

NOTIFICATION BY AUSTRALIA

Pursuant to Article 29.5 of the *Trans-Pacific Partnership Agreement*, signed on 4 February 2016, in Auckland, New Zealand, which is incorporated, by reference, into and made part of the *Comprehensive and Progressive Agreement for Trans-Pacific Partnership* (the Agreement) *mutatis mutandis*, signed in Santiago, Chile on 8 March 2018, Australia hereby elects to deny the benefits of Section B (Investor-State Dispute Settlement) of Chapter 9 (Investment) of the Agreement with respect to any claim in relation to its tobacco control measures. Accordingly, no claim can be submitted to arbitration under the Agreement's investor-state dispute settlement mechanism in respect of any tobacco control measure of Australia.

[EXCERPT OF RELEVANT PROVISION]

CHAPTER 29 EXCEPTIONS AND GENERAL PROVISIONS

Section A: Exceptions

Article 29.5: Tobacco Control Measures¹²

A Party may elect to deny the benefits of Section B of Chapter 9 (Investment) with respect to claims challenging a tobacco control measure¹³ of the Party. Such a claim shall not be submitted to arbitration under Section B of Chapter 9 (Investment) if a Party has made such an election. If a Party has not elected to deny benefits with respect to such claims by the time of the submission of such a claim to arbitration under Section B of Chapter 9 (Investment), a Party may elect to deny benefits during the proceedings. For greater certainty, if a Party elects to deny benefits with respect to such claims, any such claim shall be dismissed.

¹² For greater certainty, this Article does not prejudice: (i) the operation of Article 9.14 (Denial of Benefits); or (ii) a Party's rights under Chapter 28 (Dispute Settlement) in relation to a tobacco control measure.

¹³ A tobacco control measure means a measure of a Party related to the production or consumption of manufactured tobacco products (including products made or derived from tobacco), their distribution, labelling, packaging, advertising, marketing, promotion, sale, purchase, or use, as well as enforcement measures, such as inspection, recordkeeping, and reporting requirements. For greater certainty, a measure with respect to tobacco leaf that is not in the possession of a manufacturer of tobacco products or that is not part of a manufactured tobacco product is not a tobacco control measure.]