



## **BULLETIN: August 2017**

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### **Introduction**

Thanks to all who have renewed their AFTINET membership. We need your support to continue our campaigns. If you haven't done so, you can renew on our website [here](#).

Negotiators at the July TPP-11 meeting in Japan were reportedly still divided about how to amend the text, and will meet again in Australia in September.

Our campaign to keep TPP clauses out of the RCEP continues. Community protests from local and international groups at the RCEP negotiations in Hyderabad in July showed strong opposition to its TPP-like corporate agenda. Major disagreements between governments fuelled by this campaign are slowing the negotiations.

Trade in Services negotiations are promoting deregulation and privatisation through TiSA and in other trade deals, and you can join the campaign to fight them at our forum on August 31.

Trade deal talks with the Pacific Alliance brings the total number of Australia's current trade negotiations to ten, adding to the noodle bowl of overlapping agreements

We call on the government to release the costs of the Philip Morris plain packaging case, and expose their extensive plans to undermine public health.

## No public result from TPP-11 revival meeting: next talks in Australia

Senior trade negotiators from 11 TPP countries, including Australia, met again in Japan on July 11-14 to discuss the options for a version of the TPP without the US. This followed a trade ministers meeting held in May which decided to explore options for a version of the TPP without the US.

As usual, the talks were shrouded in secrecy, and there was no public statement from the meeting, but the [Japan Times](#) reported that, despite agreements to proceed, there were still disagreements about what would be included in the text.

Japan, Australia and New Zealand are pushing for removing references to the US but minimal change to the existing text, in the hope that the US would re-join at some future time.

But other governments, like [Malaysia and Vietnam](#), only agreed to parts of the text initiated by the US, like stronger monopolies on biologic medicines, ISDS, restrictions on state-owned enterprises and other provisions in return for market access to the US. It makes no sense to them to accept these unpopular proposals without US market access.

The [Japan News](#) reported that a Japanese proposal for creating “a protocol which would bring the existing TPP text into force on a provisional basis” was not agreed.

It was also reported that negotiators have agreed to meet again in Australia in late August or early September, but the details are not public. The aim is to report options for decision at a further Ministerial Meeting on the sidelines of the APEC meeting on November 10-11 in Vietnam.

## Protests at RCEP negotiations in Hyderabad

India hosted the 19<sup>th</sup> round of negotiations for the Regional Comprehensive Economic Partnership at Hyderabad on July 18-28. But many Indian and international community groups showed their strong opposition to draft clauses in the RCEP.

Hundreds [marched](#) in the streets of Hyderabad on 24 July 2017 protesting the RCEP negotiations, which include proposals for stronger monopolies on medicines and seeds, deregulation of services and allowing corporations to sue governments. There was also a [flash protest](#) at the negotiating venue. Public Services International released [this short video](#) to expose the negative impacts of the RCEP corporate agenda.



Women's organisations, including health workers, small farmers and informal workers, were prominent in RCEP [protests](#). [The Hindu](#) reports that women farmers use seeds saved from the previous harvest. Patenting of seeds by global companies would price them out of reach.

Members of community groups who attended brief consultations with negotiators at the RCEP talks in Hyderabad said that the refusal to disclose details of proposals meant the consultations were inadequate and demanded publication of negotiating texts.

[The New Indian Express](#) reports that Jyoti Panday from Electronic Frontier Foundations who was there to seek clarity on the proposals framed for the agreement for E-commerce sector, said, "First of all, e-commerce norms should not be in trade agreements. On top of that, the secrecy with which the agreement is being discussed is threatening. The entire text of the planning for the agreement should be made open to the public."

"I leave the consultation very dissatisfied. My questions remain unanswered," said activist Pradip Chatterjee, representing the cause of fishermen.

The People's Resistance Forum [boycotted the consultation](#) calling it "a sham as it is neither meaningful nor inclusive of most stakeholders," and instead demanded release of the full negotiating texts and open debate of them in Parliament.

The [New Indian Express](#) reported on July 17 the fears of Kiran Vissa of the Raithu Swarajya Vedika, farmers' organisation. "Indian farmers are already suffering as they are not getting a fair price for their produce. Cheaper imports will reduce the demand much further, leading to a drop in price."

Kavalit Singh wrote in [Madhyam](#) that India should represent community concerns and should not be pressured to rush through negotiations by Japan and Korea, who are supporting the TPP model of ISDS.

## **RCEP talks add electronic commerce and government procurement, divisions slow negotiations**

The RCEP talks ended on July 28 under a shroud of secrecy, with a general positive [statement](#) from the Indian host government. But serious differences remain on medicines, copyright, e-commerce, government procurement, and investor rights to sue governments.

[The Hindu](#) reported that India was resisting proposals for a TPP-like chapter on government procurement, which was condemned in a [press release](#) by unions and community groups. The groups also condemned the inclusion of investor rights to sue governments and called for the full text to be released for public and parliamentary debate.

Last year, [Knowledge Ecology International](#) reported that Japan and South Korea were pushing anti-consumer measures which would deepen drug monopolies. KEI believes those portions of the agreement have not been revised.

“From all the indications I have had from people who are talking to negotiators, there remain a lot of unresolved issues. Everything from research exceptions, to issues of patent extension and data exclusivity has not been resolved,” said James Packard Love of KEI. [Doctors without Borders](#) said that such proposals would delay the availability of affordable medicines, especially in the poorest countries.

Leading Indian academics, [Arul George Scaria and Anubha Sinha](#), highlighted proposals for stronger copyright monopolies including digital rights management, extending broadcaster copyright, much harsher copyright enforcement, and investor rights to sue governments.

[Other academics](#) have expressed concern at proposals for the e-commerce chapter which would undermine the ability of governments to regulate to ensure consumer data security and privacy. These include no restrictions on cross border data transfer and no compulsory disclosure of source codes.

[The Hindu](#) quoted Phairush Burapachaisri, Board of Trade of Thailand and Thai Chamber of Commerce, as saying, "The talks have already missed many deadlines and it looks like the negotiators won't be able to conclude them this year".

RCEP Ministers will meet on September 5-11 in the Philippines to attempt to resolve key issues before further negotiations in Singapore in October.

## **New report - TiSA in the Trump era, and TiSA Sydney Forum August 31**

The TiSA (Trade in Services Agreement) talks are currently in limbo pending a signal from the Trump administration about its intentions. This [report](#) provides the latest analysis of the leaked texts which restrict governments' ability to regulate and control the activities of multinational corporations

engaged in the delivery of services, and to provide essential services to their citizens through the appropriate mix of public, not-for-profit and private services that they themselves decide.

The report, co-published by the Rosa Luxemburg Foundation and the Canadian Centre for Policy Alternatives, examines the negotiations as they stood when they broke off at the end of 2016, and closely analyses the adverse impacts of the proposed agreement on public services and public interest regulation.

Looking ahead, the report considers three possible futures for TiSA:

1. the U.S. withdraws from the agreement and the talks collapse or are suspended indefinitely;
2. the U.S. pulls out of the talks, but other parties continue under the leadership of the EU; and
3. the U.S. recommits to TiSA with a renewed, even more aggressive negotiating mandate.

The third scenario is clearly the most dangerous.

The chief reason why Trump and his advisors favour bilateral talks is that they believe they can get more concessions by asserting US power one-on-one against other countries. They are in no way opposed, in principle, to TiSA-style international deals that promote privatisation or deregulation, an agenda they are vigorously pursuing at home in the US.

Many of the corporate lobbies backing TiSA have close ties to Trump and the agreement has garnered strong support from congressional Republicans. For example, IBM and Walmart are two of the six co-chairs of Team TiSA, the US business coalition promoting TiSA. Meanwhile, Ginni Rometty, IBM's chief executive officer, and Doug McMillon, CEO of Walmart, now sit on Trump's Strategic and Policy Forum, a group of high-level business advisors to the new administration.

Trump himself has stakes in many services businesses that arguably stand to benefit from TiSA.

But whatever happens, the TiSA's deregulatory agenda and problematic elements are resurfacing resurface in other trade deals like the TPP, RCEP and bilateral negotiations.

AFTINET and PSI are holding a forum for activists, [Trading privatisation: time to fight back](#), on Trade in Services in TiSA, RCEP and other trade agreements, in Sydney on August 31. You can RSVP [here](#).

## **Government adds Pacific Alliance talks to nine other trade negotiations**

The Australian government has announced that it has begun negotiations with Pacific Alliance countries (Chile, Peru, Colombia and Mexico) and has [called for submissions](#).

The Pacific Alliance is conducting simultaneous bilateral negotiations not only with Australia, but with New Zealand, Singapore and Canada. This means there will not be a regional agreement, but a series of bilateral agreements, which will all be slightly different.

The first meeting of the Pacific Alliance countries and Australia will take place early in September to set the parameters for the negotiations, which are expected to take some years. The danger is that they will use the TPP text, because Australia, Chile and Peru participated in the TPP negotiations.

The AFTINET submission argues that the TPP text should not be used as a model, providing evidence of the dangers of the TPP text on ISDS, medicine and copyright monopolies, trade in services, temporary movement of people and government procurement. Read the full submission [here](#).

This brings the total number of current trade negotiations to ten, adding to the noodle bowl of overlapping agreements. See AFTINET's short summary [here](#).

## **Government should release Philip Morris plain packaging case costs**

*July 10, 2017: Media Release:* "We welcome the international tribunal decision that Philip Morris tobacco company should pay the costs of its failed case against Australia's 2011 plain packaging law. But it is absurd and unacceptable that the tribunal has not released the amount of the costs, which have been blacked out of the published decision," Australian Fair Trade and Investment Network Convener Dr Patricia Ranald said today.

Dr Ranald said that the Australian public had a right to know the full costs of the failed case, which dragged on for over four years.

"The failure to publish the costs exposes the unacceptable nature of the international tribunal system known as Investor-State Disputes (ISDS), which enables global corporations to bypass national courts and sue governments in international tribunals over public health and other public interest laws," said Dr Ranald.

She added that ISDS tribunals lack the proper legal safeguards of national court systems, having no independent judiciary, no precedents and no appeals, and wide discretion which enables absurd processes like refusal to release the amount of costs, which would not be accepted in a national court system.

The Coalition government has agreed to ISDS in the Korea and China free trade agreements which are in force, and in the failed Trans-Pacific Partnership, which has not been ratified by the Australian Parliament. The government is also supporting ISDS in other trade negotiations. This means there could be more cases against public health environment and other public interest laws.

Dr Ranald said that AFTINET had consistently opposed ISDS in trade agreements, and that the Labor Opposition, Greens and Nick Xenophon Team also had policies against it.

"AFTINET calls on the Australian government to release the costs of the Philip Morris case immediately, and to oppose the inclusion of ISDS in all trade agreements", she said.

## **Leaks expose Philip Morris plans to undermine public health**

[Leaked Philip Morris documents](#) for the years 2009-2016 reveal its massive effort to neutralise the United Nations Framework Convention on Tobacco Control, as well as Australia's plain packaging law.

The documents shed light on one key objective in Philip Morris' FCTC campaign: Keep tobacco within the ambit of international trade deals, so that the company has a way to mount legal campaigns against tobacco regulations. The company lobbied both governments and individual delegates to UN conferences, and succeeded in watering down FCTC policy.

At the 2014 biennial conference of the FCTC in Moscow, conference, Philip Morris executive Chris Koddermann said the company achieved its "trade-related campaign objectives," including "avoiding

a declaration of health over trade" and "avoiding the recognition of the FCTC as an international standard," he wrote.

A former Philip Morris employee said the company has routinely used trade treaties to challenge tobacco control laws. The aim, he said, was "to scare governments away from doing regulatory changes." Even though the tobacco industry has lost a series of major legal battles, its suits have served to delay regulation and yield years of unimpeded sales.

Philip Morris lost its ISDS case against Australia's 2011 plain packaging law after almost five years, but not before five countries, encouraged and funded by tobacco companies, filed complaints against Australia on the same subject at the World Trade Organization. The WTO has yet to announce its decision.

The Australian case had a chilling effect in New Zealand. The government announced in 2013 that it was postponing the move and waiting to "see what happens with Australia's legal cases." The New Zealand legislation is now scheduled to go into effect next year.

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