well as the traditional areas of liberalisation such as tariffs. However, given the range of CGE models, they argue that the most useful approach for policymakers is to consider a suite of CGE studies rather than any single study. Accordingly, the next section summarises the findings of several TPP and TPP-11 modelling studies.

Literature review of TPP modelling studies

A literature review has identified several TPP and/or TPP-11 modelling studies which include results for Australia:

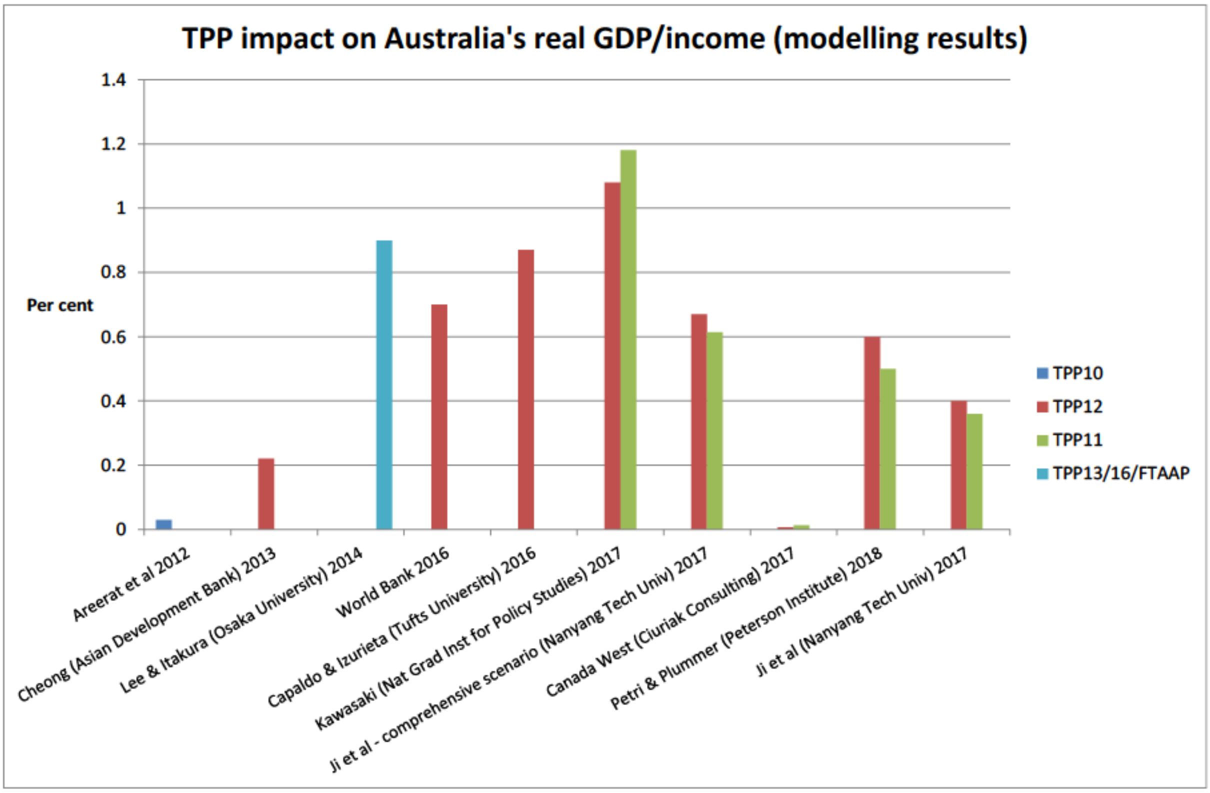
- Peterson Institute for International Trade and Economics: a series of studies by Professors Peter Petri and Michael Plummer and colleagues, the latest published in September 2018 examining the TPP-11.[17]
- Nanyang Technological University, Singapore: ongoing TPP modelling by Associate Professor Prabdumna Rana, post-graduate researcher Mr Ji (Jason) Xianbai and colleagues, including results published in 2018 on the TPP-11.[18]
- National Graduate Institute for Policy Studies, Tokyo: a series of studies by senior fellow Kenichi Kawasaki, with the latest (2017) examining the TPP-11.[19]
- Canada West Foundation: 2017 modelling by Carlo Dade and Dan Ciuriak on the TPP-11.[20]
- Tufts University: 2016 paper by Jeronim Capaldo and Alex Izurieta modelling the TPP for the Global Development and Environment Institute at Tufts University (this study does not utilise CGE modelling – see below for further discussion).[21]
- World Bank: 2016 modelling study on the original TPP by World Bank staff.[22]
- Osaka University: 2014 paper by Hiro Lee and Ken Itakura modelling TPP and RCEP scenarios for the Osaka School of International Public Policy.[23]
- Asian Development Bank Institute: 2013 modelling study on TPP by Professor Inkyo Cheong of Korea's Inha University.[24]

[16] Badri Narayanan G., Dan Ciuriak and Harsha Vardhana Singh, 'Quantifying the Mega-regional Trade Agreements: A review of models', International Institute for Sustainable Development, April 2015.
[17] Petri and Plummer, 2018, op cit.
[18] Rana, Prabdumna B and Ji Xianbai, 'TPP12 vs TPP11: Gainers and Losers', RSIS Commentary, No 029, 15 February 2017. Ji Xianbai, 'Navigating the convoluted trade architectures: "Preference ordering" for Australia and post-Brexit', Presentation to Australian National University Centre for European Studies seminar, 31 May 2017. Ji Xianbai, Prabdumna Rana, Wai-Mun Chai and Chang Tai Li, 'Trade Policy Options for ASEAN countries and their Regional Dialogue Partners: "Preference Ordering" Using CGE Analysis', RSIS Working Paper No 308, 19 March 2018.
[19] Kawasaki, Kenichi, 'Emergent Uncertainty in Regional Integration – Economic impacts of alternative RTA scenarios', GRIPS Discussion Paper 16-28, National Graduate Institute for Policy Studies, Tokyo, January 2017.
[20] Canada West Foundation, 'The Art of the Trade Deal: Quantifying the Benefits of a TPP Without the United States' (by Carlo Dade and Dan Ciuriak with Ali Dadkhah and Jingliang Xiao), June 2017.
[21] Capaldo, Jeronim, and Alex Izurieta, 'Trading Down: Unemployment, Inequality and Other Risks of the Trans-Pacific Partnership Agreement', Global Development and Environment Institute Working Paper 16-01, January 2016.
[22] World Bank, 'Potential Macroeconomic Implications of the Trans-Pacific Partnership', *Global Economic Prospects,* Chapter 4, January 2016.
[23] Lee, Hiro and Ken Itakura, 'TPP, RCEP and Japan's Agricultural Policy Reforms', Osaka School of International Public Policy Discussion Paper 2014-E-003, March 2014.
[24] Cheong, Inkyo, 'Negotiations for the Trans-Pacific Partnership Agreement: Evaluation and Implications for East Asian Regionalism', Asian Development Bank Institute Working Paper No 428, July 2013.

- Areerat et al: 2012 paper by Todsadee Areerat of Japan's Ehime University and colleagues modelling TPP and related Asian free trade agreement scenarios.[25]

These studies typically report the economic impact of the relevant TPP policy scenario (compared to a baseline scenario of not implementing the TPP) in a specific year, such as 2030, or as the long-run impact around 10 years after implementation. Chart 2 shows that estimates of the impact of the TPP/TPP-11 on Australia's real GDP and/or real income across 10 scenarios modelled in these studies range from minimal to almost 1.2 per cent. The average across the 10 scenarios is an increase of 0.54 per cent in real GDP, in line with the finding for the TPP-11 of the most recent iteration of Petri and Plummer's ongoing modelling research.

Chart 2: Modelling results for Australia under various TPP scenarios



The focus in Australian debates on trade is understandably primarily on the benefits for Australia of trade policies and trade agreements. However, the agreements Australia enters also generate economic benefits for other countries. In particular, the benefits for developing countries can be significant. In this way Australia's trade agreements can promote economic development and help to reduce poverty and disadvantage in our trading partners.

Chart 3 shows Petri and Plummer's estimates of the impact of the TPP-11 on incomes in all member countries. It indicates that the economic gains are largest for Vietnam, Malaysia, Brunei Darussalam and Peru, although the withdrawal of the US has significantly reduced the estimated gains for these countries under the TPP-11 compared to the original TPP.

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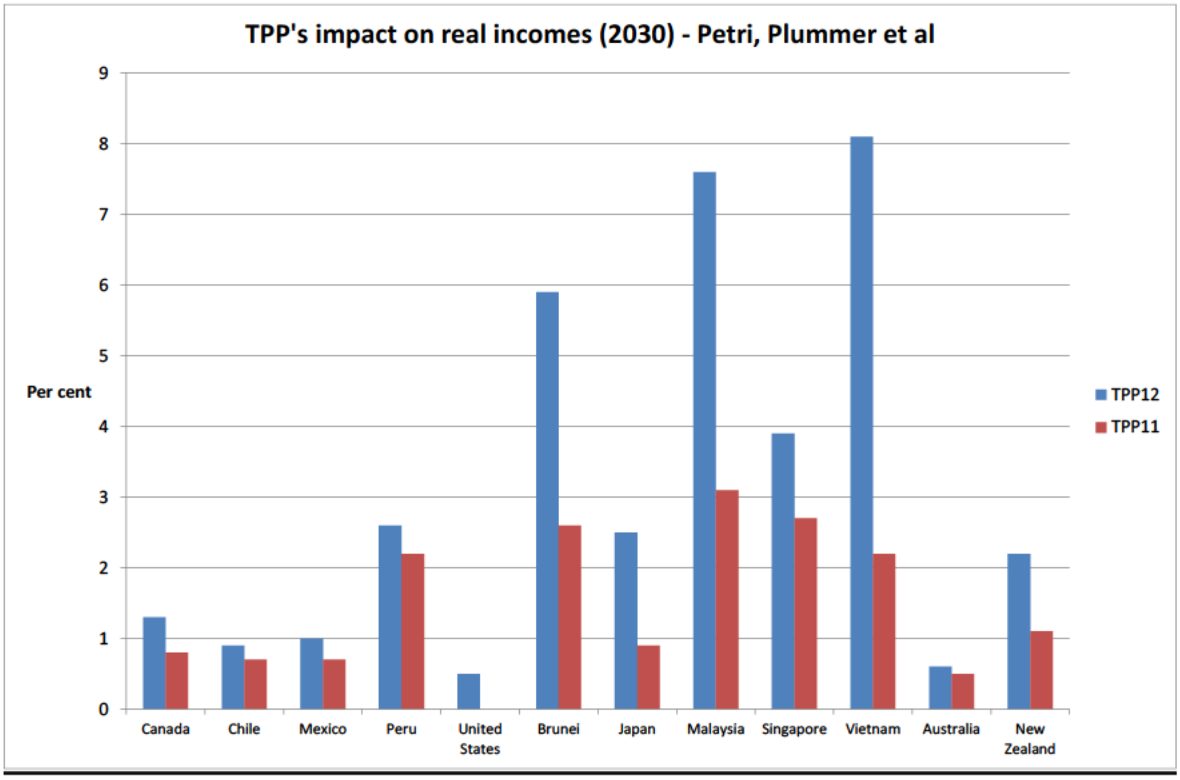
[25] Areerat, Todsadee, Hiroshi Kameyama, Shoichi Ito and Koh-en Yamauchi, 'TransPacific Strategic Economic Partnership with Japan, South Korea and China Integrate: General Equilibrium Approach', *American Journal of Economics and Business Administration*, 4(1), pp. 40-6, 2012.

Chart 3: Petri and Plummer's modelling results for all TPP countries



Critique of the Tufts University/Capaldo and Izurieta study

A modelling study by Jeronim Capaldo and Alex Izurieta of the Global Development and Environment Institute at Tufts University has gained notoriety in debates about the TPP.[26] Opponents of the TPP rely heavily on this study to argue that the trade agreement will cause job losses. However there are numerous and serious methodological flaws with this study. It has been widely criticised by economic experts. Its main 'headline' result – that the TPP would cause millions of job losses around the world, including in non-TPP countries – lacks credibility. If this study's findings were taken seriously, they would mean the way to boost economic growth and employment would be to impose protectionist tariffs on goods and services and to erect barriers to inflows and outflows of international investment.

The Capaldo and Izurieta paper reports on a modelling simulation for the original TPP. This simulation finds that the TPP would increase net exports and GDP of most TPP member countries yet would decrease employment growth of all 12 original TPP countries by a total of 771,000 jobs. For Australia, the paper estimates the TPP would boost GDP by 0.87 per cent and boost net exports by 0.71 per cent of GDP over 10 years, yet at the same time would reduce employment growth by 39,000 over 10 years (compared to the baseline scenario for employment growth without the TPP).

The Capaldo and Izurieta paper also estimates that the TPP would have even larger negative economic impacts on non-TPP member countries. It concludes that the TPP would reduce the GDP of non-TPP developing countries (such as China, India and Indonesia) by 5.24 per cent and employment in these countries by 4.45 million and that it would also reduce the GDP of non-TPP developed countries (primarily in Europe) by 3.77 per cent and employment by 879,000.

[26] Capaldo, Jeronim and Alex Izurieta (with Jomo Kwame Sundaram), 'Trading Down: Unemployment, Inequality and Other Risks of the Trans-Pacific Partnership Agreement', Global Development and Environment Institute Working paper 16-01, January 2016.

The Capaldo and Izurieta study does not adopt the standard CGE modelling framework utilised by all other studies of the TPP, which typically use the Global Trade Analysis Project (GTAP) model or similar models specifically designed for analysing the impacts of trade policy and trade agreements. Instead Capaldo and Izurieta use the Global Policy Model (GPM) developed for the United Nations' Department of Economic and Social Affairs. This is a model designed to study the impacts of demand shocks, such as financial crises or cuts in government spending, on domestic economies and the way such shocks spread across countries. CGE models like GTAP account for all sectors of the economy, including firms, households and government, capture structural patterns of production, allow prices to adjust in response to changes in supply and demand, and are specifically designed to estimate the impact of trade policies such as tariffs, quotas and other regulations, on trade flows, industrial production, economic output and national income.[27] By contrast the GPM model lacks most of these features. It focusses primarily on the demand side of the economy and on the short-run impacts of shocks to demand.[28] Few if any other economists have used the GPM to analyse trade agreements.

Capaldo and Izurieta's modelling framework, and assumptions they impose on their modelling, ignore many of the positive aspects of trade, including productivity improvement, improvements in consumer welfare due to lower prices and more choice, higher wages paid by exporters, and structural change such as the emergence of new industries able to take advantage of opportunities in export markets.

The Capaldo and Izurieta study's headline finding of job losses is driven by the assumptions they impose on the model rather than the results of the modelling itself. The core assumptions are that trade agreements will always force employers to cut wages and governments to reduce expenditure. These assumptions of significant cuts to labour income and government expenditure – not any data or information about the TPP itself – drive the modelling's findings of reductions in domestic demand. The reductions in demand then translate into slower employment growth.

This means it is a misnomer to say that Capaldo and Izurieta have modelled the TPP. What they have actually modelled is a 'what if' scenario whereby the TPP is accompanied by government spending cuts and wage cuts for employees. In Australia's case, their assumption (in today's dollars) is that the TPP will prompt governments to cut spending by $13.5 billion over 10 years and employers to cut wages by $12.9 billion a year, or nearly $1,000 a year for each person in the labour force. No theoretical or empirical evidence is presented to justify these assumptions, let alone their order of magnitude, or to explain how the TPP will have such an effect. It is important to realise that the cuts in government spending and wages are not outcomes of the modelling – they are assumptions fed into the model.

Furthermore, in the case of Australia the data Capaldo and Izurieta use for growth in government expenditure in their baseline scenario is inaccurate and the data they use to represent the TPP's impact on net exports is out of date. Both of these flaws in the data utilised for Australia will cause the modelling to overstate the negative impacts on employment under their 'TPP plus spending and wage cuts' scenario.[29]

Capaldo and Izurieta's results are not plausible. The study's findings that Australia's GDP and net exports will both be higher under the TPP yet employment will be lower are contradictory. And its predictions of massive falls in GDP and employment in non-TPP countries like China and India – with millions of job losses and GDP slowdowns of more than five percentage points – are not plausible and are dramatically out of line with findings from other TPP modelling studies. The basic premises driving the Capaldo and Izurieta study – that increases in international trade and more open international financial markets will inevitably reduce domestic demand and employment – are also at odds with

[27] Bauer, Matthias and Fredr k Erixon, ''Splendid Isolation' as Trade Policy: Mercantilism and Crude Keynesianism in 'the Capaldo Study' of TTIP', European Centre for International Political Economy, Occasional Paper 3, 2015.
[28] UN Development Policy and Analysis Division, United Nations Global Policy Model, https://www.un.org/development/desa/dpad/publication/united-nations-global-policy-model/, accessed 8 March 2018.
[29] For further details of the inaccurate data used for Australia, see the Appendix.

Australia's real-world experience of continuous economic growth since it reduced tariffs and opened its capital markets in the 1980s and 1990s.

The paper and a similar study by Capaldo on the Trans-Atlantic Trade and Investment Partnership (TTIP) have been criticised by economists on a range of grounds, including lack of transparency around the model's equations, data, and assumptions and an inability of other scholars to gain access to the model to scrutinise the findings (Box 1). To assist the Committee, the appendix to this submission provides further detail on the flaws and shortcomings of the Capaldo and Izurieta study.

Box 1: Economists on Capaldo and Izurieta's TPP and TTIP modelling (emphasis added)[30]

'Capaldo et al's work … has important methodological flaws and **would not pass a serious peer review**.' (Catherine de Lutio and Philip Tostel, University of Maine)

'The Capaldo study is associated with such serious flaws that its results **should neither be regarded reliable nor realistic**. It fundamentally contradicts all other existing studies of the effects of FTAs and the reality of what liberalised trade actually brings about.' (Matthias Bauer and Fredrik Erixon, European Centre for International Political Economy)

'No trade economist, regardless of what school of thought he or she comes from, has ever used this model to make estimates of trade.' (Matthias Bauer and Fredrik Erixon, European Centre for International Political Economy)

'This series of steps requires assumptions and assertions that, in a number of cases, **contradict standard economic concepts**, often without explanation or the requisite theoretical or analytical basis.' (James Jackson, US Congressional Research Service)

'A very sombre macro study by Capaldo is simply **not credible, methodologically flawed and misleading**: proven trade effects are assumed not to take place, assumptions assume away likely effects, and the drivers of the results have nothing to do with the TTIP.' (Professor Jacques Pelkmans, College of Europe)

'This study suffers from a **profound credibility problem**…' (Professor Jacques Pelkmans, College of Europe)

'Unfortunately, however, their paper does a poor job of explaining how their model works, and the **particulars of their simulation are somewhat murky**.' (Professor Dani Rodrik, Harvard University)

'This is **ridiculous**.' (Martin Wolf, Chief Economics Commentator, Financial Times)

'To see how implausible this is, consider what the model would predict if the TPP process was actually reversed. Imagine if all TPP countries significantly raised their trade barriers and restricted capital movement. Presumably employment would rise in all the TPP countries – despite the loss of exports and curtailment of FDI inflows – and the rest of the world would boom! Indeed, given the model's conclusions it is hard to understand how a world in which trade barriers have been continuously reduced has enjoyed so much prosperity in recent decades. **What the model actually implies is that the whole world would be far better off with a trade war than with the TPP!**' (Robert Lawrence, Professor of International Trade and Investment, Harvard University)

[30] deLutio, Catherine Reilly and Philip A. Tostel, '2016 Trade Policy Assessment: The Trans-Pacific Partnership's Potential Impact on Maine', Margaret Chase Smith Policy Centre, University of Maine, September 2016, pp. 58-59. Matthias Bauer and Fredrik Erixon, ''Splendid Isolation' as Trade Policy: Mercantilism and Crude Keynesianism in 'the Capaldo Study' of TTIP', European Centre for International Political Economy, Occasional Paper 3, 2015. James K. Jackson, 'The Trans-Pacific Partnership (TPP): Analysis of Economic Studies', CRS Report, Congressional Research Service, 30 June 2016, p. 25. Jacques Pelkmans, 'An Overview and Comparison of TTIP Studies', in World Trade Institute, *TTIP and the EU Member States*, Bern, January 2016, p. 48, 51. Dani Rodrik, 'The Trade Numbers Game', Project Syndicate, 10 February 2016. Martin Wolf, 'The embattled future of global trade policy', *Financial Times*, 13 May 2015. Lawrence, Robert Z, 'Studies of TPP: Which is Credible', Trade and Investment Policy Watch, Peterson Institute for International Trade and Economics, 29 January 2016

MARKET ACCESS GAINS FOR GOODS AND SERVICES EXPORTS

The TPP-11 preserves all the market access gains for Australia of the original TPP, except for those involving the US. This will open up new markets for Australian manufacturing, agriculture, mining and energy resources and services exports to major export markets such as Japan and Canada, and to some of the fastest-growing emerging markets in the Asia-Pacific, such as Vietnam, Malaysia, Mexico, Peru and Chile.[31] Market access gains include:

- Resources and energy
  - **Iron ore, copper, nickel:** Peru (tariffs eliminated)
  - **Butane, propane and LNG:** Vietnam (tariffs eliminated)
  - **Refined petroleum:** Vietnam (20 per cent tariffs eliminated)
  - **Mining services:** Mexico, Malaysia, Brunei Darussalam, Vietnam, Chile (national treatment commitments will improve market access for mining services)
  - **Mining and oilfield services:** Will also benefit from energy sector and state-owned enterprise reform commitments in the TPP-11.

- Agriculture
  - **Beef:** Japan, Mexico, Canada (tariffs reduced or eliminated)
  - **Sugar:** Japan, Canada, Peru, Malaysia, Vietnam (tariffs eliminated or market access improved through new quota access)
  - **Dairy:** Japan, Mexico, Canada (tariff reductions and improved quota access for cheese, butter, milk powders, ice cream, yoghurt and infant formula)
  - **Wheat, barley, cereals and grains:** Japan, Mexico, Canada (tariffs reduced or eliminated and additional quota access to Japan)
  - **Rice:** Japan (new quota access allowing more rice exports to Japan for the first time in 20 years, together with tariff reductions on rice preparation products)
  - **Wine:** Mexico, Canada, Malaysia, Vietnam (tariffs eliminated)
  - **Seafood:** Canada, Japan, Vietnam, Mexico (tariffs eliminated)
  - **Pork:** Japan, Malaysia, Mexico (tariffs reduced or eliminated)
  - **Sheep meat:** Japan, Canada, Mexico, Peru, Chile, Vietnam, Malaysia, Brunei Darussalam, Singapore (tariffs eliminated)
  - **Goat meat** Mexico, Canada, Peru (tariffs phased out)
  - **Horticulture:** Mexico, Canada, Peru, Japan (tariffs phased out)
  - **Wool:** Japan, Canada, Mexico, Peru, Chile, Vietnam, Malaysia, Brunei Darussalam, Singapore (tariffs on Australian raw wool eliminated)
  - **Cotton:** Japan, Canada, Mexico, Peru, Chile, Vietnam, Malaysia, Brunei Darussalam, Singapore (tariffs eliminated).

- Manufacturing
  - **Iron and steel products:** Canada, Vietnam (tariffs eliminated)
  - **Aluminium products:** Canada, (tariffs eliminated)
  - **Automotive parts:** Vietnam, Malaysia (tariffs eliminated by Vietnam, market access and tax treatment improved for Malaysia)
  - **Machinery, mechanical and electrical appliances:** Mexico (tariffs eliminated)
  - **Pharmaceuticals:** All TPP-11 countries (tariffs eliminated)
  - **Medical equipment:** All TPP-11 countries (duties eliminated on medical instruments and devices)

[31] Market access gains cited in this section are from Department of Foreign Affairs and Trade, *Trans-Pacific Partnership (TPP-11) Outcomes Document: Good market access,* March 2018 (http://dfat.gov.au/trade/agreements/tpp/outcomes-documents/Documents/tpp-11-outcomes-goods-market-access.pdf) and Department of Foreign Affairs and Trade, Trans-Pacific Partnership (TPP-11) Outcomes Document: Services (http://dfat.gov.au/trade/agreements/tpp/outcomes-documents/Documents/tpp-11-outcomes-services.pdf)

  - **Leather products:** Mexico (tariffs eliminated)
  - **Ships:** Canada (tariffs eliminated).

- Services
  - **Mining services:** Mexico, Malaysia, Brunei Darussalam, Vietnam, Chile (national treatment commitments will improve market access for mining services)
  - **Professional services:** Brunei Darussalam, Malaysia, Mexico, Canada, Chile and Vietnam (greater access in these markets for Australian legal, engineering, architectural, urban planning, construction and accounting services)
  - **Financial services:** Cross-border provision of investment advice, portfolio management services and insurance for freight transport
  - **Education:** Brunei Darussalam, Japan, Malaysia, Mexico, Vietnam (greater access for Australian universities and vocational education providers in these markets)
  - **Healthcare:** Malaysia, Mexico, Vietnam, Brunei Darussalam (greater certainty regarding market access for Australian health service providers and elimination of duties on medical instruments, devices and pharmaceuticals)
  - **Hospitality and tourism:** Brunei Darussalam, Canada, Chile, Japan, Mexico, Peru, Malaysia, Vietnam (greater market access for Australian travel and tour services operators)
  - **Transport and logistics:** Malaysia, Vietnam, Japan, Chile and Mexico (services commitments that will secure Australian market access and investment opportunities in freight transport, aviation, ground-handling and airport operations services).

OPPORTUNITIES FOR AUSTRALIAN MINING AND MINING SERVICES

Minerals and energy commodities are Australia's largest source of export earnings. Australia's resources exports, including minerals, metals and petroleum, were valued at $207 billion in 2017. This was more than half the value of Australia's total exports of goods and services in 2017. Iron ore and coal remain Australia's two most valuable exports, contributing $63 billion and $56 billion respectively in export earnings in 2017. Gold exports generated $18.3 billion, while base metals contributed a further $25 billion in export earnings.[32] To put the importance of the resources industry for Australia's trade into perspective, resources exports were double the value of services exports and quadruple the value of farm and other rural goods exports in 2017.

The Minerals Council of Australia strongly supports trade liberalisation and open markets. Open markets and liberalised trade and investment are not only essential for Australia's resources exports, but for Australia's wider prosperity given the importance of trade for the domestic economy. Australia's mining industry generally faces relatively low barriers to market access for extractive commodity exports in most markets of interest. This reflects the role of earlier waves of trade liberalisation and the need of many trading partners to import resources commodities as inputs to their own economies. By contrast with the position for extractive mining commodities, barriers to exports of mining services, including non-tariff measures (NTMs), remain significant impediments to growing Australia's mining services exports in markets of interest.

The TPP-11 will create new export opportunities for Australian resources exports. While existing market access barriers for most mining commodities are already low in TPP-11 member countries, the agreement eliminates most of the remaining barriers, including Peru's tariffs on iron ore, copper and nickel and Vietnam's tariffs on butanes, propane, LNG and refined petroleum. Implementing the TPP-11 will also lock in and preserve existing market access for Australia's mining commodities in these countries. Furthermore, the TPP-11's services commitments will provide market access for Australian mining services, an area where Australia has significant skills and expertise and one of our future sources of comparative advantage in trade, to complement our extractive resources exports. Economic modelling has estimated that Australia's mining exports will be US$1 billion (A$1.3 billion) higher in real terms in 2030 under the TPP-11 than they would be without this trade agreement.

The TPP-11 will also contribute more broadly to future opportunities for Australian resources exports and outward investment by stimulating trade and investment flows, contributing to regional economic growth and more closely integrating the economies covered by the agreement. By supporting regional economic development and fostering regional supply and production chains, for instance, the TPP-11 will benefit Australia's mining industry by boosting demand for minerals and energy commodities.

Australia's existing mining exports are currently dominated by the North Asian markets of China, Japan and Korea. The TPP-11 includes key Southeast Asian economies, which are sources of potential future growth for resources commodity exports as these economies continue to industrialise and urbanise. There is significant potential to expand Australia's trade relationship with the ASEAN economies, including those already covered by the TPP-11 (Brunei Darussalam, Malaysia, Singapore and Vietnam) and those which have expressed interest in joining the TPP in the future (Indonesia, the Philippines and Thailand). As ASEAN's economies continue to grow, and to industrialise and invest in infrastructure, Australia can be a reliable, competitive, geographically-proximate supplier of the minerals and energy commodities that will be needed to further their development.

The TPP-11 also includes Latin American economies where the resources trade with Australia is currently small but where there will be opportunities for Australian mining companies and mining services firms to partner with local businesses in investing in and developing those countries'

[32] ABS, International Trade in Goods and Services, Australia, Jan 2018, Cat No 5368.0.

resources sectors. Australia's participation in the TPP-11 will support the realisation of these longer-term mining and mining services export and investment opportunities.

Australia's resources trade with TPP-11 countries

Australia's exports of minerals and energy resources to TPP-11 countries were valued at over $43 billion in 2016-17, 62 per cent of all goods exports to these countries.[33] As Table 1 shows, the most significant resources commodities exported to TPP-11 countries are coal ($18.1 billion in 2017), iron ore and concentrates ($5.8 billion) and aluminium ($1.5 billion). Liquefied natural gas (LNG) is a major resources export commodity to TPP-11 markets such as Japan and Singapore, although the Australian Bureau of Statistics does not publish country-level export values for LNG for reasons of commercial confidentiality.[34] For iron ore, gold and aluminium ores and concentrates, Australian exports to TPP-11 countries are relatively low as a share of total exports of those commodities, suggesting the potential for future growth.

Table 1: Top 12 resources exports to TPP-11 countries, 2017 (excluding confidential items)[35]

Commodity (SITC 3-digit)	**Value of exports to TPP-11 countries, A$000**	**Value of exports to all countries, A$000**	**Exports to TPP-11 countries as share of total exports (per cent)**
321 Coal	18,064,316	56,774,050	31.8
281 Iron ore & concs	5,778,354	63,193,247	9.1
684 Aluminium	1,513,907	3,449,063	43.9
283 Copper ores & concs	1,333,994	4,794,179	27.8
333 Crude petroleum	1,313,326	5,246,020	25.0
682 Copper	1,016,774	2,984,916	34.1
971 Gold	911,448	17,632,218	5.2
334 Refined petroleum	647,952	2,390,562	27.1
285 Aluminium ores & conc (incl alumina)	541,013	8,425,563	6.4
287 Other ores & concentrates	512,636	2,622,706	19.5
342 Liquefied propane & butane	425,398	734,471	57.9
282 Ferrous waste & scrap	304,704	819,356	37.2

Source: Department of Foreign Affairs and Trade, Composition of Trade 2017 pivot tables. Excludes commodities subject to confidentiality restrictions.

[33] Department of Foreign Affairs and Trade, National Interest Analysis, paragraph 35.
[34] Department of Foreign Affairs and Trade, *Composition of Trade 2016-17,* Canberra, January 2018, pp. 174-8.
[35] In this submission, mining and energy resources exports are defined as the following SITC 3-digit commodities: 272 Crude fertilisers, 273 Stone, sand & gravel, 274 Sulphur & iron pyrites, 277 Natural abrasives, 278 Crude minerals, nes, 280 Confidential mineral ores, 281 Iron ores & concs, 282 Ferrous waste & scrap, 283 Copper ores & concs, 284 Nickel ores & concs, 285 Aluminium ores & conc (including alumina), 286 Uranium or thorium ores & concs, 287 Other ores & concs, 288 Non-ferrous waste & scrap, 289 Precious metal roes & conc (exc gold), 321 Coal, 322 Briquettes, lignite & peat, 325 Coke & semi-coke, 333 Crude petroleum, 334 Refined petroleum, 335 Residual petroleum products, nes, 342 Liquefied propane & butane, 343 Natural gas, 344 Petroleum gases, 345 Coal gas, water gas & similar gases, 667 Pearls & gems, 671 Pig-iron, 672 Iron or steel ingots, 681 Silver & platinum, 682 Copper, 683 Nickel, 684 Aluminium, 685 Lead, 686 Zinc, 687 Tin 689 Other non-ferrous metals, 971 Gold. It should be noted, however, that due to ABS confidentiality restrictions (see note 22), the export values shown here do not include LNG, alumina, silica and quartz sands, uranium, nickel mattes, manganese ores, titanium ores, zirconium ores, base metal ores, slag ash and residues, tars, and oils and other products.

Japan is Australia's biggest resources export market amongst TPP-11 countries, followed by Malaysia, Singapore and Vietnam (Table 2). The most important commodities exported to individual TPP-11 countries include coal to Japan ($16.5 billion in 2017), iron ore to Japan ($5.6 billion), copper ores and concentrates to Japan ($1.3 billion), gold to Singapore ($865 million), copper to Malaysia ($818 million), crude petroleum to Singapore ($650 million) and coal to Vietnam ($611 million).

Table 2: Resources exports to TPP-11 countries, 2017

Country	Value of exports, A$000	Share of total resource exports (%)
Brunei Darussalam	64	<0.001
Canada	502,228	0.24
Chile	278,467	0.13
Japan	25,538,530	12.3
Malaysia	2,491,109	1.2
Mexico	25,535	0.01
New Zealand	553,348	0.27
Peru	2,474	0.001
Singapore	2,119,384	1.02
Vietnam	1,923,093	0.93

Source: Department of Foreign Affairs and Trade, Composition of Trade 2017 pivot tables. Excludes commodities subject to confidentiality restrictions.

Table 3: Resources exports to TPP-11 countries, 2017: top 12 by commodity by market

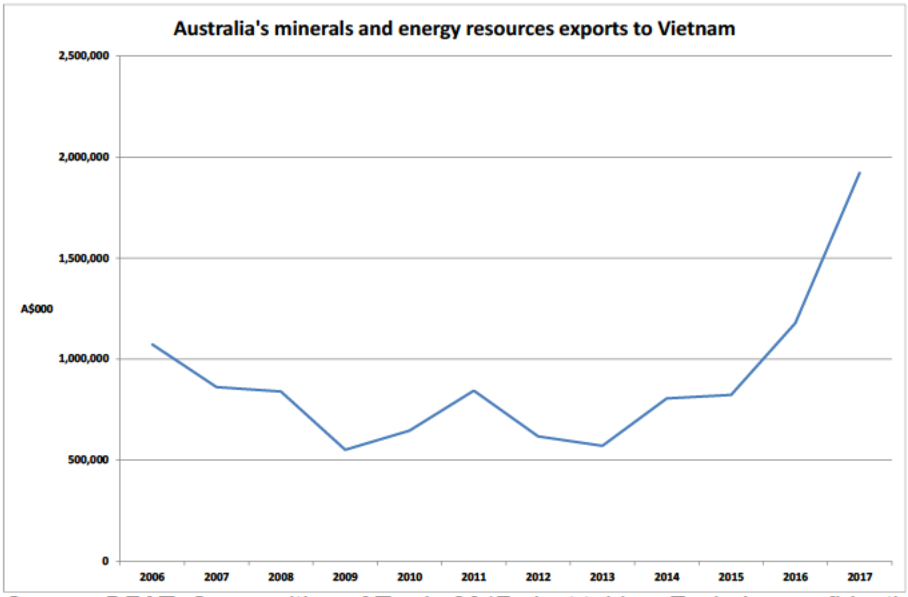
Commodity and market	Value of exports, A$000
Coal, Japan	16,449,409
Iron ore & concs, Japan	5,590,610
Copper ores & concs, Japan	1,272,553
Aluminium, Japan	992,093
Gold, Singapore	864,826
Copper, Malaysia	817,959
Coal, Malaysia	716,424
Crude petroleum, Singapore	649,475
Coal, Vietnam	611,269
Refined petroleum, Singapore	410,439
Crude petroleum, Malaysia	394,525
Aluminium, Vietnam	389,784

Source: Department of Foreign Affairs and Trade, Composition of Trade 2017 pivot tables. Excludes commodities subject to confidentiality restrictions.

In addition to the direct market access improvements created by lowering tariffs, the TPP-11 can be expected to contribute indirectly to demand for Australian minerals and energy resources. As noted above, by boosting the economic growth of Asia-Pacific developing countries, increasing their involvement in regional trade, supply and production chains, and fostering regional economic integration and engagement, the TPP-11 will boost export opportunities for Australia, including for mining, energy and mining services.

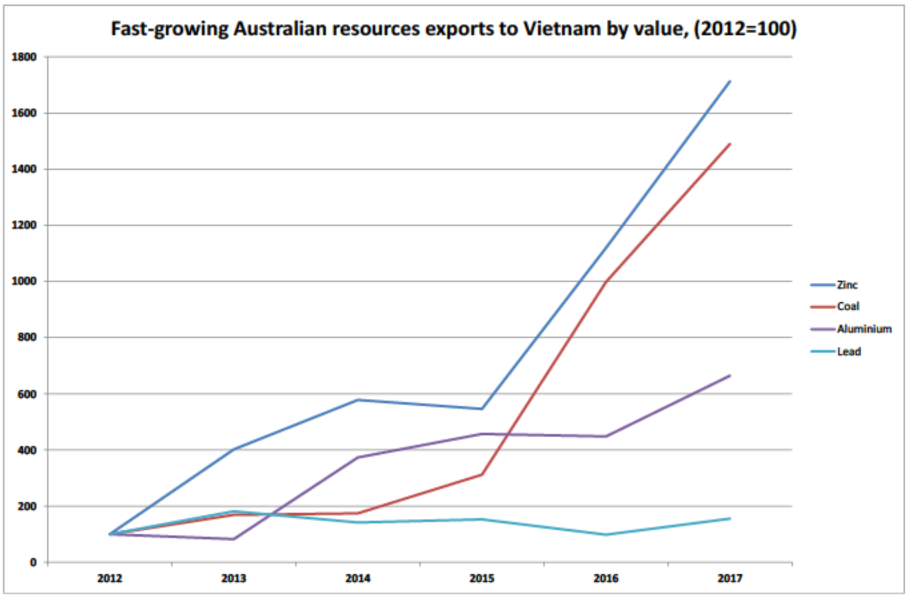
Vietnam is an example of the way economic growth and development, supported by domestic policy reforms and greater international engagement, is generating rapid growth in demand for key Australian resources commodities. At $1.9 billion in 2017, Australia's minerals, metals and energy resources exports to Vietnam were just under 1 per cent of total exports of those commodities. But resources exports to Vietnam have more than trebled in value terms over the last five years (Chart 4). Chart 5 shows that this increase has been driven by very rapid growth in commodities such as zinc (where export values to Vietnam increased by 1700 per cent over the five years from 2012 to 2017) coal (an increase of 1490 per cent over five years) and aluminium (665 per cent).

Chart 4: Minerals and resources exports to Vietnam, 2012-2017



Source: DFAT, Composition of Trade 2017 pivot tables. Excludes confidential items.

Chart 5: Fast-growing resources exports to Vietnam, 2012-2017



Source: DFAT, Composition of Trade 2017 pivot tables. Excludes confidential items.

Opportunities for mining services exports to TPP-11 countries

Recent studies and surveys have highlighted the role of Australia's mining equipment, technology and services (METS) businesses in contributing to economic growth and in providing skilled jobs, advanced technologies and sophisticated services to support our mining industry. It is well-known that Australia has a world-class, global scale extractive mining industry. However, Australia also has a world-class METS sector. The importance of mining in our economy means that thousands of METS businesses have emerged to support and supply the extractive mining industry. These businesses range from those involved in exploration and geoscientific services, to those providing a range of equipment and supplies used in mining; from developers of innovative technologies, data analysis and software solutions, to those providing professional, financial, legal and business services to the mining industry. A study by Deloitte Access Economics has found that when mining and METS are considered together, they contribute around 15 per cent of Australian GDP and support 1.14 million full-time equivalent jobs in Australia.[36]

METS export opportunities in TPP countries

Australia's METS sector is increasingly looking to export its products and services to international markets. There are opportunities for METS businesses in TPP-11 member countries which:

- Have domestic mining industries with significant operations already in production:
  - Canada
  - Mexico
  - Peru
  - Chile
- Have significant minerals resources likely to be developed in coming years:
  - Malaysia
  - Vietnam
  - Brunei Darussalam
- Are regional hubs for mining services and investment:
  - Singapore.

The most significant near-term prospective opportunities are likely to be in Mexico, Peru and Chile – these countries already have significant mining industries but are looking to expand and diversify. There could also be opportunities in Canada, but as its mining sector is more mature it may not present the growth opportunities of the South American TPP-11 member countries.

Developing Asian TPP-11 countries like Malaysia and Vietnam have existing domestic mining operations, but these are not large and opportunities are likely to be more limited in the short-term. However, in coming years as these two countries continue to develop, urbanise and invest in infrastructure their demand for energy and metals will rise. This will see them looking to further develop their minerals and energy resources. That will present opportunities for Australian METS. As the MCA's recent *New Frontiers* report on mining and mining services opportunities noted:

> It is significant that countries such as Vietnam are moving to map available resources more comprehensively and access and build expertise to develop them (including safety and sustainability aspects). All things being equal, these sorts of strategies should increase demand for mining-related products and services and provide scope for broad-based international engagement.[37]

[36] Deloitte Access Economics, *Mining and METS: engines of economic growth and prosperity for Australians,* Report prepared for the Minerals Council of Australia, 2017.
[37] Trading Nation Consulting, *New Frontiers: South and East Asia,* Report for the Minerals Council of Australia, 2017, p. 40.

Brunei Darussalam has significant oil and gas resources, but the attitude of its government towards future development and involvement by foreign businesses is unclear.

Singapore is a critical regional hub where a wide range of mining-related services and investment activities (as well as minerals commodities trade) are organised and deployed into third countries. Australian METS companies are increasingly looking at ways to take advantage of Singapore's role as a regional financing and marketing hub for mining companies.

METS industry groups highlight opportunities in TPP-11 countries

Austmine, the industry body for the METS sector, surveyed METS businesses in 2015. Of 432 companies surveyed, 285 were engaged in export markets. These firms nominated the following TPP-11 member countries as being amongst their existing export markets:

- Chile (36 per cent of respondents said they were exporting to Chile)
- Canada (31 per cent)
- Malaysia (28 per cent)
- Singapore (27 per cent)
- Vietnam (21 per cent).[38]

The level of interest amongst METS businesses in TPP-11 member countries is further illustrated by Austmine's program of overseas trade missions. Austmine is leading Australian METS trade missions to Chile, Peru and Canada during 2018 (in addition to PNG, Russia and the US).

Austmine made the following comments about the original TPP:

> The Australian Mining Equipment, Technology and Services (METS) Sector will benefit substantially from the Trans-Pacific Partnership Deal as it opens up export and investment opportunities and reduces costs when doing business offshore … According to a recent Austmine national METS survey as much as 66% of the sector exports and over half of those have operations or investments offshore. TPP countries represent a substantial part of both export and investment activity with New Zealand, the United States, Canada, Chile, Malaysia and Singapore included in Australian METS' top 10 export markets, and the United States, Canada and Chile being Australian METS' most important investment destinations. Along with tariffs being reduced to zero by the TPP, the easier movement of people and the new rules on state-owned enterprises will provide substantial benefits. Australian METS' biggest export is our service capabilities, so being able to easily bring people in and out of countries quickly and efficiently will save time and money. Smoothing the way to do business with the large state-owned enterprises is needed because of their size, lack of transparency in procurement and simplifying some of the complexities in becoming part of the supply chain opportunities will also be a bonus. Further, the new commitments from Chile, Mexico and Peru on the provision of consulting, research and development, engineering, environmental, mining and technical testing and analysis services will open up business opportunities for our METS in those markets even further.[39]

TPP-11 provisions benefiting Australian METS exporters

The TPP-11 will assist Australian METS businesses to realise export opportunities in markets through measure which improve market access for mining and mining related services. These measures include:

[38] Skene, Divya, 'AIBS 2015: A comparison of results against Austmine's 2015 METS Survey', Austrade Economic Analysis, 20 October 2015, https://www.austrade.gov.au/news/economic-analysis/a bs-2015-a-comparison-of-results-against-austmines-2015-mets-survey
[39] Austmine, Media Release, 'METS to Benefit from Trans-Pacific Partnership Deal', 7 October 2015.

- Mexico, Malaysia, Brunei Darussalam and Canada providing greater access for legal services
- Brunei Darussalam, Canada, Chile and Mexico providing greater access for engineering services
- Mexico locking in reforms to the energy sector, enabling foreign companies to participate in the exploration, production, processing and refinement of oil and gas
- Commitments from Malaysia in relation to the oil and gas sector, providing Australian service suppliers and investors with greater transparency regarding operating conditions
- Brunei Darussalam and Vietnam locking in, for the first time, investment and local content regimes for oil, gas and power development as well as future reforms
- Brunei Darussalam, Mexico and Vietnam guaranteeing access for Australian mining and oilfield goods and services providers to deliver goods, services and technologies to these markets
- Chile and Mexico making new commitments delivering guaranteed access for Australian suppliers of mining-related consulting, research and development, engineering, environmental, mining and technical testing and analysis services
- Commitments on State Owned Enterprises which will allow Australia's mining, oil and gas companies to compete on a more level playing field with SOEs that dominate these sectors in some TPP-11 countries (such as Vietnam).[40]

In addition, METS businesses will benefit from the TPP-11 provisions on movement of persons which will make it easier for Australian METS firms to deploy executives and skilled personnel to several TPP-11 countries. Services exports are often delivered by the presence of Australian personnel in the relevant markets.

[40] This summary of market access gains relevant to METS draws on Department of Foreign Affairs and Trade, TPP-11 Outcomes: Services, 23 February 2018, http://dfat.gov.au/trade/agreements/tpp/outcomes-documents/Documents/tpp-11-outcomes-services.pdf

INVESTMENT

Importance of inward and outward foreign investment

Australia's generous endowments of natural resources, its well-educated and skilled workforce, and its stable regulatory and economic policy environment mean there are substantial investment opportunities in this country. Yet with a relatively small population, taking advantage of investment opportunities in Australia has always required supplementing domestic savings with foreign investment. Foreign direct investment in Australian enterprises and operations also brings a number of additional benefits such as transfers of technology, skills and capabilities and access to global supply chains and export markets. Lower levels of foreign direct investment would mean that Australia would either have to take on additional debt or forgo economically-beneficial investment opportunities.

Australian businesses are also significant investors in other countries. By pursuing outbound investment opportunities, Australian companies are able to export their capital, expertise, skills, technology and business models to overseas markets. This enables Australian businesses to boost their earnings and are often associated with the pursuit of export opportunities in overseas markets. The importance of Australian investment abroad is not always well appreciated in domestic policy debates which tend to focus on inward foreign direct investment. However, it has been argued that the benefits of Australian investment abroad are comparable to the benefits of exports of Australian goods and services.[41] This has been illustrated by recent Department of Foreign Affairs and Trade analysis of data from the US, the European Union and New Zealand which showed that Australian investment in those countries was an important vehicle for Australian businesses to provide goods and services to the world. The analysis showed that in 2012 and 2013 there were more than 4,800 Australian majority-owned businesses in the US, EU and NZ with sales in those markets of $127 billion, more than double the value of direct Australian exports to those economies.[42]

Two-way investment flows are particularly important for Australia's mining sector. The industry has benefitted from foreign capital in developing Australia's natural resources and building the mining sector into the country's biggest export earner. Many Australian mining companies are also major global businesses in their own right and pursue outbound investment opportunities around the world, generating additional benefits for their shareholders and employees and contributing to development and growth in the countries in which they invest.

TPP-11 will enhance two-way investment opportunities

The TPP-11's investment provisions will help Australia to realise inward and outward investment opportunities.

For inward investment, the benefits will come from Australia's agreement to lift Foreign Investment Review Board (FIRB) screening thresholds for investments in non-sensitive sectors from $261 million to $1,134 million for all TPP-11 countries.[43] This will reduce costs and delays for investors from TPP-11 countries, improving Australia's ability to attract foreign investment that will contribute to local economic and employment opportunities. It will bring the FIRB screening thresholds for investors from TPP-11 countries into line with those for investors from other Australian free trade agreement partner countries, removing discrimination from the existing rules around FIRB screening thresholds.

For outward investment, the TPP-11's investment disciplines will broadly ensure that member countries treat each other's investors on the same footing as domestic investors, subject to specific

[41] Satchwell, Ian, 'Economic policy should focus on investment, not just trade', Lowy Interpreter, 14 March 2017.
[42] Bingham, Frank, 'Economic activity of Australian majority-owned businesses located in the European Union, New Zealand and the United States', in Department of Foreign Affairs and Trade, *Composition of Trade 2015-16,* pp 9-15, Canberra, January 2017.
[43] Department of Foreign Affairs, National Interest Analysis, Comprehensive and Progressive Agreement for Trans-Pacific Partnership, 2018, paragraph 44.

exceptions and carve-outs. For Australian businesses considering investment opportunities abroad, this will create greater certainty and stability. These disciplines will also reduce the risk of protectionist investment measures in TPP-11 countries which discriminate against Australian investors and businesses compared to domestic businesses. The TPP-11's main investment disciplines are summarised below.

Protections for investors

The TPP-11's Investment Chapter contains a set of basic protections for investments made by investors from another TPP-11 country. The key protections require that:

- Investors and their investments are not subject to discrimination
- An investment is only expropriated for a public purpose and on the prompt payment of market value compensation
- Foreign investors and their investments are afforded a Minimum Standard of Treatment
- Foreign transfers of funds related to an investment can be made freely and without delay.[44]

Non-discrimination

TPP-11 countries must provide non-discriminatory treatment to investors of other TPP-11 Parties. This comprises two obligations. First, the Chapter provides that TPP-11 parties will not treat investors from other TPP-11 parties less favourably than they treat their own domestic investors in 'like circumstances'. This is known as the *national treatment* obligation.[45] Second, the Chapter provides that TPP-11 countries will not treating foreign investors from any other TPP-11 country less favourably than they treat investors from any other country in 'like circumstances'. This is known as the *most-favoured nation* obligation.[46]

Expropriation

An investment can only be expropriated for a public purpose, in a non-discriminatory manner, observing due process and with payment of market value compensation. This reflects the standard that Australia is obliged to follow under international law. The obligation encompasses both direct and indirect expropriation. Direct expropriation means expropriation of assets through direct transfer of title. Indirect expropriation means expropriation through an action or series of actions that have an effect equivalent to direct expropriation without formal transfer of title.[47]

Minimum Standard of Treatment

TPP-11 Parties are obliged to accord foreign investors a Minimum Standard of Treatment. This comprises an obligation to treat investors fairly, such as by affording due process in court proceedings, and to provide protection to investments, such as by providing police protection to physical assets. This reflects the standard Australia is already required to provide to investors as a matter of general international law. The Chapter contains safeguards to ensure the obligation remains consistent with the international law standard.[48]

The TPP-11 investment disciplines reflect existing policies and standards in Australia, including requirements that apply as a matter of existing local and international law. Australia has also nominated a series of non-conforming measures or exceptions to the investment disciplines. These

[44] TPP, Chapter 9.
[45] TPP, Chapter 9, Article 9.4.
[46] TPP, Chapter 9, Article 9.5.
[47] TPP, Chapter 9, Article 9.8.
[48] TPP, Chapter 9, Article 9.5.

include, for example, Australia's foreign investment screening rules and its limits on foreign ownership of businesses such as Qantas and Telstra.[49]

Investor-State Dispute Settlement (ISDS)

The TPP-11's Investment Chapter contains investor-state dispute settlement (ISDS) provisions. These provisions will allow investors to seek mediation and arbitration where they claim that a TPP-11 government has breached the investment commitments it has made under the agreement.

Anti-trade activists frequently argue that ISDS provisions allow foreign investors to challenge government policies in areas such as the environment or healthcare. However, ISDS provisions do not create a wide-ranging ability for foreign investors to challenge any government policies. Disputes under ISDS provisions must involve breaches of the substantive investment commitments made under the relevant agreement such as the commitments in the TPP-11 not to expropriate property without adequate compensation or not to discriminate against foreign investors compared to domestic businesses. Furthermore, as noted above, Australia has listed an extensive series of non-conforming measures, or exceptions, for its TPP-11 investment commitments. These exceptions cover a wide range of existing public policies, legislation and regulations. ISDS provisions cannot be used to challenge such non-conforming measures.

In addition, the TPP-11's ISDS provisions themselves contain extensive substantive and procedural safeguards. The substantive safeguards mean the TPP-11 ISDS provisions cannot be used to challenge public policies in environmental protection, healthcare, education, social services, welfare policy, government service delivery, cultural and heritage protection and conservation policies. The procedural safeguards ensure that any claims, disputes or arbitrations under the TPP-11 ISDS provisions will be conducted in an open and transparent manner and will be subject to clear procedural rules and legal standards.

The TPP-11 Investment Chapter and ISDS safeguards, along with Australia's schedules of non-conforming investment measures and associated provisions, ensure ISDS provisions cannot be used to challenge:

- Government subsidy and grant programs
- Treatment of foreign investors based on legitimate public welfare objectives
- Measures, including environmental measures, to protect human, animal or plant life
- Measures, including environmental measures, for conservation of natural resources
- Public services including social security, welfare, education, health, childcare, public utilities, public transport and public housing
- Measures to ensure investments are sensitive to environmental, health or other regulatory objectives
- Australia's Pharmaceutical Benefits Scheme and Medicare Benefits Scheme
- Tobacco control measures including plain packaging legislation
- Government regulations to protect legitimate public welfare objectives such as health, safety and the environment, including measures relating to pharmaceuticals and other medical treatments.
- Measures relating to the arts and heritage.[50]

In addition to these extensive substantive safeguards, the TPP-11 includes the following procedural safeguards for ISDS cases:

[49] TPP, Annex I – Investment and Cross-Border Trade in Services, Schedule of Australia. TPP, Annex II – Investment and Cross-Border Trade in Services, Schedule of Australia.
[50] TPP: Chapter 9; Annexes 9-A to 9-L; Annex I - Investment and Cross-Border Trade in Services, Schedule of Australia; Annex II - Investment and Cross-Border Trade in Services, Schedule of Australia.

- Application of International Centre for Settlement of Investment Disputes (ICSID) or United Nations Commission on International Trade Law (UNCITRAL) procedural rules
- Time limits for lodging claims
- Codes of Conduct for arbitrator independence and impartiality
- Submissions permitted from third parties
- Documents and hearings open to the public
- Burden of proof lies with the investor claimant
- Parties agree to consider any future appellate mechanism.[51]

Scare campaigns mounted by anti-trade groups over ISDS often give examples from investment disputes under older ISDS provisions in agreements to which Australia is not a party, such as the North American Free Trade Agreement (NAFTA) negotiated in the early 1990s. Compared to these older provisions, the modern ISDS provisions of agreements like the updated Singapore-Australia Free Trade Agreement (SAFTA) and the TPP-11 include extensive safeguards and protections for public policies. The Committee can be satisfied that the TPP-11 ISDS provisions are state-of-the-art in terms of safeguards to protect public policy, to ensure investment disputes are resolved in a transparent, accountable and fair manner and to address community concerns over ISDS.

In evaluating these scare campaigns, the Committee should also consider Australia's actual experience with ISDS. Australia is already covered by ISDS provisions in 27 existing bilateral investment treaties and FTAs which date back to 1988.[52] In the 30 years Australia has been subject to these provisions, no Australian law, regulation or public policy has had to be changed due to ISDS. In fact, in all that time under all those agreements, there have only been two ISDS claims against Australia. The first of these claims was the Phillip Morris challenge to Australia's tobacco plain packaging legislation under the 1993 Australia-Hong Kong Investment Promotion and Protection Agreement. This claim was unsuccessful and legal costs were awarded against Phillip Morris.[53] The second claim was initiated in 2017 by APR Energy and a number of other US investors. This case involves a commercial dispute (arising out of the ANZ Bank's seizure of the claimants' power turbines, which were leased to Forge Group and recovered by ANZ as property for payment of Forge's debt upon its insolvency) rather than Australian policies or regulations. An outcome in this case is pending.

It should also be noted that Australia already has ISDS provisions in existing investment treaties and free trade agreements with all TPP-11 countries except Canada.[54]

In the case of Singapore, the ISDS provisions in SAFTA were updated as part of the recent amendments to that agreement which the Committee considered last year. In its report on the SAFTA amendments, the Committee welcomed the improved protection in SAFTA's ISDS provisions for government public interest regulation and recommended binding treaty action.[55] The TPP-11's ISDS safeguards are virtually identical to the updated SAFTA ISDS provisions.

Some of the other existing bilateral ISDS provisions with TPP-11 countries date back several years and do not have as many safeguards as the TPP-11 provisions. Thus the TPP-11 presents an opportunity to improve safeguards for existing ISDS provisions. Australia has agreed with Mexico, Peru and Vietnam, for example, to terminate existing bilateral investment treaties, replacing them with the TPP-11 investment chapter and ISDS provisions.[56]

[51] TPP, Chapter 9, Articles 9.19, 9.21, 9.23, 9.24.
[52] Senate Foreign Affairs, Defence and Trade Legislation Committee, Additional Estimates 2015, 26 February 2015, Answers to Questions on Notice/In Writing, Question No 131.
[53] Permanent Court of Arbitration, Phillip Morris Asia Ltd v Commonwealth of Australia, Final Award Regarding Costs, 8 March 2017.
[54] National Interest Analysis, paragraph 48.
[55] Joint Standing Committee on Treaties, Report 172, Singapore Free Trade Agreement - Amendment; Defence Supplies and Services – Japan, August 2017, pp. 14-15.
[56] National Interest Analysis, paragraphs 48 and 57.

MOVEMENT OF PERSONS

The TPP-11's chapter on Temporary Entry of Business Persons includes measures streamlining temporary entry of business visitors and related categories of employees. Under these provisions Australia will allow temporary entry from six TPP-11 countries (Brunei Darussalam, Canada, Malaysia, Mexico, Peru and Vietnam) as follows:

- Business visitors, up to three months
- Service sellers, up to 12 months
- Installers and servicers, up to three months
- Contractual service suppliers, up to 12 months
- Independent executives, up to two years
- Intra-corporate transferees (executives), up to four years
- Intra-corporate transferees (specialists), up to two years.[57]

These commitments, and the categories of business visitors and employees involved, are similar to movement of natural persons provisions in several existing Australian free trade agreements (although the durations of temporary entry are shorter in the TPP-11 than in some of those earlier FTAs).

These flexibilities for movement of persons will complement the TPP-11's market access, investment and services provisions by allowing transfers and relocations of senior executives and specialised employees between relevant countries. This will be of benefit to Australian services businesses, including mining services, because services exports are often delivered to export markets through locating staff in those countries. There will be similar benefits for Australian businesses making investments in TPP-11 countries: the streamlining of rules for transferring executives will facilitate such investments by allowing Australian firms to locate executives and key personnel at the businesses in which they have invested in the partner economies.

There have been concerns about the impact on Australia's labour market of such movement of natural persons provisions in recent trade agreements, including the China-Australia Free Trade Agreement (ChAFTA) and the TPP-11. The concern is that commitments entered into in recent trade agreements to waive labour market testing requirements under Australia's temporary skilled migration programme would lead to an influx of migrant workers at the expense of employment opportunities for Australian residents.

These concerns saw the Federal Government and Opposition agree in 2015 to introduce new safeguards around the temporary skilled migration system as part of the implementation of ChAFTA. The safeguards adopted included:

- Regulations requiring employers seeking to sponsor skilled workers on 457 visas under work agreements to demonstrate that they have made recent and genuine efforts to recruit local Australian workers first
- Requirements for wages and conditions for temporary skilled migrants to match relevant Australian standards
- Visa conditions for temporary migrants in licensed trades occupations to obtain relevant occupational licenses from Australian regulators within 90 days of arrival.
- Greater transparency over migration work agreements between employers and the Department of Immigration and Border Protection.[58]

[57] National Interest Analysis, paragraph 56(d). Trans-Pacific Partnership, Annex 12-1.
[58] Minister for Trade, Andrew Robb, 'Government and Opposition reach agreement on support for China-Australia free trade deal', Media Release, 21 October 2015. Senator Penny Wong, Shadow Minister for Trade, 'Labor's China FTA safeguards will support jobs', Media Release, 13 October 2015.

These safeguards have applied across the whole of Australia's temporary skilled migration system, not only to employees entering under ChAFTA's movement of persons provisions. That means the safeguards will also apply to employees entering under the TPP-11's temporary entry chapter.

ChAFTA has now been in effect for two years. This provides an opportunity to evaluate the impact of the removal of labour market testing and the 2015 safeguards on temporary migration from China. Similar analysis can be conducted for Japan and Korea, the two other FTA-partner countries where Australia has waived labour market testing for the relevant categories of employees.

Experience with movement of persons under ChAFTA

ChAFTA removed labour market testing requirements for some Chinese personnel coming to Australia as temporary skilled migrants. There were concerns that this would increase Chinese temporary migration, reducing employment opportunities for Australian nationals. However, the experience has been that the number of primary 457 visas granted to Chinese nationals has actually fallen since ChAFTA came into effect. Indeed, the number of primary 457 visas granted to Chinese nationals has fallen by significantly more than the overall decline in numbers of 457 visas granted during the relevant time period.

ChAFTA entered into force on 20 December 2015. Immigration statistics show the number of 457 visas granted to Chinese nationals fell from 3,281 in 2015 to 2,775 in 2016 – a decline of 15 per cent in the first year of ChAFTA. That was larger than the overall decline in 457 visa grants in 2016. The number of 457 visas granted to all foreign workers fell from 48,459 in 2015 to 46,797 in 2016 – a decline of 3.4 per cent.[59]

The decline in 457 visas granted to Chinese nationals continued in 2017, the second year of ChAFTA. In 2017 there were 2,104 primary 457 visas granted to Chinese nationals. That was a decline of 24 per cent compared to the 2,775 visas granted in 2016. This was again larger than the overall decline in 457 visa grants for all nationalities, which were down by 18 per cent (from 46,797 in 2016 to 38,266 in 2017).

Table 4: Primary 457 visas granted – Chinese nationals and all nationalities

	Mar 15	**Jun 15**	**Sep 15**	**Dec 15**	**Mar 16**	**Jun 16**	**Sep 16**	**Dec 16**	**Mar 17**	**Jun 17**	**Sep 17**	**Dec 17**
China	*796*	*953*	*882*	*650*	*545*	*770*	*744*	*716*	*716*	*597*	*396*	*395*
All	*12601*	*12992*	*13239*	*9627*	*10472*	*12057*	*12864*	*11404*	*12405*	*9807*	*8260*	*7794*

Source: Department of Home Affairs/Department of Immigration and Border Protection

Most Chinese 457 visa-holders are managers and professionals. This has not changed under ChAFTA. Trades and technical occupations accounted for 16 per cent of all primary 457 visas granted to Chinese nationals in 2015-16, 14 per cent in 2016-17 and 14 per cent in the first two quarters of 2017-18.

NB: In April 2017, the Federal Government announced it would replace the subclass 457 visa with a new Temporary Skills Shortage visa. The 457 visa was formally abolished and replaced by the TSS visa in March 2018. Following the April 2017 announcement, overall numbers of primary 457 visas granted fell by 37 per cent from the March to December quarters of 2017. Numbers of 457 visas granted to workers from China fell by 44 per cent over the same period.

[59] All 457 visa statistics in this section are from Department of Immigration and Border Protection, Subclass 457 quarterly report, December 2017, and historical Subclass 457 quarterly pivot tables: https://www.border.gov.au/about/reports-publications/research-statistics/statistics/work-in-australia and https://data.gov.au/dataset/visa-temporary-work-skilled The Department of Immigration and Border Protection is now the Department of Home Affairs.

There was also concern in the lead-up to ChAFTA that a separate bilateral Memorandum of Understanding on mutual recognition of trades qualifications would lead to increases in electricians coming to Australia from China. The statistics show the number of 457 visas granted to Chinese workers in electrical trades occupations has remained very small both before and after ChAFTA came into effect. In any case, there is no comparable provision in the TPP-11 or associated side letters requiring any changes to Australia's system for recognition of overseas occupational qualifications.

Table 5: Primary 457 visas granted to Chinese nationals in electrical trades

Nominated occupation (ANZSCO)	**2011-12**	**2012-13**	**2013-14**	**2014-15**	**2015-16**	**2016-17**	**Jul-Dec 2017**
Auto Electrician, 321111	<5	<5	0	0	0	0	0
Electrician (general), 341111	<5	7	<5	0	0	<5	0
Electrician (special class), 341112	0	0	0	0	0	0	0

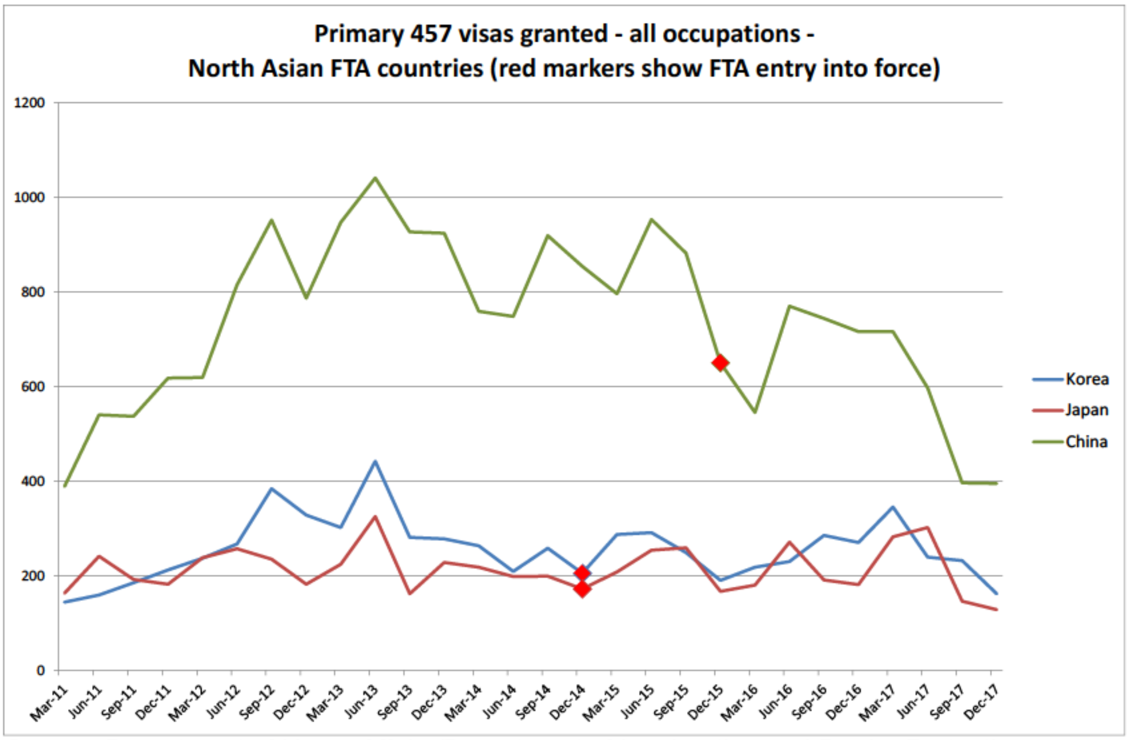
Source: Department of Home Affairs/Department of Immigration and Border Protection

In short, the real-world outcomes under ChAFTA show that the concerns over the impact of the removal of labour market testing on temporary skilled migration levels have not been realised.

Experience with movement of persons under Korea and Japan FTAs

Experience under the Korea and Japan FTAs, which also removed labour market testing, reinforces this conclusion. In the three years these FTAs have been in place, there has been no significant change in the numbers of Korean and Japanese nationals granted 457 visas (Chart 6).

Chart 6: Temporary skilled migration before and after FTAs



Source: Department of Home Affairs/Department of Immigration and Border Protection

The experience with these three FTAs which removed labour market testing should put to rest any concerns about this aspect of the TPP-11. In any case, the six TPP-11 countries covered by the temporary entry provisions are not likely to be sources of influxes of temporary skilled migrants, especially in the trades and technical occupations which have been of interest to those concerned about this issue. The six countries concerned are not significant sources of temporary skilled migration to Australia. Immigration statistics show that Brunei Darussalam, Canada, Malaysia, Mexico, Peru and Vietnam combined accounted for 572 primary 457 visas granted to trades and lower-skilled workers in 2016-17. That represented 4.5 per cent of 457 visas granted to workers from all countries in those skills classifications and 1.2 per cent of all primary 457 visas granted in 2016-17.[60]

[60] Department of Immigration and Border Protection, historical Subclass 457 quarterly pivot tables: https://www.border.gov.au/about/reports-publications/research-statistics/statistics/work-in-australia and https://data.gov.au/dataset/visa-temporary-work-skilled The Department of Immigration and Border Protection is now the Department of Home Affairs.

ENFORCEABLE LABOUR STANDARDS

The TPP-11 includes enforceable labour standards provisions which are stronger than those in all of Australia's existing FTAs, both in terms of the substantive commitments made by TPP-11 member countries and in terms of being enforceable.

Chapter 19 of the TPP provides that countries must adopt and maintain laws providing the following rights for employees as set out in the International Labour Organisation's *Declaration on Fundamental Principles and Rights at Work*:

- Freedom of association and recognition of the right to collective bargaining
- Elimination of all forms of forced or compulsory labour
- Abolition of child labour
- Elimination of discrimination in respect of employment and occupation.

In addition to these 'core' labour standards, TPP-11 countries must adopt and maintain regulations for acceptable minimum wages, hours of work, and occupational safety and health. TPP-11 parties may not waive these regulations for export processing zones. TPP-11 parties shall ensure access to independent tribunals for enforcing labour laws. They shall discourage imports of goods produced with forced labour in other countries.

The TPP Labour Chapter has extensive provisions for resolving disputes and enforcing the obligations on labour standards, including establishing a Labour Council to meet every two years and agree on a work program for labour capacity-building, and requiring TPP-11 countries to accept and respond to written submissions from persons or organisations from other countries concerning labour standards issues. TPP-11 parties may request cooperative dialogue or labour consultations on Labour Chapter matters. Where these consultations fail to resolve issues, they may be referred to dispute settlement.

The labour obligations are fully enforceable under the TPP's general dispute settlement provisions in Chapter 28, which provide for independent expert panels to be established to rule on complaints and settle disputes about whether parties are meeting their obligations under the agreement. To establish a violation of the main obligations concerning labour rights and standards, a Party must show that another Party has failed to adopt or maintain a relevant law or regulation in a manner that affects trade or investment between the parties.

Article 19.15 of Chapter 19 provides that a TPP-11 country may request labour consultations with another TPP Party at any time regarding any matter arising under the chapter. These requests trigger labour consultations within 30 days. If consulting Parties fail to resolve the matter within 60 days, the requesting Party may request establishment of a panel under Article 28.7 of Chapter 28.

Chapter 28 is the TPP's general dispute settlement chapter, providing mechanisms to resolve disputes over whether Parties are complying with obligations under the agreement. These mechanisms are broadly comparable to those under multilateral trade agreements through the World Trade Organization's Dispute Settlement Mechanism. They provide for:

- Parties to request consultations with another Party (Article 28.5.1)
- Consultations to commence within 30 days (Article 28.5.4)
- Parties may enter voluntary processes such as conciliation or mediation (Article 28.6)
- If consultations fail to resolve the matter within 60 days, a dispute settlement panel will be established (Article 28.7)
- Dispute settlement panels comprise three members, one nominated by each Party with a chair drawn from a roster of dispute settlement experts (Article 28.9)

- For disputes under Chapter 19 (Labour) panellists shall have expertise or experience in labour law or practice (Article 28.9.5)
- All panellists are to be independent of and not affiliated with or take instructions from either Party (Article 28.10)
- Panels follow Rules of Procedure established under the TPP (Article 28.13)
- The panel presents an initial report within 150 days containing findings of fact and a determination as to whether a Party has failed to meet its obligations under the TPP (Article 28.17)
- The panel presents a final report within 30 days of the initial report, after considering any comments by the Parties (Article 28.18)
- If the final report determines that a Party has not complied with its obligations, the responding Party is required to eliminate the non-compliance (Article 28.19)
- If the responding Party gives notice that it does not intend to eliminate the non-compliance, the complaining Party may seek agreement on compensation or, if agreement on compensation cannot be reached, the complaining Party may suspend benefits afforded to the respondent party under the TPP (Article 28.20).

ENVIRONMENTAL PROTECTIONS

The TPP's environment chapter includes commitments to tackle environmental challenges in the Asia-Pacific including wildlife trafficking, illegal logging, illegal fishing, marine pollution, biodiversity conservation and transitioning to a low emissions economy. The chapter contains enforceable commitments by TPP Parties to implement environmental laws and multilateral environment agreements. All of these provisions have been retained in the TPP-11. These commitments include:

- **Wildlife Trafficking:** Parties are required to implement their obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The chapter also includes commitments to combat trade in wildlife, plants and fish – whether or not protected under CITES – if they have been taken illegally. TPP-11 parties are required to share information for investigations into wildlife trafficking. In addition, there are commitments to protect and conserve wildlife and plants, conserve protected natural areas, such as wetlands, promote sustainable forest management and conserve wild fauna and flora.[61]
- **Marine Fisheries:** TPP-11 countries have agreed to reform fisheries subsidies and promote sustainable fishery management. Under the Environment Chapter, TPP-11 countries agree to prohibit the most harmful fisheries subsidies. They also agree to restrain new subsidy programs and enhancements to existing programs, and create more transparency on fishery subsidies. In addition, the Chapter includes commitments to promote sustainable fisheries management; promote conservation of species at risk, such as sharks, sea turtles, seabirds and marine mammals; and combat illegal fishing.[62]
- **Environmental Goods and Services:** The TPP reduces tariffs on environmental goods and facilitates trade in environmental services, including through tackling non-tariff barriers.[63]
- **Multilateral Environmental Agreements:** Many TPP-11 countries are signatories to Multilateral Environmental Agreements (MEAs), however these may lack binding enforcement. The TPP reinforces MEAs by requiring implementation. These include CITES, the Montreal Protocol on Ozone Depleting Substances and the International Convention for the Prevention of Pollution from Ships. For MEAs dealing with marine species and wetlands conservation, the Chapter includes stand-alone commitments for sustainable fisheries management, combatting illegal fishing, promoting conservation of marine mammals, and protecting natural areas including wetlands, glaciers and other fragile ecosystems.[64]
- **Remedies for Environmental Harm:** The Chapter includes commitments to ensure access to fair, equitable and transparent proceedings for enforcing environmental laws, and to provide appropriate sanctions for violations of environmental laws.[65]
- **Biodiversity:** The TPP-11 includes countries with biodiversity 'hot spots' such as Peru, Vietnam, and Malaysia; and countries with sensitive habitat, including Australia, New Zealand, and Alaska and the Canadian Arctic. The Environment Chapter will promote conservation and sustainable treatment of biodiverse areas.[66]
- **Transition to a Low-Emissions Economy:** The environment chapter addresses climate change through commitments to by members on transitioning to a low emissions economy.[67] The parties acknowledge the need for collective action and agree to cooperate on:
    - Energy efficiency
    - Development of cost-effective, low-emissions technologies
    - Development of alternative, clean and renewable energy sources
    - Sustainable transport

[61] Chapter 20, Article 20.17.
[62] Chapter 20, Article 20.16.
[63] Chapter 20, Article 20.18.
[64] Chapter 20, Article 20.4.
[65] Chapter 20, Article 20.7.
[66] Chapter 20, Article 20.13.
[67] Chapter 20, Article 20.15.

- Sustainable urban infrastructure development
- Addressing deforestation and forest degradation
- Emissions monitoring
- Market and non-market mechanisms for transitioning to a low emissions economy.

An analysis by the International Centre for Trade and Sustainable Development points out that TPP countries are significant players in global wildlife and fisheries trade, and timber and pulp production, meaning they are critical in moving to sustainable practices in these areas. This analysis concluded:

> The environment chapter reflects what is likely to be the broadest and most comprehensive agreement that could be reached by consensus. This consensus was achieved by several countries that represent a broad and diverse set of interests, and resulted in an agreement on several important environmental matters, particularly in connection with fisheries subsidies. Because the TPP affects a significant percentage of people, international trade, and global GDP, if the TPP is fully implemented, it has significant potential to positively affect sustainable development goals than would have occurred if there were no such agreement. Further, the TPP is likely a foundational legal structure that can be relied upon to develop future agreements.[68]

The TPP's environment chapter has been welcomed by US environmental organisations (Box 2).

Box 2: US environmentalists on the TPP (emphasis added)[69]

'**No major trade agreement … has gone so** far to address growing pressures on natural resources like overexploited fish, wildlife and forests.' (Carter Roberts, CEO, World Wildlife Fund US).

'With the right implementation and compliance procedures, the **conservation commitments** in this trade agreement **could be game-changers**.' (Carter Roberts, CEO, World Wildlife Fund US).

'By embedding conservation commitments in the core text of the agreement and making them subject to the TPP's dispute resolution mechanisms, the TPP provides **new leverage to advance vital environmental objectives**.' (Mark Tercek, CEO, The Nature Conservancy, US)

'The TPP's mandates on marine capture fisheries will require Pacific nations to address the growing threat from harmful fishing practices by promoting effective science-based management systems and stock recovery, eliminating some of the most harmful subsidies for overfished stocks, and implementing port state measures to address illegal, unreported and unregulated (IUU) fishing. Widespread adoption of these policies **could have profound positive effects on the health of the world's oceans and ocean fisheries**.' (Mark Tercek, CEO, The Nature Conservancy, US)

'WCS is heartened to see in TPP the adoption a comprehensive free-trade agreement that includes potentially **strong and enforceable commitments on combating wildlife trafficking**, and implementing the provisions of the Convention on International Trade in Endangered Species (CITES).' (Cristián Samper, President and CEO, Wildlife Conservation Society).

'Today's announcement is **an important step toward global cooperation to protect many imperiled species of wildlife**.' (Jamie Rappaport Clark, President and CE, Defenders of Wildlife)

'The TPP's environment chapter presents a **historic opportunity to strengthen international protections for wildlife**, including marine animals and wildlife traded illegally … We applaud TPP governments for agreeing to take action to protect endangered and at-risk species.' (Priscilla Ma, US Executive Director, World Animal Protection)

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[68] ICTSD. 2016. Environment in the Trans-Pacific Partnership: A Legal Analysis. ICTSD Policy Brief, Geneva, 2016, p. 16.
[69] WWF, Statement on the close of the Trans-Pacific Partnership negotiations, 5 October 2015. Tercek, Mark, Letter to President Barack Obama, 5 October 2018. WCS, Statement on Trans-Pacific Partnership Trade Agreement, 6 October 2015. Defenders of Wildlife, 'Defenders Hails Wildlife Protections in Trans Pacific Partnership Agreement', 5 October 2018. World Animal Protection, Our Statement on the Trans-Pacific Partnership's Environment Chapter, 5 October 2018.

STRATEGIC BENEFITS FOR AUSTRALIA

In addition to the direct economic benefits in market access for goods and services and new rules and commitments in areas such as investment, the TPP-11 will deliver longer-term strategic benefits for Australia.

Even without the United States, ratifying and implementing the TPP-11 will reaffirm Australia's commitment to continued regional economic integration, trade liberalisation and open economies, particularly within the Asia-Pacific region. As the regional trade architecture continues to evolve Australia has an interest in ensuring high quality trade agreements that in turn drive commitments to open and liberal economies and structural reforms. The TPP-11 is clearly a high-quality trade agreement. As a WTO-plus deal, in addition to dealing with goods trade the TPP-11 also covers services trade, investment, competition policy, government procurement, labour, environmental standards, intellectual property and cultural protection.

The TPP-11 also brings important strategic and economic benefits beyond lower tariffs and trade liberalisation. Its economic and strategic value is that it sets a high standard and commitment to economic reforms in the Asia-Pacific that should not be understated. This is particularly important against the backdrop of rising global protectionism. The TPP-11 sends a global signal that diverse economies can agree to historic reductions to trade barriers and integrate their economies. The agreement represents one of the most significant regional and global trade deals agreed since the 1994 conclusion of the Uruguay Round of multilateral trade negotiations. Since then, there has been stalled commitment from WTO members for further multilateral liberalisation of global trade and major economies have instead entered into bilateral and regional FTAs. As a so-called 'mega-regional' trade agreement, the TPP-11 is an important bridge to a new, plurilateral trade architecture that can set consistent standards and liberalising commitments across a wide range of issues and large numbers regional economies.

As a trading nation, furthering regional economic integration and cooperation is critical to Australia's continued growth and prosperity. In particular, with the Asia-Pacific the centre of the fastest growing economic region in the world, accounting around 50 per cent of global trade and nearly 70 per cent of Australia's own bilateral trade, the absence of a trade agreement that integrates the Asia-Pacific's economies would constrain Australia's ability to maximise the trade and economic benefits of the region.

The TPP-11 is a major, concrete step in helping to realise Australia's broader, long-term objective of a Free Trade Area of the Asia-Pacific, or FTAAP, which would establish a single, high-standard, rules-based trading system spanning the Asia-Pacific as articulated in the Australian Government's Foreign Policy White Paper.

Australia played a leadership role, along with Japan, in reviving the TPP negotiations following the United States' withdrawal from the agreement. This means that Australia has had a significant role in shaping the text of TPP-11 and thereby influencing trade rules in the Asia-Pacific and beyond. Support for the TPP-11 will continue to boost Australia's regional relationships, as economies looking to join the agreement in the future, particularly in Asia, will turn to Australia for support for their membership and implementation of the agreement.

Finalisation of the Regional Comprehensive Economic Partnership (RCEP) is seen as the next major step towards meeting the FTAAP objective. As the finalisation date for the RCEP negotiations continues to be pushed back, a completed, high-quality TPP-11 agreement puts additional pressure on RCEP negotiators both to speed up negotiations and to strive for a high quality agreement.

The TPP-11 would then complement Australia's involvement in RCEP by inclusion of China, India and the 10 ASEAN countries. The TPP-11 will also allow Australia to leverage benefits of its existing Asian

FTAs, including the ASEAN-Australia-New Zealand Free Trade Agreement, by adding new disciplines on State-owned enterprises, competition policy and red tape.

The regional nature of the TPP-11 also presents opportunities for Australian companies to participate in regional supply chains – ranging from ASEAN, North Asia, North America and Latin America. In particular, the TPP rules of origin mean production in any one TPP-11 economy will be counted in a country's goods' originating status: that is, will be eligible for tariff preferences when imported or exported. Furthermore, Australian manufacturers will be able to claim TPP-11 tariff preferences when they have used materials from other TPP-11 parties. For example, an exporter can use inputs from Japan to then export to Canada, Mexico or Peru. Australian exporters will only need to claim one rule of origin – thereby reduce the administrative burden when exporting.

Australia's interests in the context of US trade policy

While the Trump administration has said that it prefers bilateral trade deals, the appeal of the TPP-11 is its design so other parties, including the United States, can dock-in to the agreement in the future. There is significant interest from key US business and political stakeholders in joining the agreement. President Donald Trump and Commerce Secretary Wilbur Ross have indicated some preliminary interest in re-joining the TPP.

It is also encouraging that the agreement is open for other economies to join. This includes Australia's major trade and investment partners such as the UK, South Korea, Indonesia, Thailand and Colombia – who have reportedly expressed interest in joining in the future.

APPENDIX: CAPALDO AND IZURIETA MODELLING

This appendix provides further detail on the methodological flaws and shortcomings of the modelling study by Jeronim Capaldo and Alex Izurieta of the Global Development and Environment Institute at Tufts University.[70]

Model not designed to analyse trade agreements

Capaldo and Izurieta's study rejects the computable general equilibrium (CGE) models such as the Global Trade Analysis Project (GTAP) model widely used in trade policy analysis. Instead they use the Global Policy Model (GPM) developed for the United Nations' Department of Economic and Social Affairs.

CGE models account for all sectors of the economy, including firms, households and government, capture structural patterns of production, including inputs of labour, capital and intermediate goods, allow prices to adjust in response to changes in supply and demand, and are specifically designed to estimate the impact of trade policies such as tariffs, quotas and other regulations, on trade flows, industrial production, economic output and national income.[71]

The GPM model lacks most of these features. It focusses primarily on the demand side of the economy and on the short-run impacts of shocks to demand. As the UN says: 'It is a model of the world economy designed to simulate the macroeconomic impacts on countries and regions of exogenous shocks to the global economy, the potential effects of 'sea changes' in market confidence (such as reversals in financial market confidence following asset price bubbles), changes in international regulation of trade and finance and the international spill-over effects of major policy changes in major economies.'[72]

Few if any other economists have used the GPM to analyse trade agreements. In analysing the impact of trade agreements, considerations such as the structure of production and the allocation of resources across sectors, along with other supply-side aspects of the economy, need to be taken into account. The GPM with its demand-driven focus is not designed to take account of these supply-side impacts which are central to the way changes in trade policy and trade costs affect the economy.

The GPM does not, for instance, estimate what impact trade agreements or changes in trade costs will have on a country's exports or imports. Because of the GPM's inability to estimate trade flows, Capaldo and Izurieta take the export and import results of a 2012 CGE modelling exercise on the TPP by Petri, Plummer and Zhai and feed these results into the GPM to simulate the TPP (notwithstanding their paper's criticisms of CGE models).[73]

Slower jobs growth predetermined by assumptions

Those who cite the Tufts University study as a reason to oppose the TPP present the central finding of slower employment growth as a conclusion of the modelling. In fact, as Capaldo and Izurieta make clear, the reduction in employment is predetermined by assumptions they feed into their simulations.

In Capaldo and Izurieta's framework, trade agreements are *assumed* to reduce employment growth through two channels: an import competition-labour costs channel and a capital mobility-fiscal policy channel.

[70] Capaldo, Jeronim and Alex Izurieta (with Jomo Kwame Sundaram), 'Trading Down: Unemployment, Inequality and Other Risks of the Trans-Pacific Partnership Agreement', Global Development and Environment Institute Working paper 16-01, January 2016.
[71] Bauer, Matthias and Fredr k Erixon, ''Splendid Isolation' as Trade Policy: Mercantilism and Crude Keynesianism in 'the Capaldo Study' of TTIP', European Centre for International Political Economy, Occasional Paper 3, 2015.
[72] UN Development Policy and Analysis Division, United Nations Global Policy Model, https://www.un.org/development/desa/dpad/publication/united-nations-global-policy-model/, accessed 8 March 2018.
[73] Capaldo and Izurieta, op cit, p. 12. The CGE study Capaldo and Izurieta utilise for trade inputs to their GPM simulation is: Petri, Peter, Michael Plummer and Fan Zhai, 'The Trans-Pacific Partnership and Asia-Pacific Integration: A Quantitative Assessment', Policy Analyses in International Economics 98, Peterson Institute for International Economics, Washington DC, 2012.

The import competition-labour costs channel posits that trade agreements expose domestic producers to greater import competition. Domestic producers then seek to maintain market share by cutting their labour costs. The cuts to labour costs feed through into lower wages and a lower labour share of national income. The reduction in labour's share of income in turn feeds through into lower aggregate demand in the economy and, via this central demand channel in the GPM, to lower employment growth. Capaldo and Izurieta do not cite any empirical evidence or provide any theoretical analysis to support their assertion that trade agreements have these impacts. Rather they say that their simulation reflects 'the widely held belief' that the TPP will affect countries in this way.[74] Nor do they take into account any offsetting positive impacts that higher exports would have on incomes, demand and employment.

The capital mobility-fiscal policy channel's starting point is that trade agreements facilitate cross-border capital flows. Capaldo and Izurieta say that greater international capital mobility will 'push' firms to increase their profits, at the expense of employees, in order to attract capital. This will have a negative impact on labour's share of national income, reducing domestic demand. Furthermore, foreign capital flows will also prompt governments to tighten fiscal policy by cutting spending and budget deficits. These government spending cuts will further reduce domestic demand with negative consequences for employment. Again, Capaldo and Izurieta do not cite any evidence or provide any explanation for how greater capital mobility is thought to induce cuts in government spending, simply saying this impact is 'generally recognised.' In fact, their scenario appears counterintuitive: cuts in government spending and tighter government fiscal policy would normally be expected to reduce domestic interest rates which would reduce rather than attract capital inflows. Nonetheless, Capaldo and Izurieta feed into the GPM model reductions in government expenditure in all TPP member countries. The size of the spending cuts fed into the model is assumed rather than an output of the model. In Australia's case, for instance, the reductions in government expenditure assumed under the TPP total $13.6 billion over 10 years (in today's dollars).[75]

The upshot is that the chain of assumptions and assertions which Capaldo and Izurieta impose on their GPM modelling pre-determines the conclusion that there will be slower employment growth under the TPP. As they say (emphasis added):

- '*We assume* that macroeconomic adjustment follows the principle of effective demand whereby the TPP may affect a country's level of economic activity by affecting people's disposable incomes …'
- 'Specifically *we assume* that this process [the import competition channel] will lower nominal unit labor costs … through the combined actions of business managers and policymakers who negotiate lower wages …'
- 'Furthermore, since all TPP countries will want to preserve their market shares, *we assume* that they will engage in a race to the bottom, pushing labour shares down across the whole TPP bloc …'
- 'Our baseline projections reflect *assumptions* on the ten-year growth of government spending and direct taxes …'
- 'The changes in labor shares [of income] *required by the assumed changes* in trade flows are depicted in Figure 1 …'[76]

Ignores positive impacts of trade

Trade agreements will have different effects on different parts of the economy. Standard modelling studies trace out all of the effects, positive and negative, to assess the overall impact on economic

[74] Capaldo and Izurieta, op cit, p. 12.
[75] Capaldo and Izurieta's assumptions for government expenditure are set out in Table 3 of their paper. For Australia, annual growth in real expenditure under the TPP is assumed to be an average of 0.17 percentage points lower over the 10-year period modelled. The 2018-19 Budget shows Australian Government payments are expected to grow by $24.8 billion, or 3.1 per cent in real terms, in 2018-19 (Budget Paper No 1, 2018-19, p. 11-6). Reducing real expenditure growth by 0.17 percentage points would mean reducing projected 2018-19 spending by $1,358 million.
[76] Capaldo and Izurieta, pp. 12-15.

welfare. By contrast Capaldo and Izurieta focus only on negative impacts and ignore positive effects. Nor do they consider how the economy will adapt. So in addition to identifying only negative impacts, they then 'lock in' these effects, assuming they are permanent and the economy does not adapt in response to changes in trade flows.

The GPM model is not designed to take account of the impact of trade on productivity, adoption of new technologies, reallocation of resources to more efficient sectors, and growth of new industries. In a commentary on the Capaldo and Izurieta study, the New Zealand Ministry of Foreign Affairs and Trade (MFAT) note that it 'ignores benefits of freer trade such as increased specialisation, greater consumer choice or economies of scale.' Likewise, the US Congressional Research Service notes that the Capaldo and Izurieta framework excludes the impacts of trade creation, trade diversion, benefits to consumer incomes and welfare from lower prices and greater choice, gains in productivity and efficiency, and movement of jobs and investment from declining sectors to expanding sectors.[77]

The NZ MFAT points out that to model the TPP, Capaldo and Izurieta 'shock' the GPM model with the changes in exports derived from the Petri, Plummer and Zhai 2012 CGE modelling study. But Capaldo and Izurieta then assume there is no change in the allocation of labour and capital in response to the change in exports: 'This has the result, for example, that if a sector declines in a country, people previously employed in that sector stay unemployed rather than taking employment in growing sectors. Similarly, a sector experiencing increase is unable to draw in new labour or capital, which limits the extent to which it can grow.'[78]

The US Congressional Research Service has made a similar point: 'Estimates of losses of jobs and GDP generated by the GPM model are weighted exclusively in favor of the projected adjustment costs of the TPP, since the model is not capable of capturing the full range of economic effects that are expected with the TPP. In addition, the demand-driven GPM macro model does not incorporate important supply side effects that arise from trade agreements and, therefore, assumes large losses in employment, output, and wages in all TPP partners. As a result, the GPM estimates adjustment costs in a way that precludes any positive gains for either consumers or producers in contravention of traditional economic thought and decades of experience.'[79]

Inaccurate data for Australia

The Capaldo and Izurieta paper contains minimal information about the data used in the modelling simulations. However, the limited information which is provided reveals flaws in one of the main inputs used for Australia, growth in government expenditure.

As noted above, a central assumption in this study is that trade agreements push governments to reduce expenditure. In their baseline (no TPP) scenario, Capaldo and Izurieta say that Australian real government expenditure will grow at an annual average of 2.85 per cent from 2016 to 2020 and 3.11 per cent from 2021 to 2025.[80] These figures are higher than the Australian Government's Budget projections which are for real expenditure to grow by an annual average of 1.9 per cent from 2016-17 to 2020-21. So even if one accepted the assumption that the TPP will reduce government expenditure, with the level of expenditure in the baseline scenario overstated in this way, the scale of the reduction in the TPP scenario will likewise be overstated. This will, in turn, overstate the estimates of the negative impact of the TPP because in Capaldo and Izurieta's modelling setup the assumed cuts in government expenditure drive the negative impacts on demand and employment.

Capaldo and Izurieta do not provide any sensitivity analysis showing how their results would be affected by changes in assumptions and inputs. This means it is not possible to know by how much

[77] Jackson, James K, 'The Trans-Pacific Partnership (TPP): Analysis of Economic Studies', CRS Report, Congressional Research Service, 30 June 2016, p. 27.
[78] NZMFAT, 'A commentary on the Tufts University Report and the New Zealand Law Foundation Papers', 17 February 2016, p. 2.
[79] Jackson, James K, 'The Trans-Pacific Partnership (TPP): Analysis of Economic Studies', CRS Report, Congressional Research Service, 30 June 2016, p. 26.
[80] Capaldo and Izurieta, Table 3, p. 14.

the overstatement of government expenditure reductions has pushed up their estimate of slower jobs growth under the TPP. But given that the estimated impact of 39,000 jobs represents 0.3 per cent of the Australian workforce, it is feasible that correcting this flaw in the data could see the result of slower employment growth reduced to zero or shifted to a result of employment gains.[81] The GPM's technical documentation says that a reduction of government expenditure in the US of one percentage point of GDP has an impact of reducing the model's estimates of employment by between 0.7 and 1.1 per cent.[82]

It should also be noted that the 2012 Petri, Plummer and Zhai TPP modelling results which Capaldo and Izurieta rely upon to provide trade inputs into their GPM modelling have subsequently been updated. This means the Capaldo and Izurieta study understates Australian export growth under the TPP. The 2012 Petri, Plummer and Zhai results had Australian net exports declining by 0.04 per cent as a share of GDP under the TPP. The most recent study by the Petri and Plummer modelling team, published in October 2017, has Australian net exports increasing by 0.2 per cent as a share of GDP under the TPP. In Capaldo and Izurieta's framework, understating net exports as an input to the GPM model means their results will overstate the negative impact of the TPP (through the impact of net exports on demand, incomes and employment).[83]

Lacks transparency

The Capaldo and Izurieta study has been criticised by other economic researchers for a lack of transparency around the modelling methodology, data and assumptions. The paper itself lacks clarity and detail when it comes to specifying the assumptions used in the simulations and the way the data has been presented to the model. No sensitivity analyses are provided. Nor is there any detailed description of the modelling framework. Nor are full tables of results and data provided. Other researchers have not been granted access to the computer code needed to run the model, so have not been able to scrutinise, test or seek to replicate the study.[84]

This lack of transparency about methods and data is not in line with standard academic practice and in contrast to the approach taken by the Petri and Plummer-led TPP modelling team who supplement their written papers by making extensive data and computer code files available on the internet.

Widely criticised by economists

Capaldo and Izurieta's TPP study and a similar study by Capaldo of the Transatlantic Trade and Investment Partnership (TTIP) have been criticised by many economists, including economists who are sceptical about free trade agreements such as Dani Rodrik. For example:

- 'Capaldo et al's work, however, has important methodological flaws and would not pass a serious peer review.' (deLutio and Tostel, University of Maine)
- '[T]heir results are counterintuitive and contrary to those in the peer-reviewed literature' (deLutio and Tostel, University of Maine) [85]
- 'The Capaldo study is associated with such serious flaws that its results should neither be regarded reliable nor realistic. It fundamentally contradicts all other existing studies of the effects of FTAs and the reality of what liberalised trade actually brings about.' (Bauer and Erixon, European Centre for International Political Economy)
- 'No trade economist, regardless of what school of thought he or she comes from, has ever used this model to make estimates of trade. The reason is simple: if a model cannot predict

[81] Bauer and Erixon, op cit, p. 8,point out that the GPM model 'is particularly sensitive to fiscal policy measures.'
[82] Cripps, Francis and Naret Khurasee, 'Global Policy Model Version 3.0: Appendices A-F', UN Development Policy and Analysis Division, Department of Economic and Social Affairs, October 2010, p. 69.
[83] The 2012 net exports results referred to in Capaldo and Izurieta pp. 4-5 are in Petri, Plummer et al's data tables on www.asiapacifictrade.org. The updated results are from Peter Petri, Michael Plummer, Shujiro Urata and Fan Zhai, 'Going It Alone in the Asia-Pacific: Regional Trade Agreements Without the United States', Peterson Institute for International Economics, Working Paper 17-10, October 2017. The net export results are in accompanying data tables available at https://piie.com/publications/working-papers/going-it-alone-asia-pacific-regional-trade-agreements-without-united
[84] Erixson and Bauer, op cit.
[85] deLutio, Catherine Reilly and Philip A. Tostel, '2016 Trade Policy Assessment: The Trans-Pacific Partnership's Potential Impact on Maine', Margaret Chase Smith Policy Centre, University of Maine, September 2016, pp. 58-59.

the effects on the flows and profile of trade as a consequence of trade liberalisation, it is of no use at all.' (Bauer and Erixon, European Centre for International Political Economy)

- 'In effect, serious trade economists have reduced that choice to one between a CGE model or a gravity model. Capaldo has chosen to apply a model that emerged in the 1970s and has never been applied to trade policy analysis since.' (Bauer and Erixon, European Centre for International Political Economy)[86]
- 'In all TPP countries, employment drops and remains permanently lower … and this decline is presented as a headline result of the study. Yet this conclusion is actually based on the authors' assumption rather than a response generated by their model.' (Robert Lawrence, Peterson Institute for International Trade and Economics)[87]
- 'This series of steps requires assumptions and assertions that, in a number of cases, contradict standard economic concepts, often without explanation or the requisite theoretical or analytical basis.' (James K. Jackson, Congressional Research Service)[88]
- 'In [Capaldo and Izurieta's] simulations, the TPP is represented with exogenous macroeconomic assumptions that are unrelated to the agreement's provisions and simply predetermine job losses and a worsening of the income distribution.' (Peter Petri, Brandeis University, and Michael Plummer, Johns Hopkins University)[89]
- 'A very sombre macro study by Capaldo is simply not credible, methodologically flawed and misleading: proven trade effects are assumed not to take place, assumptions assume away likely effects, and the drivers of the results have nothing to do with the TTIP per se.' (Professor Jacques Pelkmans, College of Europe)
- '[T]his study suffers from a profound credibility problem, both for methodological reasons, assumptions and the insertion of two policy responses which have nothing to do with the TTIP.' (Professor Jacques Pelkmans, College of Europe)[90]
- 'We have scanned the literature for studies using the GPM to estimate trade agreements, but did not find a single attempt. Therefore, there should be a solid defence for why this model – and not standard trade models – does better at predicting the effects of trade on the economy.' (Bauer and Erixon, European Centre for International Political Economy)[91]
- 'Capaldo and his collaborators offer a starkly different outlook: a competitive race to the bottom in labor markets, with a decline in wages and government spending keeping a lid on aggregate demand and employment. Unfortunately, however, their paper does a poor job of explaining how their model works, and the particulars of their simulation are somewhat murky.' (Dani Rodrik, Harvard University)[92]
- '[A] model approach to a trade agreement that excludes tariffs and NTM [non-tariff measure] costs yet 'imports them' from the very CGE models it sharply criticises, is hardly coherent.' (Federica Mustilli, Centre for European Policy Studies)[93]
- 'This is ridiculous' (Martin Wolf, chief economics commentator, Financial Times)[94]

[86] Bauer and Erixon, op cit, pages 17, 1, 6.
[87] Lawrence, Robert Z, 'Studies of TPP: Which is Credible', Trade and Investment Policy Watch, Peterson Institute for International Trade and Economics, 29 January 2016.
[88] Jackson, James K, p. 25.
[89] Petri, Peter A, and Michael G. Plummer, 'The Economic Effects of the Trans-Pacific Partnership: New Estimates', Peterson Institute for International Economics, Working Paper 16-2, p. 8, n. 15.
[90] Pe kmans, Jacques, 'An Overview and Comparison of TTIP Studies', in World Trade Institute, *TTIP and the EU Member States*, Bern, January 2016, p. 48, 51.
[91] Erixon, Fredrik and Matthias Bauer, 'Capaldo fails to convince', European Centre for International Political Economy, blog post, 13 May 2015.
[92] Rodrik, Dani, 'The Trade Numbers Game', Project Syndicate, 10 February 2016.
[93] Mustilli, Federica, 'Estimating the Economic Gains of TTIP', *Intereconomics: Review of European Economic Policy*, 50(6), November 2015, pp. 321-27 at 324.
[94] Wolf, Martin, 'The embattled future of global trade policy', *Financial Times*, 13 May 2015.

Does not actually model the TPP

While the Capaldo and Izurieta study is often presented as modelling the TPP, it does not in fact model the trade agreement. What the study actually models is trade changes expected under the TPP *together with* reductions in government expenditure and labour income. These reductions in government spending and labour income are not findings of Capaldo and Izurieta's modelling. Rather they are additional inputs which the researchers include in their simulations of the TPP.

By contrast, CGE modelling studies model the TPP itself. They quantify the reductions in tariffs, reductions in non-tariff measures, changes in services trade regulations and changes in investment which the TPP adopts, feed these changes as inputs into CGE models, and examine the impact on economic outcomes. Capaldo and Izurieta are quite clear that they are not directly modelling the TPP – and the TPP alone – in this way. Rather they take the changes in exports and imports which Petri, Plummer and Zhai estimate for the TPP, and feed these inputs, *along with assumed cuts to government spending and labour's share of income*, into the GPM model.

Thus their headline finding for Australia of a reduction of 39,000 in jobs growth over 10 years, is not the modelled result of the TPP alone – it is the modelled result of the TPP's impact on trade, *plus* cuts in government spending, *plus* cuts in the share of national income going to wage and salary earners and small businesses. The magnitude of these cuts is significant. In today's dollars the assumed reductions in government expenditure in Australia amount to $13.6 billion over 10 years. The reduction in labour's income share of 0.72 per cent of GDP would have amounted to $12.95 billion in 2017 – an average of nearly $1,000 a year for each Australian in the labour force.[95]

The GPM's developers have noted that the model's simulations 'do not provide well-defined forecasts of longer-term developments' and are 'geared towards 'what if' scenarios rather than forecasts and their probability distributions.'[96] Capaldo and Izurieta's study is just such a 'what if' scenario – it asks 'what if' the TPP is accompanied by tens of billions of dollars in cuts in government spending and wages. Unsurprisingly, the answer is that there would be negative impacts on demand and employment.

Results not credible

The results of the Capaldo and Izurieta study lack plausibility.

Firstly, some of the results are internally contradictory, namely the finding that under the TPP scenario both net exports and GDP rise for most countries compared to the baseline scenario of no TPP, yet employment growth falls under the TPP compared to the baseline. It is hard to accept as credible a finding that faster GDP growth will be associated with slower employment growth. Capaldo and Izurieta themselves acknowledge that this 'may be puzzling.'[97]

In Australia's case, they estimate that after 10 years, GDP growth will be 0.87 per cent higher under the TPP than under the baseline scenario, yet the number of people in employment will be 39,000 lower. Capaldo and Izurieta do not report the employment results in percentage terms or provide estimates of employment levels under the baseline and TPP scenarios. However, using Australia's current employment level and assuming average annual growth of 1.5 per cent would mean that in percentage terms their estimate of 39,000 fewer jobs represents a decline of around 0.27 per cent after 10 years. So their modelling suggests the TPP would increase GDP by 0.87 per cent yet reduce employment by 0.27 per cent. This is at odds with historical experience which has shown GDP growth positively associated with employment growth. Over the last 20 years in Australia, a 1 per cent annual increase in real GDP has, on average, been accompanied by jobs growth of 0.7 per cent. There has not been a single year which has recorded positive GDP growth and falling employment since 1992, when the economy was recovering from the 1991-92 recession.

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[95] Nominal GDP in 2017 was just under $1.8 trillion (ABS 5206.0, Table 3).
[96] Cripps, Francis, Alex Izurieta and Rob Vos, 'The UN DESA Global Policy Model: Underlying concepts and empirical illustrations', UN Development Policy and Analysis Division, Department of Economic and Social Affairs, October 2010, p. 12.
[97] Capaldo and Izurieta, op cit, p. 18.

Secondly, the finding that the TPP will reduce employment growth not only in TPP countries (which are subject to the assumptions that the trade agreement causes cuts to government expenditure and labour income), but in all the other countries of the world as well. They find that the 12 TPP countries experience job losses of 771,000 – but all the remaining non-TPP countries of the world experience job losses totalling 5.4 million. Furthermore, while they find that the TPP results in GDP growing amongst most member countries they estimate it will cause falls in GDP of between 3.8 and 5.2 per cent among all the rest of the countries of the world.

No credible explanation is given of the economic or financial transmission mechanisms by which the TPP is supposed to cause this global economic shock. The global slowdown Capaldo and Izurieta predict as a result of the TPP is way out of line with results of other TPP modelling studies. Nor are governments, central banks, economic policymakers or financial markets bracing for the risk of a sharp global slowdown which Capaldo and Izurieta see flowing from the TPP. Robert Lawrence has said: 'It is not believable that a trade agreement of this magnitude could cause the rest of the world to plummet into recession.'[98]

Thirdly, the scenario which Capaldo and Izurieta present for the TPP is at odds with real world experience with trade liberalisation. Under their scenario, reducing trade and investment barriers forces producers to cut wages, as they compete to maintain market share against imports and attract global capital, and forces governments to cut expenditure to attract global capital. If the Capaldo and Izurieta theory of the economic impacts of international trade and investment were correct, then increasing tariffs to reduce import competition and imposing restrictions on capital inflows would boost employment growth. That has been the opposite of Australia's experience over recent decades. Australia liberalised its trade barriers and opened up its capital markets in the economic reforms of the 1980s and 1990s. The result, far from the job losses and wage cuts predicted by Capaldo and Izurieta's framework, has been a record run of uninterrupted economic growth.

As Harvard University's Professor of International Trade and Investment, Robert Lawrence, writes:

> 'To see how implausible this is, consider what the model would predict if the TPP process was actually reversed. Imagine if all TPP countries significantly raised their trade barriers and restricted capital movement. Presumably employment would rise in all the TPP countries – despite the loss of exports and curtailment of FDI inflows – and the rest of the world would boom! Indeed, given the model's conclusions it is hard to understand how a world in which trade barriers have been continuously reduced has enjoyed so much prosperity in recent decades. What the model actually implies is that the whole world would be far better off with a trade war than with the TPP!'[99]

[98] Lawrence, Robert Z, op cit.
[99] Ibid.