

Business  
Council of  
Australia



SUBMISSION

Senate Foreign Affairs, Defence and  
Trade References Committee's  
Inquiry into the Trans-Pacific  
Partnership

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The Business Council of Australia is a forum for the chief executives of Australia's largest companies to promote economic and social progress in the national interest.

## About this submission

This is the Business Council's submission to the Senate Foreign Affairs, Defence and Trade References Committee's inquiry into the Trans-Pacific Partnership.

## Key recommendation

- The Business Council recommends the Senate Foreign Affairs, Defence and Trade References Committee recommend the government ratify the Trans-Pacific Partnership as soon as practicable.

## Overview

The Business Council strongly supports trade and investment liberalisation. Open markets deliver material benefits to consumers through greater competition and access to a greater variety of goods and services. Access to new markets provides our exporters with opportunities for expansion.

The Business Council welcomes the completion of the Trans-Pacific Partnership (TPP). The agreement represents a significant opportunity for business and will strengthen Australia's economy while generating new jobs and opportunity.

Global supply chains underpin the global economy. Reducing barriers and costs across the global value chain will improve the ability of businesses to trade internationally. Businesses face a range of regulatory barriers that slow down processing and delivery.

The TPP addresses these through a range of commitments to ensure that over 40 per cent of the global economy is operating under consistent, harmonised rules.

## Building on existing strengths

The TPP builds on Australia's commercial relationships with eleven of its most strategic trading partnerships as well as on strong trading relationships with many TPP countries. The agreement is underpinned by FTA arrangements with Brunei Darussalam, Chile, Japan, Malaysia, New Zealand, Singapore, the United States and Vietnam.

The TPP establishes an open framework for a regional agreement that can add more countries in the future. New countries can accede to the agreement and receive market access to 40 per cent of the world's economy in return for lower non-trade barriers and deregulation.

Just as China acceded to the WTO, the objective is that other major economies in the Asia Pacific, such as South Korea, Indonesia, Thailand, the Philippines, Taiwan, and eventually China, join the agreement because it is in their economic interest.

Australia – which already has low tariff barriers – will benefit from the agreement, because we are an establishing member of the agreement. Seventy per cent of our exports currently flow to TPP countries.

World Bank modelling found that as a result of the TPP Australia's GDP would increase by 0.7 per cent by 2030, and exports would increase by 5 per cent. The Peterson Institute's modelling estimated that the TPP will lead to a US\$15 billion permanent increase in Australia's real GDP.

These gains can only result from maintaining a trade posture that is open and liberalised.

### **TPP benefits business and consumers**

The TPP will help secure strong continued growth and benefit Australian businesses and consumers by:

- reducing or removing tariffs, making our goods' exports more competitive in the key overseas export markets. The TPP will eliminate more than 98 per cent of tariffs in the TPP region. Tariffs on US\$9 billion of Australia's dutiable exports to TPP countries will be eliminated
- eliminating tariffs on goods imported from key import markets, benefiting Australian consumers and businesses using imported inputs
- securing or improving access for Australian services providers to 11 overseas markets of the United States, Japan, Malaysia, Vietnam, Singapore, Brunei, New Zealand, Canada, Mexico, Chile and Peru
- As a regional agreement, the TPP will create additional and longer-term benefits for consumers and businesses that are not possible to achieve under a bilateral FTA. Even though Australia has relatively low tariffs, products created through a global value chain are taxed at the borders over which they pass before they enter Australia. Under the TPP, producers will be able to use inputs from any of the 12 participating countries and trade the good under the TPP's preferential trading arrangements. This means lower tariff rates on inputs as well as the final product.
- The TPP will create new investment opportunities and provide a more predictable and transparent regulatory environment for investment. It will liberalise review thresholds on non-sensitive investment proposals from private companies, encouraging new investment into Australia.

### **The TPP will improve the conduct of trade**

The TPP includes additional commitments that will lower the cost of trade by simplifying regulations and procedures.

The agreement will deliver more transparent and efficient customs procedures making it easier for Australian companies to export and do business in the region. TPP Parties, for example, will be required to provide advance rulings on:

- the tariff classification of a good
- how it should be valued
- whether a good is originating from within a TPP country, and
- how to claim preference.

These obligations on the government provide exporters, particularly small exporters, greater certainty on how they can better utilise and benefit from the agreement.

The TPP will establish a single regional rules of origin and a single set of documentary procedures for products traded under the TPP. These arrangements will support the development of regional supply chains by encouraging global multinationals to establish operations within TPP countries. This will permit inputs used in the production of a good from one TPP country to be treated as the same as inputs from any other TPP country when producing the good.

One of the key reasons for the low utilisation of agreements such as the ASEAN–Australia–New Zealand Free Trade Agreement is overlapping and sometimes confusing rules of origin. This complexity has discouraged many exporters from claiming tariff reductions under the FTA. The TPP has one set of rules of origin that applies across all parties. These arrangements will also allow businesses to save on administrative costs and allow them to trade under the one set of rules, rather than under existing multiple bilateral FTAs.

The TPP has mechanisms to address non-tariff barriers (NTBs) impeding trade, which will give Australia an important avenue to address NTBs affecting exports in the region. The TPP will enhance transparency, cooperation and promote good practice with regard to establishment and maintenance of technical regulations. A better understanding of each party's regulatory systems will improve public safety and benefit Australian consumers.

The TPP will simplify rules and technical requirements for some products, including wine and spirits. For example, the Australian wine industry will be able to use the same label on bottles of wine for export to all TPP countries, saving money on marketing, labelling and distribution costs.

### **The ISDS has appropriate safeguards**

Under the TPP, Australian investors will be able to use the Investor-State Dispute Settlement (ISDS) mechanism to protect their investments from discriminatory treatment overseas. This creates investment certainty and is critical for encouraging investment overseas.

With significantly greater market access provided to Australian companies under the services chapter of the agreement, the ISDS chapter is important to potential investments as it protects investors against arbitrary government decisions.

Specifically, an ISDS claim under TPP can only be made on the basis of a breach of a party's obligation in relation to expropriation, non-discrimination and minimum standards of treatment (such as protection against denial of justice).

It is important to note that the TPP's ISDS provisions do not protect an investor from a mere loss of profits following a change in government policy or regulation. ISDS also does not prevent the Australian Government from changing its policies or regulating in the public interest. It also does not freeze existing policy settings. Investors cannot mount a case against the government merely because an investor does not agree with a new policy or that a policy adversely affects its profits.

In addition, an ISDS claim cannot be based on decisions separate from commitments made in the TPP. For example, decisions on investment proposals, such as those

considered by Australia's Foreign Investment Review Board, or the Pharmaceutical Benefits Scheme.

The ISDS text will not prevent either government from regulating in the public interest. Explicit safeguards are included to re-affirm the right of governments to take decisions in the public interest, including explicit caveats covering areas such as health and the environment.

### **Expeditious implementation is critical to securing the benefits**

Exporters' ability to benefit from lower tariffs is dependent on timely implementation of the agreement. The TPP should be ratified as soon as practicable as it is unambiguously in Australia's national interest.

#### **Key recommendation**

The Business Council recommends the Senate Foreign Affairs, Defence and Trade References Committee recommend the government ratify the Trans-Pacific Partnership as soon as practicable, as it is in Australia's national interest.