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The Hon. Dr Craig Emerson
Minister for Trade
Parliament House
Canberra ACT 2600

13th October 2011

Dear Minister

Your Government has pledged that the Trans-Pacific Partnership Agreement (TPPA) currently being negotiated will be a new model of trade agreement for the 21st century. For us, that means it must not limit the ability of governments to address the challenges that will shape our livelihoods, our communities and our planet over the next ninety years: climate change, financial instability, energy scarcity, food insecurity, inequality and poverty, and constraints on corporate greed.

Instead, business is lobbying for the proposed TPPA to restrict financial, social, health and environmental regulation. Business also wants special rights for foreign investors to sue governments on the grounds that regulation could harm their investments. Pharmaceutical companies are demanding changes to Intellectual Property Law and the Pharmaceutical Benefits Scheme so they can charge higher prices for medicines, agribusiness companies want to abolish GE food labelling, and media and services companies want to weaken Australian content rules in audio-visual media, and in government purchasing. Such changes would weaken and limit the laws that will govern us for the entire 21st century.

And all these changes are being debated in secret. The essence of a democracy is the right of the people to scrutinize what governments are doing in their name and debate the direction of policies and laws through democratic parliamentary processes. Instead, these negotiations are shielded from scrutiny by and accountability to both the public and Parliament. Citizens and legislators would never tolerate the text of domestic legislation being kept secret until it was passed.

In February this year, 33 Australian unions and community organisations wrote to you asking for negotiating documents and discussion papers to be posted on a website and for the full text of the agreement to be released for full public and Parliamentary discussion and debate before the agreement is signed.

Similar letters were sent to the government leaders of New Zealand, Chile, Malaysia and the United States of America by trade unions, environmentalists, faith and social justice organisations.

Enhanced transparency in the TPPA process has many benefits. A more diverse array of informed observers with access to text can safeguard against errors and the risks posed by limited understanding of the possible consequences of proposals. An open process could also dispel current suspicions and build confidence among the public and parliamentarians.

There are precedents for releasing the text in trade negotiations. We cite, in particular, the examples of the Free Trade Area of the Americas, the Multilateral Agreement on Investment, the Anti-Counterfeiting Trade Agreement and Doha Round negotiations at the WTO.

We now understand that the parties negotiating the TPPA signed a Memorandum of Understanding dated 4 March 2010 on the negotiation process. It is clear from the cover page of the leaked draft Intellectual Property chapter tabled by the United States government that this Memorandum includes rules that restrict the declassification of documents for 'four years from entry into force of the TPP agreement or, if no agreement enters into force, four years from the close of the negotiations.'

While we reiterate our earlier demands for comprehensive disclosure, we consider it utterly unacceptable for a Memorandum to exist which could keep the terms of the negotiation secret for up to four years and for this memorandum to also be secret.

At the stakeholder briefing in Chicago on September 2011, the Chair of the Chicago round, Assistant USTR Barbara Weisel, said the parties will have to consider the request for the release of the Memorandum of Understanding.

We therefore request that the parties at the round in Lima, Peru, agree to the immediate release of the Memorandum of Understanding so that we can better understand the rationale for this extreme level of secrecy, the rules that the parties have agreed for the negotiations, and the nature and duration of the restrictions on disclosure and classification.

Yours sincerely

Australian Council of Trade Unions (ACTU)
Australian Fair Trade and Investment Network (AFTINET)
Australian Catholic Social Justice Council
Australian Conservation Foundation
Australian Writers Guild
Music Council of Australia
Australian Pensioners and Superannuants Federation Inc (APSF)
Public Health Association of Australia

Doctors Reform Society of Australia
Uniting World
Australian Education Union (AEU)
Australian Manufacturing Workers Union (AMWU)
Australian Nursing Federation (ANF)
Australian Services Union (ASU)
Construction, Forestry, Mining and Energy Union (CFMEU)
Finance Sector Union (FSU) Chris Gambian, Acting National Secretary
State Public Services Federation (SPSF)
United Voice
Union Aid Abroad - APHEDA
AID/WATCH
Edmund Rice Foundation
Franciscan Missionaries of Mary
FairWare NSW
The Grail (Australia)
Mothers Are Demystifying GE (MADGE)
People's Health Movement Australia (PHM Oz)
Combined Pensioners and Superannuants Association of NSW Inc (CPSA)
Public Interest Advocacy Centre (PIAC)
SEARCH Foundation
West Australian Regional Meeting of the Religious Society of Friends (Quakers)
Republic Now Association