



## **BULLETIN: October 2016**

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### **Introduction**

This Friday 28<sup>th</sup> October is the last day to get your TPP Senate inquiry submissions in. It's really important to make a submission to this inquiry, even if it's only a short one, as it will be more critical than the Government-dominated Parliamentary inquiry. Click [here](#) for our suggested points and read on for more details.

Also coming up is AFTINET's AGM on November 9<sup>th</sup> with special guest speaker Kyla Tienhaara, who has just returned from the US and will be speaking on the TPP, ISDS and the US elections. We hope you'll join us for what promises to be an engaging speech followed by drinks and light refreshments. You'll find details via [this link](#) and below.

There's a lot to report on this month including the international RCEP week of action, the latest TiSA leaks and the flailing PACER-plus talks. We hope you'll enjoy this month's trade news Bulletin.

## Last chance: TPP Senate inquiry submissions close this Friday

The October 28 deadline for making a submission to the TPP Senate inquiry is fast approaching.

Submissions to this inquiry are extremely important, since Labor, the Greens and NXT have a majority in the Senate and could block the TPP's implementing legislation. Even if you made a submission to this inquiry earlier this year, it's important to make a submission to the Senate inquiry too.

AFTINET has put together key points to make your submission easy, which you can view [here](#). Our own submission will be an updated and expanded version of our [JSCOT submission](#).

You can either email your submission to [fadt.sen@aph.gov.au](mailto:fadt.sen@aph.gov.au) or upload it directly to the APH website using [this link](#) (their preferred method).

### Ask your friends and networks to make a short submission

It's really important that the Senate committee hears big groundswell of opposition to the TPP, so we've created an easy online form people can use to make a submission in just seconds\*. Please consider sharing the link on your social media pages and with your networks.

[Click here for our easy TPP Senate submissions form.](#)

\*It's much more effective to write your own submission and upload it individually, however, we hope that this link will encourage new supporters and individuals wanting to take action at the last minute before submissions close.

## AFTINET AGM with guest speaker Dr Kyla Tienhaara

We hope to see you at our annual AGM with special guest speaker Dr Kyla Tienhaara. Her speech will be followed by drinks and snacks.

*Details:* 5.30pm Wed 9th November at the Finance Sector Union, Level 2, 321 Pitt St Sydney (near Bathurst St).



### ISDS, the TPP and the US elections

Newly returned from the US, Kyla will speak on ISDS and regulatory chill in a warming world, and the implications of the US presidential election result for the TPP.

Dr. Kyla Tienhaara is a Research Fellow at the School of Regulation and Global Governance and co-director of the Climate and Environmental Governance Network, Australian National University. She has published widely on the TPP and ISDS, and will have just returned from a conference on the TPP and global governance in the US.

Please RSVP for catering to [campaign@aftinet.org.au](mailto:campaign@aftinet.org.au)

**IMPORTANT:** If you can't make it, it would really help us to reach a quorum if you send a [proxy form](#)

## **RCEP: the new mega deal that's more secretive than the TPP**

Not too long ago, the TPP was dubbed 'the biggest trade deal you've never heard of' because it was negotiated behind closed doors with very little public information available. But once the text was released it became clear that the TPP was a bad deal for workers, democracy, health and the environment.

Since then, we've seen a groundswell of opposition to the deal with both US presidential candidates coming out against it. Here in Australia 300,000 people have signed petitions, there has been lively [media debate](#) and groups as diverse as unions, Greenpeace, The Australian Catholic Social Justice Council and GetUp have [rallied together](#) outside Parliamentary hearings across the country.

The future of the TPP is looking increasingly rocky. But global corporations and the Turnbull Government are already setting their sights on another mega-trade deal, one which is even bigger and even more secretive than the TPP: the Regional Comprehensive Economic Partnership (RCEP).

### **The biggest regional trading block in the world**

The RCEP has been described as China's answer to the TPP - it involves all ten ASEAN countries, plus China, Japan, India, Korea, Australia and New Zealand. Negotiations are now in their fourth year and the aim is to finalise the agreement by mid-next year.

The RCEP is even more secretive than the TPP, which was infamous for its lack of transparency. While the TPP negotiations did include some limited civil society stakeholder consultation, opportunities for public interest groups like AFTINET to ask questions and express their views during RCEP negotiations have been [few and far between](#).

If it goes ahead, the RCEP would cover [half of the world's population](#).

### **ISDS, access to medicines and labour rights are key concerns**

Because of the secrecy, we can't be sure what's in the RCEP negotiating text, but we do know from [leaked documents](#) that there are proposals to include some of the worst aspects of the TPP.

We know that there is a push to include TPP-like [rights for corporations to sue governments](#) (ISDS) proposals in the RCEP. It appears that India and some ASEAN countries are resisting these clauses and want more exclusions for public interest legislation. We will continue to fight against the undemocratic ISDS system from being included in any trade agreement.

Doctors Without Borders (MSF) has [called](#) for the removal of harmful intellectual property provisions that could potentially raise treatment costs by creating new forms of monopolies and delaying the entry of affordable generics in the market.

Recently, 94 public health and community groups from 12 countries condemned proposals for the inclusion of stronger medicine monopolies by writing an [open letter](#) to RCEP governments.

The RCEP could also include increased numbers of temporary migrant workers who are [vulnerable to exploitation](#), without testing whether local workers are available

**Help spread the word:** Share this article via social media by [using this link](#).

## International RCEP week of action

Last week was the international RCEP week of action, a coordinated week of advocacy across our region led by civil society organisations including AFTINET.

Ninety-four civil society groups from 12 RCEP countries released an [open letter](#) to RCEP governments condemning proposals for stronger medicine monopolies which would delay the availability of cheaper versions of medicines. This would make new medicines unaffordable in developing countries and cost Australia's public health system hundreds of millions of dollars a year.

There was coordinated social media advocacy and [events across the region](#), including in India, the Philippines, Indonesia, Thailand and here in Australia.

AFTINET organised an online forum 'Lives on the Line', with speakers from AFTINET and Doctors Without Borders (MSF). This was broadcast live on Oct 18 and is now available for viewing via [this link](#).

AFTINET Convener Pat Randal also spoke at Unions WA's international conference about the impact of mega-trade deals like the RCEP and the TPP on rising inequality.

## Rallies and criticism from business and unions at TPP parliamentary hearings

### Rallies in Sydney, Melbourne and Perth

Rallies were held around the country last month outside the TPP Parliamentary inquiry hearings, showing the strong opposition to the deal. Read more about events in [Sydney](#), [Perth](#) and [Melbourne](#) via the links.



*Emma Maiden (Unions NSW) addresses the crowd in Sydney*

A broad range of community groups were represented at the rallies including GetUp!, Greenpeace, The Greens, Friends of the Earth, the Catholic Social Justice Council, The Grail, Union Aid Abroad – APHEDA and many unions including: the ACTU, Unions NSW, UnionsWA, Australian Services Union, Australian Manufacturing Workers' Union, NSW Nurses and Midwives' Association, Construction, Forestry Mining and Energy Union, NSW Teachers Federation, Health Services Union, Finance Sector Union, Maritime Union of Australia,

Firefighters union, Electrical Trades Union, RTBU Australia, United Services Union and United Voice.

A big thank you to the ACTU for coordinating the Melbourne rally and promoting rallies in other cities, and to UnionsWA and The Greens for their role organising the rally in Perth.

### Successful parliamentary forum

While the JSCOT committee continued its public hearings around the country, representatives from AFTINET, the Public Health Association of Australia and the ACTU travelled to Canberra to tell a cross-party parliamentary forum that the TPP is not in the public interest.

The forum was hosted jointly by ALP MP Josh Wilson, Greens Senator Sarah Hanson-Young and Senator Nick Xenophon. Over 40 parliamentarians and staff attended and there was lively discussion.

## Public hearings generate critical media coverage

The peak body for Australian Unions and Australia's biggest business organisation, the Australian Chamber of Commerce and Industry (ACCI) gained media attention on the same day for their criticism of the TPP.

Unions called for the TPP to be rejected, citing independent analyses showing it could destroy 39,000 jobs by 2025.

ACTU's director of policy Belinda Tkalcevic said: "The TPP is a toxic combination of more power to multinationals ahead of democracy and globalisation ahead of Australian workers."

*The Guardian* [reported](#) the concerns of the union movement and contrasted these concerns with Labor trade spokesperson Jason Clare's statement in support of the TPP. Opposition Minister Clare reportedly said: "Labor recognises the potential benefits for Australia from the TPP, including increased market access for our goods and services."

However, Mr Clare also said: "Labor has insisted that no element of the TPP should affect the cost and availability of medicines for Australians," and that "Labor [also] does not support the inclusion of investor-state dispute settlement provisions in any trade agreement, including the TPP."

Meanwhile, Peter Martin at *The Age* [reported](#) that the pro-business ACCI had come out swinging against aspects of the TPP, criticising the secrecy of the negotiations, the lack of independent assessments of the deal and the fact that it was a "preferential" rather than a "free" trade agreement.

The ACCI expressed concerns that rather than facilitate trade the TPP could actually make trade more complex, adding to the "noodle bowl of complex trading terms that business has to navigate." This would "further complicate compliance and costs for business".

## We must learn from Canada's mistakes and reject the TPP, says new report

Australia could be hit with an ever-increasing number of multimillion dollar legal claims from foreign corporations if the TPP is ratified, a [new report](#) has warned.

The report, researched by Dr Kyla Tienhaara (ANU) and commissioned by GetUp, warns that the Australian Senate should look at Canada's experience before considering the TPP implementing legislation.

Under NAFTA, Canada has faced 39 separate ISDS cases, all from US corporations and investors. If the TPP comes into force, it will open Australian governments to being sued from US-based corporations for the first time.

The report notes the clear global trend of increased frequency of ISDS cases brought by multinational corporations and that governments lose or settle cases much more often than they win them.

The report warns:

"The similarities between Canada and Australia in terms of the regulatory environment suggest that Australia is likely to face the same kind of disputes [under the TPP] as Canada has [under Nafta] – that is, disputes over regulatory issues rather than direct expropriations or other interferences in the operation of an investment."

GetUp's economic fairness campaigns director Natalie O'Brien told *The Guardian*:

"Multinationals based in the USA and Canada are the most litigious in the world by an enormous margin – the Trans-Pacific Partnership would leave Australia exposed to both.

“Perhaps the most terrifying finding is the evidence of ‘regulatory chill’, where governments back away from critical health or environmental regulations because of the threat of ISDS.”

Read the media coverage in *The Guardian* [here](#) and the report [here](#).

**Dr Kyla Tienhaara is the guest speaker at AFTINET’s AGM on November 9. [Details here.](#)**

## **No winners in El Salvador vs Pacific Rim case**

After seven years of arbitration the ISDS case brought by mining company Pacific Rim (OceanaGold) against El Salvador has been found without merit, meaning the country will not have to pay the \$250 million sought by the company.

However, there are no real winners. El Salvador had to [spend over \\$12 million](#) to defend the case, brought despite the mining company never fulfilling the legal requirements for a mining license.

Kevin Bracken and Joe Italia from the MUA, who have been key organisers of fortnightly rallies outside OceanaGold’s Melbourne headquarters, wrote to their supporters:

“The success of El Salvador in this case is not a victory for any form of justice from ICSID. The panel ruled in El Salvador’s favour because OceanaGold did not file a proper Environmental Impact Statement - a fact brought out by the grass roots activities of ADES. This case highlights the dangers of including ISDS clauses in trade agreements. The \$8m awarded does not cover the \$13m that El Salvador has spent defending the case.

We must continue to campaign against trade agreements that contain ISDS clauses and are not in the public interest. Public submissions are being accepted until 28 October by the Senate inquiry into the TPP. Please encourage as many people as possible to make submissions.”

Manuel Pérez-Rocha of the Institute for Policy Studies [told the media](#):

“The fact that Pac Rim – now OceanaGold – could sue El Salvador when it has never had a license to operate, is an abuse of process.

“That these suits take place far from any transparent, independent court system demonstrates why we are opposed to the Trans-Pacific Partnership and other so called free trade agreements.”

Marcos Orellana of the Center for International Environmental Law (CIEL) said:

“By allowing transnational companies to blackmail governments to try to force them to adopt policies that favor corporations, investor-state arbitration undermines democracy in El Salvador and around the world.

“Regardless of the outcome, the arbitration has had a chilling effect on the development and implementation of public policy necessary to protect the environment and the human right to water.”

AFTINET was an active supporter of the International Allies against Mining in El Salvador and [hosted](#) activist Vidalina Morales on her advocacy trip to Australia in 2013.

## TiSA leaks show demands to privatise services

WikiLeaks has [released](#) three chapters of the highly secretive Trade in Services Agreement (TiSA), currently being negotiated among 50 different countries.

The leaked chapters reveal updated texts on financial services and privatisation, and show that demands are being made on developing countries to open up public services to foreign corporations.

Deborah James, coordinator of Our World is Not For Sale (OWINFS) says the leak shows the extent to which the deal is being promoted by big services corporations in the US and the EU, who want binding rules that prevent governments from being able to regulate the services they provide around the world. [Watch her TV interview here.](#)

Just before the documents were leaked, *ABC Radio National's The Money* took an in-depth look into the TiSA agreement, interviewing AFTINET, NZ academic Jane Kelsey, Public Services International and the Australian Trade Minister. You can listen online [here](#).

## PACER-plus still too 'one-sided,' says Fiji

Last month we [reported](#) that Fiji had joined PNG in withdrawing from the PACER-plus negotiations in their current form, meaning the two biggest Pacific Island economies had abandoned the talks.

Fiji's trade minister continues to be critical of the agreement, and has since [told](#) business representatives in Auckland that the current text is still too one-sided.

According to recent [reports](#) on *Radio NZ*, Mr Bainimarama said:

"It would have an adverse impact on our development and the development of our Pacific Island neighbours. Fiji wants an enduring, predictable and sustainable trade agreement and in our view we still have not got one in our negotiations thus far.

"The current document is too one-sided, too restrictive, places too many obligations on us that we cannot afford to meet."

NZ Prime Minister John Key responded saying he agreed that PACER-plus should have more of a development focus, [telling](#) *Radio NZ*:

"We'd prefer to progress PACER Plus with Fiji if we can, if we can't then it won't necessarily stop us but we'd prefer to have them in but it's like anything, it's like a treaty settlement, a free trade agreement, you have to have both sides reaching an agreement and feeling as if they're getting a fair deal."

The aim remains to finish the talks before the end of the year.

## Other news

**Uni Melbourne students lobby to #BlockTheTPP.** It's great to see students from the University of Melbourne taking to Twitter to lobby Labor Trade Spokesperson Jason Clare to #BlockTheTPP. [Read more.](#)

**Govt refuses to reveal Philip Morris ISDS case costs.** Crossbench senator Nick Xenophon is threatening to an independent tribunal if the Government keeps refusing to reveal how much it cost to defend the plain packaging ISDS case brought by tobacco giant Philip Morris. [Read more.](#)

**Public health groups condemn stronger medicine monopolies as RCEP talks continue.** Ninety-four public health and other community groups from 12 countries have condemned proposals for the inclusion of stronger medicine monopolies in the Regional Comprehensive Economic Partnership (RCEP) as secret negotiations continue this week in China. [Read more.](#)

**RCEP could block access to generic drugs: MSF.** Intellectual property provisions in the China-led RCEP regional trade deal could block access to life-saving drugs for millions in Africa and Asia, warns Medecins Sans Frontieres (MSF) representative Dr Maria Guevara. [Read more.](#)

**Senate passes motion to ban ISDS.** The Australian Senate has passed a motion brought by independent senator Jacqui Lambie to ban ISDS from being included in trade agreements. [Read more.](#)

**The new US president needs a fresh approach to trade.** Jared Bernstein and Lori Wallach argue that free trade agreements like the TPP are far from synonymous with trade itself, and that new rules are needed which prioritise the economic needs of low and middle income families. [Read more.](#)

**Philip Morris' lawyer dismisses ISDS concerns as 'hysteria'.** At the recent Parliamentary inquiry hearings into the TPP, lawyer for Philip Morris Sam Luttrell told the committee that there was "hysteria" around the Phillip Morris case over plain packaging laws in Australia. [Read more.](#)

**Portugal threatened with ISDS case after cancelling bus privatisation plans.** Portugal is facing a €42 million [ISDS](#) claim after it cancelled a deal to privatise part of Lisbon's public transport system. [Read more.](#)

**Big business pushes for early TPP ratification.** The Business Council of Australia has urged ratification "as soon as practicable" - despite the rising opposition in the US. [Read more.](#)

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### 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](#)