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Internationale des Services Publics  
Internacional de Servicios Públicos  
Internationale der Öffentlichen Dienste  
Internationell Facklig Organisation för Offentliga Tjänster  
國際公務勞運

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Foreign Affairs, Defence and Trade Committee  
Department of the Senate  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

**Via e-mail: [fadt.sen@aph.gov.au](mailto:fadt.sen@aph.gov.au)**

Dear Committee

**Re: Comprehensive and Progressive Agreement for Trans-Pacific Partnership**

Public Services International (PSI) welcomes the opportunity to make a submission to the Committee with regard to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (TPP-11).

PSI brings together more than 20 million workers represented by 700 unions in 154 countries and territories. We are a global trade union federation dedicated to promoting quality public services in every part of the world. Our role includes the coordination of advocacy on issues that affect our members and the communities in which they live. Our members, two-thirds of whom are women, work in social services, health care, municipal and community services, central and local government, and public utilities.

PSI represents affiliate unions from within nine of the eleven TPP-11 countries (Australia, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, and Singapore).

PSI supports trade that is fair, democratic and aids sustainable development. The TPP-11, however, does not represent fair trade; instead it prioritises the interests of private corporations over those of communities. The TPP-11 is not democratic; the negotiations were held in secret to the exclusion of communities and their elected civil society representatives (such as unions), hampers government regulation, and will allow corporations to sue democratically elected governments. The TPP-11, through these negative impacts, will hamper development and will hamper the regions capacity to meet the UN's Sustainable Development Goals.

Much has been made of the US withdrawal from the TPP. PSI opposed the TPP<sup>1</sup> in its earlier incarnation on the same grounds that it opposes the TPP-11. While 20 of the... articles of the TPP have been temporarily suspended, the agreement continues to represent a grave danger to public services, workers and the public interest. It must be noted that the suspended elements, including those in relation to extended monopoly protections over essential medicines, are now simply dormant until the US decides to re-join the TPP/CPTPP. It is clear this will occur; either the current President will find a political way to re-enter following the demands of US industry, and there are signs this is occurring<sup>2</sup>, or a change in administration will occur. For countries like Australia and New Zealand this simply means the adverse impact on the cost of medicines is delayed, not defeated.

Our specific concerns with regard to the TPP-11 include:

- Reduced access to essential public services,
- Significant barriers put on state and local governments' ability to regulate services or to remunicipalise public goods and services;
- The negative impact of Investor State Dispute Settlement (ISDS) processes on democracy including a chilling effect on primary healthcare initiatives,

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[https://www.apf.gov.au/Parliamentary\\_Business/Committees/Joint/Treaties/9\\_February\\_2016/Submissions](https://www.apf.gov.au/Parliamentary_Business/Committees/Joint/Treaties/9_February_2016/Submissions)

<sup>2</sup> <https://www.smh.com.au/world/north-america/trump-orders-a-review-of-tpp-trade-pact-stance-20180413-p4z9c5.html>

- The impact on workers' rights, pay and conditions,
- The potential adverse impact on the environment, and
- The threat of decreased access to affordable medicines pending the US re-joining the TPP-11

### **Public Services are not Protected**

Despite repeated claims that the TPP-11 does not affect public services it is clear that the intent of the TPP-11 (as well as RCEP & TiSA) is to expand market access and liberalise trade in services, the key policy ingredients required to advance privatisation. The definition of public services within the TPP-11 is the same as the definition used in the World Trade Organisation's *General Agreement on Trade in Services* (GATS). Under this definition a public service is one that is supplied neither on a commercial basis nor in competition with one or more service providers<sup>3</sup>. There are very few services in Australia that would meet this definition. The TPP-11 goes further than GATS as only those services which the government explicitly names are excluded (negative list) requiring governments to open up all other services to international investment.

The TPP-11 uses a ratchet mechanism to ensure that regulation of services is reduced over time – meaning governments cannot introduce new regulations that may be essential in the future. This will have two significant impacts. Firstly, it will prevent governments taking back control of service provision, even in the case of market failure as experienced in the childcare, vocational training and public hospital sectors (all of these are supplied in both a government and commercial basis which could be said to be in competition). Secondly, it will prevent governments from requiring minimum staffing levels and qualifications (proportion of qualified staff) in areas such nursing, childcare and aged care regardless of professional and academic evidence supporting such minimum ratios.

The TPP-11 states that there can be no requirement for a local presence (office) for a service provider. This severely restricts the public's ability to hold companies accountable for the provision of those services or liabilities that might arise.

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<sup>3</sup> <http://dfat.gov.au/trade/agreements/not-yet-in-force/tpp-11/official-documents/Documents/10-cross-border-trade-in-services.pdf>

The ability for companies to commence ISDS proceedings against Australian governments with regard to public services will have a chilling effect on regulation and the introduction of new government run and owned services.

Privatisation has been demonstrated to be harmful to our communities<sup>4</sup> and increasingly acknowledged as a failed policy<sup>5</sup>. The free market approach to services has not increased equitable access, has negatively affected workers' pay and conditions, has decreased the quality and choice of services, and has seen increased costs to the public.

The free market approach sees public revenue channelled into private profit. The Australian Federal Government should refrain from entering into trade agreements that promote privatisation and that lock in democratically elected governments at the Federal, State and local level to adhering to free trade principles that are clearly not in the public interest.

PSI notes that the TPP-11 states that:

*“Australia reserves the right to adopt or maintain any measure with respect to the provision of law enforcement and correctional services and the following services to the extent they are social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public education, public training, health, including the collection and distribution of blood and blood related products, childcare, public utilities, public transport and public housing”.*

However, given the concerns stated above we are doubtful that this is sufficient to protect these services and the Australian government given the potential for action to be taken under the ISDS provisions.

### **Democracy and Investor State Dispute Settlement**

Through inclusion of an Investor State Dispute Settlement (ISDS) clause the TPP-11 gives corporations the right to sue governments for democratic regulatory actions, even when taken in the public interest.

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<sup>4</sup> <https://www.peoplesinquiry.org.au/report>

<sup>5</sup> <https://www.theage.com.au/politics/victoria/electricity-ripoff-premier-suggests-victorians-are-being-overcharged-for-poles-and-wires-20180130-h0qe40.html>

The European Court of Justice has now ruled that ISDS clauses are incompatible with European Law as they have arbitrary power to override national and European Laws<sup>6</sup>. UN Special Expert, Alfred de Zayas, argues that ISDS is a breach of international law as it contravenes the UN Charter and is “devastating for developing countries”.<sup>7</sup> He has called for its abolition. Through dispute clauses similar or identical to the provisions in the CPTPP, ISDS has been successfully used by corporations to contest the power of governments to act in the interests of the environment, ban or restrict the production, transport and waste management of toxic chemicals, license the management of land and water resources, promote alternative energy, set rates for water and electricity services, collect taxes and fees, utilise affirmative action policies, restructure sovereign debt, eliminate toxic pesticides, maintain food safety standards, and require companies to properly label the products they market.

Even some business interests oppose the deal. Former Blackberry Chief, Jim Balsillie, said “10 years from now, we’ll call that signature the worst thing in policy that Canada’s ever done.... It’s a treaty that structures everything forever – and we can’t get out of it”<sup>8</sup>. A coalition of over 250 small and medium size technical companies<sup>9</sup> came out against the deal because of the excessive power it gives to corporations.

Assurances that safeguards exist within the TPP-11 allowing regulation in the interests of health and the environment lack merit. These same safeguards have not prevented companies commencing actions against democratically elected governments in these areas. A clear ISDS / health example is the action taken by *Eli Lilly & Co.* against the Canadian Government<sup>10</sup>. In this case, the Canadian Government declined a patent for a medicine on the grounds that that the company could not adequately demonstrate that the medicine delivered the benefits promised. *Eli Lilly & Co.* not only challenged the facts of the drug’s efficacy, but the Canadian Government’s legal right to make a decision on this basis.

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<sup>6</sup> <https://curia.europa.eu/jcms/upload/docs/application/pdf/2018-03/cp180026en.pdf>

<sup>7</sup> <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17005&LangID=E>

<sup>8</sup> <http://www.cbc.ca/news/business/jim-balsillie-tpp-1.3310179>

<sup>9</sup> <http://www.theguardian.com/us-news/2015/may/20/hundreds-tech-companies-oppose-tpp-trade-agreement>

<sup>10</sup> <http://www.techdirt.com/articles/20130208/03441521918/canada-denies-patent-drug-so-us-pharma-company-demands-100-million-as-compensation-expropriation.shtml>

ISDS provisions in most FTAs are in direct opposition to the basic principles of the rule of law embedded in the Australian justice system. The persons selected to hear ISDS cases come from within the ranks of those prosecuting cases; there is no independent judiciary. Each case is assessed in isolation; there is no reference to precedence; cases can be brought regardless of the decisions of national supreme courts and there is no right of appeal to the decision of the panel.

Assurances that Australia has ISDS provisions in multiple FTAs and has not faced a barrage of cases also lacks merit. A recent report<sup>11</sup> demonstrates that the incidence of ISDS cases globally is rising with US companies far out-stripping all others. The same report highlights that governments win only 36% of cases, with settlement or a win to the corporations at 52%. If the Senate passes the enabling legislation for the TPP-11, or any other FTA that contains ISDS, Australia will be exposed to an increasing number of cases, potentially costing the Commonwealth millions. ISDS actions can be brought against all levels of government, this will significantly affect State and Local Governments financial status resulting in a chilling effect on policy changes for fear of ISDS actions. Australia should not seek to impose this arbitrary and unjust system on developing countries who lack the funds to defend cases and have been most adversely impacted by the system.

The Australian Senate should reject any free trade or investment agreement that contains ISDS style procedures.

### **Worker's Rights and the Temporary Movement of People**

A recent independent study published by Tufts University (USA) showed that the TPP would have caused employment losses in all TPP countries<sup>12</sup>. The study showed that the TPP would have increased inequality and created pressure to drive down wages. Astonishingly, it would actually create GDP losses for countries such as Japan and the USA. There has been no redress of these issues within the TPP-11.

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<sup>11</sup> Tienhaara, K (2016) 'Canary in the Coal Mine: A cautionary tale of trade: Canada's experience of Investor-State Dispute Settlement under NAFTA. Accessed on line via: <https://www.theguardian.com/business/2016/oct/25/trans-pacific-partnership-makes-australia-vulnerable-to-court-challenges-report-claims>

<sup>12</sup> Capaldo J, Izurieta A, Sundaram J K, 'Trading down: Unemployment, Inequality and Other Risks of the Trans Pacific Partnership Agreement', Tufts University, USA, January 2016 Accessed via: [http://www.ase.tufts.edu/gdae/policy\\_research/tpp\\_simulations.html](http://www.ase.tufts.edu/gdae/policy_research/tpp_simulations.html)

The limited protections for workers within the TPP-11 are weak<sup>13</sup> and experience demonstrates that labour chapters in trade agreements are incapable of addressing labour rights violations. PSI is of the opinion that the ILO is the most appropriate body to enforce labour rights obligations. The TPP-11 does not name the specific International Labour Organisation conventions and only requires countries to enforce their own standards and implement their own laws. Complaints arising from workers' rights can only be brought where the breaches are of a repeated and sustained nature and then only following lengthy consultation with the Government. The chapter only applies in areas of trade and so will have limited effect on improving trade union rights in developing countries. Within Article 19.6, which deals with child and slave labour, the protections use language that creates gaps in accountability. For example, the text uses phrases such as "recognising the **goal** of eliminating", "each party shall **discourage** through initiatives it **considers appropriate**".

Using ISDS a foreign corporation (Veolia) has commenced proceedings against the Egyptian Government. This follows the government's decision to raise the minimum wage. Increasing workers' wages is a recognised economic stimulus and provides clear development opportunities for the country. Limits on government procurement contained in the CPTPP provide further restraints on a government's capacity to stimulate local employment. There is more than enough scope to encourage trade union rights amongst developing nations outside FTA frameworks.

Employment, wages and working conditions will be undermined by the TPP-11 with the exemption of labour market testing requirements across a range of contractual service suppliers. Analysis of the TPP-11 suggests that market testing is removed for contractual service suppliers through reference to the current 457-visa programme where there is widespread and acknowledged rorting and worker exploitation. The impact of this is two-fold; the violation of workers' rights and, secondly, downward pressure on wages, conditions and job security for Australian workers. According to the Australian Free Trade and Investment Network (AFTINET) the TPP-11 appears to commit Australia to accepting unlimited numbers of temporary workers from six of the TPP nations.

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<sup>13</sup> [http://www.ituc-csi.org/IMG/pdf/trans\\_pacific.pdf](http://www.ituc-csi.org/IMG/pdf/trans_pacific.pdf)

We note that the TPP-11, should it come into force, anticipates a *Labour Council*, making reference to dialogue with the “public” and the International Labour Organisation. This dialogue must include formal dialogue with the recognised trade union movement from each of the participating countries. Democratically elected trade union representatives are best placed to highlight instances where workers’ rights are at risk or are not being met.

### **Protections for the Environment**

The TPP-11 does not just fail to protect the environment, it is likely to have detrimental environmental impacts. Provisions within the agreement do not provide for enforcement around environmental protections and major agreements relating to environmental protection, including climate change are excluded. The regulatory space governments need to address environmental concerns, including the ability to place environmental restrictions on emissions and other pollutants, collect targeted taxes on harmful practices, include emissions from ‘carbon miles’ in procurement decisions, stimulate a local renewable energy industry or eliminate particular harmful sources of energy, is significantly constrained by the TPP-11, A large percentage of known ISDS cases have involved environmental issues or limits on extractive industries where the “investor rights” have been given preference over environmental and community protection.

### **Access to Affordable Medicines and the Impact on Healthcare Measures**

Access to affordable medicines and government regulatory capacity are important components of an affordable and efficient universal public healthcare system. The TPP-11 contains a number of threats to public health systems. Further, the TPP-11, once the US re-joins, will limit access to affordable medicines through the extensions of monopolies as the components of the TPP related to patent extension and data exclusivity are revived.

During the negotiation phase of the TPP the US sought twelve years data exclusivity on biologics. Articles within the “finalised” TPP required nations to provide eight years data protection for biologic medicines, or at least five years accompanied by measures that will provide a comparable outcome to the eight years. These arrangements were to be reviewed after ten years. The inclusion of biologics in the TPP set a dangerous precedent; it has encouraged similar inclusions in other free trade agreements<sup>14</sup>.

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<sup>14</sup> <http://www.msfacecess.org/about-us/media-room/press-releases/statement-msf-official-release-full-text-trans-pacific>



An extension of data exclusion on biologics means that it will take longer for bio-similar medicines to become available, increasing the profits for the monopoly holder. The impact of this is that treatment for cancers and autoimmune diseases will remain out of reach for developing nations for longer. Within Australia this will see prolonged higher costs to government (through the PBS system) and/or individuals (through user co-pays). It is estimated that an absence of bio-similar versions of biologic medicines currently costs the economy AUS\$250 million annually<sup>15</sup>.

During the negotiation phase of the TPP the then Trade Minister, Mr Andrew Robb, gave assurances to the Australian public that patent requirement on biologics will not change from the current five years. Mr Robb was quoted in the media claiming victory on this matter, using it as an example of Australia's strong negotiations. In the same period Mr Robb was also quoted as assuring US pharmaceutical companies to the contrary; that data exclusivity would be extended to eight years<sup>16</sup>.

There was then pressure being exerted on US trade negotiators, by a US Senator, to have the monopoly extension pushed from eight years to twelve years. According to *Bloomberg* the US Senator has said that there has been progress in discussions on this matter within Australia<sup>17</sup>. President Trump said the TPP was a bad deal for the US, alluding to the need to push monopoly protections even further.

The rising cost of medicines is a significant issue for developing nations and developed nations alike. A report by *The Commonwealth Fund* in 2014 showed that of Australian's who didn't get a script filled, skipped a test or treatment, or decided not to see a doctor, 16% did so due to costs<sup>18</sup>. With regard to healthcare affordability Australia ranked ninth of the eleven countries; the US ranked last. A *Deloitte Services LP's* 2013 survey of health care consumers reported that, anxious about the affordability of health care, a third of the surveyed consumers say they seek cheaper alternatives including home remedies, and they self-ration by delaying or skipping care.<sup>19</sup> A more recent study stated "the out-of-

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<sup>15</sup> [http://dfat.gov.au/trade/agreements/tpp/negotiations/Documents/tpp\\_sub\\_gleeson\\_lopert\\_moir.pdf](http://dfat.gov.au/trade/agreements/tpp/negotiations/Documents/tpp_sub_gleeson_lopert_moir.pdf)

<sup>16</sup> <http://www.politico.com/tipsheets/morning-trade/2016/02/ttips-tell-tale-12th-round-robb-reassures-on-tpp-biologics-commerce-itc-roll-ahead-with-tire-cases-212817>

<sup>17</sup> <http://www.bna.com/sen-hatch-says-n73014447345/>

<sup>18</sup> [http://www.commonwealthfund.org/~media/files/publications/fund-report/2014/jun/1755\\_davis\\_mirror\\_mirror\\_2014.pdf](http://www.commonwealthfund.org/~media/files/publications/fund-report/2014/jun/1755_davis_mirror_mirror_2014.pdf)

<sup>19</sup> Rising Consumerism: Winning the hearts and minds of health care consumers S. Coughlin, J. Wordham and B. Jonash. Available on line at: [http://www2.deloitte.com/content/dam/Deloitte/tr/Documents/life-sciences-health-care/DR16\\_rising\\_consumerism.pdf](http://www2.deloitte.com/content/dam/Deloitte/tr/Documents/life-sciences-health-care/DR16_rising_consumerism.pdf)

pocket cost of healthcare in Australia acts as a barrier to accessing treatment for people with chronic health conditions”<sup>20</sup> compared to other OECD nations.

New Zealand Prime Minister, John Key, a strong promoter of the TPP, admitted that the agreement would result in increased costs of medicines for the general public in New Zealand. This is because the TPP requires changes to the New Zealand Pharmaceutical Management Agency (PHARMAC).

If this is the impact in rich developed nations, developing nations, dependent on generic medicines, are at significant risk. Australian researchers estimate that the intellectual property provisions proposed by the US will result in a more than 50% drop in access to antiretrovirals for HIV infected people in Vietnam even without increased price gouging by pharmaceutical companies.<sup>21</sup> Price gouging activity has recently been sensationally demonstrated by increases in medicines used in HIV treatment and anti-parasitic agents by one company and, most recently, *epi-pens* by another drug company.

Primary consideration must be given to the adverse impact the TPP11 will have on the human right to health. In addition, the economic impact that higher healthcare costs for the government and the population must be considered. The workforce’s healthcare status impacts on productivity levels. A failing primary healthcare system drains the healthcare budget as an individual’s costs are pushed onto the tertiary healthcare system<sup>22</sup>.

The Senate should also consider the history of the Australian US Free Trade Agreement (AUSFTA). Under the AUSFTA the US was able to force Australia to change its legislation relating to the PBS after the AUSFTA enabling legislation was passed. This led to increases in the cost of medicines and successfully pushed the privatization of the Commonwealth Serum Laboratories. This privatisation was later assessed to have been a

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<sup>20</sup> Callander Emily J., Corcadden Lisa, Levesque Jean-Frederic (2016) Out-of-pocket healthcare expenditure and chronic disease – do Australians forgo care because of the cost? *Australian Journal of Primary Health*

<sup>21</sup> Moir, H, Tenni, B, Gleeson, D et al 2016, 'The Trans Pacific Partnership Agreement and access to HIV treatment in Vietnam', *Global Public Health: An International Journal for Research Policy and Practice*, pp. 1-14.

<sup>22</sup> Which is where the greatest profits for the private healthcare industry occur (medical and surgical devices, complex medicines and procedures).

disaster for taxpayers<sup>23, 24 & 25</sup>. There is a risk that, should the Senate pass the TPP-11 enabling legislation, and when the US re-joins at a later date, Australia will face rising costs of medicines and may face renewed pressures from the US to go further than already negotiated.

Pharmaceutical companies could unduly influence the Australian Pharmaceutical Benefits Scheme (PBS) due to the inclusion of ISDS provisions. Annex 26-A of the TPP stated:

*Transparency and Anti-corruption, Annex 26-A Transparency and Procedural Fairness for Pharmaceutical Products and Medical Devices*

**Article 3: Procedural fairness (c) that:**

*...The Party shall:*

*(c) afford applicants and, if appropriate, the public, timely opportunities to provide comments at relevant points in the decision making process;*

The clause guarantees investors a right to participate in review process while the public is left to wonder what would be 'appropriate'. Further, investors may use the provision to pursue ISDS cases by arguing that there were additional "relevant points", or that it had not been provided in a "timely" manner, or that the public comment was not "appropriate", or that a decision hampers the company's other "rights" under the TPP-11. This could pressure decision-making processes given the costs of defending decisions under ISDS processes<sup>26</sup>.

Australia is experiencing an increase in "user co-pays" and a continued push towards the privatisation of healthcare. Combined, these factors are decreasing the affordability of healthcare. The potential of a compounding negative impact as a result of the TPP-11 can, and therefore must, be avoided.

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<sup>23</sup> <http://theconversation.com/its-time-to-fix-the-free-trade-bungle-on-the-cost-of-medicines-32574>

<sup>24</sup> <http://aftinet.org.au/cms/sites/default/files/AUSFTA%20Perceptions%20of%20the%20Agreement%20in%20Australia.pdf>

<sup>25</sup> [http://www.tai.org.au/documents/dp\\_fulltext/DP4.pdf](http://www.tai.org.au/documents/dp_fulltext/DP4.pdf)

<sup>26</sup> The case brought against Australia by Phillip Morris reportedly cost AUD \$50million. The Turnbull Government is refusing to publicly release the total cost of the case. Whilst health advocates rightly argue this was money well spent, Australia was only required to spend the money due to ISDS processes being included in a trade agreement with Hong Kong. This is money that could have been spent on public healthcare.

The increased cost of medicines, no matter how small, is not in the interests of development and will place pressure on public and personal finances throughout the region. At a time when governments are arguing the need to decrease expenditure it seems incongruous that they are also pursuing trade agreements that will increase government spending and/or personal debt.

Another impact on healthcare arises from restrictions on food (and beverage) labelling requirements. This requires that any future mandatory labelling must occur on a supplementary label. Australia has successfully curbed tobacco consumption through mandatory packaging. Future similar public health approaches are restricted under the TPP-11 as a result. As with the case between Australia and Phillip Morris, attempts to introduce mandatory labelling could instigate proceedings under ISDS mechanisms.

The TPP-11 requires governments to create a formal mechanism to give the tobacco industry input whenever legislation is revised or changed. This contradicts the World Health Organisation (WHO) tobacco treaty, that clearly excludes tobacco corporations from influencing the implementation of the agreement and requires signatory countries to exclude tobacco corporations from policy and legislative drafting.

This agreement clearly prioritizes trade over health and will make the role of governments in legislating to advance universal health rights and public good more difficult. **The TPP-11 threatens healthcare as a human right by putting profits before people.**

## **Development**

The recent proliferation of multilateral and bilateral trade agreements, such as the TPP, TPP-11, RCEP, TiSA & PACER Plus are a direct threat to sustainable development and to the provision of quality public services. These new agreements strongly encourage privatisation, restrict governments' ability to regulate in the public interest and create powerful rights for large multinational corporations. In this way they are a threat to the democracy and the accountability of governments and corporations<sup>27</sup>. They will bind future governments, often regardless of the decisions of national elections, parliaments and courts.

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<sup>27</sup> See report at <http://www.world-psi.org/en/why-trade-agreements-are-new-global-threat-public-services>

Sustainable provision of services and public goods that benefit local communities requires planning, regulation, enforcement, assessment and accountability. Government owned and run services are best placed to achieve sustainable development through these processes.

Proponents of the TPP-11 have openly-stated that the objective is to create new global standards through these agreements, that re-shape and bind developing countries policies, enabling unrestricted market access for multinational corporations . The effects of these agreements, in developing countries, is particularly severe as it undermines the ability to protect emerging or traditional national industries from large foreign firms.

The TPP will affect municipal and subnational governments. Unless specifically exempted the services and investment chapters are strictly binding on these levels of government and will prohibit the reversal of privatization and make illegal the placement of restrictions on the numbers of services within a jurisdiction; such as wanting to limit the number of gambling or alcohol retailers. Other chapters will have indirect effects such as the 20-year extension above the WTO provisions on copyright; for some countries that will increase the price of books and force up costs in municipal libraries.

Public procurement, as a policy tool to stimulate economic activity based on societal, geographic or industry needs has been severely curtailed. The agreement contains provisions obliging signatories to begin negotiations on expanded coverage within three years. Such provisions in other agreements enable corporations to make profits from public services provided in the public interest, by prohibiting the use of public procurement even when the aim is to achieve social and economic goals such as local job creation and encouraging local and regional economic growth. This means that targeted development through supporting localized industries will be at significant risk. The current economic environment for the national steel industry in Australia provides an example where the government has committed to purchasing local steel for a project. This action may well be in breach of the terms agreed in the TPP; at a minimum it creates space for ISDS action. Similarly, state governments have made pro-bono legal services a requirement of law firms obtaining government contracts. They should be able to introduce restrictions against procuring services from corporations who utilise tax havens and secrecy jurisdictions but may be prohibited from doing so through the TPP-11.

Most significantly the TPP-11 will increase inequity within the region. Despite the IMF citing growing global inequity as a threat to the global economy, the TPP-11 will facilitate an increase in the inequity gap. The World Bank modelling suggests the TPP may lead to an extremely low (0.7%) GDP growth over 15 years for Australia even when the US was in the agreement,<sup>28</sup> This amounts to a tiny .01% per year and well within the margin of error for economic modelling. Another report<sup>29</sup> stated a projected loss of 39,000 jobs (771,000 jobs across the TPP region) and that more of Australia's GDP will be shifted from labour income into the areas of profit and rents. The TPP-11 will cement the downward trend in the share Australian workers receive in the economy. Australia has already experienced one of the most dramatic declines in wage to GDP share from a high of 63% in 1974 to 52% in 2015.<sup>30</sup> It is clear that, should any economic growth result from the TPP-11, it will be monopolised by multinational corporations, not Australian workers and communities.

## **Recommendations**

Trade negotiations should not leave the Australian population surrendering access to affordable medicines, quality public services and sustainable development on the promise of a small economic advantage to a few. Our human right to health, which includes safe and secure work that attracts a living wage, must not be treated as a tradable commodity.

Healthcare provision is a collective societal good and therefore changes to acts, regulations or policies affecting access or healthcare provision must occur through open and democratic processes. Accordingly, the Senate should instigate legislation that requires a public "whole of government" assessment of all free trade deals so that the impact on essential public services is transparent. This process must include independent and transparent, human rights, economic, and health impact assessments of the entire agreement / treaty.

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<sup>28</sup> <http://pubdocs.worldbank.org/en/847071452034669879/Global-Economic-Prospects-January-2016-Implications-Trans-Pacific-Partnership-Agreement.pdf>

<sup>29</sup> Capaldo J, Izurieta A, Sundaram J K, 'Trading down: Unemployment, Inequality and Other Risks of the Trans Pacific Partnership Agreement', Tufts University, USA, January 2016 Accessed via: [http://www.ase.tufts.edu/gdae/policy\\_research/tpp\\_simulations.html](http://www.ase.tufts.edu/gdae/policy_research/tpp_simulations.html)

<sup>30</sup>IMF. Data available at <https://www.theguardian.com/business/grogonomics/2017/aug/15/imf-report-shows-lower-unionisation-leads-to-lower-wages>

Future trade and investment treaties must not be negotiated in secret. Australia should adopt a more democratic approach, making its negotiating positions public and encouraging debate. It is clear that following the negotiation of the Global Agreement on Trades in Services (GATS) process, where negotiations were public, and the public made its views clear, negotiations have become secret, and outside the WTO process. This is an implicit admission that if the public knew what was, and is, being negotiated in our name, the deals would not proceed. This is why the TPP's Atlantic cousins, TTIP and CETA, and TiSA faltered – when even minimal access to information is provided it is clear that the public oppose modern FTAs in the knowledge that they are not in the public's interest.

Australia should be setting new standards in multilateralism by addressing the fundamentally imbalanced global rules that have awarded multinational corporations unprecedented levels of political and economic power and restoring a commitment to equitable and sustainable living.

PSI Oceania calls on the Australian Senate to recognise the obligations our elected representatives have to serve their constituents, as well as the obligations we have as a nation to advance global solidarity and development. Those obligations compel Senators to reject the TPP-11 by voting against the enabling legislation.

Yours Sincerely

**Michael Whaites**  
Oceania Sub-regional Secretary  
Public Services International