



## **BULLETIN: December 2016**

*Inside this edition:*

- Thanks and Happy Christmas
- Government backs a dead horse but Labor and Greens slam TPP
- IP policy constrained by trade agreements, says PC
- RCEP and TiSA to be key campaigns in 2017
- Civil society protests at December RCEP round in Jakarta
- Colombia hit with ISDS cases on mining regulation and medicine
- PACER-Plus negotiations will miss 2016 deadline

### **Thanks and Happy Christmas**

As another year draws to a close we'd like to wish all of you a very happy Christmas and a relaxing festive season.

We also want to thank you for your support this year as we continued our campaign for fair trade and against the TPP's corporate agenda.

In particular we want to thank those of you who made a donation to our [Christmas appeal](#) – your generosity will go a long way towards supporting our ongoing campaigns into the new year.

In this edition of our regular Bulletin we report back on the JSCOT report, the Productivity Commission's criticism of trade agreements in its intellectual property policy review, new ISDS cases hitting Colombia and all the latest on the RCEP negotiations.

### **Government backs a dead horse but Labor and Greens slam TPP**

Unsurprisingly, the [report](#) of the Government-majority Joint Standing Committee on Treaties (JSCOT) predictably endorsed the ratification of the TPP, despite the fact that the deal can't go ahead

without the US' endorsement. This means there is a risk the Government could try to push through the TPP's implementing legislation in the New Year.

However, comments by Labor committee members were highly critical of the TPP, describing some of its provisions as "risky and harmful to Australia's interests." They expressed concerns about ratifying the TPP "in terms of both content and process," and criticised the haste to ratify when it appears certain that the TPP will not proceed. The Greens' dissenting report called for complete rejection of the agreement.

This strong criticism from Labor and The Greens reflected the concerns expressed in over 11,000 critical submissions from a wide range of community organisations and academic experts.

The Senate inquiry on the TPP will report on February 7, 2017, and is likely to be more critical of the deal since the Opposition and minor parties have a majority on this inquiry.

We hope the Senate inquiry report will be a more independent and critical assessment of the TPP and will recommend against ratification of an agreement which cannot come into force.

We will be urging the Senate to block the TPP implementing legislation if the Government persists with it next year.

You can read more in our media release [here](#).

## **IP policy constrained by trade agreements, says Productivity Commission**

The [Productivity Commission's final report](#) on Australia's intellectual property policy shows how it has been constrained by trade agreements.

Global pharmaceutical companies have successfully lobbied for longer monopolies in trade agreements which have delayed the availability of cheaper medicines, resulting in higher prices.

The report criticises a 'more is better mind set' and poor consultation and transparency resulting in agreements which typically involve trade-offs, in which the government has capitulated too readily, resulting in longer monopolies, which are against Australia's interests.

The report makes similar points about stronger monopolies for copyright holders, which have attracted more [media attention](#).

The report recommends greater use of independent and public reviews and more effective consultation in treaty making processes.

It also makes the broader point that intellectual property policy on medicines and other areas should be decided through open public and parliamentary debate based on solid evidence, rather than secretly traded off behind closed doors.

## **RCEP and TiSA to be key campaigns in 2017**

### **Regional Comprehensive Economic Partnership (RCEP)**

RCEP negotiations are progressing slowly and are expected to continue throughout most of 2017.

Leaked documents have confirmed that Japan and Korea are the main proponents of TPP-like proposals on medicines and ISDS in the RCEP. It's expected that these proposals will be discussed at the next negotiating round in Japan in late February.

Australia's policy on these issues is not clear. We will be campaigning against the inclusion of damaging TPP proposals in the RCEP throughout next year.

Take action: Help raise awareness of the RCEP by sharing our explainer [Is the RCEP the TPP by another name?](#) on social media.

### **Trade in Services Agreement (TiSA): no agreement in 2016**

The TISA Ministerial meeting intending to finalise negotiations was cancelled in December. This followed protests in Europe and concerns expressed by the [EU parliament](#) about data privacy and differences between the EU and US about market access and the regulation of new services. There is also uncertainty about the US commitment to negotiations following the election of Donald Trump. However, talks are continuing and an agreement could be reached early next year.

AFTINET will be publishing more on TiSA and the need for governments to retain the ability to regulate services in the new year. In the meantime, you can find out more about the negotiations and key issues [here](#).

### **Civil society protests at RCEP round in Jakarta as talks proceed slowly**

AFTINET Convener Dr Patricia Randal travelled to Jakarta for the sixteenth round of RCEP negotiations in early December to participate in parallel events organised by Indonesian civil society groups, coordinated by the Indonesian Global Justice organisation. Talks are proceeding slowly on the controversial TPP- like proposal on intellectual property and medicines and ISDS, which have been highlighted by civil critics.

Participation from civil society groups outside Indonesia was relatively limited because of the short notice and clashes with some other regional meetings, but there was representation from Australia, New Zealand, Malaysia, Philippines, India, Thailand and regional organisations like the Third World Network, MSF and Friends of the Earth.

There was a limited opportunity for civil society groups and some Indonesian organisations to make short presentations to RCEP chief negotiators and Indonesian negotiators on issues including ISDS, medicines, trade in goods and services and impacts on farmers. This was welcome, however the consultation with civil society was still very limited compared with consultations with business.

Indonesian civil society events were very successful and included forums, (including one with Indonesian parliamentarians) rallies and a media conference. Doctors without Borders (MSF) launched a new publication on the [RCEP and medicine monopolies](#), and Friends of the Earth, the Transnational Institute and others launched a [report on ISDS cases in the RCEP countries](#).

These activities got good media coverage in local Indonesian media like the [Jakarta Post](#), and the MSF and FOE reports were covered by the [ABC in Australia](#).

The next round of negotiations is to be held in Japan in late February and early March 2017.

### Read more about the Jakarta negotiations:

- [RCEP must not be another TPP, say 316 regional civil society groups](#)
- [RCEP - What's at stake for access to medicines?](#)
- [RCEP negotiations met with protests in Indonesia](#)
- [Massive hidden cost of RCEP revealed](#)

### Colombia hit with ISDS cases on mining regulation and medicine

In yet another example of the unfair ISDS system being used against environmental policies in developing countries, Canadian mining company [Eco Oro](#) has filed an [ISDS claim](#) against a Colombian court decision to limit its mining activities for environmental reasons. The claim is funded by [Amber Capital hedge fund](#) which will in turn receive 11% of any compensation awarded as a result of the claim. This shows a growing trend for speculative investment in such cases. This entrenches the global industry of ISDS which not only benefits global mining and other corporations but expands the business of global legal firms.

This follows reports last week of a notice of an [ISDS dispute](#) by Swiss Pharmaceutical giant Novartis over Colombian government plans to use compulsory licensing to reduce prices on a patented treatment for leukaemia, after voluntary negotiations with the company failed. These cases show how global companies can use ISDS to undermine environmental regulation and access to affordable medicines.

### PACER-Plus negotiations will miss 2016 deadline

Little has changed on PACER-plus negotiations with both Fiji and PNG both maintaining that their concerns have not been addressed. PNG has formally left the talks and has announced it will seek a bilateral agreement with Australia. Fiji is still saying the final text is one-sided and does not offer enough benefits to its economy.

This means that the 2016 deadline for concluding the negotiations won't be met and shows that civil society campaigning has been working to expose the downsides of the deal for the Pacific Islands.

#### Contact us:

Australian Fair Trade and Investment Network (AFTINET)

128 Chalmers Street, Surry Hills, NSW, Australia 2010

Phone 02 9699 3686 | fax 02 96993717

[campaign@aftinet.org.au](mailto:campaign@aftinet.org.au)

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