

10 September 2018



Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
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Parliament House  
Canberra ACT 2600

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Dear Madam/Sir

**UnionsWA submission to inquiry into bills to amend the *Customs Act 1901* and the *Customs Tariff Act 1995* to implement the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (the TPP-11)**

UnionsWA is the governing peak body of the trade union movement in Western Australia, and the Western Australian Branch of the Australian Council of Trade Unions (ACTU).

On 18 April 2018, UnionsWA made a submission to the Joint Standing Committee on Treaties inquiry into the proposed Comprehensive and Progressive Agreement for Trans-Pacific Partnership (TPP-11).

Please find attached a copy of that submission, which we ask the Legal and Constitutional Affairs Legislation Committee to consider in its inquiry into 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*.

Please contact me on \_\_\_\_\_ or \_\_\_\_\_ if you would like to discuss matters further.

Yours sincerely

**Meredith Hammat**

**Secretary**

18 April 2018



Committee Secretary  
Joint Standing Committee on Treaties  
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Dear Madam/Sir

**UnionsWA submission to inquiry into the Proposed Comprehensive and Progressive Agreement for Trans-Pacific Partnership (TPP-11)**

UnionsWA is the governing peak body of the trade union movement in Western Australia, and the Western Australian Branch of the Australian Council of Trade Unions (ACTU). As a peak body we are dedicated to strengthening WA unions through co-operation and co-ordination on campaigning and common industrial matters. UnionsWA represents around 30 affiliate unions, who in turn represent approximately 140,000 Western Australian workers.

UnionsWA thanks the Committee for the opportunity to make a submission to the inquiry into the proposed TPP-11 Agreement. We endorse the concerns raised by both the Australian Council of Trade Unions (ACTU) and the Australian Fair Trade and Investment Network (AFTINET).

As UnionsWA has argued in previous submissions on earlier versions of the TPP, unions have a broad responsibility to safeguard Australian jobs, preserve the ability of current and future Australian governments to regulate in the public interest, and ensure that trade agreements are subject to proper public scrutiny. Accordingly we argue that trade agreements should not just be 'rubberstamped' by Parliament after they have been signed off by the Executive arm of government. Despite its name change, the TPP-11 still has 30 chapters and 6000 pages of legally binding rules which suit global corporations but mostly restrain future governments from regulating in the public interest.

Economist and professor at the Harvard Kennedy School, Dani Rodrik, has made the point that Trade agreements can undermine democratic principles even if they are '*negotiated and accepted by a democratically elected government*'. He argued that

*... there are many ways in which globalization actually harms rather than enhances the quality of democratic deliberation. For example, preferential or multilateral trade agreements are often simply voted up or down in national parliaments with little discussion, simply because they are international agreements. Globalization-enhancing global rules and democracy-enhancing global rules may have some overlap; but they are not one and the same thing.*

Rodrik argues that, while a government might legitimately want to make a long term commitment to certain trade arrangements, it is not legitimate to enter agreements that will 'tie the hands of its opponents' e.g. future elected governments.

*From an ex-ante welfare standpoint, this strategy has much less to recommend itself. The future government may have better or worse ideas about government policy, and it is not clear that restricting its policy space is a win-win outcome. This kind of external discipline has much less democratic legitimacy because ... it privileges one set of interests against others.<sup>1</sup>*

Unions support a strong, diverse and non-discriminatory immigration program, with a clear preference for its operating primarily through permanent migration in which workers enter Australia independently. UnionsWA has repeatedly pointed out that a matter of critical importance for Australian workers is the ongoing commitment that they will have first access to Australian jobs, through a labour market testing obligation on employers to provide evidence they have made all genuine efforts to find a suitable Australian worker before they employ a temporary overseas worker.

Accordingly, we share the concerns of the ACTU that the Federal government appears to have committed to removing labour market testing in the TPP-11. As the ACTU says in its submission:

*While the TPP does not have a catch-all, CHAFTA-style provision that expressly prohibits countries from imposing labour market testing, one of the main causes for concern is that Australia's commitments to other TPP countries on temporary entry, as outlined in annex 12-A of the TPP, do not specify labour market testing as a condition or limitation on temporary entry in Australia.*

The most recent *Quarterly Economic Commentary* from the Bankwest Curtin Economics Centre (March 2018) has found that:

*The WA labour market continues to fight against the downturn it has experienced in the last few years, with an ongoing battle ensuing to bring full-time employment in line with, or at least closer to, the national average. Over the last 12 months, full-time employment increased by only 0.8% in the State, while nationally, growth was more than three times as fast, at 3.6%. In the meantime, part-time work is doing most of the heavy lifting for the State's labour market, growing by 5.7% in the year to February 2018 – double the national rate.<sup>2</sup>*

Given this situation, weakening labour market testing and other protections would be a serious blow to those Australians seeking employment or more hours. However the Federal government has a track record of claiming that labour market testing will be preserved in Trade agreements, only for that to turn out to be not the case.

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<sup>1</sup> Dani Rodrik, 'How to tell apart trade agreements that undermine democratic principles from those that don't' (22 October 2016) [http://rodrik.typepad.com/dani\\_rodriks\\_weblog/2016/10/how-to-tell-apart-trade-agreements-that-undermine-democratic-principles-from-those-that-dont.html](http://rodrik.typepad.com/dani_rodriks_weblog/2016/10/how-to-tell-apart-trade-agreements-that-undermine-democratic-principles-from-those-that-dont.html)

<sup>2</sup> BCEC *Quarterly Economic Commentary* (March 2018) <http://bcec.edu.au/assets/BCEC-Quarterly-Economic-Commentary-March-2018.pdf>

UnionsWA and its affiliates thank the Joint Standing Committee for the opportunity to make this submission. Please contact me on \_\_\_\_\_ or \_\_\_\_\_ if you would like to discuss matters further.

Yours sincerely

**Meredith Hammat**

**Secretary**