



# EMBRACE PACT FOR PROSPERITY

*The trans-Pacific trade deal represents  
an agreement for the 21st century*

**ANDREW ROBB**

IT is unfortunate that opponents of trade are trying their darnedest to undermine a deal that can deliver truly enormous gains for Australia.

The deliberate peddling of misinformation is one weapon being deployed against Trans-Pacific Partnership negotiations, which involve Australia and 11 other countries representing a staggering 39 per cent of global GDP.

Our exports to member countries are worth almost \$100 billion a year and they account for about 34 per cent of our trade overall.

Like all trade negotiations, there is a necessary level of confidentiality around the TPP and this is being exaggerated to amplify claims of secrecy in attempts to erode public confidence.

Anti-traders also like to fan conspiracy theories about how the TPP will open the floodgates for big foreign multinationals to sue member governments for introducing laws and regulations that they simply don't like despite any demonstrable public good. This is nonsense.

The reality is the TPP presents a major opportunity to put in place modern trade and investment architecture across the region. It would apply to both traditional areas, and contemporary and emerging areas such as e-commerce and IT, government procurement and services.

The TPP is often described as a "21st-century agreement", which is true. It also provides a

rare chance to address some unresolved "19th-century" issues important to Australia, such as market access for agriculture where in some cases we still face tariffs of 50-300 per cent.

The agreement seeks to drive reform behind borders and chart new rules to build openness, competitiveness and flexibility in an integrated regional economy to produce a seamless environment for business to operate in. Efforts to shape disciplines that level the playing field between private business and state-owned enterprises, for instance, are a first of their kind.

For an economy in a transition phase such as ours, we cannot afford not to be at the TPP negotiating table. This government sees trade and investment as fundamental to supporting sustainable private-sector-led growth, job creation and economic diversity in the years and decades ahead. We can do this by backing the things we do best.

To be clear, there has been ample scope in Australia for TPP consultation. In fact, since 2011 there have been in the order of 700 different consultations with interested parties, including advertised public briefings and opportunities for written submissions.

This process remains ongoing and proves invaluable for informing government and our trade negotiators of the views, insights and expectations of business and the broader community.

In regard to calls for the

release of draft negotiating text, it is simply not common practice to release text before agreement has been reached. To do so would undermine negotiations and, given their evolving nature, would do little to better inform public debate. Drafts are just that and they would likely include ambit claims and other positions that may bear no resemblance to the final agreement.

We have been clear that once the text has been agreed to by all negotiating parties it will be made public and subjected to parliamentary scrutiny before ratification.

This is the exact position held by the previous government and which was defended by Labor trade ministers Simon Crean and Craig Emerson.

Claims that our sovereignty will be undermined by big business looking to sue us at every turn are based on the possible inclusion of so-called investor-state dispute settlement provisions. For the record, Australia is already a party to agreements with 28 different countries containing such provisions, including free-trade agreements signed by the previous government. These have not led to any of the dire consequences cited by the conspiracy theorists.

The single case ISDS critics point to is Philip Morris's claim against Australia's tobacco plain-packaging laws, introduced by the previous government, via an ageing 1993 investment protection treaty with Hong Kong.



While the government retains its right to regulate under older agreements, including the Hong Kong treaty, they can lack the types of explicit safeguards contained in contemporary agreements such as our recently concluded free-trade agreement with Korea. Older agreements help better inform new ones.

Australia is defending its position in the plain-packaging case and UN statistics show that the majority of ISDS cases are decided in favour of government.

Contemporary ISDS agreements with their explicit safeguards make clear that government's capacity to pass

laws and regulations in the public interest in areas such as health and the environment is not diminished. ISDS provisions are quite limited in their scope.

They are aimed to ensure fair and equitable treatment of investment by governments and protect against such things as unjust expropriation or discrimination. Importantly, they provide reassurance for Australian investments in jurisdictions with unreliable legal and political systems.

It must be remembered that the TPP remains a negotiation and ultimately we don't have to accept any of it.

I am certainly not going to sign up to anything that does not materially advance our national interest. Why would I?

*Andrew Robb is the Minister for Trade and Investment.*

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