

Trans-Pacific Partnership Agreement

Frequently Asked Questions

About TPP

1. Why do we need another Free Trade Agreement (FTA)?

Our existing FTAs have brought more money into our economy and have helped to create jobs by increasing Australia's trade and investment flows. As a region-wide free trade agreement, the proposed Trans-Pacific Partnership (TPP) Agreement has a potential to deliver even more than any of our existing bilateral FTAs. It will promote trade liberalisation throughout the region and advance the Asia-Pacific Economic Cooperation (APEC) vision of an economically integrated Asia-Pacific community.

Over 70 per cent of Australia's total trade in 2011 was in the Asia-Pacific region, and our trade with TPP countries accounted for over 20 per cent of our total trade. At the moment, the TPP encompasses eleven Asia-Pacific countries, which together represent a trading area of 658 million people and GDP worth nearly USD \$21 trillion. These are: Australia, Brunei, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States and Vietnam.

The TPP can boost Australia's trade with TPP members by improving access and opening up new markets for Australian producers and businesses, including small and medium-sized enterprises. It will cover more items than any of our existing FTAs. The TPP also provides a framework for discussing changes in the business environment and emerging trade issues including financial services, investment and e-commerce, and for engaging with countries with which we do not have an existing FTA, like Canada, Mexico and Peru.

On transparency

2. Why is the TPP negotiation held in secret, and why isn't the Government releasing the negotiating texts?

The countries in the TPP negotiations have agreed to keep the negotiating documents confidential. This is normal practice in international trade negotiations. In the case of the TPP, this confidentiality safeguards our negotiating positions and strategies,

which cover sensitive national interests in relation to market access and Australia's trade and commerce more broadly.

Even if it were possible to release negotiating texts, these texts would be potentially misleading. Countries often put ambitious claims in the negotiating text, pitching for a better result than they actually anticipate. The language, and the parties' obligations, evolve as negotiation rounds progress. Initial claims are scaled back gradually over the course of many negotiating rounds until all parties reach their final positions, delivering text that all parties can agree to. The difference between early works-in-progress texts and the final text can be vast. The text has no status until all parties have agreed to it.

The Government holds regular public consultations and individual stakeholder meetings to seek input from the community, and to provide updates on TPP negotiations. TPP negotiators also hold meetings with stakeholders and interested members of the public during negotiating rounds, to talk about progress in the negotiations. The Department of Foreign Affairs and Trade (DFAT) posts progress reports on the DFAT website at the end of each negotiating round.

The TPP agreement must go through the same democratic processes as other treaties that the Australian Government considers. Once the parties agree on the final text of the TPP agreement, the Government will make the agreement available publicly and open to scrutiny before the Parliament considers passing it into law. After Ministers table the final TPP text in the Parliament, the Parliament's Joint Standing Committee on Treaties will coordinate a public review of the agreement. The Committee can then invite submissions and evidence at public hearings, to help determine whether it should recommend to Parliament that the TPP be ratified. More information on the treaty making process can be found on the DFAT website (<http://www.dfat.gov.au/treaties/making/index.html>).

3. Why isn't the Government consulting more widely with stakeholders?

The Government consults regularly with stakeholders. The Department of Foreign Affairs and Trade (DFAT) holds stakeholder meetings that we advertise on the DFAT website in advance (<http://www.dfat.gov.au/fta/tpp/>). Most consultations with stakeholders are on an individual basis and are ongoing. TPP negotiators also hold meetings with stakeholders and interested members of the public during negotiating rounds, to talk about progress in the negotiations.

The Government's objective in the TPP negotiations is to deliver an outcome which is good for Australians. Hearing from the community is very useful to the Government in developing our negotiating positions. Any stakeholder who would like to be involved should contact the Office of Trade Negotiations in DFAT, and/or send a submission outlining their TPP-related concerns to tpp@dfat.gov.au.

4. Are corporations negotiating the TPP negotiations?

No. Corporations do not negotiate the TPP. The Government does not share negotiating texts with corporations, or anyone else. Corporations, along with industry groups, non-government organisations and the wider community, are stakeholders in the TPP negotiations. The Government has engaged with corporate stakeholders in the same way it has engaged with all other stakeholders: through individual consultations at request, and regular stakeholder consultation meetings held in public.

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On Investor-State Dispute Settlement provisions

~~13~~14. How will the Government treat “Investor-State Dispute Settlement” provisions in the TPP?

The Government will not negotiate Investor-State Dispute Settlement (ISDS) provisions in the context of the TPP. ISDS provisions are designed to give investors a right to initiate dispute settlement proceedings against foreign governments before an international panel.

The Government will not support any new provisions in free trade agreements that would give greater legal rights to foreign businesses than those available to domestic businesses. Australian negotiators have made clear that any ISDS provisions agreed by other parties in the TPP agreement will not apply to Australia or Australian investors.

The continued strong growth of inward investment into Australia, including primarily from countries that do not have ISDS commitments with Australia, provides evidence of foreign investors’ confidence in Australia’s stable investment environment and domestic legal system. This means that Australia does not need ISDS provisions to remain an attractive place for others to invest.

Australian businesses investing overseas, will be able to pursue TPP investment obligations through diplomatic representations or a state-to-state dispute settlement framework.

On labour and environment protection

~~14~~15. What is the Government’s position on labour and environment clauses in the TPP?

Australia supports the inclusion of labour and environment provisions in the TPP. We want to look at how trade can help address environmental challenges, such as liberalising trade in environmental goods and services. We are committed to an outcome that reaffirms the International Labor Organisation's core labour standards. However, these provisions should not be disguised barriers to trade. The Government

also believes that such provisions should not constrain the Commonwealth's regulation of social, environmental and other matters in the public interest.