



Level 7, 321 Pitt Street
Sydney NSW 2000
Phone: 02 9699 3686
Email: campaign@aftinet.org.au
ACN 097 603 131
ABN 83 659 681 462
www.aftinet.org.au

MEDIA RELEASE

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Hong Kong FTA would still allow foreign investors to sue our government, says AFTINET

“The [Australia-Hong Kong Free Trade Agreement](#) and separate [Investment Agreement](#) signed today still give special rights to foreign investors to bypass national courts and sue governments for millions of dollars in international tribunals if they can argue that a change in law or policy would harm their investment, known as Investor-State Dispute Settlement or ISDS,” AFTINET Convener Dr Patricia Ranald said today.

“The investment agreement replaces the notorious 1993 Hong Kong investment agreement which the Philip Morris tobacco company used to claim hundreds of millions of dollars in compensation for Australia’s tobacco plain packaging law,” said Dr Ranald.

“The government claims that the new investment agreement has more safeguards for changes to public health laws than the 1993 investment agreement, which it replaces. The new agreement does exclude tobacco regulation and regulation relating to Medicare, the Pharmaceutical Benefits Scheme, the Therapeutic Goods Administration and the Gene Technology Regulator,” said Dr Ranald.

“But the need for these specific exceptions shows that the general safeguards for other public interest regulation are not effective, and would not prevent cases in other areas, like changes to energy regulation to address climate change or changes in industrial regulation. This increases the rights of global corporations and reduces the right of future governments to make new laws in the public interest,” said Dr Ranald.

“The agreement has no chapters on labour rights and environmental standards. This means that neither government has committed to implementing internationally-recognised labour rights or environmental standards. Nor have they committed to not reducing these standards to achieve a trade advantage,” said Dr Ranald.

“The next steps are for the treaty to be reviewed by the Joint Standing Committee on Treaties and for the parliament to vote on implementing legislation before it can be ratified. AFTINET will analyse the text and make submissions to the Committee. But the likely calling of the Federal election in April will dissolve this Committee before its work is finished, and the review will not be completed until after the election,” said Dr Ranald.

“Labor adopted policy at its [national conference](#) and in a [draft Bill](#) that rejects ISDS and other harmful proposals, and pledges to renegotiate them if it wins government. The policy also pledges to conduct independent assessments of the economic, social and environmental impacts of all trade agreements before they are signed. We call on Labor to implement this policy,” said Dr Ranald.

Contact Dr Patricia Ranald on 0419 695 841