

Trans-Pacific Partnership – Highlights



National
Australia
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NAB Group Economics

Key points

- **Earlier this week, Australia agreed to become part of a historic trade agreement, including countries that account for nearly 36% of global GDP and one quarter of global trade.** The Trans-Pacific Partnership (TPP) includes twelve Asia-Pacific countries (Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States and Vietnam).
- **The full details of the TPP are yet to be released, and hence a comprehensive assessment of the benefits/costs to business and the Australian economy is not yet possible.** At this stage, there is little clarity around any concessions made. This document provides a summary of the key measures, reported benefits and what we know so far about contentious issues (largely based on official material).
- From an Australian perspective, **TPP economies accounted for around one-third of our total trade in 2014** (with Japan accounting for almost half this share). In conjunction with the recent stand-alone free trade agreements with China and Korea, over 70% of our 2-way trade will be covered. That said, Australia has had a trade deficit with the TPP region since 2002 – with this deficit totalling \$7.6 billion in 2014 (reflecting the substantial trade deficit with the United States at almost \$22 billion).
- **The agreement aims to reduce trade barriers**, which could provide significant benefits to Australian goods exporters across a range of industries. However, in certain agricultural sectors, such as beef, the agreement will see lower tariffs overall, but less preferential access as tariffs will fall for other beef exporters in the TPP region. Perhaps more importantly, **the TPP will address some of the constraints that have restricted services trade** such as promoting mutual recognition of professional qualifications, faster approval processes for cross-border movements of business people and greater access for professional and technical providers in TPP markets.
- **Greater uniformity and transparency around rules and regulations are key aims and will reportedly reduce costs and red tape for businesses.** These include common standards for intellectual property, labour and environmental laws and a framework for investor-state dispute settlement.
- **The TPP aims to facilitate an increase in investment flows** throughout the region. In 2014, TPP members accounted for almost 40% of the total stock of foreign investment in Australia, along with two-thirds of investment flows into Australia. Investor safeguards could lower risk premiums, particularly for investment in less developed economies.
- **Australia already has free trade agreements in place with 8 out of the 11 TPP partners.** Greater benefit may flow from other countries joining. 5 countries (Colombia, Indonesia, the Philippines, South Korea and Thailand) have already entered negotiations with the original TPP signatories (although Australia already has stand-alone free trade agreements with many of these) and others may seek to join in time.
- **In economic theory, much of the benefit and cost of trade liberalisation stems from lowering domestic trade barriers.** While Australia has already undertaken much of this reform, there is still potential benefit from greater access to foreign markets and the removal of distortions offshore which should improve allocative efficiency and productivity, and better integrate Australia into global supply chains.
- **While negotiations are now complete, the TPP must be ratified by all member states, with areas of contention likely.** The TPP would then come into force 60 days later.

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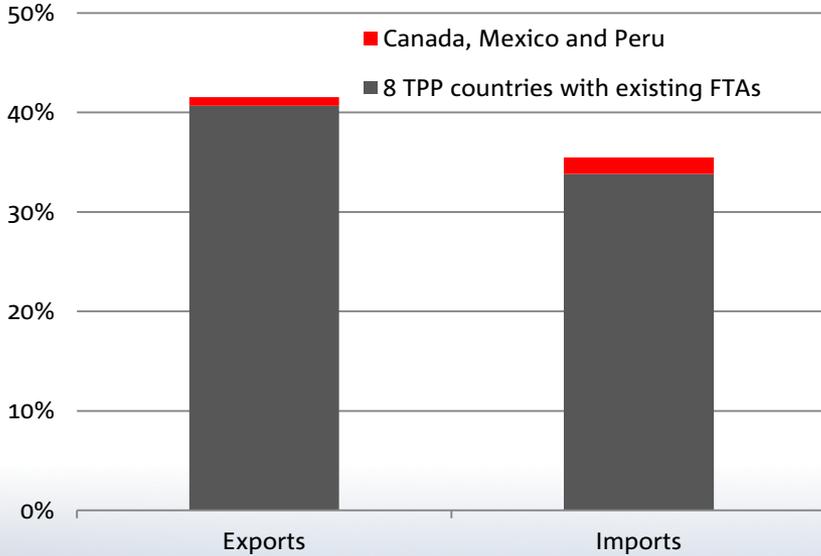
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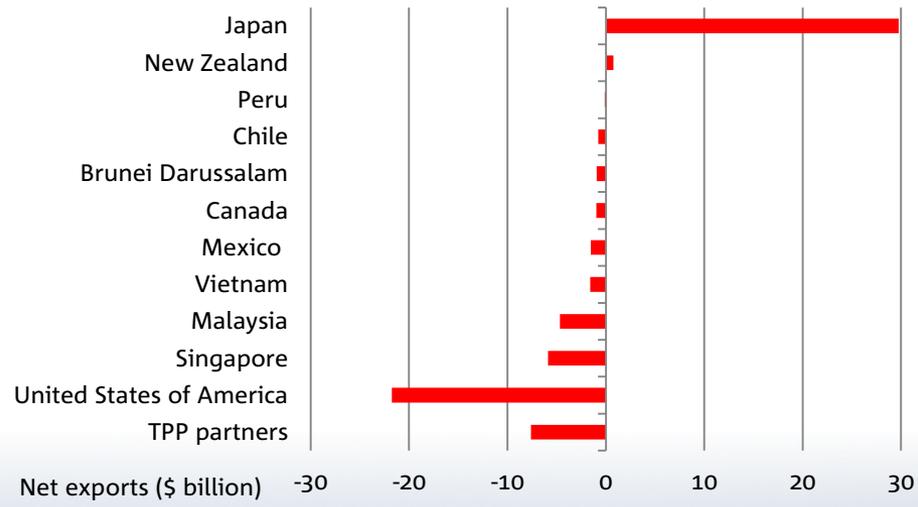
TPP relationships

TPP countries – share of total Australian exports and imports, 2014



Source: ABS, DFAT, NAB Group Economics

Australia has a trade deficit with most TPP members – particularly the United States



Services market access

- **Cross border services trade.** Trade barriers to services exports have tended to be high. The TPP will address some of the restrictions that were traditionally unfavourable towards services exporters: 1) Promoting mutual recognition of professional qualifications (such as for architects and engineers) and best-practice regulations for lawyers; 2) Limiting the number of suppliers requiring foreign entities to set up local representative offices.
- **Financial services.** Australia is hoping to achieve lower barriers faced by financial services exporters, such as foreign equity caps and limits on financial service licences, as well as promoting greater transparency and consultation with industry in the event of a regulatory change, and a more streamlined approval process for new products. Under the TPP, Australian financial service providers will be able to offer a range of financial services on a cross-border basis which include investment advice and portfolio management services to collective investment schemes; and insurance of risks relating to maritime shipping and international commercial aviation and freight.
- **E-commerce.** The TPP encourages cross-border data flows through tariff bans on electronic transmissions. It also prevents discriminatory practices against foreign suppliers through “localisation” requirements. For example, the Australian government will no longer be able to impose requirements on foreign service providers to build data storage centres or use local computing facilities in TPP markets. This raises some concerns that some of the existing Australian health and privacy laws, which stipulate that certain personal and confidential data cannot not be stored and transmitted overseas, could be compromised. Australian investors will also not be required to transfer technology and other forms of intellectual property in order to conduct business in TPP countries. The TPP also includes clauses on personal information and customer protection, as well as “anti-spam” measures.

Other services

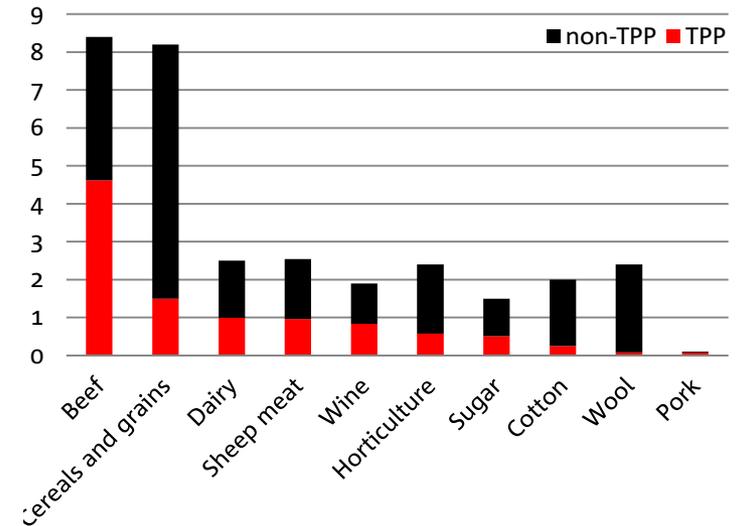
- **Mining.** Australian mining services exporters will have greater access into markets such as Mexico and Vietnam to participate in the exploration, production, processing and refinement of oil and gas. They have also been granted advisory services access into Chile, Peru and Mexico, as well as the ability to compete on a more level playing field with local state-owned enterprises (SOEs).
- **Health.** Australian providers of private and allied health services have been offered commitments from Malaysia, Mexico and Vietnam for more favourable market access and operating conditions in these markets.
- **Education.** Australian universities and vocational institutions will be able to provide education services, including online ones, in existing markets; as well as to establish or expand campuses or institutions in a number of countries, such as Brunei Darussalam, Japan, Malaysia, Mexico, Peru and Vietnam.
- **Professional, technical and other business services.** Australian **legal service** providers have been granted access by a number of countries, such as Canada, Mexico, Malaysia, Brunei and a number of US states, to offer legal advice on contracts governed by Australian, international or third party law on a fly-in, fly-out basis. **Engineers, architects and urban planners** have also been guaranteed market access into Brunei, Canada, Chile, Mexico and Peru.
- **Transport and logistic services.** Malaysia and Vietnam have locked in their investment regimes for freight transport services and aviation (only for Vietnam) and committed to flowing through their future market reforms to Australian providers. Australian suppliers of ground-handling services in airports have been granted market access into Japan.

Agricultural goods market access

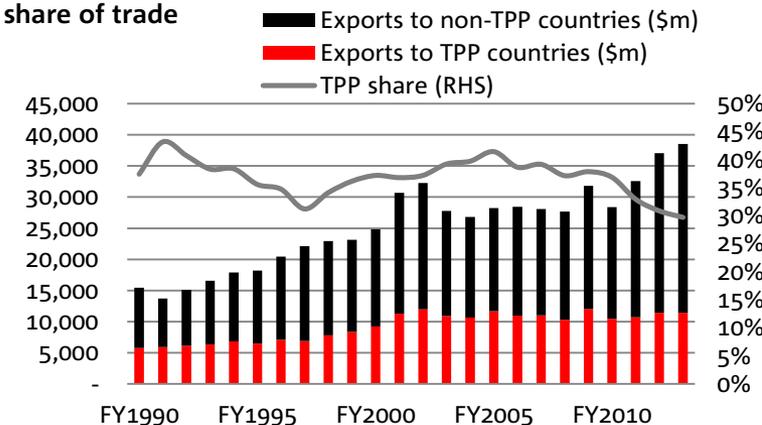
- **The TPP delivers tariff reductions and improved market access** for Australian agricultural products. With TPP countries representing a third of Australian agricultural exports, these benefits are potentially significant. These benefits depend on the trade exposure of a given sector to TPP countries as well as the scope of the tariff and market access changes.
- **Beef** is Australia's biggest agricultural export (valued at \$8.4 in 2014) and over half of Australian beef exports by value are destined for TPP countries, notably the US and Japan. Japan will cut tariffs for beef to 9% over 15 years. This represents a significant reduction over and above recently negotiated Japan-Australia Economic Partnership Agreement (JAEPA). JAEPA cut Japanese tariffs on Australian chilled and frozen beef, but the TPP will see lower tariffs for all agreement nations, improving the relative position of the US and Canada into the Japanese market. Canada and Peru will eliminate all beef tariffs within 10 years, and Mexico will remove tariffs on beef carcasses and cuts within 10 years and 'other offal' upon the TPP entering force. The US will also remove price-based safeguards for Australian beef.
- **Sheep** meat tariffs will be eliminated upfront to all countries except Mexico.
- While Australia's **grains** exports are far less focussed on TPP countries (less than a fifth of the \$8.2 billion total exports in 2014), the TPP delivers tariff reductions and improved market access, particularly for Japan. Japanese wheat and barley mark ups will be reduced by 45% within 10 years, while new quota volumes will be created.
- Japan will create a new 6,000 tonne quota for Australian **rice**, growing to 8,400 tonnes after 12 years. This is first new Japanese quota for Australia since 1995, although access to east Asian rice markets remains highly restricted.
- The TPP will grant an additional 65,000 tonnes to Australia's US **sugar** quota upfront, as well as 23% of future WTO quota allocations. Japan will remove its tariff and lower its high polarity sugar levy, Canada will remove tariffs on refined sugar, Mexico will give Australia 7% of any tariff rate quota and Vietnam will remove in-quota tariffs. While positive, these developments fell short of some industry participants' expectations.
- Almost 40% of Australia's \$2.5 billion **dairy** export industry was destined for TPP countries in 2014. Japan, one of Australia's most important dairy export markets, will lower tariffs and introduce new quotas for certain dairy products. The TPP has not delivered major changes elsewhere, following opposition from the Canadian dairy industry.
- The TPP will remove **wool** and **cotton** tariffs upfront, except for the US, which will phase out cotton tariffs by 2023. However, as most of Australia's fibre trade is with China, these TPP changes are unlikely to see major impacts in the short term. ChAFTA is much more relevant for fibre producers.
- The TPP will also see lower **wine** and **horticulture** tariffs. 45% of Australia's wine exports (of a total of \$1.9 billion in 2014) were destined for TPP countries. The TPP will improve Australian market access in Malaysian, Vietnamese, Peruvian and Canadian wine market, but other wine producers, such as the US, will also see improved access.
- Vietnamese, Peruvian and Canadian **seafood** tariffs will be removed upfront, and those in Japan and Mexico will be eliminated over 15 years.

Further detail will be provided in a separate agribusiness report

Livestock dominates trade with countries in the TPP region (Australian exports, \$billion, 2014)



Agricultural exports to TPP countries have been stable in AUD terms for some time, but represent a falling share of trade



Source: DFAT, NAB Group Economics

Non-agricultural goods market access

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. Australia has tariffs on a wide variety of goods, although some have been extinguished by bilateral FTAs. It is not clear at this stage what Australian import tariffs will be eliminated by the agreement.

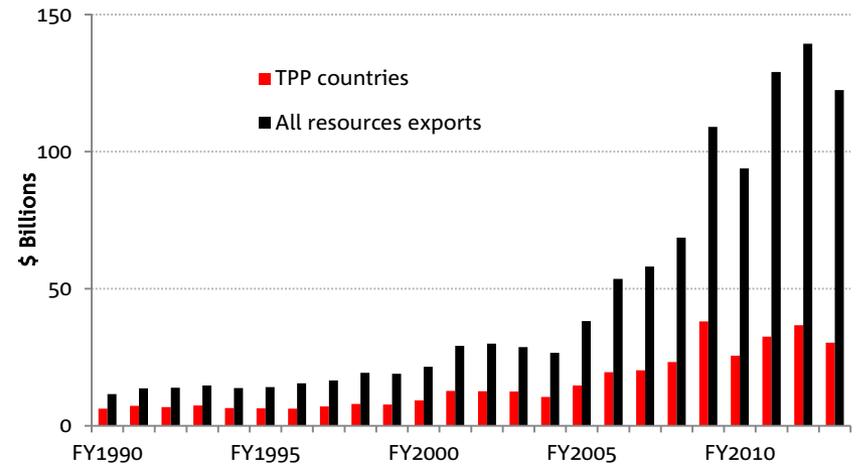
Resources & energy products

- Australia's exports of resources and energy products to TPP countries were worth close to \$47 billion in 2014, representing 30 per cent of Australia's total exports of these products.
- While the majority of Australia's major exports, such as coal, iron ore and LNG already enter TPP countries duty-free, the TPP has secured additional market access including:
 - Immediate elimination of tariffs on iron ore, copper and nickel to Peru;
 - Elimination of tariffs on butanes, propane and LNG to Vietnam over 7 years;
 - Elimination of Vietnam's 20% tariffs on refined petroleum over 10 years.

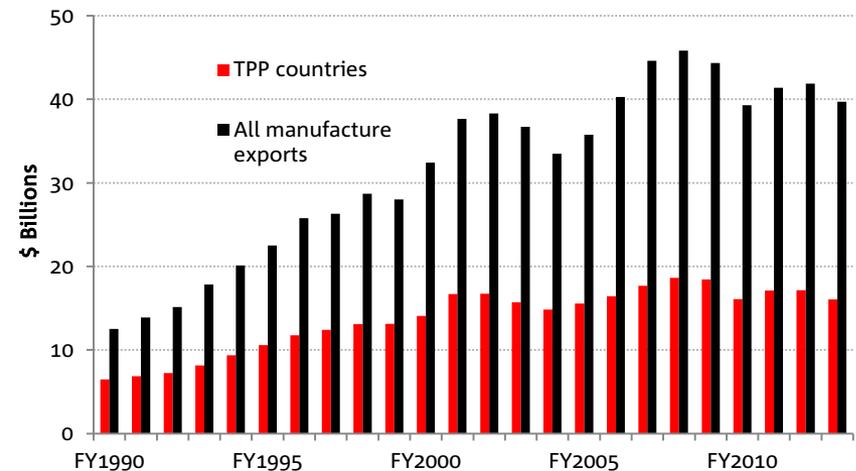
Manufactured goods

- Australia's exports of manufactured goods to TPP countries were worth an estimated \$23 billion in 2014. New market access include:
 - Immediate elimination of tariffs on iron and steel products in Canada and Vietnam within 10 years;
 - Elimination of ship tariffs in Canada over 5 to 10 years;
 - Elimination of tariffs on pharmaceutical, machinery, mechanical and electrical appliances, and automotive parts to Mexico within 10 years;
 - Elimination of duties on paper and paperboard to Peru over 10 years; and
 - Elimination of tariffs on automotive parts to Vietnam over 10 years.
 - Australian businesses will now be able to bid for tenders to supply goods (such as pharmaceutical products, electronic components and supplies) used for government purposes in Brunei Darussalam, Canada, Malaysia, Mexico, Peru and Vietnam.

Resources exports to TPP countries



Exports of manufactured goods to TPP countries



Source: DFAT, NAB Group Economics

Investment

In 2014, TPP members accounted for almost 40% of the total stock of foreign investment in Australia (with the United States being the largest foreign investor, with Japan and Singapore ranking fourth and fifth respectively), along with two-thirds of investment flows. The agreement may provide greater access to capital for Australian firms, as well as presenting opportunities for investment in other TPP economies.

Australian investment abroad

- Reportedly greater access to sectors such as mining and resources, telecommunications and financial services.
- Preferential screening thresholds for investment in TPP markets (a comprehensive listing is not yet available).
- Japan, Vietnam and Brunei have committed to only imposing conditions on foreign investment “on the initial sale of assets owned by the government”.

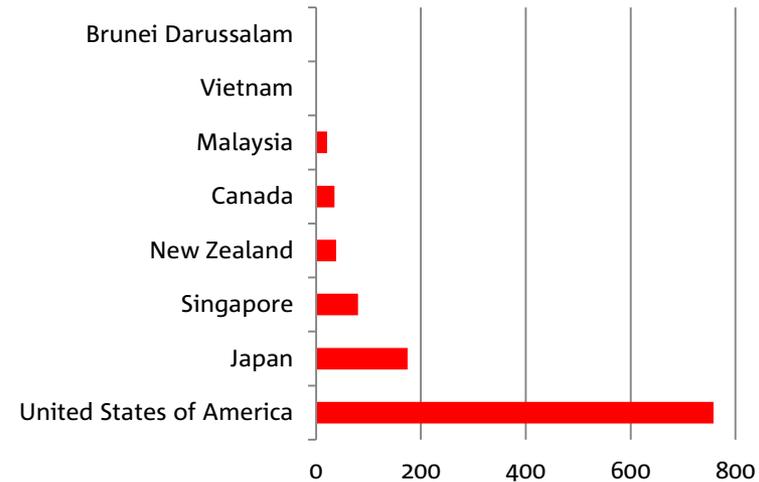
Foreign investment in Australia

- For sectors deemed “non-sensitive”, the screening threshold for foreign investment in Australia will be raised to \$1,094m from \$252m for all TPP countries.
- Lower thresholds will apply for investment in agricultural land (\$15m) and agribusiness (\$55m). At this stage, other “sensitive” sectors have not been listed.
- All proposed investments by foreign governments will “be examined”.

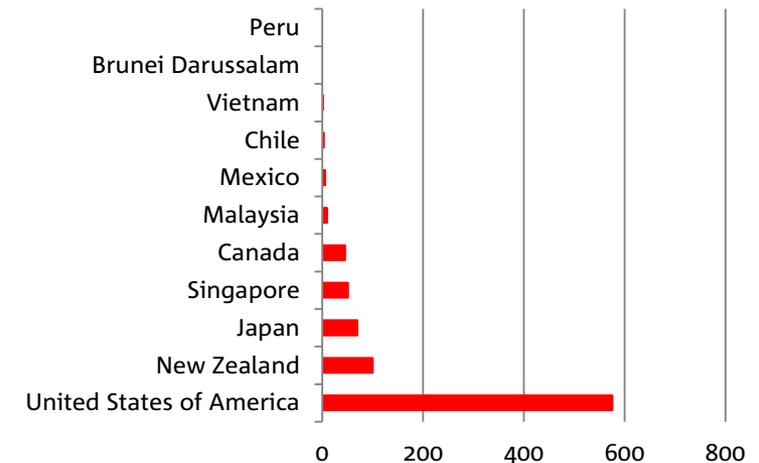
Protections, enforcement and safeguards

- The TPP Investment Chapter is reported to include greater protections for Australian investors. Details so far suggest: a minimum standard of treatment in accordance with the applicable customary international law standard (including due process in court proceedings); the right to compensation for some types of expropriation; protection against discrimination, and; capital transfers relating to investment occurring freely and without delay.
- Enforcement will occur through an Investor-Statement Dispute Settlement (ISDS) mechanism. This will provide access to an independent arbitral tribunal; this is limited to breaches of rules in the Investment Chapter and some rules in the Financial Services chapter. Investor may also initiate arbitration proceedings in “certain limited circumstances.”
- The ISDS will reportedly not protect investors from profit loss following a change in government policy or regulation.
- There are explicit safeguards to protect the right of governments to take decisions in the public interest, including in the areas of health and the environment.
- According to DFAT, Australia’s tobacco control measures cannot be challenged (although it is unclear how this interacts with proceedings currently before the courts).

TPP members account for almost 40% of total foreign investment in Australia – led by the United States (\$bn)



Australian investment in TPP countries is likewise in large part to the United States (\$bn)



Intellectual Property

Scope of coverage

- The Intellectual Property (IP) provisions covers: copyrights, patents, trade marks, confidential information, industrial designs, plant variety protection and geographical indications. Further, it also includes pharmaceutical IP protection measures, trade secrets thefts, technological protection measures, cyber squatting of domain names, protection of satellite and cable signals and internet service provider liability.

Objectives

- By establishing a common set of rules on IP protection and enforcement, it aims to encourage investment in new ideas, support creative industries, and enable IP rights in new markets, which will likely benefit small businesses looking to expand overseas.

Areas of contention

- One of the key areas of contention between Australia and the United States was the data lock up period for 'biologic' (developed from proteins in live cells) drugs. Currently, medical patents run for 5 years, after which the IP is available for other to manufacture generics. Andrew Robb and US Representative, Michael Froman, have apparently agreed for Australia to retain its 5 years for data exclusivity for biologic drugs without changes.

Implications for Australia

- The Department of Foreign Affairs and Trade claims that there are likely to be limited, if any, additional IP regulatory burden as a result of the TPP. In particular, DFAT reports that:
 - The IP is consistent with Australia's existing IP regime.
 - It will **not** be subject to Investor-state dispute settlement.
 - Neither an increase in copyright protection, nor will an increase in penalties be required for copyright infringement.
 - The TPP is also consistent with Australia's existing ISP liability regime.
 - Australia's current patent protection system, as well as the regulatory data protection regime, will not be impacted.
 - The Pharmaceutical Benefits scheme, as well as timely access to affordable medicine will remain.
 - There are no additional restrictions on Australia's ability to allow for parallel imports.
 - Finally, the issue of 'internal exhaustion' of IP rights is left for individual countries to determine for themselves.
- However, it is important to note that the full details of the agreement for IP are not available and a number of commentators have raised concerns that the impacts will be substantially greater than has been officially acknowledged so far.

Other Issues

Benefits

Harmonisation of trade rules

- The number of different regulatory settings that businesses must navigate when they trade with multiple TPP countries will be reduced, with the introduction of one set of rules of origin and one standard set of documentation.

Integration through the Global Value Chain

- The TPP will also assist countries to be more integrated in the **Global Value Chain (GVC)**, which is a network of interlinked stages of production for the manufacture of goods and services that straddles international borders. Under the TPP, producers will be able to use inputs from TPP countries and trade the good under the TPP preferential trading arrangements. This means lower tariff on inputs as well as the final product. In sum, the harmonisation of trade rules and lower tariffs will make it easier for Australian businesses, exporters and consumers to participate and benefit from GVCs.

Other benefits to businesses

- The TPP secures agreement by Parties to ensure their **state-owned enterprises** operate on the basis of commercial considerations and do not discriminate against Australian suppliers of goods and services;
- New opportunities for Australian businesses to bid for **government procurement** services contracts;
- **Anti-corruption** provisions will provide greater transparency and certainty to Australian businesses seeking to trade with or invest in TPP Parties;
- Assisting **small and medium-sized enterprises (SME)** to reap the benefits of the TPP, with 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.
- **Temporary entry of business persons.** Under the TPP, Australian business people will face lower mobility barriers when they seek to enter and stay temporarily in other TPP countries, such as an expedited and less costly visa-approval process. The types of visitors covered may include intra-corporate transferees, investors, contractual service suppliers and business visitors.

Contentious Issues

Labour laws

- The TPP encourages the compliance by its members with internationally recognised labour rights and the enforcement of labour laws. It includes provisions to govern minimum wages, hours of work and occupational safety. In the absence of more concrete details surrounding the deal, trade unions in Australia have raised some concerns around the potential movements of overseas workers into Australia and their implications on jobs and wages for domestic workers.

Environmental protection

- The TPP will liberalise trade in environmental goods and services, and ensure TPP parties effectively enforce their domestic environmental laws. Subsidies for fishing that negatively affect over-fished stocks and subsidies for vessels engaged in illegal fishing will be prohibited.

Food Labelling

- The TPP promotes food imports from member countries which satisfy international food safety requirements and for whom food safety regimes are comparable to Australia's. Some health and consumer advocates in Australia are concerned that this means that foreign corporations will be able to challenge the more stringent food labelling requirements in Australia. However, the Department of Foreign Affairs and Trade (DFAT) issued a statement stating that the TPP does not impinge on Australia's ability to regulate food labelling and that it reaffirms a TPP country's rights and obligations under the World Trade Organization (WTO) Agreement in relation to food labelling.

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