



## BULLETIN

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### *Inside this edition:*

- TPP-11 talks continue and a key study is debunked
- RCEP negotiations will continue into 2018
- Canada and Mexico want ISDS in NAFTA, community groups don't
- PACER-Plus still not tabled in Parliament
- Indonesia files WTO complaint against Australia but FTA negotiations continue
- Australia saves face with 'economic diplomacy' in India
- ISDS lawyers urge corporates to sue for claimed Brexit losses
- US global digital firms' wish list for trade agreements
- AFTINET calls for fairer trade rules at WTO

### 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](#).

TPP-11 talks are continuing, but there are still major differences among countries and at the recent meeting at least 50 items were listed for renegotiation or suspension. It looks like RCEP negotiators will not make their deadline of the end of this year. Canada and Mexico want to keep ISDS in NAFTA, while community groups petition US negotiators to ditch it. Meanwhile, ISDS lawyers urge corporates to sue Britain for Brexit losses. Vanuatu has signed the PACER-Plus agreement but Fiji and PNG, the two biggest economies in the region, have not signed. We discuss the push for e-commerce rules which could undermine privacy and data security, and AFTINET joins hundreds of civil society groups calling for fairer trade rules at the WTO.

### TPP-11 talks continue in Tokyo and a key study is debunked

Late last month [another meeting](#) between the eleven remaining TPP countries was held in Tokyo, Japan over two days. The TPP-11 are hoping to reach a general agreement by November 10, and have scheduled another meeting for late October.

The goal at this stage, [according](#) to Japan's chief TPP negotiator Kazuyoshi Umemoto, is for an early ratification of the TPP, in the hopes that the US will re-join the agreement. Although Australia, New Zealand and Japan are keen to minimise changes to the text, at the recent meeting [at least 50 items](#) were listed for renegotiation or suspension. Some TPP-11 governments only originally agreed to these

rules – like increased monopolies on medicines and copyright, and foreign investor rights to sue governments – in exchange for access to US markets. They will not implement them without access to US markets.

Meanwhile, a [study](#) by Kenichi Kawasaki from the Japanese National Graduate Institute for Policy Studies, widely used by TPP-11 cheerleaders including TPP governments in support of the trade deal, has been [thoroughly debunked](#) by a [senior economist](#) working for the United Nations Committee on Trade and Development.

Kawasaki's paper claims that there would still be significant economic gains from an agreement negotiated by the remaining 11 TPP members. However, as the UN paper explains, the economic modelling in Kawasaki's study rests on a series of completely unrealistic assumptions that ignore negative outcomes (such as unemployment and trade deficit effects) and exaggerate positive outcomes.

Japanese Prime Minister Shinzo Abe has called a snap election for October 22, which may delay the TPP-11 talks.

## Regional Comprehensive Economic Partnership (RCEP) negotiations to continue into 2018

In September RCEP Ministers met in Manila, Philippines to assess their progress, while Filipino community groups organised forums and protests.

The negotiators still have major differences about tariff levels, intellectual property on medicines, services and ISDS and they have [abandoned](#) their 2017 deadline. They are [hoping for](#) a 'significant breakthrough' at the ASEAN meeting in November.

If it does go ahead, the RCEP will cover 3.5 billion people or half the world's population. Read our explainer [here](#).

## Canada and Mexico want ISDS in NAFTA, community groups don't

Canada and Mexico [want to keep](#) the [Investor-State Dispute Settlement \(ISDS\)](#) in the North American Free Trade Agreement (NAFTA), despite the fact that [most NAFTA ISDS cases](#) have been lodged by US companies against their governments.

While the Trump administration's position is not public, US negotiators are considering making ISDS optional. US corporate interests are [not happy](#) about that.

Canada is keen to use [the ISDS chapter](#) in the Comprehensive Economic and Trade Agreement (CETA) as a model, which attempts to make the ISDS tribunal system more independent. But even if the tribunal system is improved, powerful foreign investors will still be able to sue governments.

Meanwhile, a coalition of labour, public health and environmental groups including [AFL-CIO](#), [Greenpeace USA](#), [International Corporate Accountability Roundtable \(ICAR\)](#) and [Action on Smoking & Health \(ASH\)](#) has [written to US trade negotiators](#) urging them to drop ISDS from NAFTA. They argue that ISDS undermines the State's ability to regulate in the public interest, to uphold environmental protections and to abide by their international human rights obligations.

For an example of what they mean, read about the case of [Metalclad v. Mexico](#), in which the Mexican government was made to pay a waste management company \$16.7 million after refusing to grant a waste dump permit for health and environmental reasons.

## **PACER-Plus still not tabled in Parliament**

After holding off for some months, Vanuatu signed the [PACER-Plus trade agreement](#) (the Pacific Agreement on Closer Economic Relations – Plus) in September.

[Papua New Guinea](#) and [Fiji](#), the two largest Pacific Island economies, have still not signed on. They say it threatens their infant industries and would not benefit their economies.

A coalition of community groups from Australia, New Zealand and the Pacific Islands, including AFTINET and many of our members, have previously [called for](#) independent assessments to be made of the social impact of the deal for each country.

PACER-Plus was only briefly mentioned at the September Pacific Islands forum meeting in Samoa. At the same meeting, [Prime Minister Turnbull](#) signed agreements for temporary workers from Kiribati, Tuvalu and Nauru to cover shortages in low and semi-skilled jobs. He claimed these would be subject to labour market testing.

The PACER-Plus agreement has still not been tabled in the Australian parliament, which would trigger a public inquiry by the Joint Standing Committee on Treaties, but this is expected soon. We will keep members informed about the submission process, and how to take action in our social media and lobbying campaign.

## **Indonesia files WTO complaint against Australia but FTA negotiations continue**

Indonesia has [filed](#) a complaint to the World Trade Organisation over the Australian government's decision to impose dumping duties on A4 paper from Brazil, China, Thailand and Indonesia - [announced in April](#).

They have also expressed 'deep concern' over Australia's investigation into the [alleged dumping](#) of steel rods exported from Indonesia. However, this does not seem to have slowed the negotiations for the Indonesia Australia Comprehensive Economic Partnership Agreement (IA CEPA) which is reportedly on track to be finalised by the end of the year.

## **Australia saves face with 'economic diplomacy' in India**

While trade negotiations including the [India/Australia FTA](#) are on hold, the Australian government is trying [economic diplomacy](#). Trade Minister Ciobo has announced the [India Economic Strategy](#), which sets out a broad plan for developing Australia's economic relationship with India, but does not include a formal free trade agreement, but includes broader issues like aid and development.

Public submissions are open until 13 October 2017, and should be emailed to [IndiaEconomicStrategy@dfat.gov.au](mailto:IndiaEconomicStrategy@dfat.gov.au).

## ISDS lawyers urge corporates to sue for claimed Brexit losses

Extraordinarily, some ISDS lawyers have [advised](#) their global corporate clients that they may be able to use ISDS to sue the British government for losing access to EU markets over Brexit.

Britain has more than 100 bilateral investment and energy treaties containing ISDS that will continue after Brexit. Depending the result of the Brexit negotiations, such claims could be about anything from foreign carmakers or financial companies losing free access to the EU market, to the government removing subsidies for certain sectors. One lawyer from UK-based law firm Volterra Fietta has even suggested that some investors may be able to sue for losses resulting from reduced access to lower paid EU workers in Britain.

This is yet another example of the wide scope of potential ISDS claims, how the ISDS industry drums up business and why [ISDS should not be included in trade and investment agreements](#).

## US global digital firms' wish list for trade agreements

A recent U.S. International Trade Commission report has [identified](#) many government regulatory and policy measures as barriers to competitive global digital trade. It argues that international trade rules should not allow government regulation of things like cybersecurity, localisation and data protection to interrupt free global data flows.

The report echoes RCEP proposals to prevent data localisation and cybersecurity, which will be debated during [negotiations](#) at the WTO Ministerial meeting in December. This could prevent governments from having effective national regulation to ensure data privacy and data security. It also has [implications](#) for the economic development and sovereignty of countries such as India, which want to avoid total dependence on global digital corporations like Apple, Microsoft and Google.

## AFTINET calls for fairer trade rules at WTO

300 civil society organisations from over 150 countries, including AFTINET and some of our members including [The Grail](#) and [NSW Nurses and Midwives' Association](#), have sent an [urgent letter](#) to the Members of the World Trade Organisation raising our concerns about a dangerous new agenda being pushed by some WTO members which could restrict regulation of data privacy and security.

Our position is that the WTO should not be supporting proposals on e-commerce, trade in services and fishing subsidies which would benefit global corporations and reduce the ability of governments to regulate. Instead, food security measures and greater flexibilities for developing countries are sorely needed. AFTINET urged the Australian government not to support any rules which would restrict their ability to guarantee effective data privacy rules and to regulate essential services in the public interest.