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Secretary
Foreign Affairs, Defence and Trade Committee
The Senate
P O Box 6100
Parliament House
Canberra, ACT 2600.

Dear Sir/Madam

Subject: Inquiry into Proposed Trans-Pacific Partnership Trade (TPP) Agreement

Thank you for the opportunity of contributing to the Committee's inquiry into the Trans-Pacific Partnership (TPP) Trade Agreement, which was signed by twelve economies, including Australia, in February 2016. The TPP is an extremely significant preferential trade agreement for all participants, and provides an important platform for facilitating future economic, employment and trade growth throughout Asia Pacific. The value of the new agreement, which encompasses forty per cent of global GDP and more than a quarter of global trade, is particularly important given the long-standing inability of global economies to conclude an effective WTO Doha Agreement. Its significance is also reflected by its coverage of the increasingly important areas of global investment and trade in services.

Chatto Creek Advisory is a newly-established boutique consultancy driven by innovative thinking and rich geopolitical knowledge throughout Asia Pacific. Its specialities include trade policy. It is headed by Russell Scoular, a seasoned business executive with 32 years' corporate experience in trade and public policy throughout the Asia Pacific region. Chatto Creek Advisory is making this submission as a contribution to public discussion on an important national growth initiative.

We urge Senators to view the TPP Agreement in the context that trade growth is fundamental to the economic and social growth of our communities, particularly the growth in services trade. Trade liberalisation is a fundamental enabler of this growth via the consumer benefits that emerge from the lower costs of goods and services in a more competitive environment. It will play a critical role in providing new opportunities for services' exporters. It directly contributes to employment growth by facilitating the pursuit of new customers for goods and services and new investment opportunities. It also provides better access to the new materials and technologies which form valuable inputs to the goods and services that are traded. In essence, it contributes to a better and more stable global economy. An early ratification of a comprehensive TPP Agreement would facilitate an early beginning to the flow of the benefits that are expected from the agreement.

In an ideal environment, Australia and other TPP members would be primarily focussed on the World Trade Organization (WTO) as the best forum in which to pursue trade growth via enhanced multi-lateral market access.

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However, it is a regrettable fact that the WTO's inability to conclude the Doha Agreement has left trade-dependent economies, like Australia, with an important need to seek out practical and achievable alternatives. A failure to do this would slow economic growth and see competitor economies potentially able to better position themselves for future growth

The TPP Agreement has much to commend it and represents significant gains on the status quo. It goes well beyond a traditional goods-focussed trade agreement. Its services and investment elements, for example, will, as indicated above, be very important to future economic growth. It will assist the export endeavours of sectors like engineering, design, information technology construction and professional services to enter export markets.

The TPP Agreement incorporates a diverse membership with a significant population and economic base. Its twelve members represent more than 800 million people and account for more than a quarter of all world trade. The agreement seeks to be a WTO-plus or WTO-X agreement. Critically, it is a broad agreement with a wide subject range including goods, services, investment, labour, government procurement, state-owned enterprises and environment.

The TPP Agreement also anticipates the inclusion of new member economies over time. In addition to the twelve existing members, this provides a basis for even greater economic integration across Asia Pacific. Economies which have flagged an interest in joining the TPP Agreement include South Korea, Philippines, Thailand and Taiwan. Economies which may seek longer-term involvement would include China, India and Indonesia.

The TPP Agreement is also viewed as a "live agreement" in that there will be continuous opportunities to ensure the agreement is updated and maintains a contemporary character. This includes a review within three years of the agreement coming into force, and each following five years.

This last item is particularly important in the context of ensuring the initial TPP Agreement is capable of reflecting contemporary challenges to trade and opportunities well into the future. It can also allow for fresh learnings to be incorporated.

One contentious topic in some key economies and industry sectors, which is not covered in the initially signed agreement, is that of currency manipulation. This is a complex issue, but a genuine trade policy challenge. Its potential influence on trade patterns is relatively more significant as the traditional impediments to goods trade, like tariffs and quotas for example, are removed.

The macro-economic policy authorities of the twelve TPP member economies did last November adopt a joint declaration seeking to address unfair currency practices by promoting transparency and accountability. However, this initiative took place outside of the agreement itself and is quiet on any enforceability provisions. It would be better included within the TPP Agreement itself.

Australia already has various Free Trade Agreements with a number of TPP economies including New Zealand, USA, Japan and the ASEAN economies of Singapore, Malaysia, Brunei and Vietnam. These agreements are important and provide preferential access for Australian exporters. The TPP Agreement provides a valuable opportunity to expand on those agreements and to also add economies like Canada, Mexico, Peru and Chile.

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The inclusion of economies like Canada and Mexico are particularly important. An increasing number of manufacturing industries reflect global sourcing patterns and rely upon inputs from the US, Canada and Mexico. It is therefore valuable that the TPP Agreement will provide Australian importers with better opportunities to access these North American goods. The inclusion of Peru and Chile will contribute to stronger economic links with South America.

The ratification of the TPP Agreement will not be easy. In a number of economies, domestic politics will play a significant role. The current US presidential election campaign is illustrative of this

The negotiated agreement will enter into force after ratification by all participants within two years, or within 60 days of the two-year period expiring if six of the original members accounting for 85 per cent of the combined 12 member GDP have ratified the agreement. This means the TPP Agreement will not come into force if it is not ratified by larger member economies like the US and Japan

Following the signing of the negotiated agreement earlier this year, member economies are now at various stages in the ratification process. At the time of writing this paper, five economies – Japan, Malaysia, Mexico, New Zealand and Peru – have introduced legislation to facilitate their ratification of the agreement.

A failure of the TPP Agreement to come into force would represent a significant setback to trade liberalisation. This would reflect a lost opportunity for all economies, including Australia, that would not be easily or promptly recovered.

A concern sometimes expressed in relation to trade agreements with a narrow membership base, such as bilateral or regional agreements, is that they can contribute to what is described as trade diversion rather than competitive trade growth.

In the case of a large regional agreement like TPP, this should not be regarded as a risk. Firstly, TPP members represent a significant share of global trade and GDP. Secondly, there is the potential for, and expectation, that the membership will grow.

Australia's low levels of MFN tariff protection now in place and its broad suite of other preferential trade agreements, currently in force or under negotiation, also suggests there would not be a significant trade diversion risk emerging out of the TPP Agreement.

A further issue that has been raised in some sectors in the context of trade negotiations like the TPP Agreement is that of provisions related to Investor-State Dispute Settlements (ISDS). These provisions are designed to allow opportunities for investors in certain circumstances to protect their foreign investments. They are not a new concept and are generally narrow in their coverage.

Australia already has ISDS provisions in a number of existing trade agreements. It also has ISDS provisions in an even larger number of investment agreements. Despite the number of existing agreements incorporating such provisions, there has only been extremely modest use of them in cases against Australia. This suggests the maturity of Australia's policy-making, governance structures and institutional frameworks provide a natural hedge against widespread use of the ISDS processes.

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Thank you for the opportunity of making this submission. I trust the issues canvassed will be of value to the Committee's deliberations. If you have any queries, I can be contacted via email [REDACTED]

Yours Sincerely

[REDACTED]

Russell Scoular
Chairman