



## Submission to the Joint Standing Committee on Treaties Inquiry into the Comprehensive and Progressive Trans-Pacific Partnership

The Export Council of Australia (ECA) welcomes the opportunity to make a submission to the Joint Standing Committee on Treaties' (the Committee's) Inquiry into the Comprehensive and Progressive Trans-Pacific Partnership (TPP-11, or 'the Agreement').

The ECA is the leading industry body focused on Australia's international businesses, particularly small to medium-sized enterprises (SMEs). Our core activities include research, advocacy, skills development and events.

Our advocacy program aims to make it simpler and cheaper for SMEs to engage in international business. To pursue this aim, each year we make trade policy recommendations to the Australian Government. We also make submissions to relevant Parliamentary inquiries. Our recommendations and submissions can be found at <https://www.export.org.au/trade-policy/trade-policy-recommendations>. Our submission to JSCOT's inquiry into the original TPP (TPP-12) can be found at <https://www.export.org.au/publications/jscot-inquiry-into-the-trans-pacific-partnership-agreement>.

We also collaborate with a number of government agencies—Commonwealth, state and territory—to advocate for our members and support SMEs. Projects include a FTA Training Provider Grant to help Australian SMEs better utilise KAFTA, and a research project on Mexico in partnership with Austrade. We sit on several Australian Government consultative committees and working groups, including the National Committee for Trade Facilitation.

### Summary

The ECA strongly supports the TPP-11 because it is a very beneficial agreement for Australia. It opens up new markets for Australian businesses and gives better access to existing free trade agreement (FTA) partner markets. It facilitates business across TPP-11 parties by making it easier to move goods and people, and manage services, data and investment. It gives Australia a major role in driving the next generation of trade rules.

By contrast, there are costs to not ratifying the TPP-11. The choice Parliament faces is not whether or not the TPP-11 should go ahead, it is whether the Agreement should include Australia or not. If it goes ahead without Australia, Australia's competitors would gain advantages from the Agreement and Australia would be worse off as a result. With a history of bipartisan support, not ratifying the TPP-11 would also damage Australia's reputation and its credibility as a negotiating partner.

The Australian Parliament should quickly ratify the TPP-11. Doing so will allow Australian businesses time to get ready for the Agreement to enter into force. Parliament should not wait on additional modelling before ratifying, as there is sufficient existing modelling from internationally-respected organisations that find that the TPP-11 will increase Australia's GDP.

The TPP-11 contains novel provisions and raises new considerations that many businesses would not have faced when previously using an FTA. It is important that the Australian Government commits sufficient resources to help businesses understand how the Agreement will benefit them.

We urge the Australian Parliament to quickly ratify the TPP-11.



## Recommendations

The ECA recommends the Committee:

1. note the benefits of the TPP-11 to the Australian economy
2. note the costs to Australia if it is not a party to the TPP-11
3. recommend that the Australian Parliament ratify the TPP-11 as early as possible
4. recommend that the Australian Government put in place an education program to help businesses understand how to maximize the benefits of the TPP-11.

## The benefits of joining the TPP-11

The ECA sees multilateral trade liberalisation through the World Trade Organisation (WTO) as the best outcome for Australia. However, in the absence of any large-scale progress in trade liberalisation through the WTO, we see plurilateral or regional trade agreements, such as the TPP-11, as the next best option. We also support the government pursuing high-quality FTAs with priority markets.

The TPP-11 is a good deal for Australia. In 2017, the internationally-respected Peterson Institute for International Economics (PIIE) modelled the TPP-11. The PIIE found the TPP-11 would increase Australia's GDP by \$18 billion (or 0.5%) by 2030<sup>i</sup>. The Department of Foreign Affairs and Trade's National Interest Analysis found that

*The TPP-11 Agreement will significantly enhance Australia's economic relationships in the region: supporting more seamless preferential supply chains; opening new market access opportunities in those countries with which Australia already has FTAs; and establishing new, high quality FTAs with Mexico and Canada. These gains exceed anything that could be generated from other current multilateral or plurilateral negotiations.<sup>ii</sup>*

The TPP-11 benefits Australia in three ways: it opens up markets, facilitates business between markets, and puts Australia in a leading position to shape the next generation of trade rules.

### Opening markets for Australia

The TPP-11 enables significant market access for Australian companies.

It allows Australian businesses, for the first time, to access preferential tariffs and some service sectors in Mexico and Canada. It gives better access to some markets with which Australia already has FTAs. This includes lower tariff for some Australian goods into Japan, and new access to some services sectors, particularly in Malaysia and Vietnam.

In addition to new market access, the TPP-11 also guarantees access for many services sectors in several markets. It also locks in tariff rates in instances where actual tariffs that countries impose are lower than their WTO tariff commitments. The importance Australian businesses place on these guarantees of market access should not be underestimated; for example, one of the ECA's larger members has a policy of only exporting to markets with which Australia has an FTA.

ECA members have also highlighted the indirect benefits to Australian businesses that can flow from FTAs. For example, after the Korea-Australia FTA entered into force, a fruit exporter to Korea saw higher volumes because of lower tariffs, which was expected. But what was not anticipated was that these higher volumes meant the exporter could negotiate lower freight and logistics costs. This meant that not only did the exporter enjoy increased sales, but also increased margins on those sales. For services exporters, the increased business that flows from an FTA can lead to opportunities even in sectors which



didn't have major 'wins' from an FTA. An example of this would be where the increased trade and investment from an FTA prompts a law firm to establish offices in the partner market.

### *Facilitating business*

Just as important as market access and preferential tariffs are the provisions that make it easier to do business across TPP-11 parties.

The TPP-11 makes it easier for people, data and investment to flow between the parties, greatly reducing some major obstacles for Australian businesses operating internationally, particularly in services sectors. The TPP-11 will ensure Australian businesses can provide a better level of services to their clients (either through temporary travel or sending people to establish offices). It will allow businesses to host data from TPP-11 parties on one secure server. It will protect the international offices Australian businesses from discriminatory treatment and ensure they can return their profits to Australia.

More countries involved means it is easier for Australian goods exporters to comply with the Agreement's 'rules of origin'. Rules of origin are the tests that determine whether there is sufficient value created in the FTA partners to qualify a good for preferential tariffs under an FTA.

This is particularly important when it comes to trade that occurs within value chains. In value chains, intermediate goods can move across borders multiple times. Tariffs, and documentation and logistics costs compound. Because value is created across multiple countries, value chains often do not meet the 'rules of origin' for eligibility for bilateral FTAs. With 11 parties involved, it is easier for value chains to accumulate enough value added within member countries to satisfy the TPP-11's rules of origin. The trade facilitation provisions in the Agreement mean it is cheaper for goods to move along the value chain.

Take a very simple example where inputs are sourced from Vietnam, go through value-added processing in Australia, then the final products are sold in Japan. In this case it might be hard for the Australian exporter to comply with the conditions for accessing lower tariffs under Australia's with Japan, but they would be eligible for preferential tariffs under the TPP-11.

The TPP-11 puts in place several other trade facilitating measures that will help Australian exporters reduce the burden of complying with customs and regulatory processes. These include:

- TPP-11 parties being required to provide advance rulings on the tariff classification of a good, how it should be valued, whether it meets the rules of origin, and how to claim a tariff preference
- one set of rules of origin and one set of documentary procedures for all products traded across all TPP-11 parties
- duty-free temporary admission of pallets and containers
- mechanisms to address non-tariff measures that impede trade
- simplified rules and technical requirements to export some goods across all TPP-11 parties, such as a standard label that will meet labeling requirements for wine in all TPP members.

The TPP-11 also contains a chapter dedicated to helping SMEs access the benefits of the agreement. This includes provisions to help SMEs utilise the agreement, such as mandating websites to provide user-friendly information on the Agreement. It includes measures to make supplying to governments easier, including the Australian Government. Importantly, it also includes measures to foster SMEs in international business, including cooperations between parties to develop programs aimed at facilitating SME participation in global value chains.



### *Shaping the rules of international trade*

The TPP-11 gives Australia an opportunity to help shape the international trading system.

The TPP-11 sets the benchmark for trade agreements internationally, for example including new, high-quality provisions in areas such as data storage and trade facilitation. The TPP-11's implementation and review committees will enable the Agreement to evolve over time, allowing it to include innovations that will facilitate other aspects of international trade. It is highly likely that the Agreement's provisions will be replicated in other FTAs, and not just those involving TPP-11 members.

Given Australia has played a pivotal role in resurrecting the Agreement after the US withdrew, it is rightly viewed as one of the leaders of the agreement. It is also one of the largest economies in the Agreement, giving it additional negotiating clout. This means that by participating in the Agreement, Australia is able to shape current and future TPP-11 provisions in ways that are consistent with Australia's interests.

Australia can also push TPP-11 parties to allow in additional parties. This would increase both the benefit of the Agreement to Australia's economy, and its impact on the international trading system. Already South Korea, Indonesia, Thailand, the Philippines and even the United Kingdom have expressed interest in joining the TPP-11. The United States is interested in re-joining. Each new member enables an opportunity to shape new rules, as well as improve traditional market access provisions.

### **The costs of not joining the TPP-11**

The Committee must be clear on the choice available to the Australian Parliament.

For a bilateral FTA, if Parliament chose to not ratify a bilateral agreement, the agreement would not go ahead and the status quo would remain. That is not the case with the TPP-11.

If the Parliament chooses not to ratify the Agreement, it would still likely go ahead with ten members that account for around 14% of world trade. Australian businesses would lose out to competitors in the countries that were still party to the Agreement.

Take, for example, Australian exporters of food and agriculture that currently enjoy competitive advantages in their exports to Japan (because of the Japan Australia Economic Partnership Agreement). If Australia did not ratify the Agreement, competitors from Canada and New Zealand would enjoy better tariff advantages to Japan. Australian exports would be more expensive and lose market share.

Less obvious, but no less important, would be the opportunity cost for businesses involved in services and value chains. Services businesses would not be able to grow in many TPP-11 markets because they lack the market access (like mining or gas services in Mexico), or the restrictions around moving data or people would be too high. Australian companies would miss out on opportunities to be part of regional value chains because the tariff and other trade transaction costs of moving goods into and out of Australia will be too high.

Without Australia, the Agreement would still be an attractive proposition for potential new members. Each new member would increase the cost to Australia of being outside it.

There would also be costs to Australia's credibility as a negotiating partner. For the first five years of negotiations, Australia was led by a Labor Government. For the second five years, it was led by a Coalition Government. Governments of both persuasions were committed to an outcome that would grow Australia's economic prosperity through international trade. This is what the TPP-11 delivers. It is important to Australia's credibility as a negotiating partner that the Parliament reflects this bipartisan



support for the Agreement. The failure to do so will make other countries think twice about entering future FTA negotiations with Australia.

## The need to ratify quickly

It is important for the Australian Parliament to ratify the TPP-11 as soon as practicable.

### *Timing for ratification*

The TPP-11 will enter into force 60 days after half (six) of the parties have completed their applicable legal procedures.

Under the TPP-11, there will be a round of tariff reductions for most goods on the date it comes into force (many tariffs will fall to zero). In order to maximise Australia's advantage over its competitors, the Australian Parliament should seek to enable the TPP-11 to come into force as early as possible. Mexico has already ratified the Agreement, and there is the chance it could enter into force before the end of the year. This would result in two tariff cuts in quick succession, the first on entry into force, the second on 1 January 2019.

In addition, until the Agreement is ratified, Australian businesses must factor in the risk that Parliament will not ratify it at all. Allowing businesses more time to prepare for the Agreement's entry into force (and give the government more time to explain it) is another reason the Parliament should seek to ratify the Agreement as early as possible.

### *The need to model the agreement*

As mentioned above, the PIIE found the TPP-11 would increase Australia's GDP by \$18 billion (or 0.5%) by 2030. Several other models of the TPP-11 have also found it will boost Australia's GDP<sup>iii</sup>.

Modelling of this type must make complex assumptions to incorporate other aspects of the TPP-11, such as streamlined customs processes, services access, investor-state dispute settlement, intellectual property, rules to govern data localisation requirements and movement of people (to name a few). In addition, the trade facilitating benefits of the TPP-11, and its impact on value chains are hard to measure (far from being able to model value chains, statisticians only relatively recently worked out a methodology to measure them).

So, while additional modelling might find a different outcome to the models already published, any modelling must be seen as a guide rather than a definitive answer. The inevitable differences between models will reflect different assumptions. Any interested party will be able to either view the model as evidence for their position or challenge it on the basis of different assumptions.

The ECA supports the principle of assessing FTAs for their economic value. But the TPP-11 has already been modelled by a number of independent parties, and more modelling will not result in a definitive answer. There is no need for Parliament to wait for even more modelling before ratifying the Agreement.

## The importance of helping businesses understand the TPP-11

The TPP-11 is the most economically important FTA Australia has completed. It is also the most advanced, covering provisions addressing barriers to trade other agreements do not. It is essential to get businesses engaged with the TPP-11 well before it comes into force.

The best way to enable Australian businesses to get the most out of the TPP-11 is to encourage more of them into international trade. Between 2006-07 and 2014-15, the proportion of Australian businesses



exporting fell from 9.1% to 7.1%<sup>iv</sup>. This year the ECA's annual trade policy recommendations has made recommendations to help more businesses enter international trade. These recommendations included ways to help get businesses interested in trade, make them as internationally-competitive as possible, and provide them the best support in-market. These recommendations can be found at <https://www.export.org.au/publications/trade-policy-recommendations-5-0-2018>. They should be viewed as complementary to the TPP-11 as a means of enhancing Australia's prosperity through trade.

The ECA supports the TPP-11's provisions aimed at making it easier for SMEs to use the Agreement, including an emphasis on moving to paperless trading, making customs and export delivery more effective and efficient, and user-friendly websites targeted at SMEs to provide easily accessible information about the TPP.

We also see value in the 'FTA roadshows', which Austrade and DFAT are currently running. However these seminars are necessarily high level, and leave the attendees without the detailed knowledge about how to utilise FTAs.

While welcome, these measures are not sufficient to provide applicable businesses with enough knowledge to use the TPP-11. It is essential that the Australian Government commits sufficient resources to educating them about what they are entitled to and how to access their entitlements.

Businesses will need to understand a range of different aspects of the Agreement, including:

- how they should determine which FTA to use when their trading partners have multiple FTAs with Australia (e.g. Australia–Singapore trade could occur under SAFTA, AANZFTA or the TPP-11)
- how to calculate 'rules of origin' under the TPP-11 and other agreements, and how to complete a declaration of origin
- what the TPP-11 services provisions mean, and the processes required to utilise those provisions
- issues around customs classifications and compliance
- the mechanisms the TPP-11 provides to resolve disputes.

While agencies have deep subject matter expertise, they are usually not adequately staffed to roll out a sustained training program. (It is necessary for the training to be available over a long period, because there will be many businesses not ready to take advantage of the Agreement until well after it enters into force.) In addition, agencies have little expertise in providing training and often find it difficult to talk in ways that SMEs can understand.

There would be significant value in government partnering with private sector providers to develop an online training program that was freely available to businesses. This training program could reinforce the content of the FTA roadshow seminars, as well as providing much more detail on the technical questions about using an FTA (including the points above).

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<sup>i</sup> P A Petri, M G Plummer, S Urata and F Zhai, Going it Alone in the Asia-Pacific: Regional Trade Agreements Without the United States, Peterson Institute for International Economics, Working Paper 17-10, 2017. Available at <https://piie.com/system/files/documents/wp17-10.pdf> (accessed 16 April 2018)

<sup>ii</sup> Department of Foreign Affairs and Trade, National Interest Analysis [2018] ATNIA with attachments, para 23, <https://www.aph.gov.au/~media/02%20Parliamentary%20Business/24%20Committees/244%20Joint%20Committees/JSCT/2017%20and%202018/TPP-11/1%20TPP11%20National%20Interest%20Analysis%20NIA%20CLEAN.PDF?la=en> (accessed 27 April 2018)



<sup>iii</sup> For a summary of the different modelling exercises of the TPP-11, see [http://www.minerals.org.au/file\\_upload/files/publications/Why\\_Australia\\_should\\_support\\_a\\_revived\\_TPP\\_March\\_2018\\_FINAL.pdf](http://www.minerals.org.au/file_upload/files/publications/Why_Australia_should_support_a_revived_TPP_March_2018_FINAL.pdf) (accessed 16 April 2018)

<sup>iv</sup> University of Technology Sydney, Australia's International Business Survey 2017, [https://www.austrade.gov.au/ArticleDocuments/5720/2017\\_AIBS\\_report.pdf.aspx](https://www.austrade.gov.au/ArticleDocuments/5720/2017_AIBS_report.pdf.aspx)