



## AFTINET BULLETIN: August 2016

*Inside this edition:*

- Introduction
- Write to Jason Clare, Labor's new trade spokesperson
- Xenophon & Hanson key figures in new Australian Senate
- Latest TPP news from the US
- Other deals replace TPP as top Australian government priority
- 95 Asia-Pacific organisations band together against ISDS in RCEP
- Call for bans on dangerous asbestos imports linked to trade agreements
- PNG says no to PACER-Plus
- TPP critics oppose monopolies and increased corporate rights, not trade itself
- Other news

### **Introduction**

If there is one thing that's become clear during the election campaigns in Australia and in the US, it's that public opinion on trade deals has gone through a marked shift on both sides of politics.

It continues to look less likely that the TPP will pass through Congress in the US, and here in Australia the new Senate could prevent its ratification (provided that Labor votes against it).

However, the Coalition Government has not learned the lesson and has promised no policy change, and no independent cost-benefit analysis - only an [intensified public relations campaign](#) to try and win the domestic trade debate.

While the TPP's future is increasingly uncertain, Trade Minister Ciobo has switched his focus to other major trade deals, such as a bilateral agreement with Indonesia and two other plurilateral trade deals, the RCEP and the TiSA. What these mega-deals have in common with the TPP is that they all seek to expand corporate rights and reduce regulation of corporations in the public interest.

We'll continue to strongly oppose the TPP and to monitor the major trade justice issues in other deals as they arise.

## Write to Jason Clare, Labor's new trade spokesperson

Jason Clare MP has replaced Senator Penny Wong as the new Shadow Minister for Trade and Investment, which means he has a powerful role in deciding Labor's position on the TPP and ultimately whether the deal is ever ratified in Australia.

Mr Clare has come into the role at a critical time – the TPP legislation still looks likely to be introduced to Parliament this year. It's really important that he knows about the huge community opposition to the deal in its current form.

### Take Action

Let Mr Clare know your concerns by sending him an email. Use your own words, but let him know that the TPP is bad for:

- **Democracy.** It allows global corporations to sue governments over health, environment and public interest laws.
- **Health.** Medicines will be more expensive because of stronger monopoly rights for pharmaceutical companies to charge higher prices for longer.
- **Workers.** Contains no enforceable protection for labour rights or migrant workers, with no testing if local workers are available before bringing in temporary overseas workers
- **The environment.** Lacks enforceable commitments to key international agreements, does not mention climate change and allows corporations to sue over new environmental laws.

Send your email to [jason.clare.mp@aph.gov.au](mailto:jason.clare.mp@aph.gov.au) or post your message publicly to his [Facebook page](#) or via twitter using [@JasonClareMP](#)

If you send an email, please BCC us in on [campaign@aftinet.org.au](mailto:campaign@aftinet.org.au), so we can monitor the response.

## Xenophon and Hanson key figures in new Australian Senate

The result of the Senate is now clear and along with the Greens, the Nick Xenophon Team and Pauline Hanson's One Nation party will be key decision-makers.

Nick Xenophon and Pauline Hanson are both critics of free trade rhetoric, albeit for different reasons.

Xenophon is opposed to the expansion of corporate rights at the expense of human rights, the environment and employment. Hanson's views are at the opposite end of the spectrum, more in line with those of Donald Trump.

NXT is calling for greater scrutiny and transparency and cost-benefit studies to prove that deals are actually in Australia's national interest. They are also advocates for manufacturing industry and retaining policy space in areas such as government procurement.

Hanson opposes not only trade agreements, but all international agreements, including United Nations agreements on human rights and the environment. She is also anti-Muslim and anti-immigration.

AFTINET was founded in 2000 and made it clear then that our views were very different from Hanson's. We support UN human rights and environment agreements and oppose all forms of discrimination.

We continue to campaign against trade deals which harm peoples' rights and the environment, but for the opposite reasons from Hanson. See Dr Patricia Ranald's longer analysis of these differences below.

## Latest TPP news from the US

The TPP remains a massive election issue in the United States, and news reports continue to cast serious doubt on whether the TPP will even go to a vote in the US Congress this year.

### Key Congress figures say the numbers don't add up

The latest news is that House Speaker and Republican Paul Ryan has said that there is [no point](#) bringing the TPP vote during a post-election "lame duck" session of Congress, because the numbers don't stack up. This is a session of the pre-election Congress representatives could hold after the November presidential election until January, before the new President and Congress come into office.

"As long as we don't have the votes, I see no point in bringing up an agreement only to defeat it," Mr Ryan said in a [radio interview](#).

Earlier, US Senate Majority Leader Mitch McConnell also told *The Washington Post* that it would be [virtually impossible](#) to pass the TPP in a lame duck session.

And when US Vice President Joe Biden was in Australia last month he tried to maintain optimism around the deal but [admitted](#) "it's going to be hard to pass in both our countries, maybe not as hard for you, we're going to try do a lame duck session in the US congress."

### A political hot potato

Activists on the left and the right continue to campaign against the TPP, even though both Hillary Clinton and Donald Trump have publicly come out against the deal.

TPP protesters made [big news](#) at the recent Democratic convention, chanting "no on TPP" and carrying signs. When a longtime best friend of the Clintons, Terry McAuliffe, said that he believed Ms Clinton would support the TPP with some tweaks he was [immediately shut down](#) by the Clinton campaign, with a major official tweeting that his comments were "flat wrong".

### Where to from here?

All the signs are pointing to the TPP not making it through the US Congress in a lame duck session, and neither Hillary Clinton nor Donald Trump wanting to touch the deal in its current form once their term starts in January.

However, it's also clear that the Turnbull Government is still very keen to ratify the TPP, and we'll need to continue to campaign here in Australia for Labor, Greens and minor parties to block the implementing legislation in the Senate.

## Other deals replace TPP as top Australian government priority

In light of fading TPP prospects, Australian Trade Minister Steven Ciobo is now setting his sights on other trade deals.

He has changed his rhetoric on the TPP, [telling the AFR](#), "We don't put all our eggs in one basket. The TPP isn't the be-all and end-all of free trade."

### Indonesia and TiSA now top priorities

Mr Ciobo recently travelled to Indonesia today for round of bilateral trade talks and says the [Indonesia Australia Comprehensive Economic Partnership Agreement](#) is now the [first priority](#) of the Government's free trade agenda.

However, it's clear that it is politics, not economics which is really driving the agenda. Former diplomat Alan Oxley told the *AFR*: "Normally it is heresy for a trade person like me to say we should do a trade agreement for political reasons but this is an exception."

### Govt focuses on Indonesia trade deal despite trade deficit jump

An FTA with Indonesia is on track to be completed within 18 months and it remains Trade Minister Steve Ciobo's first priority, according to [media reports](#) this week.

This announcement by Minister Ciobo comes as the latest [trade deficit](#) figures were released, finding that the widening of Australia's trade deficit continues unabated, and showing that the Government's rhetoric that trade agreements are mainly about increased exports cannot be taken at face value.

### TiSA, like TPP, will expand corporate rights

Trade Minister Ciobo says that the [Trade in Services Agreement](#) (TiSA) is another major priority and is potentially one of the "biggest and most significant" trade deals in decades.

The ALP has recognized the importance of TISA by giving Shadow Assistant Treasurer Andrew Leigh the responsibility for trade in services. We are seeking a meeting with him.

While AFTINET is concerned about the TiSA because of its potential to expand corporate rights for global services companies, and reduce government rights to regulate them, a recent article published from a business perspective on *The Conversation* argued that the deal could actually disadvantage some [Australian services](#).

Monash Business School lecturer Giovanni Di Lieto claims that the deal would further complicate multilateral trading systems. He writes:

"This is a serious concern for the future of service-oriented economies, like Australia, considering that TiSA parties collectively account for around 70% of the [global trade in services](#). The complexity and uncertainty created by TiSA would be an incentive for businesses to avoid navigating the existing framework, making it harder to access trading opportunities in emerging sectors." [Read more.](#)

## 95 Asia-Pacific organisations band together against ISDS in RCEP

AFTINET Convener Pat Randal travelled to Malaysia this month to attend an unprecedented civil society meeting. The meeting brought together participants representing trade unions, farming

communities, indigenous peoples, health networks, women's organisations, environment groups, academia and other civil society organisations.

Following the meeting, an alliance of 95 civil society organisations from the Asia-Pacific urged trade ministers not to include investor rights to sue governments in the Regional Comprehensive Economic Partnership (RCEP) agreement, as RCEP trade ministers met in Laos.

AFTINET Convener Dr Patricia Ranauld [told the media](#):

"ISDS has been a major driver of community opposition to the TPP between the US, Australia and 10 Pacific rim countries, and will generate the same strong opposition to the RCEP.

"Two of the largest RCEP countries, India and Indonesia, are actually withdrawing from bilateral investment treaties which contain ISDS, because of ISDS claims of hundreds of millions of dollars against them.

We urge the Australian government and other TPP countries like Japan and Korea not to pursue the failed TPP ISDS model in the RCEP."

Japanese media now [reports](#) that RCEP talks are currently deadlocked over tariff removal, with India and China arguing that tariffs should vary by country. Despite these reports, the official goal is still to finish RCEP negotiations within the year.

The next RCEP negotiations are set for August 15-19 in Ho Chi Minh City, Vietnam, and an international week of action on the RCEP is scheduled for October 10-14.

## **Call for bans on dangerous asbestos imports linked to trade agreements**

The [discovery of deadly asbestos](#) from imported materials used in a new Perth hospital has sparked a debate about inspection of increased numbers of imports resulting from the China FTA, already in force, and the proposed Indian FTA.

But rather than cracking down on dangerous imports of asbestos products immigration Minister Peter Dutton has launched an extraordinary attack on the construction union, [blaming the union](#) for "driving Australian companies to 'cut corners' by importing cheap Chinese materials that may contain deadly asbestos."

The construction union's national secretary Michael O'Connor wrote to Trade Minister Steve Ciobo this week calling for the suspension of free-trade agreement talks with India until there were better systems to stop dangerous imports. India is the world's second biggest manufacturer of products containing asbestos.

Senator Nick Xenophon has also called for stronger import controls to ban asbestos imports.

The greater volumes of imports resulting from trade agreements mean it is harder to find and prevent dangerous products from coming into Australia. The agreements also make it more difficult for governments to increase product standards without being accused of interfering with free trade.

This is yet another reason why we need further scrutiny and proper cost-benefit analysis to ensure that all trade agreements, including the current negotiations with India, are in Australia's national interest and do not restrict our government's ability to regulate in the public interest.

## **PNG says no to PACER-Plus**

Papua New Guinea's Trade Minister Richard Maru has told new Australian Assistant Minister for Trade Keith Pitt that PNG would not participate in the PACER-Plus deal, according to [ABC news reports](#).

"I know the Australian Government has been actively pushing the PACER-Plus policy within the region," Mr Maru said. "I've made it clear that PNG is not interested and that I have directed all my officers not to entertain any negotiations."

PNG is the largest Pacific Island economy and the announcement is a severe blow at a time when Pacific Island nations plus Australia and New Zealand are gearing up for a ministerial meeting in Christchurch from August 22-25. This meeting was intended to be the last round of negotiations and would wrap up the talks, which have been dragging on since 2010. Fiji, the second biggest economy, has also been reluctant to complete the negotiations.

[ABC radio](#) reported that Chief Pacific Island Trade Advisor Edwini Kessie tried to put a brave face on the loss of PNG by claiming that negotiations will proceed regardless with the aim of completion by the end of the year.

### **Sign the petition supporting a PACER social impact statement by August 19**

As we reported in our last bulletin, Pacific Island advocacy group PANG recently published their report "[Defending Pacific Ways of Life: A Peoples Social Impact Assessment of PACER-Plus](#)". Since then, PANG reports that 47 organisations, including AFTINET, have endorsed this report and demanded the release of all PACER-plus texts and for no decision to be made until a fully funded and independent social impact assessment can take place.

PANG is now calling for individuals to sign their endorsement of this report via their [petition](#) by August 19.

For more background on PACER-plus, click [here](#).

## **TPP critics oppose monopolies and increased corporate rights, not trade itself**

*By Dr Patricia Ranald, first published by Fairfax Media [here](#).*

Paul McGeough is right to say that Donald Trump is [offering false hope](#) by promising to magically restore lost industries through higher tariffs. Trump, like Pauline Hanson in Australia, combines anti-immigration rhetoric with disillusionment with previous trade deals which have not delivered on exaggerated promises of jobs and growth. But it is too easy to dismiss all TPP critics as protectionist or anti trade.

The TPP text has been agreed between the US, Australia and 10 other Pacific Rim countries. But no governments have so far passed its implementing legislation, and the [US Congress](#) is unlikely to do so.

Most US criticism of the TPP has been led by social movements reflected by Bernie Sanders. In Australia, the opposition has come from a wide range of [community groups](#), from pro-trade bodies like the Productivity Commission, and also from prominent economists like [Peter Martin](#) and [John Quiggin](#).

This opposition is not about tariffs. Both the US and Australia already have free trade agreements containing low tariffs with most of the other TPP countries. Both [US Congress](#) and [World Bank](#) studies have shown that economic gains to both economies from the TPP are hardly measurable.

Most of the TPP's 30 chapters are about legally binding rules which give more rights to global corporations like big Pharma, Hollywood and IT companies, but reduce the ability of governments to regulate corporations in the public interest.

Global pharmaceutical companies already have 20 years of monopoly patents on medicines before cheaper versions become available. The TPP locks in even more monopoly rights on "data protection" for expensive biologic medicines which treat cancer and other life-threatening diseases, and cost thousands of dollars per treatment. Australian patients get access because of government subsidies through the Pharmaceutical Benefits Scheme (PBS). The TPP would not change Australian law on biologic monopolies, because such a law, if exposed to public debate, would be blocked in our Parliament. Instead, an obscure clause in the TPP requires administrative measures which would deliver a "market outcome" equivalent to an [extra three years of monopoly](#). Studies show that each year of delay in cheaper versions of these medicines would cost the PBS [hundreds of millions of dollars](#). This would be a future time bomb for cost blowouts and higher prices at the chemist.

Global media and IT companies also benefit from TPP rules which lock in their copyright monopolies on books, films and other internet information, without fair protections for consumers. The Productivity Commission's recent [draft report](#) on intellectual property recommended against using trade agreements to increase monopolies on both medicines and on copyright. The Commission argues that these monopolies increase costs and prevent future governments from responding to new technologies and other changes.

And all international companies from TPP countries will gain the right to bypass national courts and claim compensation of hundreds of millions of dollars from governments in unfair international tribunals, if they can argue that a domestic law or policy will harm their investment. This is known as Investor-State Dispute Settlement or ISDS. The [Philip Morris tobacco company](#) used ISDS in an obscure Hong Kong-Australia investment agreement to sue Australia for billions of dollars over our plain packaging law. It took five years and legal costs of over \$50 million for the tribunal to decide that Philip Morris was not a Hong Kong company. The TPP excludes cases against tobacco regulation, but not other regulation. The US pharmaceutical company [Eli Lilly](#) is suing the Canadian government over a court decision which refused a patent for a medicine. The US [Lone Pine](#) mining company is suing the Canadian government over environmental regulation of gas mining. The French [Veolia](#) company is claiming compensation from the Egyptian government for a rise in the minimum wage.

As more evidence emerges of global corporate tax evasion and banking scandals, governments need more rather than less ability to regulate. The TPP would undermine this democratic and sovereign right.

Australian parliamentarians should follow the U.S. Congress example and have the courage to reject the TPP implementing legislation, because it is against the public interest.

*Dr Patricia Ranald is a Research Associate at the University of Sydney and Convenor of AFTINET*

## Other news

TPP provisions 'questionable', says Productivity Commission: The Trans-Pacific Partnership has provisions of “questionable benefit”, says the Productivity Commission. [Read more](#)

Privatisation creates unregulated monopolies: ACCC chairman: Privatisation, deregulation and unbounded trade liberalisation are key pillars of the neoliberal economic agenda and are being increasingly being questioned on both sides of politics. [Read more.](#)

TPP going too far for marginal economic gains says Tim Harcourt: UNSW economist Dr Tim Harcourt, former chief economist of the Australian Trade Commission, told The New Daily that, in some ways, the TPP is an example of free trade "going too far". [Read more.](#)

India seeks to terminate 57 investment treaties: India is seeking to terminate 57 bilateral investment treaties (BITs) after the country introduced a new model at the end of last year. [Read more.](#)

Critical voices as VP Biden pitches TPP in Australia: US Vice President Joe Biden was in Australia this week talking up the TPP, despite the deal being unlikely to make it through the US Congress. [Read more.](#)

### Contact us:

Australian Fair Trade and Investment Network (AFTINET)

128 Chalmers Street, Surry Hills, NSW, Australia 2010

+61 2 9699 3686 | [campaign@aftinet.org.au](mailto:campaign@aftinet.org.au)

[www.aftinet.org.au](http://www.aftinet.org.au) | Twitter: [@AFTINET](https://twitter.com/AFTINET) | [Facebook](#)