



PSA Submission

International Treaty Examination of the Comprehensive and Progressive Trans-Pacific Partnership Agreement (CPTPPA)

April 2018

PSA submission on the international treaty examination of the comprehensive and progressive trans-pacific partnership agreement (CPTPPA) to the Foreign Affairs, Defence and Trade Committee

About the PSA

The New Zealand Public Service Association Te Pūkenga Here Tikanga Mahi (the PSA) is the largest trade union in New Zealand with over 64,000 members. We are a democratic organisation representing members in the public service, the wider state sector (the district health boards, crown research institutes and other crown entities), state owned enterprises (SOE), local government, tertiary education institutions and non-governmental organisations working in the health, social services and community sectors.

People join the PSA to negotiate their terms of employment collectively, to have a voice within their workplace and to have an independent public voice on the quality of public and community services and how they're delivered.

From TPPA to CPTPPA

The PSA already addressed the former Minister of Trade, Hon Tim Groser, in November 2013 with concerns about the potential impacts of the then called Trans-Pacific Partnership Agreement (TPPA) especially on public services. We understand that following the withdrawal of the United States from the process in January 2017, the remaining participants agreed to a new agreement that would suspend 22 items from the TPPA. The suspended items are in the areas of investment, intellectual property and pharmaceuticals.

The CPTPP as it stands now is a free trade agreement negotiated by 11 countries in the Asia-Pacific region, including New Zealand, Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, Peru, Singapore, and Viet Nam. The agreement seeks to create new opportunities for international trade and more jobs that help generate a better standard of living for New Zealanders. Its intention is to preserve New Zealand's right to regulate for legitimate public policy purposes, and uphold the Treaty of Waitangi. It includes commitments to safeguard and enforce high labour and environmental standards across the Asia-Pacific region.

The PSA agrees with suspending 22 items in the areas of investment, intellectual property and pharmaceuticals and welcomes this as a step into the right direction. However, some key concerns remain with the CPTPPA. In summary our concerns are that:

- The **Labour Chapter** is not encouraging enforcement of high labour standards. The minimum standards are safeguarded.
- It undermines **PHARMAC's** ability to reduce costs for medicine to make it more accessible to people living in New Zealand.
- The CPTPPA is limiting the ability of **government to use procurement** for social, environmental or economic purposes.
- The requirement **for state-owned enterprises** to compete with international private sector organisations leads to potentially undermining their social responsibility towards people living in New Zealand.

Our concerns

The CPTPPA remains **structurally biased towards commercial private interests**. Crucial matters that concern our communities come second: among them the needs for health, safety, human rights including democratic and labour rights, the environment, cultural values and economic development- a lot of which are attended to by public services and its workforce. We have long standing concerns about the impact of private service provision on public and social services, as well as on accessibility and affordability of health services and required medicine and education. With public contracting out of services to private suppliers and structures like public-private partnerships the line between public and private services becomes increasingly blurred.

The **Labour Chapter** remains weak and ineffective. Key commitments given by the parties in the Chapter include their agreement to adopt and maintain the internationally-recognised labour rights stated in the 1998 International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work in their laws and practice, as well as to adopt and maintain laws governing 'acceptable conditions of work' with respect to minimum wages, hours of work, and occupational safety and health, as determined by each party.

As the parties to the CPTPPA are all members of the ILO they are automatically party to the 1998 ILO Declaration. Therefore, the Labour Chapter is simply making a cross reference to something the signatories have committed themselves to respecting and implementing already.

'Acceptable forms of work' is a term without international recognition and understanding and remains vague. It would be much preferable to reference the term coined, promoted, mainstreamed and accepted internationally which is '[decent work](#)'. Decent work is a very well-defined concept established in 1999 and based on four strategic objectives: job creation, rights at work, social protection and social dialogue, with gender equality as a crosscutting objective.

In relation to meeting people's health needs **PHARMAC** plays an important role in NZ. The government agency makes decisions about which pharmaceuticals to publicly fund and therefore become accessible to the public. The current provisions around biologic medicines prevent PHARMAC to reduce costs and improve access for patients. This is due to the length of protection of original biologics which hinders competition and holds the price high.

In relation to **Government Procurement** the government's ability to use its purchasing power to assist the growth of local firms and economic development is restricted. The PSA also urges the government to provide clear assurances that the Government Procurement Chapter would not prevent future governments using procurement contract conditions to raise employment standards such as to raise health and safety and employment conditions above the legal minimum (including paying a Living Wage) and require responsible contracting behaviour.

The chapter on **State Owned Enterprises (SOE)** and Designated Monopolies further restricts policies on assisting local firms through procurement. State owned enterprises as defined in the CPTPPA are

required to adopt a commercial approach to purchasing and selling goods and services. This makes it very difficult for future governments to ensure these SOEs follow objectives which are in the public interest. These SOEs also do not have the ability to favour local suppliers and purchasers over foreign enterprises.

This purely commercial approach reduces the ability to allow SOEs to perform a (regional) economic development or public interest role. This will force commercialisation or privatisation of substantial parts of our public services. As defined by the State-Owned Enterprises Act, SOEs are required to exercise social responsibility towards the community in which it operates. The social responsibility requirement is an important safeguard for New Zealanders which would potentially be undermined by the CPTPPA.

Based on our reasons provided above the PSA believes that the CPTPPA will not contribute to regulate for legitimate public policy purposes that are in the public interest. We also think that the CPTPPA does not safeguard and enforce high labour standards as it reiterates minimum standards all parties to the CPTPPA are already committed to.

We are concerned that the public sector remains exposed to the spread of private international service competition which potentially undermines public organisations' capability to engage in (regional) economic development and to exercise social responsibility. Overall undermining public organisations will hinder improvements of decent and healthy living and working standards of all people living in New Zealand.

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