



Australian Government
Department of Foreign Affairs and Trade

Corrigendum to the NIA tabled in the House of Representatives on 9 February 2016 and the Senate on 22 February 2016

relating to the

Trans-Pacific Partnership Agreement between the Government of Australia and the Governments of:

Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States of America and Vietnam

and associated side letters

(Auckland, 4 February 2016)

[2016] ATNIF 2

NIA reference: [2016] ATNIA 4

[2016] ATNIA 4: Attachment to NIA tabled in the House of Representatives on 9 February 2016, and the Senate on 22 February 2016:

Attachment of corrigendum tabled (2016)

Trans-Pacific Partnership Agreement between the Government of Australia and the Governments of:

Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States of America and Vietnam

and associated side letters

(Auckland, 4 February 2016)

The new paragraphs 48.1 and 48.2 contain changes to sub-paragraphs (c), (d) and (o) of the first section of original paragraph 48, and changes to sub-paragraphs (a), (b), (c), (g) and (h) in the second section of the original paragraph 48.

In the National Interest Analysis, tabled in the House of Representatives on 9 February 2016 and in the Senate on 22 February 2016, for paragraph 48:

Substitute –

“48. Alongside the TPP, Australia has negotiated 27 bilateral side letters with TPP Parties. Of the 27 side letters, the following 17 are of treaty status and are legally binding between the parties:

- (a) Agreement between Australia and Chile reaffirming provisions in the Australia-Chile Free Trade Agreement regarding distinctive products;
- (b) Agreement between Australia and Japan outlining the process by which access to Japan’s rice market shall be determined;
- (c) Agreement between Australia and Mexico establishing protections for distinctive Mexican products;
- (d) Agreement between Australia and Peru establishing protections for distinctive Peruvian products;
- (e) Agreement between Australia and the US suspending provisions in AUSFTA providing tariff rate quotas for beef and dairy and agricultural safeguards, and confirming that the applicable tariff rate quotas are those set out in the TPP;
- (f) Agreement between Australia and the US providing for future consultations to consider the possibility of modifying access into the US sugar market;
- (g) Agreement between Australia and Mexico terminating the bilateral Investment Promotion and Protection Agreement signed in 2005;
- (h) Agreement between Australia and New Zealand providing that provisions in the TPP regarding trade remedies and ISDS do not apply between the two parties; and limiting

the scope of a provision in the TPP allowing for New Zealand to provide non-commercial assistance to state-owned airlines;

- (i) Agreement between Australia and Peru terminating the bilateral Investment Promotion and Protection Agreement signed in 1995;
- (j) Agreement between Australia and Vietnam terminating the bilateral Investment Promotion and Protection Agreement signed in 1991;
- (k) Agreement between Australia and Vietnam providing for the establishment of a process for Vietnam to clarify the operation of its foreign investment regime for Vietnamese airlines;
- (l) Agreement between Australia and Vietnam permitting Vietnam to require that cross-border electronic payment services be supplied through a gateway operated by a national switching facility licensed by the State Bank of Vietnam;
- (m) Agreement between Australia and Chile confirming that government procurement thresholds in the TPP supersede those in the Australia-Chile Free Trade Agreement;
- (n) Agreement between Australia and the US confirming that government procurement thresholds in the TPP supersede those in AUSFTA;
- (o) Agreement between Australia and the US confirming that notwithstanding the TPP, provisions in AUSFTA permit the public non-commercial use of patents;
- (p) Agreement between Australia and the US confirming that provisions in the TPP regarding certain aspects of intellectual property supersede those in AUSFTA; and
- (q) Agreement between Australia and the US reaffirming provisions in AUSFTA regarding transparency and procedural fairness for pharmaceutical products and medical devices.

A further 10 side letters are of less-than-treaty status:

- (a) Agreement between Australia and Canada confirming that Australian dairy products can be utilised in dairy processing in Canada;
- (b) Agreement between Australia and Canada establishing protections for distinctive Canadian products;
- (c) Agreement between Australia and Canada establishing protections for Australian wine and spirits;
- (d) Memorandum of Understanding between Australia and Japan regarding the extension of the term of protection for copyright and related rights in Japan under the TPP;
- (e) Memorandum of Understanding between Australia and Malaysia regarding access to traditional knowledge;
- (f) Memorandum of Understanding between Australia and Peru regarding access to traditional knowledge;
- (g) Agreement between Australia and Peru clarifying the meaning of the term 'high-quality healthcare' in the TPP Annex on Transparency and Procedural Fairness for Pharmaceutical Products and Medical Devices;
- (h) Agreement between Australia and the US extending any additional future commitments it may make on the protection of personal information of foreign nationals to Australian citizens and permanent residents;
- (i) Memorandum of Understanding between Australia and Vietnam setting out arrangements for Australia to provide technical assistance to Vietnam regarding distance and blended education, and for a pilot program under which Australian universities will deliver online education into Vietnam; and

- (j) Memorandum of Understanding between Australia and Vietnam on enhancing the Work and Holiday Arrangement and streamlining Viet Nam's work permit regime.

Each of these bilateral side letters will enter into force or take effect, as appropriate, on the date that the TPP enters into force for both Australia and the Party with which it has negotiated the side letter. The only exception is the side letter between Australia and the US regarding protection of personal information, which takes effect on the day the reply letter is signed.”;

With –

“48.1. Alongside the TPP, Australia has negotiated 27 bilateral side letters with TPP Parties. Of the 27 side letters, the following 17 are of treaty status and are legally binding between the parties:

- (a) Agreement between Australia and Chile reaffirming provisions in the Australia-Chile Free Trade Agreement regarding certain Chilean products;
- (b) Agreement between Australia and Japan outlining the process by which access to Japan's rice market shall be determined;
- (c) Agreement between Australia and Mexico relating to the recognition of certain Mexican products, to the extent contemplated by the Australia New Zealand Food Standards Code;
- (d) Agreement between Australia and Peru relating to the recognition of certain Peruvian products, to the extent contemplated by the Australia New Zealand Food Standards Code;
- (e) Agreement between Australia and the US suspending provisions in AUSFTA providing tariff rate quotas for beef and dairy and agricultural safeguards, and confirming that the applicable tariff rate quotas are those set out in the TPP;
- (f) Agreement between Australia and the US providing for future consultations to consider the possibility of modifying access into the US sugar market;
- (g) Agreement between Australia and Mexico terminating the bilateral Investment Promotion and Protection Agreement signed in 2005;
- (h) Agreement between Australia and New Zealand providing that provisions in the TPP regarding trade remedies and ISDS do not apply between the two parties; and limiting the scope of a provision in the TPP allowing for New Zealand to provide non-commercial assistance to state-owned airlines;
- (i) Agreement between Australia and Peru terminating the bilateral Investment Promotion and Protection Agreement signed in 1995;
- (j) Agreement between Australia and Vietnam terminating the bilateral Investment Promotion and Protection Agreement signed in 1991;
- (k) Agreement between Australia and Vietnam providing for the establishment of a process for Vietnam to clarify the operation of its foreign investment regime for Vietnamese airlines;
- (l) Agreement between Australia and Vietnam permitting Vietnam to require that cross-border electronic payment services be supplied through a gateway operated by a national switching facility licensed by the State Bank of Vietnam;
- (m) Agreement between Australia and Chile confirming that government procurement thresholds in the TPP supersede those in the Australia-Chile Free Trade Agreement;

- (n) Agreement between Australia and the US confirming that government procurement thresholds in the TPP supersede those in AUSFTA;
- (o) Agreement between Australia and the US confirming that AUSFTA permits the use of the subject matter of a patent by the government or third persons authorised by the government for the services of the government, without the authorisation of the right holder, provided that such use is consistent with TRIPS, and with certain provisions in AUSFTA;
- (p) Agreement between Australia and the US confirming that provisions in the TPP regarding certain aspects of intellectual property supersede those in AUSFTA; and
- (q) Agreement between Australia and the US reaffirming provisions in AUSFTA regarding transparency and procedural fairness for pharmaceutical products and medical devices.

48.2. A further 10 side letters are of less-than-treaty status:

- (a) Memorandum of Understanding between Australia and Canada confirming that Australian dairy products can be utilised in dairy processing in Canada;
- (b) Memorandum of Understanding between Australia and Canada relating to the recognition of certain Canadian products, to the extent contemplated by the Australia New Zealand Food Standards Code;
- (c) Memorandum of Understanding between Australia and Canada establishing protections for Australian wine and spirits;
- (d) Memorandum of Understanding between Australia and Japan regarding the extension of the term of protection for copyright and related rights in Japan under the TPP;
- (e) Memorandum of Understanding between Australia and Malaysia regarding access to traditional knowledge;
- (f) Memorandum of Understanding between Australia and Peru regarding access to traditional knowledge;
- (g) Memorandum of Understanding between Australia and Peru clarifying the meaning of the term ‘high-quality healthcare’ in the TPP Annex on Transparency and Procedural Fairness for Pharmaceutical Products and Medical Devices;
- (h) Memorandum of Understanding between Australia and the US extending any additional future commitments it may make on the protection of personal information of foreign nationals to Australian citizens and permanent residents;
- (i) Memorandum of Understanding between Australia and Vietnam setting out arrangements for Australia to provide technical assistance to Vietnam regarding distance and blended education, and for a pilot program under which Australian universities will deliver online education into Vietnam; and
- (j) Memorandum of Understanding between Australia and Vietnam on enhancing the Work and Holiday Arrangement and streamlining Vietnam’s work permit regime.

Each of these bilateral side letters will enter into force or take effect, as appropriate, on the date that the TPP enters into force for both Australia and the Party with which it has negotiated the side letter. The only exception is the side letter between Australia and the US regarding protection of personal information, which takes effect on the day the reply letter is signed.”