

## **TRANS-PACIFIC PARTNERSHIP AGREEMENT: SUMMARY OF CHAPTER OUTCOMES**

### **Chapter 1: Initial Provisions and General Definitions**

1. The Initial Provisions and General Definitions Chapter confirms that the TPP will co-exist with a Party's rights and obligations in other agreements to which they are also a party. This Chapter also contains common and Party-specific definitions for terms used throughout the TPP.

### **Chapter 2: National Treatment and Market Access for Goods**

2. This Chapter prohibits the Parties from raising any tariffs, and obliges the Parties to eliminate and reduce tariffs and non-tariff barriers on industrial goods, and to eliminate or reduce tariffs and other restrictive policies on agricultural goods, in accordance with each Party's applicable schedule. It establishes the framework for rules for trade in goods between the Parties. It affirms and improves on a number of WTO provisions that already govern trade in goods among the Parties designed to promote transparency.

3. The Chapter ensures the consistency of TPP with the WTO Import Licensing Agreement. It requires each Party to ensure that the licensing procedures are administered in a fair and equitable manner, and notify other Parties of the changes to licensing requirements before they take effect. In addition, the Parties agree not to impose WTO-inconsistent import and export restrictions and duties, including on remanufactured goods.

4. For the first time in a multi-party agreement, the Chapter includes a common set of principles guiding how tariff rate quotas (TRQs) for agricultural products will be managed within the TPP. The Chapter also provides that the Parties agree to promote policy reforms, including by eliminating agricultural export subsidies, working together in the WTO to develop disciplines on export state trading enterprises, export credits, and limiting the timeframes allowed for restrictions on food exports so as to provide greater food security in the region.

5. The Chapter establishes a committee on trade in goods to allow for consultations on accelerating tariff elimination, addressing non-tariff barriers and reviewing future amendments to the Harmonized System of tariffs. A sub-committee on agricultural trade will be established to promote agricultural goods trade between the Parties.

### **Chapter 3: Rules of Origin and Origin Procedures**

6. The Rules of Origin Chapter specifies the ways in which a good imported from a Party is eligible for the preferential tariff of the Agreement. The Chapter incorporates origin procedures that a business from a Party is required to follow to claim preferential tariff treatment for a good imported from another Party. It specifies that the exporter, producer or importer of a good can complete and submit the documentation needed to claim preferential tariff treatment.

7. In general terms, a good is eligible for the preferential tariff of the Agreement if it is:

- wholly-obtained or produced entirely in one or more Parties. For example, this would include iron ore imported from a Party or an imported manufactured good from a Party that is made from components produced in that Party or a number of Parties; and
- meets Product Specific Rules of Origin (or PSRs) specified in an annex to the Agreement. PSRs determine the circumstances in which a good imported from a Party and containing components or inputs from a non-TPP country is eligible for preferential tariff treatment. The underlying principle of PSRs is that the imported good must have undergone a form of substantial transformation in the exporting Party in order for it to be eligible for preferential treatment.

8. The three common PSR methodologies used in the TPP are:

- change of tariff classification: An imported good is considered to be originating from a Party and therefore eligible for the preferential tariffs of the Agreement if it has undergone a production process that fundamentally changes the nature of the imported good. This process must be significant enough to change the tariff classification of the good;
- regional value content: An imported good is considered to be originating from a Party and therefore eligible for the preferential tariffs of the Agreement if a particular percentage of the value of the good originates from Parties. In other words, a good qualifies for preferential access if a certain, minimum level of value-adding has taken place within the TPP;
- production process: An imported good is considered to be originating from a Party and therefore eligible for the preferential tariffs of the Agreement if it has undergone a production process that fundamentally changes the nature of that good. An example is where a chemical undergoes a chemical reaction that transforms the good but does not change the tariff classification.

9. The origin procedures in this Chapter also outline documentation and record keeping requirements. Businesses will not be required to provide the relevant documentation if the value of the good imported is below a certain value or in other circumstances specified by the importing Party. Provided certain conditions are met, businesses will also be able to claim preferential tariff treatment after importation of the good.

#### **Chapter 4: Textiles and Apparel**

10. The Textiles and Apparel Chapter contains rules of origin specific to trade in textiles and apparel goods. The Chapter provides the Parties with the option to use a safeguard for textiles and apparel that is different from the global safeguard in the Trade Remedies Chapter. It encourages the Parties to cooperate with each other to facilitate the enforcement of their customs measures as they relate to textiles or apparel goods. It establishes a Committee on Textiles and Apparel Trade Matters

which will consult on implementation of the Parties' commitments under this Chapter and discuss ways to improve cooperation.

### **Chapter 5: Customs Administration and Trade Facilitation**

11. To complement trade facilitation efforts in the WTO, this Chapter requires the Parties to limit the administrative burdens of customs processes by encouraging cooperation between customs authorities, promoting efficient customs procedures and providing transparency and fairness to traders. The Chapter preserves the ability for respective customs authorities to enforce domestic laws and regulations.

### **Chapter 6: Trade Remedies**

12. The Trade Remedies Chapter affirms the Parties' rights and obligations under the WTO Agreements with regard to the application of safeguards, anti-dumping and countervailing measures. It also establishes arrangements for a TPP-specific safeguard measure where there is serious injury to domestic industry as a result of the reduction or elimination of tariffs under the Agreement.

### **Chapter 7: Sanitary and Phytosanitary Measures**

13. The Sanitary and Phytosanitary Measures (SPS) Chapter reaffirms existing rights and obligations under the WTO SPS Agreement. It also provides further detail on cooperation, consultation, and transparency between the Parties. In particular, this Chapter:

- . establishes a committee on SPS measures;
- . identifies primary contact points in each party's regulatory body; and,
- . allows parties to request information on any issue arising out of this Chapter with the recipient required to respond in a timely manner.

14. Under this Chapter, the Parties will also agree to limit certification requirements to information essential for the protection of biosecurity. The Chapter also encourages the Parties to work together to develop model certificates to accompany specific commodities and to promote electronic certification.

### **Chapter 8: Technical Barriers to Trade**

15. The Technical Barriers to Trade (TBT) Chapter reaffirms the WTO TBT Agreement obligations and extends the level of commitment on the development of international standards, guides and recommendations. The Chapter builds on the WTO Agreement's commitments on conformity assessments by encouraging the Parties to take into account the mechanisms that exist to ensure products conform to their technical requirements. The Chapter establishes a committee to promote good regulatory practice, monitor the implementation of the Chapter, provide a conduit for technical discussions, and encourage cooperation between governments and non-governmental bodies.

16. The Chapter also includes annexes with disciplines specific to wine and spirits labelling, organic products, information and communications technology, proprietary formulas, cosmetics, medical devices and pharmaceuticals. These annexes add further details on and clarity to Parties' obligations and promote greater regulatory coherence across the region.

### Chapter 9: Investment

17. The Investment Chapter enhances market access and protections for investors from TPP countries. The key obligations in this Chapter include:

- **non-discrimination** through national treatment and most-favoured-nation (MFN) provisions; **national treatment** obliges a TPP country to afford equal treatment to foreign investors and local producers where there are like circumstances and **MFN** obliges a TPP country to afford no less treatment to foreign investors of one TPP country than investors from other TPP countries, or a non-TPP country, in like circumstances;
- **minimum standard of treatment (MST)**: the foreign investor/investment to be treated in accordance with customary international law, including fair and equitable treatment and full protection and security;
- **expropriation and compensation**: obligation not to expropriate or nationalise a covered investment unless it is undertaken in a non-discriminatory manner, for a public purpose and upon payment of prompt, adequate, and effective compensation;
- **transfers**: obligation to allow all transfers relating to a covered investment to be made freely and without delay into and out of its territory;
- **performance requirements**: lists the types of requirements, for example to purchase, use or accord a preference to goods produced in a Party's own territory, which each Party agrees not to impose as a condition of establishment or operation of an investment in the other Party; and
- **senior management and board of directors**: prohibition on requiring the appointment of particular nationalities to senior management positions in businesses that are covered investments.

18. The Chapter provides for scheduling of certain measures on a negative basis that are not fully in conformity with four obligations in this Chapter (i.e. national treatment, performance requirements, MFN and senior management and board of directors). These are set out in Annexes to the TPP. To the extent that measures are scheduled, Australia does not need to meet those obligations.

19. Australia has set the general threshold for screening investment proposals by non-government investors from TPP countries at \$1,094 million. Australia has retained the ability to screen investments from TPP countries at lower thresholds for sensitive sectors, including media, telecommunications, and defence related industries. Australia has also reserved the right to adopt and maintain measures which will allow the screening of investments in Australian agricultural land from \$15 million and agribusiness from \$55 million.

20. The Chapter includes an Investor-State Dispute Settlement (ISDS) mechanism. Where an investor from one Party alleges loss or damage as a consequence of the other Party breaching a commitment in the Investment Chapter, the investor can commence arbitration against that Party in a tribunal.

21. A Party investor's basis for challenging legitimate Australian regulatory measures are limited by carve-outs, exceptions and other protections for Australian policy setting. For example, the Investment Chapter also contains an Annex on expropriation that clarifies the criteria for an action to constitute an expropriation under the TPP. Notwithstanding these protections, investors' right to challenge an investment-related measure is inscribed in TPP. However, procedural safeguards, such as provision for expedited preliminary objections and costs orders, are included to contain costs and deter frivolous claims. Additionally, Australia will make an election pursuant to Article 29.5 of the TPP to exclude absolutely ISDS disputes being brought against Australia over tobacco control measures.

### **Chapter 10: Cross-Border Trade in Services**

22. The Cross-Border Trade in Services Chapter builds on existing WTO services commitments and provides for significantly greater access to the TPP market by Australian services suppliers.

23. The key commitments include:

- **national treatment** obligation whereby a TPP country must treat local and foreign service suppliers equally where there are like circumstances;
- **MFN treatment** obligation whereby a TPP country must treat service suppliers from another TPP country equally to how it treats service suppliers from other TPP countries, or a non-TPP country in like circumstances;
- market access obligations whereby a Party may not impose restrictions on its own or foreign suppliers in service sectors, including limitations on the number of providers who can supply services in a country or the legal form of enterprise that can provide services, unless otherwise lists in the non-conforming measures schedules;
- prohibition from requiring a provider from another TPP country to establish a **local office** or other facility in its territory, or to live in its country as a condition of supplying services (the '**local presence**' obligation).

24. Each Party has also specified in its Schedule particular activities and sectors where its government will retain flexibility to implement government policies, such as on public health, education and social welfare without inconsistency with the Cross-Border Trade in Services.

25. TPP countries will establish a **Professional Services Working Group** to facilitate discussion between TPP countries and relevant professional bodies on recognition of professional qualifications, licensing and/or registration.

26. In relation to **legal services**, TPP countries recognise the importance of transnational legal services and have committed to work with their relevant bodies to facilitate this. TPP countries will also build on work being done through APEC to

promote mutual recognition for **engineering and architectural services**, including the possibility of implementing a licensing or registration regime on a temporary basis or for a specific project.

27. The Chapter also establishes a mechanism for consultations. Upon request from another TPP Party, a Party must provide adequate opportunity for consultation if its conditions applicable to foreign suppliers of **express delivery services** become more restrictive after entry into force of the Agreement. The obligations regarding express delivery services will not apply to those services exclusively provided by Australia Post under relevant laws and regulations. The Chapter also establishes rules for **monopoly providers** of certain postal services in a TPP country to ensure a level playing field between local and foreign postal service suppliers.

## **Chapter 11: Financial Services**

28. The Financial Services Chapter applies to government measures relating to financial institutions of another TPP country, investors of another TPP country, and their investments in financial institutions, as well as the trade in financial services between TPP countries. It does not apply to government actions in relation to public retirement plans or statutory systems of social security, financial services performed by, or on behalf of, the government (except where such activities are provided in competition with other financial service suppliers or financial services procured by the government.)

29. A number of obligations from the Investment and Cross-Border Trade in Services Chapters, such as those relating to transfers and expropriation and compensation, will apply to the Financial Services Chapter. The Financial Services Chapter also establishes non-discrimination (national treatment and MFN), minimum standard of treatment, and market access obligations. The Chapter also prohibits a Party from requiring a financial institution of another TPP country to appoint individuals of any particular nationality to be senior managers or essential personnel of the institution. Furthermore, a Party cannot require that more than a minority of the board of directors of a financial institution be composed of their citizens and/or residents living in their country.

30. As in the Investment and Services Chapters, the Parties have specified existing measures that are inconsistent with the obligations under the TPP Financial Services Chapter or areas where they would like to retain the flexibility to adopt inconsistent measures.

31. There are a number of exceptions that apply to the Financial Services Chapter, including the 'prudential exception', under which TPP countries retain the ability to adopt measures for prudential reasons, including for the protection of investors or depositors, or to ensure the integrity and stability of the financial system. TPP countries also retain the ability to adopt non-discriminatory measures in pursuit of monetary or exchange rate policies.

32. ISDS provisions from the Investment Chapter will be incorporated into the Chapter to allow investors to bring claims alleging breaches of certain investment-related obligations in the Financial Services Chapter.

## **Chapter 12: Temporary Entry for Business Persons**

33. The Chapter applies to measures regulating the temporary entry of business persons into a Party. The Temporary Entry for Business Persons Chapter does not create any obligations in relation to citizenship, nationality, residence or employment on a permanent basis. The Chapter recognises the right of a Party to regulate the entry of natural persons of another Party into its territory.

34. The Temporary Entry for Business Persons Chapter requires the Parties to ensure that:

- applications for a visa or other permit allowing a person to temporarily enter a Party are processed as expeditiously as possible;
- Upon request, a Party that has received a completed visa or other permit is encouraged to provide information on the status of an application; and
- fees charged for the processing of a visa must be reasonable and should not unnecessarily delay trade in goods and services or conduct of investment activities.

35. Under the Chapter, each Party makes specific commitments guaranteeing access for categories of business persons who, provided they fulfil visa eligibility requirements, will be permitted to enter and temporarily stay in a Party to undertake activities such as attending meetings, conferences and trade fairs, setting up a business or an investment, working in an overseas branch of their office, or providing services under a contract they have negotiated, such as installing or maintaining specialised machinery and equipment.

36. The Chapter specifies that no Party shall have recourse to the dispute settlement procedures in Chapter 28, unless the matter involves a pattern of practice and the business persons affected have exhausted all available administrative remedies.

## **Chapter 13: Telecommunications**

37. The Telecommunications Chapter relates to government measures regulating trade in telecommunications services. The Chapter recognises a Party's right to regulate the telecommunications sector and also seeks to ensure that telecommunications businesses operating in TPP countries, including those from other TPP countries, are able to access telecommunications networks on transparent, fair and reasonable terms.

38. For the first time in a trade agreement, the TPP seeks to address the high cost of international mobile roaming. The Telecommunications Chapter encourages the Parties to promote transparent and reasonable rates for international mobile roaming services.

## **Chapter 14: Electronic Commerce**

39 Building on a long-standing WTO moratorium, the Chapter provides that the TPP will not apply customs duties on electronic transmissions, including digital content. It prohibits the Parties from according less favourable treatment to digital products from another Party than accorded to other like digital products (except in the case of broadcasting).

40. For the first time in a trade agreement, the Parties will ensure service suppliers and investors can transfer information across borders by electronic means. The Chapter also prohibits Parties from requiring a service supplier or investor to use or build local data centres in that Party in order to conduct business. Nor may a Party require the transfer of (or access to) source code of software owned by a person of another Party as a condition of importation, sale or distribution of such software. Nevertheless, the Chapter retains the right of a Party to impose conditions or restrictions on the cross-border transfer of information in order to achieve public policy objectives provided that such restrictions are not arbitrary or unjustifiable discrimination or a disguised restriction on trade.

### **Chapter 15: Government Procurement**

50. Under the Government Procurement Chapter, procuring entities of a Party are required to afford the suppliers, goods and services of the other Party the same treatment that applies to its domestic suppliers, goods and services.

51. A major feature of the Government Procurement Chapter is that governments must generally use an open tendering procedure for contracts above a certain threshold to ensure that government procurement is open to all suppliers. This is already standard practice in Australia but not necessarily in other TPP countries. This obligation does not mean that governments can only use open tendering. Governments may use prequalified tendering or limited tendering in specific circumstances.

52. Importantly, the Government Procurement Chapter requires governments to ensure that criminal or administrative measures exist to address corruption, fraud and conflicts of interests in its government procurement.

52. Additionally, each country must establish an impartial administrative or judicial authority to hear challenges or complaints to government procurement decisions. This complaints process must be timely, non-discriminatory and effective. Taken together, these rules create a powerful incentive for countries to improve their governance, and build supplier confidence to participate in the government procurement market. To comply with this obligation, Australia will need to introduce new legislation to confer jurisdiction on a competent authority to hear government procurement complaints.

53. The Government Procurement Chapter secures market access opportunities for Australian companies in the TPP government procurement market. Each Party's commitments on access to its government procurement market are broadly better or than or equal to its commitments under existing bilateral FTAs and the WTO Government Procurement Agreement (where applicable).



54. Transactions not covered by this Chapter include procurements below the relevant thresholds set out in the Annexes to the Chapter and procurements by government entities which are not listed in the Annexes to the Chapter.

55. Finally, the Government Procurement Chapter makes clear that the rules in the Agreement do not prevent governments from promoting compliance with its laws (e.g. preventing forced or child labour), protecting health (including human, animal or plant life) or promoting environmental measures (e.g. energy efficiency requirements).

## **Chapter 16: Competition Policy**

56. The Competition Policy Chapter ensures that the trade and investment liberalization achieved across the TPP is not undermined by anti-competitive practices. Accordingly, the Parties commit to:

- . have or establish national competition laws that proscribe anti-competitive business conduct;
- . endeavour to apply those laws to all commercial activity in its territory;
- . maintain an authority responsible for enforcing national competition laws;
- . accord procedural fairness in the enforcement of their national competition laws; and
- . have laws or other measures (e.g. regulations, procedures) that allow businesses or individuals (including from other Parties) to take legal action for redress for loss or damage caused by a violation of national competition laws.

57. The Chapter recognises the importance of consumer protection policy and enforcement to the creation of efficient and competitive markets and to enhancing consumer welfare. The Chapter recognises the value of the Parties making their competition enforcement policies as transparent as possible, and the benefits of cooperation amongst the Parties. The Chapter is not subject to the TPP dispute settlement procedures.

## **Chapter 17: State-Owned Enterprises and Designated Monopolies**

58. The State-Owned Enterprises (SOEs) and Designated Monopolies Chapter includes ground-breaking rules aimed at ensuring these entities make decisions on a commercial basis and compete with private enterprises on a level playing field, without unfair advantages from the governments that own them.

59. SOEs can be used to deliver critical public services, but are increasingly entering the commercial space and competing with private businesses. The TPP disciplines help to ensure that commercial SOEs operate in a transparent manner and in a way that does not put Australian companies at a disadvantage. Australian exporters and investors will benefit from this Chapter in a number of ways.

60. The Chapter will help to ensure SOEs of another Party do not unjustifiably discriminate against Australian suppliers of goods and services, or make sales and

purchasing decisions that are not based on standard commercial considerations such as price, quality and availability of inputs and outputs.

61. The Chapter also builds on Parties' existing WTO commitments aimed at ensuring, for example, financial support provided by a TPP government to its SOE does not have an adverse impact on Australian businesses that are competing in, or are seeking to enter, the relevant market. Such support can include subsidies, grants, debt forgiveness, below market-rate loans, and government-backed guarantees. These disciplines help to level the playing field between SOEs and Australian businesses exporting or investing in TPP countries.

62. Australian businesses will also benefit from provisions of the Chapter that will ensure more information is publicly available on the SOEs and the designated monopolies.

63. Importantly, the Chapter provides flexibilities for Australia to continue to use SOEs to deliver public services. The SOEs and Designated Monopolies Chapter provisions are consistent with Australia's policy on competitive neutrality. That policy requires federal, state and local governments to ensure that they do not provide competitive advantages to any SOEs in their commercial activities simply because they are government owned. This policy facilitates competition between SOEs and private enterprises in Australia (whether foreign or domestic owned).

## **Chapter 18: Intellectual Property**

64. The Intellectual Property (IP) Chapter establishes a common set of rules for IP protection and enforcement in the TPP region. These rules will help streamline IP transactions, increase transparency and lower the costs of doing business, and support Australia's creative and innovative industries by promoting certainty and opportunities for trade and investment in the region. Australian businesses and consumers will also benefit from increased access to legitimate products and services. The chapter builds on the key areas of IP protection in the WTO's Agreement on Trade-Related Aspects of Intellectual Property (TRIPS Agreement), and covers copyright, trade marks, geographical indications, patents, industrial designs, confidential information, plant variety protection, and civil, border and criminal enforcement.

65. The Chapter includes provisions to harmonise patent laws and promote business certainty for Australian patent applicants in the TPP region. TPP countries commit to provide adequate and effective protection of industrial designs. Trade mark provisions will help Australian traders promote and safeguard their brands in the TPP region. The Chapter requires transparency and due process safeguards with respect to the protection of geographical indications (GIs), including for GIs protected through international agreements. TPP countries have agreed to ratify the International Convention for the Protection of New Varieties of Plants (1991), which encourages effective protection of plant breeders' rights and the development of new plant varieties.

66. The Chapter includes provisions that aim to incentivise investment in new pharmaceutical inventions and products, while aiming to ensure TPP countries can

take measures to protect public health and support timely and affordable access to medicines. The Chapter requires five years of protection for undisclosed data about the safety or efficacy of new pharmaceutical products submitted to the regulatory authority for the purposes of obtaining marketing approval. On biologics, the TPP provides for a two-track outcome. TPP countries can choose to provide effective market protection though at least eight years of data protection. Alternatively, TPP countries can choose to provide effective market protection through at least five years of data protection, along with other measures, including existing measures in the case of Australia, and recognising market circumstances. These measures and circumstances include regulatory settings, patents, and the time it takes for follow-on medicines to become established in the market. Australia will follow the five year option, which reflects our current system, and which will not require changes to our existing settings or increase the cost of medicines in Australia. TPP countries have agreed to review the TPP biologics outcome in 10 years. This Chapter does not affect Australia's Pharmaceutical Benefits Scheme.

67. Where a TPP country requires a person to submit otherwise undisclosed data concerning the safety and efficacy of a new agricultural chemical product before that product is able to be marketed, the TPP party must protect that data from disclosure, without the consent of the person, for 10 years from the date of marketing approval. This ensures that other persons do not market the same or a similar product on the basis of that information and will help attract investment and innovation in new agricultural chemical products in the TPP region, and ensure stronger protections for Australian exporters.

68. The Chapter provides effective and balanced protection for Australian copyright and related rights in the TPP region by protecting the exclusive rights of authors, performers and producers with respect to the reproduction, communication, distribution, and broadcasting of their works, performances and phonograms, while providing for appropriate limitations and exceptions. There are also protections for copyright and related rights through technological protection measures (TPMs) and rights management information, and TPP countries agree to provide a framework of legal incentives for internet service providers to cooperate with content owners to deter unauthorised storage and transmission of copyrighted materials.

69. The Chapter includes civil, criminal and border enforcement measures aimed at reducing trade in counterfeit trade mark and pirated copyright goods in the TPP region. These measures will help protect the rights of Australian innovators and creators, support investment in innovation, promote trade in legitimate products and services, and reduce the availability of infringing products and services in Australia. TPP countries agree to provide for civil and criminal measures in relation to the unauthorised access to and theft of trade secrets, including in computer systems. These measures will not affect countries' laws in relation to whistleblowing.

## **Chapter 19: Labour**

70. The Labour Chapter reaffirms the Parties' obligations as members of the International Labour Organization (ILO) and requires Parties to have laws that enshrine the rights stated in the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up. The Parties are also required to have laws

governing acceptable conditions of work, these are: minimum wages, hours of work, and occupational health and safety.

71. The Chapter prohibits Parties from weakening the protections given to workers under their labour laws in a manner affecting trade and investment, or from failing to enforce them. The Labour Chapter also requires parties to discourage the importation of goods produced by forced or compulsory labour, including child labour.

72. The Chapter establishes a Labour Council with representatives from each Party. The Council's responsibilities will include: establishing priorities for cooperation and capacity building, facilitating public participation in and awareness of the implementation of the Chapter, and reviewing the implementation of the Chapter to ensure it is operating effectively.

73. Each Party will be required to have a National Contact Point for labour issues, whose responsibilities will include communication with the public. The Chapter requires each Party to maintain a national labour consultative or advisory body, so members of the public may provide views on matters regarding this Chapter.

74. Should a dispute arise between Parties under the terms of this Chapter, Parties must make every effort to resolve the dispute through cooperation and consultation. However, should that process fail to resolve the dispute, then Parties will have access to the TPP State-State dispute settlement procedures under Chapter 28.

## **Chapter 20: Environment**

75. The Environment Chapter promotes the effective enforcement of domestic environmental laws and lays the foundations for the Parties to work together to address a range of trade-related environmental challenges, including overfishing and illegal wildlife trade.

76. The Environment Chapter requires the Parties to take measures to control production, consumption and trade of certain substances that can significantly deplete or otherwise modify the ozone layer. The Chapter also recognises the importance of protecting the marine environment and requires the Parties to take measures to prevent the pollution of the marine environment from ships.

77. In relation to marine fisheries, the Environment Chapter requires the Parties to seek to operate science-based fisheries management systems designed to prevent overfishing and overcapacity, and to implement port state measures to combat illegal fishing and deter illegal trade in fish products. In a breakthrough in the fight against subsidies that contribute to overfishing, the Chapter requires the Parties to prohibit subsidies for fishing that negatively affect overfished stocks and subsidies for vessels engaged in illegal fishing. Each Party also commits to promote the conservation of sharks, marine turtles, sea birds and marine mammals by implementing and enforcing effective conservation and management measures, such as measures to limit by-catch from fishing and finning prohibitions.

78. In an effort to address illegal trade in wildlife, the Parties are required to adopt laws, regulations and other measures to fulfil their obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Parties also commit to take measures to combat illegal trade in non-CITES species, including strengthening cooperation in this area.

79. The Chapter is subject to a robust enforcement mechanism that includes a three-step consultation process for the Parties to use in seeking to resolve any disputes that may arise. If Parties fail to resolve a dispute through consultations, they may use the TPP's State-State dispute settlement procedure under Chapter 28.

## **Chapter 21: Cooperation and Capacity Building**

80. The Cooperation and Capacity Building Chapter acknowledges the importance of cooperation and capacity building between the Parties in implementing and enhancing the benefits of the Agreement. The Chapter recognises that cooperation and capacity building activities will be undertaken on a mutually agreed basis by two or more Parties and seek to build on existing arrangements and agreements. It encourages the involvement of the private sector and application of technology and innovation when undertaking cooperation and capacity building activities between the Parties. The Chapter establishes a Committee on Cooperation and Capacity Building with a mandate to:

- share information on experiences and lessons learned in relation to cooperation and capacity building activities;
- discuss proposals for future cooperation and capacity building activities;
- enhance donor coordination and facilitating public-private partnerships in cooperation and capacity building activities; and
- invite international donor institutions, private sector entities, and non-governmental organisations to assist in the development and implementation of cooperation and capacity building activities.

This Chapter is not subject to TPP dispute settlement procedures.

## **Chapter 22: Competitiveness and Business Facilitation**

81. The Competitiveness and Business Facilitation Chapter focuses on strengthening supply chains (also known as 'global value chains' or GVCs). GVCs are central to international trade and investment, particularly in Asia. GVCs also allow Australian businesses to learn new production methods, meet standards that enhance their market access, facilitate exports, encourage uptake of technology, and access new sources of capital. The Chapter establishes a Committee on Competitiveness and Business Facilitation with a mandate to:

- explore ways to take advantage of the trade and investment opportunities the Agreement creates;
- encourage information sharing on efforts to enhance competitiveness in TPP countries to promote further trade, investment, and economic integration;

- advise the TPP Commission on ways to enhance competitiveness, including ways to enhance the participation of small and medium-sized enterprises in GVCs;
- explore ways to promote the expansion and strengthening of GVCs; and
- conduct periodic reviews of the extent to which the Agreement has facilitated the development, strengthening and operation of GVCs in TPP countries.

This Chapter is not subject to the TPP dispute settlement procedures.

### **Chapter 23: Development**

82. The Development Chapter affirms the Parties' commitment to promoting open trade and investment, as well as the contribution trade and investment makes to economic development and prosperity. The Chapter emphasises the importance of Parties, which are at different stages of economic development, pursuing national policies that maximise the opportunities from the TPP. The Chapter encourages joint development activities between two or more Parties, and also private and multilateral institutions where appropriate. The Chapter establishes a Development Committee with a mandate to:

- exchange information on experiences regarding policies intended to derive the greatest possible benefits from the Agreement;
- share information in relation to joint development activities and discussing proposals of future joint development activities; and
- invite international donor institutions, private sector entities and non-governmental organisations to assist in the development and implementation of joint development activities.

This Chapter is not subject to the TPP dispute settlement procedures.

### **Chapter 24: Small and Medium-Sized Enterprises**

83. The Small and Medium-Sized Enterprises (SMEs) Chapter aims to promote the growth and development of SMEs in TPP countries. The Chapter requires Parties to establish and maintain a website containing information about the TPP, including information designed to assist SMEs benefit from the opportunities created by the Agreement. The Chapter also requires Parties to have links to the equivalent websites of all other Parties. Where possible, the Parties will publish information on the website in English. The Chapter is not subject to the TPP dispute settlement procedures.

### **Chapter 25: Regulatory Coherence**

84. The Regulatory Coherence Chapter encourages the Parties to strive for best practice in the development of their domestic regulatory environment. For instance, the Chapter encourages the Parties to review proposed regulatory measures to determine the extent to which the development of such measures adheres to good regulatory practices; and strengthen coordination and consultation to reduce red tape for investors. It requires the Parties to make publicly available the scope of regulatory

measures covered by this Chapter within one year of the Agreement entering into force. In the interests of transparency, and to assist in cooperation and capacity building activities among the Parties, the Chapter requires Parties to submit a notification of implementation to the Committee within two years of the Agreement entering into force and at least once every four years thereafter. This Chapter is not subject to TPP dispute settlement procedures.

## **Chapter 26: Transparency and Anti-Corruption**

85. The Transparency and Anti-Corruption Chapter promotes greater transparency in the making and implementation of laws, regulations and government decisions. Australia already complies with the Chapter's requirements.

86. A first for Australia in a trade agreement, this Chapter also contains provisions on anti-corruption measures, reflecting our commitment to combatting corruption and bribery in the region. The Chapter seeks to support the United Nations Convention against Corruption by requiring all Parties to ratify or accede to the Convention and will sit alongside Parties' existing obligations under the UN Convention Against Transnational Organized Crime and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. The Transparency and Anti-corruption Chapter will provide greater transparency and certainty to Australian individuals and businesses seeking to trade and invest in other Parties.

87. The TPP State-State dispute settlement procedure applies to most of the articles of this Chapter, when a Party considers that a measure of another Party does not meet its obligations under those provisions, or that another Party has failed to carry out its obligations, in a manner affecting trade or investment between Parties.

## **Chapter 27: Administrative and Institutional Provisions**

88. This Chapter establishes a TPP Commission. The Commission is the peak body responsible for the operation of the TPP by the Parties after its entry into force and will comprise Ministers or senior officials from each Party. A core role for the Commission will be reviewing the operation of the TPP three years after entry into force of the Agreement and at least every five years thereafter to ensure that it remains a living agreement which addresses trade and investment challenges facing the Parties.

## **Chapter 28: Dispute Settlement**

89. This Chapter includes a binding State-to-State dispute settlement mechanism, drawing on previous FTAs and the WTO system. Most substantive obligations in the TPP will be subject to this mechanism, except those in the chapters on Competition Policy, Cooperation and Capacity Building, Competitiveness and Business Facilitation, Development, Small and Medium-Sized Enterprises, and Regulatory Coherence and specific aspects of the Transparency and Anti-Corruption Chapter and the Sanitary and Phytosanitary Measures Chapter.

## **Chapter 29: Exceptions**

90. This Chapter provides a series of general exceptions to particular commitments in the TPP. These exceptions permit Parties to adopt or enforce measures otherwise inconsistent with the TPP in certain circumstances, for example, where they are:

- . necessary to protect public morals;
- . necessary to protect human, animal or plant life or health; or
- . relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption,

provided that measures adopted for these purposes are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade.

91. The Chapter also includes an exception for security-related reasons, including:

- . for measures a Party considers necessary to fulfil its obligations with respect to the maintenance or restoration of international peace and security, or the protection of the Party's own essential security interests; and
- . where the disclosure of information is contrary to a Party's essential security interests.

92. Other general exceptions include the ability to impose temporary safeguard measures in the event (or threat) of serious balance of payments and external financial difficulties. Taxation measures are generally exempt from the TPP, with some limited exceptions such as the national treatment and most-favoured nation obligations in the chapters on Cross-Border Trade in Services, Financial Services and Investment.

### **Chapter 30: Final Provisions**

93. The Final Provisions governs the way in which the TPP operates as a treaty. It establishes the processes by which the Agreement will enter into force, how it may be amended, how a Party may withdraw from the Agreement, and the requirements for accession to the TPP by additional countries. The Chapter also provides that the English, Spanish and French texts of the Agreement are equally authentic, with the English version prevailing in the event of any divergence between the texts.