



BULLETIN: November 2016

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Introduction

This month we're celebrating the demise of the TPP after six years of campaigning against its corporate agenda and for a fairer deal based on human rights, labour rights and the environment.

We want to thank all of you for standing with us for all or some of those years and for your contributions in helping shape the trade debate here in Australia.

While it was the election of Donald Trump that dealt the final blow, it was community organisations like ours which campaigned tirelessly in all TPP countries to expose the dangerous clauses in the deal.

We'll continue to campaign for fair trade: our main focus is now ensuring that the TPP is not used as a model for other trade deals, including the RCEP and TiSA.

TPP failures must not be repeated in other agreements

By Dr Patricia Ranald (first published in [Fairfax Media](#))

Donald Trump didn't kill the Trans-Pacific Partnership trade pact. His opposition was only the final blow which came at the end of more than six years of criticism of the TPP in the United States, Australia and other TPP countries by public health, environment, church, union and other [community groups](#). Their criticism was based on human rights and environmental values which were the opposite of those expressed by Trump during his campaign. These critics were not against trade itself but against unfair trade deals. The TPP's death should teach us some key lessons about future trade policy.

Firstly, the TPP was not mainly about traditional trade issues such as tariffs. Australia already has free trade agreements and low tariffs with all but three of the 12 TPP countries. Nor was it going to deliver on promises of jobs and growth. [Economic studies](#) showed hardly any economic benefit to Australia. Rather, most of the TPP's 30 chapters laid out rules which increased rights for global corporations and restricted future governments from regulating them in the public interest.

The TPP gave global companies the right to [bypass national courts and sue governments](#) for millions of dollars in unfair international tribunals over health and environmental regulation. It extended [monopolies on biologic medicines](#) for an additional three years, delaying cheaper version of those medicines, which would have cost taxpayers [hundreds of millions of dollars](#) per year. It also entrenched [copyright monopolies](#). Chapters on services reduced the ability of future governments to regulate essential services. The TPP [increased the numbers](#) of temporary migrant workers who are vulnerable to exploitation, without testing if local workers were available.

The [Productivity Commission](#) criticised the TPP's inclusion of corporate rights to sue governments and the entrenchment of monopolies as the opposite of free trade. In an era of global financial crises, corporate tax evasion and global warming, future trade agreements must not prevent governments from regulating banks and monopolies on medicines, or from acting to prevent climate change and tax evasion. Governments must be able to act in the public interest without facing the risk of being sued for millions of dollars in unfair international tribunals.

These public policy issues should be debated and decided through a democratic parliamentary process, not secretly decided through trade deals. Like many trade agreements, the TPP text did not become public until after it was agreed and could not be changed. The decision to sign it was made by Cabinet, not Parliament. Parliament can only vote on the legislation needed to implement the agreement, not the agreement itself. The TPP debate exposed this process, which was criticised by both the PC and by a Senate inquiry report aptly titled "Blind Agreement".

There are precedents for ending secrecy in trade negotiations. The [EU has determined](#) that the full text of trade agreements should be made public before the decision to sign them. The Parliamentary process should include independent evaluations of the economic, health and environmental impacts of the agreement. Parliament should vote on the whole agreement, not just the implementing legislation.

The 12 TPP leaders met at the APEC summit in Peru at the weekend to discuss other trade deals. One deal is the 16-member Regional Comprehensive Economic Partnership between the 10 ASEAN countries, China, India, Japan, South Korea, Australia and New Zealand (RCEP) which is being negotiated at present. It does not include the US, but there is some overlap with other TPP members.

There is another, more ambitious long-term proposal for a future Free Trade Area of the Asia Pacific. This could involve both China and the US, and many of the countries involved in TPP, RCEP, and APEC, over 20 countries.

The failed TPP should not be used as a model for these agreements. Unfortunately, [leaked RCEP documents](#) show that TPP-like provisions on stronger medicine monopolies and corporate rights to sue governments are being pushed by some TPP governments in the RCEP negotiations. These proposals are generating the same opposition from [public health](#) and other [community groups](#) as they did in the TPP.

In short, the failure of the TPP should show the necessity for more open and democratic trade processes, and fair trade policies which do not entrench corporate rights and monopolies and do not prevent governments from regulating in the public interest.

Dr Patricia Randal is a research associate at the University of Sydney and the convener of the Australian Fair Trade and Investment Network.

Read more:

[I'll quit TPP on day one as president: Donald Trump](#) (SMH, Nov 22, 2016)

APEC: Lots of trade talk but no clear path forward

There were a lot of different media reports about the future of the TPP during the APEC meeting of 21 governments in Lima last weekend. Here's our explainer:

1) The TPP remains dead (for now)

Malcolm Turnbull and Barack Obama continued to talk up the TPP at APEC. But the Obama administration had already confirmed it would not present the TPP implementing legislation to the current "lame duck" Congress which sits until the new Congress replaces it in January, and Donald Trump had promised to reject it.

Hopes that he might change his mind were dashed by Trump's announcement after APEC on November 22 that he will reject the current version of the TPP on his first day in office.

Trump's opposition to the TPP was a strong part of his election campaign. He could try to renegotiate the deal but this would take a long time and then require the whole process of signing and implementing legislation to begin again in each country.

There's also been talk of a TPP without the US, but that would also require changes to the deal. Currently the TPP can't come into force until the US has ratified it. It's also extremely unlikely that the remaining 11 countries would agree to keep the deal as is without the US, since they agreed to US proposals on ISDS and medicine monopolies to get access to the US market.

2) RCEP is the next mega-trade deal for the Asia Pacific

The [RCEP](#) is the next mega trade deal for the Asia Pacific region. It currently involves all the ASEAN countries plus China, Japan, India, Korea, Australia and New Zealand.

This deal is being negotiated in secret with the aim to conclude negotiations by next year. Because of the secrecy, we can't know exactly what is in the RCEP. But we do know from leaked documents that there are proposals for it to contain some of the worst aspects of the TPP: damaging IP rules which extend monopolies on lifesaving medicines and investor-state dispute settlement (ISDS) rules which allow corporations to sue governments.

Since the RCEP does not include the US, and the TPP will not happen, it is less likely that other governments will agree to this agenda. However, we will still need to campaign hard to ensure the TPP's corporate agenda is not used as a model in the RCEP.

The US administration has criticised the RCEP, [saying](#) it will not have the same "standards" as the TPP. But the Turnbull Government is an enthusiastic supporter of the deal.

3) Free Trade Area of the Asia Pacific (FTAAP) a concept only

The APEC meeting ended with a [declaration](#) supporting a Free Trade Area of the Asia Pacific (FTAAP), which should include the TPP, RCEP and other agreements, and would include the US, China and other APEC members.

This is an initiative China has been backing since 2014 but it is only in a conceptual stage at the moment. APEC will continue a study of the concept this year, but actual negotiations will not start for years.

Obviously, it is concerning that the aim is to absorb both the TPP and the RCEP into an eventual mega deal for the entire Asia Pacific region.

In the short term, we'll be focusing on campaigning to keep damaging medicine monopolies and ISDS out of the RCEP, and for fairer trade rules which protect workers' rights and the environment.

Hope for a fairer trade debate in Australia

The successful campaign against the TPP's corporate agenda [here in Australia](#) and [around the world](#) has strengthened opposition to the deal and forced a fundamental rethink of trade policy.

After the US administration confirmed it would not proceed with plans to push the TPP through a lame duck Congress, the Australian Greens immediately called for the [deal to be dumped](#) here in Australia. Shadow Trade Minister [Jason Clare](#) has said that Trump's confirmation that he will reject the TPP should mean that the Turnbull government should not proceed with legislation to implement a deal that will not happen. [Nick Xenophon](#) has confirmed his opposition to the TPP.

Last week, Jason Clare penned an [op-ed for the AFR](#) re-affirming his pro-trade position but acknowledging that one of the problems with the TPP was its provisions to bring in workers on temporary visas without testing the labour market first. He also cited a recent Essential Poll which found that fewer than three in 10 Australians think trade has created more jobs for Australians.

If the Turnbull government does persist with the implementing legislation, we will continue to campaign for the majority in the Senate to defeat it. The government-dominated Joint Standing Committee on Treaties inquiry on the TPP will report to Parliament next week, and a separate Senate inquiry will report on February 7 next year.

Throughout our TPP campaign we've made it clear that we are not against trade. We want to see fairer trade, based on human rights, labour rights and environmental protection.

We hope that the long, drawn out campaign against the TPP's corporate agenda will lead to a better trade debate - one that puts people and the environment ahead of expanding corporate power.

Civil society to attend December RCEP round in Indonesia

The sixteenth RCEP negotiating round will be held near Jakarta, Indonesia from the 2-10th December. Media reports indicate that India and some other countries are resisting the TPP-like proposals on stronger medicine monopolies and investor rights to sue governments. The deadline of the end of 2016 has been abandoned, and talks will now continue into 2017.

international civil society organisations including AFTINET will be given a short time to present their views to negotiators. This is only the third time in sixteen rounds of negotiations that we have had this opportunity. The details of negotiations remain secret and we have had to rely on leaked documents. [Civil society groups](#) from RCEP countries have called for the release of negotiating texts, and a genuine consultation process, and for the rejection of TPP-like proposals on medicine monopolies and investor rights to sue governments.

TiSA ministerial cancelled as unions ramp up criticism

A ministerial meeting to discuss the Trade in Services Agreement planned for early December was cancelled after it became clear that a deal would not be reached in time considering Donald Trump's election and ongoing EU concerns over data flows, market access and the regulation of [new services](#).

Instead of a ministerial meeting chief negotiators will meet to discuss the next steps and to prepare for a new administration in the US.

Meanwhile, new [analysis](#) of leaked TiSA documents by the International Trade Union Confederation (ITUC) has exposed the way the deal would concentrate more power for multinational corporations, put a stranglehold on vital government regulation, undo the limited progress which has been made on regulating banks and finance conglomerates, and lead to an "Uberisation" of millions of workers' jobs.

ITUC General Secretary Sharan Burrow said that while other trade deals are making headlines, governments are working with corporate lobbyists to "smuggle TiSA through".

"Governments have still not learned the lesson that putting corporate interests ahead of the living standards and lives of their own people is not only unjust, it is political stupidity," Ms Burrow said.

You can read their report, titled 'All about TiSA' [here](#).

Fiji and PNG still not agreeing to PACER-Plus deal

The PACER-plus deal between Australia, New Zealand and Pacific Island nations was supposed to be signed this year, after agreement in principle to the legal text was announced in August, with details on tariffs and other market access issues to be agreed by the end of the year.

However, PNG then withdrew from negotiations on the grounds that the proposed deal would not deliver benefits to the PNG economy, and Fiji continues to describe the deal as [too one-sided](#), and call for greater concessions from Australia and New Zealand.

Without the participation of the Pacific's two largest economies it is unlikely that the deal will be signed this year.

Other news

International people power beat multinational corporate power: Civil society movements across Asia, Latin America, Oceania, and North America – united internationally to fight the corporate agenda of the TPP for more than seven years – finally succeeded in derailing the controversial pact. [Read more.](#)

TPP has already caused worldwide damage: President Trump: Even if the TPP never goes into effect, its damage will be felt worldwide - in the form of the election of President Donald Trump, writes Lori Wallach, director of Public Citizen's Global Trade Watch. [Read more.](#)

And you thought the TPP was secret. The RCEP is even worse: Peter Martin writes that the RCEP is "another massive deal you've never heard of" which has ISDS on the agenda, despite the strong opposition ISDS has created to the TPP, and predicts the TPP's demise. [Read more.](#)

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