



**Public Health Association**  
AUSTRALIA

# **Public Health Association of Australia submission to the Joint Standing Committee on Treaties on Certain Aspects of the Treaty-Making Process in Australia**

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The **Public Health Association of Australia** (PHAA) is recognised as the principal non-government organisation for public health in Australia working to promote the health and well-being of all Australians. It is the pre-eminent voice for the public's health in Australia.

The PHAA works to ensure that the public's health is improved through sustained and determined efforts of our Board, National Office, State and Territory Branches, Special Interest Groups and members.

**We believe** that health is a human right, a vital resource for everyday life, and a key factor in sustainability. Health equity and inequity do not exist in isolation from the conditions that underpin people's health. The health status of all people is impacted by the social, cultural, political, environmental and economic determinants of health. Specific focus on these determinants is necessary to reduce the unfair and unjust effects of conditions of living that cause poor health and disease. These determinants underpin the strategic direction of the Association.

**Our mission** as the leading national organisation for public health representation, policy and advocacy, is to promote better health outcomes through increased knowledge, better access and equity, evidence informed policy and effective population-based practice in public health. Members of the Association are committed to better health outcomes based on these principles.

**Our vision** is for a healthy population, a healthy nation and a healthy world, with all people living in an equitable society underpinned by a well-functioning ecosystem and a healthy environment, improving and promoting health and wellbeing for all.

The reduction of social and health inequities should be an over-arching goal of national

to be recognised as a key measure of national health and related government policy and to be implemented through social and health inequity nationally and, where possible, internationally.

## Introduction

PHAA welcomes the opportunity to provide input to the Joint Standing Committee on Treaties inquiry into Certain Aspects of the Treaty-Making Process in Australia. The reduction of social and health impacts and particularly inequities should be an overarching goal of national policy and recognised as a key measure of our progress as a society. The Australian Government should take this into account in the negotiation of all international treaties. Treaties, along with all public health activities and related government policy should be directed towards reducing social and health inequity nationally as well as internationally. The treaty-making process should be designed to ensure these goals can be realised, including through open and transparent decision making, systematic consultation with public health experts and independent analysis of the impacts of trade agreements on health.

## Trade agreements and public health

Trade agreements are a significant determinant of health. They can affect many aspects of health care and public health, including:<sup>1, 2</sup>

- access to affordable medicines;
- the equitable provision and quality of health care services;
- the ability of governments to regulate health damaging products such as tobacco, alcohol and processed foods;
- the nutritional status of populations;
- access to many of the social determinants of health such as employment and income; and
- a nation's ability to protect the natural environment, a fundamental determinant of human health, prosperity and wellbeing.

PHAA is particularly concerned about the emerging trend of trade agreements that aim to extend into areas that have previously been matters for domestic policy making. This includes agreements such as the Comprehensive and Progressive Agreement on Trans Pacific Partnership Agreement (CPTPP) to which Australia is a party.

PHAA has a policy position statement on trade agreements and health which notes that trade and investment agreements must:<sup>3</sup>

- prioritise equity within and between countries for global population health improvement
- not limit or override a country's ability to foster and maintain systems and infrastructure that support the health and well-being of its citizens, and
- enable governments to regulate to protect public health
- be negotiated in a transparent fashion, with opportunities for public and parliamentary scrutiny before commitments are made
- be subject to health and environmental impact assessments, carried out by parties independent of corporate interests.

The statement also commits the association to “advocate for transparent trade negotiating practices and for the routine use of independent health, environmental and human rights impact assessment during negotiations, before agreements are finalised and after implementation”.

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PHAA supports the implementation of WHO Resolution 59.26, which mandates WHO to provide advice to governments regarding the implications of trade agreements for health.<sup>4</sup>

PHAA calls for transparent trade negotiating practices and for the routine use of independent health, environmental and human rights impact assessment during negotiations, before agreements are finalised and after implementation.

## PHAA Response to the Inquiry Terms of Reference

### Role of JSCOT in respect of trade-related agreements, including during the negotiation phase

In our view, JSCOT should have greater oversight of trade negotiations, and have the ability to scrutinize negotiating documents during the negotiation phase. The complexity of trade agreements and the number of treaties JSCOT must consider also limit the degree to which JSCOT can closely scrutinize the final text of trade agreements. Establishing a special sub-committee of JSCOT would enable a more thorough review.

### Consultation process undertaken by the Department of Foreign Affairs and Trade (DFAT) before and during the negotiation of trade agreements

The current process for public and stakeholder consultation is very ad hoc. There should be requirements for trade negotiators to systematically consult with stakeholders.

Position papers and composite drafts of treaty texts should be released at key points during the negotiations. At the very least, Australia's positions and textual proposals should be released, as is done by the European Union.

PHAA includes members who are experts in assessing the health implications of policies (including policies outside of the health sector) and experts in the links between trade and health. Our members are very well aware that when it comes to legal treaty text, "the devil is in the detail". The exact wording is critically important. Because we cannot see the proposed wording of text under negotiation, our expert members cannot make an independent assessment of the potential consequences on the health of Australians.

At present it is extremely difficult to access information about the specifics of the issues being discussed in trade negotiations. While we appreciate the efforts of Australia's trade negotiators (within the constraints of their mandate) to share general information about the status of negotiations and Australia's positions on key issues of interest to us, we continue to be frustrated by the lack of detail provided and our lack of access to negotiating text. This severely limits the ability of our Association and its expert members to assess the implications of trade treaties.

[REDACTED] a Ministerial Advisory Committee [REDACTED] en announced, however this committee has no public health representation, and is dominated by industry.

We are very concerned that the text of trade agreements is presently not released publicly before being signed by Cabinet. We strongly advocate for release of treaty text for public and Parliamentary scrutiny before signing.

## **Effectiveness of independent analysis to inform negotiation or consideration of trade agreements**

Health impact assessment (HIA) is a systematic process that considers the potential health effects of a proposed policy, plan, or project, and offers recommendations to mitigate health harms and improve benefits.<sup>6</sup> HIAs have been used widely in countries such as Australia, the U.K. and the U.S. to inform decisions in a wide range of sectors, such as transportation, resource extraction, health services and energy development. A recent evaluation of HIA in Australia and New Zealand found that HIAs have been useful at informing, changing, or influencing decisions to better integrate health.<sup>7</sup> Guidance from the World Health Organization explicitly calls for the use of HIA to better integrate health into various policy decisions, particularly those that affect the social, economic, and environmental determinants of health.<sup>6</sup>

Given the significant impact that trade agreements can have on many aspects of health, we believe it is essential that health impact assessment of all treaties be undertaken during negotiation, after final agreement is reached and after implementation, as recommended by the UN Special Rapporteur on the Right to Food.<sup>8</sup>

### **Process around categorisation of treaty actions**

We believe that trade agreements should continue to be classified as Category 1 treaties (major treaties which the Committee is required to report on within 20 joint sitting days), in order to provide as much public and parliamentary as possible.


## **Conclusion**

We believe that:


- Trade agreements should be negotiated in an open and transparent fashion, with publication of government positions on key issues of public interest and negotiating drafts at key points in the negotiations.
- The text of trade agreements should be released before signing.
- There should be systematic consultation with health experts during negotiations.
- Independent health impact assessment of all treaties should be undertaken during negotiation, after final agreement is reached and after implementation.

The PHAA appreciates the opportunity to make this submission regarding the treaty-making process in Australia.

Please do not hesitate to contact us should you require additional information or have any queries in relation to this submission.



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## Acknowledgements

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