



Australian Government
Department of Foreign Affairs and Trade

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Mr Wayne Poels
Executive Director
Office of Best Practice Regulation
Department of the Prime Minister and Cabinet
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Dear Mr Poels

**Certification of independent review or other similar mechanism: the
Comprehensive and Progressive Agreement for Trans-Pacific Partnership**

On 8 March 2018, in Santiago, Chile, the Australian Minister for Trade, Tourism, and Investment, the Hon Steven Ciobo MP, signed the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (TPP-11) with 10 other Asia-Pacific economies, namely Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, Peru, New Zealand, Singapore, and Vietnam. The TPP-11 incorporates the provisions of the Trans-Pacific Partnership (TPP) Agreement by reference, with the exception of a limited set of provisions which are suspended. An Interim Regulatory Impact Statement (RIS) was completed prior to concluding negotiations and signing the TPP-11. The Department of Foreign Affairs and Trade is now seeking to implement and ratify the TPP-11 in line with Australia's domestic treaty making processes.

Accordingly, I am writing to certify that the attached Analysis of Regulatory Impact on Australia (ARIA) prepared for the TPP-11 has undertaken a process and analysis equivalent to a RIS. I also certify that the ARIA process has adequately addressed all seven RIS questions, as detailed below. This TPP-11 ARIA builds on and updates the original TPP ARIA submitted on 27 November 2015, with much of its analysis and conclusions remaining relevant given the close relationship between the two agreements.

Questions 1 and 2: what is the problem you are trying to solve, and why is government action needed?

The original TPP, signed by Australia on 4 February 2016, was the world's most significant trade and investment agreement finalised in more than two decades, with member countries accounting for around 40 per cent of global GDP. On 30 November 2016, the Joint Standing Committee on Treaties issued a report recommending that Australia take binding treaty action to ratify the TPP. However, on 30 January 2017, the Acting United States Trade Representative sent a letter to the Depository of the TPP and all TPP signatories notifying them that the United States did not intend to become a party to the TPP, further to a Presidential Memorandum issued on 23 January 2017 which formalised this decision. The TPP Agreement as originally negotiated cannot enter into force without the United States.

Ministers from the remaining TPP signatories met in Hanoi on 21 May 2017 to launch a process to explore options to bring the TPP into force expeditiously. This process culminated in the signing of the TPP-11 on 8 March 2018 in Santiago, Chile.

Parts 2 and 3 of the ARIA explain the policy settings and objectives underlying the TPP-11. It is explained that, for Australia, it is critical that the TPP-11 enters into force to preserve the TPP's important gains, including its market access commitments. This deal represents a unique opportunity for Australia to support economic growth, create new export opportunities, set high-standard rules, and contribute to global trade liberalisation. It will cover a regional free trade area with a GDP worth AUD 13.7 trillion and 495 million people. In addition, by ratifying the TPP-11, Australia will gain new free trade agreements (FTAs) with Canada and Mexico. Importantly, preferential outcomes done on a regional basis will provide supply chain efficiencies throughout our region.

Question 3: What policy options are you considering?

Part 4 of the ARIA details the other options that were considered with the objective of ensuring that the high-quality trade agreement concluded with TPP countries could still enter into force without the United States. The options considered include: pursuing multilateral trade negotiations in the World Trade Organization (WTO); seeking to conclude the Regional Comprehensive Economic Partnership; entering into separate bilateral FTA negotiations with TPP countries that we do not have existing FTAs with; seeking to amend and enhance existing bilateral FTAs with TPP countries; and renegotiating the TPP with the United States. Part 4 highlights that while negotiating global outcomes through the WTO remains the optimal trade objective, its achievability is in question. There is also uncertainty over the achievability, timeliness and efficiency of other options, not to mention the quality of the outcomes that might be expected.

Question 4: What is the likely net benefit of each option?

Parts 5 and 6 of the ARIA detail the benefits to the Australian economy expected to result from implementation of the TPP-11. The TPP-11 delivers significant market access outcomes for Australia goods and services exports, modern and balanced outcomes in investment, government procurement and intellectual property, and provisions which will lower the cost of business and create new trade policy to address contemporary trade challenges. Australia exporters,

investors, businesses and consumers are expected to benefit from the market openings, the creation of global value chains, more transparent and predictable rules, and lower prices under the TPP-11.

Question 5: Who will you consult about these options and how will you consult them?

Part 7 of the ARIA details the broad consultations the Department of Foreign Affairs and Trade has already undertaken in respect of the TPP-11 with business, industry, civil society, Commonwealth Government agencies and the States and Territories, as well as the feedback received. It outlines the lengthy consultation process undertaken in relation to the TPP, which included two parliamentary inquiries. This Part also describes the Department's future outreach strategy and plans for ongoing consultations in respect of the TPP-11.

Question 6: What is the best option from those you have considered?

The ARIA concludes in Part 8 that of the options available, implementing the TPP-11 is the best and most timely means by which to meet the Government's objective of bringing into force the provisions of the original TPP. Implementing the TPP-11 is the best option to achieve a high standard, ambitious, comprehensive, and balanced agreement that will diversify the economy, drive jobs, and promote economic growth and innovation for Australia.

Question 7: How will you implement and evaluate your chosen option?

Part 9 of the ARIA details the legislative and other changes that would be required in order for Australia to implement the TPP-11. This part also details the provisions in the TPP-11 governing entry into force, withdrawing from the TPP-11, and the evaluation mechanism which will review the operation of the TPP-11 over future years.

Regulatory Burden and Cost Offset

The TPP-11 does not impose any additional regulatory burden on Australian businesses and is expected to result in a small reduction in ongoing business compliance costs for Australia exporters to TPP-11 Parties. The table below sets out the regulatory burden arising from the TPP-11.

Regulatory burden and cost offset estimate table

Average annual regulatory costs (from business as usual)

Change in costs (\$ million)	Business	Community organisations	Individuals	Total change in costs
Total, by sector	\$0.143	\$0	\$0	\$0.143
Cost offset (\$ million)	Business	Community organisations	Individuals	Total, by source
Agency	\$0	\$0	\$0	\$0
Are all new costs offset? <input type="checkbox"/> Yes, costs are offset <input type="checkbox"/> No, costs are not offset <input checked="" type="checkbox"/> Deregulatory—no offsets required				
Total (Change in costs – Cost offset) (\$ million) = \$0.143				

Further detail regarding the regulatory burden and cost offset of the TPP-11 may be found in the Attachment to the ARIA.

In light of the above, I am satisfied that the attached ARIA meets best practice consistent with the *Australian Government Guide to Regulation*.

Yours sincerely



George Mina
First Assistant Secretary
Office of Trade Negotiations