

# Creating Healthy Trade

## Health Impact Assessment of the Trans-Pacific Partnership Agreement

### Trans-Pacific Partnership Agreement (TPP)

The Trans-Pacific Partnership is a large regional trade agreement currently in the final stages of negotiation and involves countries across the Pacific region including Australia. The agreement is being negotiated in secret and consequently there are no public documents or consultation.

### Health Impact Assessment (HIA)

A health impact assessment was undertaken on the TPP. HIA is an established way of predicting the positive and negative health impacts of a policy or proposal to then make recommendations to improve that proposal.<sup>1</sup> The focus of this HIA was to inform advocacy in Australia surrounding the agreement.

The structured steps of the standard HIA process (screening, scoping, identification, assessment, recommendations and evaluation) were followed, while also adapting to this unique proposal. The HIA served as a tool to bring together advocacy organisations in Australia (including some universities) interested in outcomes of the TPP. This advocacy effort was led by the Public Health Association of Australia. The HIA assessed existing information only, supported by consultation with experts across Australia. In the absence of public documents, the HIA used leaked texts of potential provisions and formulated policy scenarios in order to conduct the assessment and predict potential impacts. The scenarios were based on a select number of high priority policies that could be affected by provisions in the TPP and were used to demonstrate the possible impact on public health.

The HIA focused on four areas of potential health impact:

- the cost of medicines;
- tobacco control policies;
- food nutrition labelling; and
- alcohol control policies.

This document provides a brief overview of the findings and offers recommendations to mitigate potential harms from the TPP. We intend for the HIA to inform negotiations.

### Key findings

Using the existing evidence base, principally literature and population demographics, the HIA developed a causal pathway between each scenario and its potential health impacts for the Australian population. The HIA found the potential for negative health impacts in each of the four areas:

#### ▪ **Medicine**

Concerning costs of medicines, the TPP risks increases in out-of-pocket expenses and increased cost of the Pharmaceutical Benefits Scheme (PBS). This may result in medical non-adherence for prescription use and prioritising health costs over other necessities. Vulnerable groups include those from low socio-economic backgrounds, people with chronic conditions, younger populations, and indigenous populations. Potential risks to health outcomes include declining health status in the community, increased hospitalisations and increased mortality.

#### ▪ **Tobacco**

The TPP provisions risk the ability of government to regulate and restrict tobacco advertising. This could potentially lead to increased tobacco use and smoking prevalence, resulting in increases in tobacco related health harms across the community but particularly for existing vulnerable groups.

#### ▪ **Alcohol**

Provisions in the TPP have the potential for limiting regulation of alcohol control measures such as pregnancy warning labels, alcohol outlet density, and alcohol marketing. This risks increasing alcohol consumption rates and abuse, especially amongst young members of the community. This may lead to increased alcohol related disorders, worsening mental health and social disruption in the community.

#### ▪ **Food**

There is the potential for TPP provisions to restrict the ability of Government to implement new food labelling policies, limiting reductions in consumption of unhealthy foods. This is associated with overweight/obesity and related health outcomes.

## Health Impacts

Based on the available evidence, the HIA found the potential for provisions in the TPP to have negative impacts on public health. The following matrix maps out the ways the TPP could impact the policy scenarios and their subsequent health effects.

	Food	Medicine	Tobacco	Alcohol
TPP Provisions	<ul style="list-style-type: none"> <li>Investor-state dispute settlement</li> <li>Technical barriers to trade chapter</li> <li>Regulatory coherence and transparency chapters</li> <li>Cross border advertising</li> </ul>	<ul style="list-style-type: none"> <li>Intellectual property chapter</li> <li>Healthcare transparency annex</li> <li>Investment chapter</li> </ul>	<ul style="list-style-type: none"> <li>Investor-state dispute settlement</li> <li>Technical barriers to trade chapter</li> <li>Rules related to trademarks in the intellectual property chapter</li> <li>Other protections for investors</li> <li>Regulatory coherence chapter</li> <li>Cross-border services chapter</li> </ul>	<ul style="list-style-type: none"> <li>Investor-state dispute settlement</li> <li>Technical barriers to trade chapter</li> <li>Intellectual property chapter</li> <li>Wine and spirits annex</li> <li>Cross-border services chapter</li> <li>General exceptions</li> </ul>
Policy Scenario	<ul style="list-style-type: none"> <li>Federal regulation of food labelling</li> </ul>	<ul style="list-style-type: none"> <li>Out-of-pocket expenses for patients</li> </ul>	<ul style="list-style-type: none"> <li>Federal tobacco advertising restrictions</li> <li>State/Territory advertising restrictions</li> </ul>	<ul style="list-style-type: none"> <li>Federal regulation of pregnancy warning labels</li> <li>State/Territory regulation of alcohol outlet density and alcohol marketing</li> </ul>
Health Determinants	<ul style="list-style-type: none"> <li>Consumption of unhealthy food</li> </ul>	<ul style="list-style-type: none"> <li>Medical non-adherence for prescription use</li> <li>Prioritising health costs over other necessities</li> </ul>	<ul style="list-style-type: none"> <li>Smoking prevalence</li> </ul>	<ul style="list-style-type: none"> <li>Alcohol consumption during pregnancy</li> <li>Rate of alcohol consumption/abuse</li> </ul>
Health Outcomes	<ul style="list-style-type: none"> <li>Obesity and metabolic syndrome</li> <li>Obesity-related health outcomes:                             <ul style="list-style-type: none"> <li>Cardiovascular disease</li> <li>Diabetes</li> <li>Liver disease</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Declining health status</li> <li>Increased hospitalisations</li> <li>Mortality</li> <li>Higher use of emergency services</li> </ul>	<ul style="list-style-type: none"> <li>Tobacco-related health outcomes:                             <ul style="list-style-type: none"> <li>Cancer</li> <li>Respiratory diseases</li> <li>Cardiovascular disease</li> <li>Reproductive effects</li> <li>Cataracts</li> <li>Low bone density</li> </ul> </li> <li>Declining health status</li> <li>Disability</li> <li>Death</li> </ul>	<ul style="list-style-type: none"> <li>Foetal alcohol spectrum disorders</li> <li>Alcohol-related health outcomes:                             <ul style="list-style-type: none"> <li>Cardiovascular disease</li> <li>Liver disease</li> <li>Cancer</li> </ul> </li> <li>Behavioural impacts:                             <ul style="list-style-type: none"> <li>Sexually transmitted infections</li> <li>Child maltreatment</li> </ul> </li> <li>Psychological impacts                             <ul style="list-style-type: none"> <li>Alcoholism</li> </ul> </li> <li>Social disruption                             <ul style="list-style-type: none"> <li>Road accidents/Drink driving</li> <li>Pedestrian injury</li> <li>Violent assault</li> </ul> </li> <li>Hospitalisation</li> </ul>
Vulnerable Populations	<ul style="list-style-type: none"> <li>Low socioeconomic status</li> <li>Youth</li> <li>Elderly</li> <li>Low literacy</li> <li>Cultural and linguistic minorities</li> </ul>	<ul style="list-style-type: none"> <li>Low socioeconomic status</li> <li>Aboriginal and Torres Strait Islander people</li> <li>People with chronic conditions</li> <li>Elderly</li> <li>Women</li> <li>Cultural and linguistic minorities</li> <li>Geographically remote</li> </ul>	<ul style="list-style-type: none"> <li>Low socioeconomic status</li> <li>Aboriginal and Torres Strait Islander people</li> <li>Homeless</li> <li>People with mental illness</li> <li>People in prison</li> <li>Drug users</li> <li>Adolescents</li> </ul>	<ul style="list-style-type: none"> <li>Low socioeconomic status</li> <li>Aboriginal and Torres Strait Islander people</li> <li>Geographically remote</li> <li>Adolescents</li> </ul>
	Food	Medicine	Tobacco	Alcohol

## Recommendations

1	Recommendations to the Department of Foreign Affairs and Trade regarding TPP provisions
1.1	<p>Ensure within the TPP text that public health concerns override economic or trade concerns in any area where these priorities may conflict. This means:</p> <ul style="list-style-type: none"> <li>▪ including clear and strong public health exceptions; and</li> <li>▪ defining public health as broadly as possible (e.g. not restricting the definition, explicitly or implicitly, to emergencies or to particular diseases).</li> </ul>
1.2	<p>Do not agree to provisions that potentially increase the cost of medicines for governments or the public.</p> <p>1.2.1. The optimum outcome would be complete exclusion of provisions that impact the cost of medicines from the TPP.</p> <p>1.2.2. If such provisions are included, ensure TPP intellectual property provisions do not extend the monopoly rights of pharmaceutical companies further, or reduce the flexibility available to governments further, than the provisions of the World Trade Organization's TRIPS Agreement.</p> <p>1.2.3. Actively prevent the practice of 'evergreening'<sup>5</sup> within the TPP.</p> <p>1.2.4. Ensure the TPP does not constrain the listing and pricing mechanisms of the Pharmaceutical Benefits Scheme (PBS).</p> <p>1.2.5. Apply a public interest test to anti-competitive practices.</p>
1.3	<p>Ensure the provisions of the TPP do not limit the capacity of governments to introduce and implement priority interventions to maintain or improve public health, particularly in the following areas:</p> <ul style="list-style-type: none"> <li>▪ tobacco control;</li> <li>▪ reducing harmful use of alcohol; and</li> <li>▪ food nutrition labelling.</li> </ul>
1.4	<p>Given the harmful effects of tobacco and excessive consumption of alcohol, exclude from the TPP these products, policies and laws to regulate them, and any services or investment related to their advertising and promotion, distribution, etc.</p>
1.5	<p>Make explicit in the TPP that where there might be any potential conflict between a Party's obligations under the Framework Convention on Tobacco Control (FCTC) and the TPP, the FCTC would have precedence.</p>
1.6	<p>Exclude Investor-state dispute settlement (ISDS) from the TPP as this is a serious threat to public health policies.</p>
1.7	<p>However, if ISDS is included, include effective safeguards in the TPP that prevent investors from making claims related to public health and public health service matters. (Noting that the safeguards included in the Korea-Australia Free Trade Agreement (KAFTA) are widely acknowledged to be insufficient to prevent claims like the case by Philip Morris Asia against Australia over tobacco plain packaging).</p>
1.8	<p>Include wording to ensure that where any disputes arise under the TPP, programs and policies are not assessed for their efficacy as only singular intervention points; they must be assessed within the context of a comprehensive suite of activities to achieve the health outcome (for example food labelling as one intervention amongst several strategies to improve nutrition).</p>

<sup>5</sup>Evergreening refers to the way in which the pharmaceutical industry seeks patents for minor modifications to existing pharmaceutical products (such as changes to formulations, uses and methods of delivery) in order to extend monopolies and delay generic competition.

## Recommendations

<b>2</b>	<b>Recommendations to the Australian Government regarding the TPP negotiating process</b>
<b>2.1</b>	Conduct trade negotiations with full public transparency. This means: <ul style="list-style-type: none"><li>▪ publication of draft texts;</li><li>▪ publication of the Australian Government's negotiating position on issues of public interest; and</li><li>▪ release of the final TPP text and examination by a Senate committee before it is signed by Cabinet.</li></ul>
<b>2.2</b>	Ensure public interest stakeholders, including non-governmental health organisations, are informed of issues related to health and involved in a structured and organized way with sufficient prior notification for consultation.
<b>2.3</b>	Conduct Health Impact Assessments, with a focus on equity: <ul style="list-style-type: none"><li>▪ after release of the final TPP text but before it is signed; and</li><li>▪ periodically on new policies or activities resulting from the TPP.</li></ul>
<b>2.4</b>	Apply the precautionary principle <sup>†</sup> in trade negotiations.
<b>2.5</b>	The Department of Health should undertake regular monitoring of the impacts on health with a particular focus on health equity. Ensure monitoring is carried out transparently and publicly reported.
<b>3</b>	<b>Broader policy recommendations to governments in the areas of medicines, food, alcohol and tobacco</b>
<b>3.1</b>	Keep patient co-payments for the PBS as low as possible to ensure the affordability of medicines.
<b>3.2</b>	The Australian Government should support global efforts to separate the funding of research and development from medicine prices.
<b>3.3</b>	Actively support and preserve the PBS.
<b>3.4</b>	Adopt interventions which are part of a comprehensive suite of activities to achieve the health outcome (for example, alcohol warning labels as one policy within a suite of alcohol harm reduction interventions).
<b>3.5</b>	Invest research dollars and resources in developing the evidence base for public health interventions.
<b>3.6</b>	Develop clear criteria for protecting and prioritizing equity in health policy development; this will help to justify/support strong, effective and equitable public health policy options.

<sup>†</sup> The precautionary principle refers to protective action in the absence of scientific evidence. In situations where there is the potential for harm, but there is uncertainty about the magnitude of the impact or causality, then only action to avoid harm or no action should be undertaken. See Raffensperger, C. and Tickner, J.A . Protecting public health and the environment: implementing the precautionary principle. Washington, D.C: Island Press, 1999.



Prepared by Katie Hirono<sup>1</sup>, Deborah Gleeson<sup>2</sup>, Fiona Haigh<sup>1</sup> and Patrick Harris<sup>3</sup>  
January 2015

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1. Centre for Health Equity Training Research and Evaluation (CHETRE), part of the UNSW Australia Research Centre for Primary Health Care & Equity 2. School of Public Health and Human Biosciences, La Trobe University 3. Menzies Centre for Health Policy, University of Sydney