

Australian Greens–Dissenting Report

1.1 The Legal and Constitutional Affairs Legislation Committee Inquiry into the Trans-Pacific Partnership Agreement (the TPP) received submissions from peak bodies from trade and investment, to public health.

1.2 Despite the evidence provided and concerns raised by these experts, the Majority report, supported by the Government dominated committee, stated its support for the TPP implementing legislation and recommended that the bill be passed.

1.3 The Australian Greens are strongly opposed to the ratification of the TPP and recommend that the legislation be rejected.

1.4 The Greens have serious concerns regarding the secrecy under which the TPP was negotiated over the course of six years, and the failure by the government to conduct any independent assessments of the TPP, despite serious concerns raised by the Productivity Commission.¹ This deal was cobbled together behind closed doors; it was created by big business, for big business. It is not surprising that such a process has been met with deep scepticism from the Australian public. The Greens believe that the archaic and secretive process of treaty negotiation needs to be redesigned so that the Australian people can be at the centre of any future deals.

1.5 The Greens are concerned about the damaging effects of the TPP on agriculture and manufacturing, with industry commissioned modelling showing that grain exports will not change and all other agriculture may decline, as well as the potential for a 2 per cent decrease in durable manufacturing.²

1.6 The Greens are deeply concerned by the stronger monopoly rights this Agreement will secure for large multi-national pharmaceutical companies. These protected monopolies will delay patient access to cheaper medicines, such as those required to treat cancer, and drive up the cost to Australian consumers.

1.7 The Greens are further concerned that the TPP includes rights for foreign companies to sue the Australian government in international tribunals if they can

1 Australian Government Productivity Commission, *Trade and Assistance Reviews 2014-15*, Productivity Commission Annual Report Series, available at www.pc.gov.au/research/ongoing/trade-assistance/2014-15/trade-assistance-review-2014-15.pdf (accessed 9 October 2018).

2 Peter A. Petri and Michael G. Plummer, *Modelling Report, September 2018: Australia will gain from continued Asia-Pacific Trade Integration*, available at www.minerals.org.au/sites/default/files/180905%20Australia%20will%20gain%20from%20continued%20Asia-Pacific%20trade%20integration.pdf (accessed 9 October 2018).

argue that a change in domestic law or policy at a national, state or local level will potentially ‘harm’ their investment, known as Investor-State Dispute Settlement (ISDS). The Greens note that the Productivity Commission have recommended that the Australian Government avoid the inclusion of ISDS provisions in any trade agreements that grant foreign investors in Australia substantive or procedural rights greater than those enjoyed by Australian investors.³ The Greens additionally note that ISDS provisions have been found incompatible with European law and national sovereignty by the European Court of Justice.⁴

1.8 The Greens note that the TPP contains inadequate protection for labour rights and migrant workers in accordance with recognised international standards and deeply inadequate and enforceable environmental standards.

1.9 The Greens note that the Australian Labor Party’s National Platform opposes key components of the TPP⁵ and they have indicated they will attempt to amend it if they form government. This will not be possible; the only opportunity to fix the TPP is to halt its progress now.

Conclusion

1.10 The Australian Greens do not support the passage of the implementing legislation. The Greens are troubled by key components of the TPP. These include;

- the impacts on agriculture and manufacturing;
- the predicted increase in cost to Australians regarding essential pharmaceuticals;
- the ability for large multi-national corporations to sue Australian governments;
- poor labour rights protections; and
- a lack of enforceable commitments to key international environmental agreements.

3 Australian Government Productivity Commission, *Trade and Assistance Reviews 2014-15*, Productivity Commission Annual Report Series, p. 49, available at www.pc.gov.au/research/ongoing/trade-assistance/2014-15/trade-assistance-review-2014-15.pdf (accessed 9 October 2018).

4 European Commission Fact Sheet, *Commission provides guidance on protection of cross-border EU investments – Questions and Answers*, available at http://europa.eu/rapid/press-release_MEMO-18-4529_en.htm (accessed 9 October 2018).

5 Australian Labor Party National Platform, available at www.alp.org.au/media/1299/alp_national_platform.pdf (accessed 9 October 2018).

1.11 This deal was negotiated to afford the greatest possible advantage to major, international corporations and was not designed to help regular Australians. Any moves towards ratifying the TPP would be counter to Australia's interests and should be opposed.

Recommendation 1

1.12 The Australian Greens recommend that the bill be rejected.

Recommendation 2

1.13 The Australian Greens recommend that the process for signing and ratifying trade deals and treaty agreements be radically overhauled to ensure genuine transparency and community consultation. The current system is opaque, outdated and no longer serves the public interest.

Recommendation 3

1.14 The Australian Greens recommend that there be a legislated ban on current or future Governments negotiating or signing any trade agreement or treaty that includes ISDS provisions.

Senator Sarah Hanson-Young

Australian Greens