

TPP11 – Transshipment and Consignment concerns

1. TPP11 includes the usual “transshipment/consignment” provisions which are now in the Act
2. Generally it means that “TPP Originating Goods” can pass through “non TPP countries” as long as they remain under “customs control” during that passage through that non TPP country. There are also restrictions on what can be done to the goods while en route
3. The problem cropped up with ChAFTA as lots of trade went through HK which has no “customs control” premises any more. We raised the issue with DFAT and Government which “fixed” the issue by passing a Regulation deeming HK to be under customs control for ChAFTA and in terms of the Act. A fairly awkward work - around but no one was terribly fussed. China imposed an additional requirement for goods going from Australia through HK into China that, along with the CoO from Australia, there needed to be a “certificate of non - manipulation” that consignment and handling of goods was in accordance with ChAFTA
4. The issue with TPP11 is that LOTS of the trade from Mexico, Canada (and ultimately Peru once it is in) will need to go into the US first for sea or air freight. Traditionally that does not take place “under customs control” and it may not even be available with air/sea/rail/road transport. The re - packing of goods can also be a problem. In that case the traditional transport arrangements may invalidate the TPP11 status of the goods shipped out of the US which could reduce the value of TPP11.
5. Similarly a lot of goods from Australia to Canada/Mexico/Peru would go first to the US and unless those goods are then moved under customs control (some sort of movement under bond provision) then they could lose their TPP11 status by going through the US. That could compromise issues such as tariff reductions in destination countries, quota entry and other benefits.
6. It's an odd outcome of the US bailing out of the TPP11 and even odder when you recall that Australia has an FTA with the US and the US has FTAs with Mexico and Canada
7. DFAT and DoHA confirmed last week that they will be applying TPP11 “as written” with the consequence as set out above and any change or relief would need be an issue for Government
8. On the basis of DFAT and DoHA's position we have requested that they release specific advice on this really early so that everyone could engage with their supply chain to see if the TPP11 provisions can be met for goods consigned either way through the US (doubt it). That would include engagement with freight forwarders/customs brokers in the US along with US Customs and Border Protection.
9. There could of course be a political/Government outcome here which may relax the “customs control” or “non - manipulation” provisions of TPP11 but it would need all parties to agree and even the US
10. There may be similar issues with TPP Originating goods going to/from the Asian countries which need to go through China (non TPP11) or other non TPP11 countries or TPP11 countries which have yet to ratify the deal (Malaysia for example)