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Trans Pacific Partnership Agreement

The Trans Pacific Partnership Agreement (TPPA) is a new regional trade agreement that is expected to have negotiations begin in March 2009. The TPPA builds on the existing agreement between New Zealand, Chile, Singapore and Brunei Darussalam, but includes the United States. Australia, Peru and Vietnam have been invited to join the negotiations. The US is pressuring the Australian government to make a decision in November to agree to start negotiations in March 2009.

No Authority to Negotiate on Behalf of the US

For the US to undertake negotiations for a trade agreement Congress has first to grant approval to start specific negotiations, and has also to grant Trade Promotion Authority to enable the Executive to conclude the negotiations and put an agreement to Congress with a yes or no vote, without amendments. There has been no formal Congress approval of TPPA negotiation, President Bush's Trade Promotion Authority has also expired in March 2007. This means the current US administration has no approval to start negotiation and no authority to conclude them.

The change of administration in the US means it is even more uncertain that TPPA negotiations will proceed. President Obama has indicated that he will review all current trade agreements before proceeding with any new ones. The Australian government should not agree to any negotiations without clear evidence that the new US administration has Congressional approval to proceed.

Negotiations contrary to ALP Policy

Prior to the 2007 election the Australian Labour Party adopted a range of policy platforms that they would take to the election. Included in these were promises to ensure that prior to commencing any negotiations for a trade agreement a document will be table in parliament that outlines the Government's priorities and objectives, and include independent assessments of the cultural, social, economic, regional, regulatory and environmental impacts¹.

The decision to enter into negotiations will be made by Cabinet without any assessment of the impacts that such an agreement will have or Parliamentary discussion.

No Clear Results From Previous FTAs

The recently released review into Australia's export policies and programs titled "Winning in World Markets" concluded that Australia's three current FTAs with the US, Singapore and Thailand have not resulted in clear commercial benefits for the whole economy. All of Australia's three existing Free Trade Agreements (FTAs) have seen a worsening in Australia's balance of trade, inconclusive results as to whether or not FTAs have

¹ Australia Labour Party Election Platform, Chapter 3, Article 26.

achieved an overall increase in market share, and with the exception of some food, manufacturing and service sectors many companies reported no increase in exports².

The lack of clear benefits casts doubt on the model of Australia's FTAs and reinforces even more the need for assessment of the impact that such a trade agreement will have.

Reopening Negotiations on Current Trade Agreements

The negotiations for the TPPA will allow for the renegotiation of current trade agreements and the chance to gain more access to markets. Whilst Australia is claiming that it will defend current protections for sensitive areas like medicines and media content, it's also claiming that it will gain extra access to foreign markets. All countries will be aiming to get a better deal in these renegotiations than in their previous FTAs.

The US has long been known to oppose Australia's Pharmaceutical Benefits Scheme (PBS) for its ability to keep the prices of medicines low, as well as our current domestic media content laws. The Medicines Working Group, established under the US FTA, in January 2006 discussed the 2007 changes to the PBS that added a new, higher priced category for some new medicines.

Renegotiating these agreements will see Australia come under pressure again make concessions in these and other vital aspects of domestic policy.

Negotiations using a NAFTA Model

The inclusion of the US in the new round of negotiations will most likely see the adoption of the model used in the North American Free Trade Agreement (NAFTA). This model, used in other regional negotiations with the US, contains problematic provisions on Intellectual Property, labelling of Genetically Modified Organisms, Investor-State disputes procedures that allow companies to sue governments, and a process for including commitments on every service except those specifically included (called a 'negative-list').

NAFTA, and this model for trade agreements, has come under fierce criticism from people all over the world. The failure of this model has been recognised by the new President Obama who indicated that he will review existing trade agreements, including NAFTA.

APEC Free Trade Zone a Step in the Wrong Direction

The TPPA is being touted as a building block for a wider legally binding agreement or APEC free trade zone. This would be step in the wrong direction. The current financial, environmental and food crises have demonstrated the need for a rethink of the neo-liberal economic model, which removes regulatory power from governments.

Governments are calling for more flexibility and policy space to respond to these crises, while free trade agreements aim explicitly to restrict that space. Such restriction would undermine the ability of governments to take the strong regulatory action needed to respond to these crises.

² Mortimer, D. (2008) "Winning in World Markets", www.dfat.gov.au/export_review.