

No. 56101. Multilateral

COMPREHENSIVE AND PROGRESSIVE
AGREEMENT FOR TRANS-PACIFIC
PARTNERSHIP. SANTIAGO, 8 MARCH
2018

NOTIFICATION (WITH DECLARATION)*

Australia

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Declaration:

**The texts reproduced below are the action attachments as
submitted for registration and publication to the
Secretariat. For ease of reference they were
sequentially paginated. Translations, if attached, are
not final and are provided for information only.*

N° 56101. Multilatéral

ACCORD DE PARTENARIAT
TRANSPACIFIQUE GLOBAL ET
PROGRESSISTE. SANTIAGO, 8 MARS
2018

NOTIFICATION (AVEC DÉCLARATION)*

Australie

*Dépôt de la notification auprès du
Gouvernement néo-zélandais :
31 octobre 2018*

Date de prise d'effet : 30 décembre 2018

*Enregistrement auprès du Secrétariat de
l'Organisation des Nations Unies :
Nouvelle-Zélande, 1^{er} décembre 2019*

**Le numéro de volume RTNU n'a pas encore été établi
pour ce dossier.*

Déclaration :

**Les textes reproduits ci-dessous sont les textes
authentiques de la pièce jointe de l'action telle que
soumise pour enregistrement et publication au
Secrétariat. Par souci de clarté, leurs pages ont été
numérotées de manière séquentielle. Les traductions,
si elles sont incluses, ne sont pas sous forme finale et
sont fournies uniquement à titre d'information.*

[ENGLISH TEXT – TEXTE ANGLAIS]

Pursuant to Article 29.5 of the *Trans-Pacific Partnership Agreement*, done at Auckland on 4 February 2016, which is incorporated, by reference, into and made part of the *Comprehensive and Progressive Agreement for Trans-Pacific Partnership* (the Agreement) *mutatis mutandis*, done at Santiago on 8 March 2018, Australia hereby elects to deny the benefits of Section B (Investor-State Dispute Settlement) of Chapter 9 (Investment) of the Agreement with respect to any claim in relation to its tobacco control measures. Accordingly, no claim can be submitted to arbitration under the Agreement's investor-state dispute settlement mechanism in respect of any tobacco control measure of Australia.

[EXCERPT OF RELEVANT PROVISION]

CHAPTER 29

EXCEPTIONS AND GENERAL PROVISIONS

Section A: Exceptions

Article 29.5: Tobacco Control Measures¹¹

A Party may elect to deny the benefits of Section B of Chapter 9 (Investment) with respect to claims challenging a tobacco control measure¹² of the Party. Such a claim shall not be submitted to arbitration under Section B of Chapter 9 (Investment) if a Party has made such an election. If a Party has not elected to deny benefits with respect to such claims by the time of the submission of such a claim to arbitration under Section B of Chapter 9 (Investment), a Party may elect to deny benefits during the proceedings. For greater certainty, if a Party elects to deny benefits with respect to such claims, any such claim shall be dismissed.

¹¹ For greater certainty, this Article does not prejudice: (i) the operation of Article 9.15 (Denial of Benefits); or (ii) a Party's rights under Chapter 28 (Dispute Settlement) in relation to a tobacco control measure.

¹² A tobacco control measure means a measure of a Party related to the production or consumption of manufactured tobacco products (including products made or derived from tobacco), their distribution, labelling, packaging, advertising, marketing, promotion, sale, purchase, or use, as well as enforcement measures, such as inspection, recordkeeping, and reporting requirements. For greater certainty, a measure with respect to tobacco leaf that is not in the possession of a manufacturer of tobacco products or that is not part of a manufactured tobacco product is not a tobacco control measure.