



BULLETIN – June-July 2020

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1. Introduction

Dear Members,

The COVID-19 pandemic continues to overwhelm health systems and economies around the world and expose the flaws in the global trading system. Our successful June 23 Webinar focused on changes needed to address those flaws.

Despite strong efforts by global civil society and developing countries, and the World Health Organisation, there has been no substantive review of trade rules from the World Trade Organisation, nor from the biggest current regional trade negotiation, the 15-state Regional Comprehensive Economic Partnership.

Australian unions and community organisations have called on the Australian government to support a Global Social Protection Fund, to enable low income countries to save lives and rebuild their economies consistent with the United Nations Sustainable Development Goals.

The US – China rivalry, which has deepened during the pandemic, and the absence of the US in a global leadership role mean that the cooperative effort to contain the coronavirus and find and distribute an effective vaccine is jeopardised. It also means that any post-pandemic economic recovery will be significantly weaker.

AFTINET is preparing submissions to two new trade policy inquiries, on the trade agreement process and on the China – Australia FTA. Please could consider making your own submissions.

AFTINET relies on your support to continue our campaigns. Please share items from this Bulletin which are also linked to our [website](#), [Facebook](#) and [twitter](#).

Help us celebrate our 20th anniversary by buying and displaying our T-Towels featuring brilliant Tandberg and Wilcox cartoons.

You can renew your membership [here](#) or donate [here](#).

Thanks and keep safe.

The AFTINET Team

2. **Unique t-towels with Tandberg and Wilcox cartoons for AFTINET Anniversary only \$20!**

**If trade deals are so good,
why can't we see them
before they're signed?**



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**Don't let global corporations
sue our governments!**



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3. **AFTINET webinar video**

You can view [here](#) the video of the AFTINET webinar: *The pandemic is exposing flaws in global trade policy: what should post-pandemic trade policy look like?* It was held on Tuesday June 23, 2020, and the resource speakers were: **Dr Deborah Gleeson**, La Trobe University, **Andrew Dettmer**, National President, Australian Manufacturing Workers Union, **Sam Cossar-Gilbert**, Friends of the Earth, **Dr Patricia Ranald**, AFTINET Convener and Associate, University of Sydney.

4. Inquiries into the Trade Agreement process and the CHINA FTA – submissions due July 31

a) Inquiry into Certain Aspects of the Treaty-Making Process in Australia, submissions due July 31.

This inquiry is the result of negotiations between the ALP and the government about passing the enabling legislation for the Indonesia FTA.

The terms of reference are broad enough for us to use it to have a public debate about the secrecy of trade negotiations, the lack of independent assessment of trade deals and the need for change. The last point about categorisation may be an attempt to categorise more trade agreements as minor treaties, with no inquires, so we should resist this.

The Committee invites submissions addressing the [terms of reference](#) for the inquiry by **Friday, 31 July 2020** to jsct@aph.gov.au.

Terms of Reference

- considering the role of JSCOT in respect of trade-related agreements, including during the negotiation phase;
- considering the consultation process undertaken by the Department of Foreign Affairs and Trade (DFAT) before and during the negotiation of trade agreements;
- considering the effectiveness of independent analysis to inform negotiation or consideration of trade agreements; and
- reviewing the process around the categorisation of treaty actions.

We encourage both organisations and individuals to make submissions. A short article summarising points you can use is [here](#). AFTINET will do a submission and circulate it for comment in the third week of July.

b) DFAT's five-year Post-Implementation Review (PIR) of the China-Australia Free Trade Agreement (ChAFTA) submissions due 31 July

This review is being conducted within five years of ChAFTA's entry into force on 20 December 2015 in accordance with the Office of Best Practice Regulation's [PIR Guidance Note](#).

This is an internal review by DFAT, so not as public as a parliamentary inquiry, but it is an opportunity to raise issues. It may get more submissions than usual from business and from others given the current US - China trade war and [China's latest actions on Australia's barley and meat exports](#).

This is a chance to raise issues through publicising our submissions with media releases, op-eds et cetera.

Terms of Reference:

- the impacts of ChAFTA on businesses or other groups in the community; and
- whether ChAFTA has delivered a net benefit to the Australian community;
- how opportunities for Australian businesses may have changed under ChAFTA, such as the competitiveness of Australia's goods and services exports;
- whether the outcomes of ChAFTA have met business and other stakeholder expectations;
- whether there have been any unintended impacts of ChAFTA;
- the effect of ChAFTA on any administrative or regulatory costs on business.

Submissions are due 31 July and should be sent to chinafta@dfat.gov.au

AFTINET will make a short submission which we will circulate to members for comment before the deadline. We encourage others to make more detailed submissions about their areas of concern.

AFTINET's policy is to support a fairer rules-based multilateral trade system, and to oppose unilateral actions leading to trade wars which no-one can win. The escalation of all these tensions is the opposite of the international cooperation needed to deal with the COVID-19 pandemic. It is also clear that there is politicisation of this issue on the right in Australia that is reinforcing racist attacks on Australians of Chinese background, Chinese students and temporary workers in Australia, which we oppose.

5. RCEP Trade Ministers vow to sign in 2020, despite India withdrawal and pressures over COVID-19 pandemic

Trade Ministers from the 15 states negotiating the proposed Regional Comprehensive Economic Partnership met virtually on June 23, 2020, but ignored an open letter from AFTINET [and a previous letter from 94 community organisations](#) from RCEP countries calling for release of the RCEP text, a pause in the RCEP negotiations, and review of the text to ensure that its rules do not restrict government action to save lives during the current and future pandemics.

Although the pandemic has exposed flaws in current trade deals the RCEP ministers are persisting with business as usual". The Ministers from the 10 ASEAN states, China, Japan, South Korea, Australia, and New Zealand issued a bare [4-paragraph statement](#) affirming that they would sign the agreement this year. The text remains secret until then.

India did not attend the meeting, but the statement emphasised that "RCEP remains open for India".

Earlier reports indicated that India had to respond by May 15, and that it was asked to make some more limited market access offers. The [Indian government apparently did not respond](#) by that deadline.

In March, there was a suggestion that the [dormant India – Australia free trade agreement talks](#) may be revived. But trade did not feature in Prime Minister Morrison's virtual summit with Indian Prime Minister Modi on June 4.

The Modi government declared it would not sign the RCEP in November 2019, citing fears of a huge trade imbalance with China, a preference for its 'Make in India' policy, and under pressure from various segments of the Indian industry, dairy and other farmers' groups as well as civil society groups. Japan and Australia have led the effort to coax India back to the negotiating table.

Community groups say revise giant RCEP trade deal to ensure rules do not restrict government action during pandemics

AFTINET with 60 community group members wrote to Australia's Trade Minister Senator Birmingham ahead of the June 23 RCEP virtual meeting calling for a pause in the negotiations and review of the text to ensure that its rules do not restrict government action to save lives during the current and future pandemics.

The letter said that community groups are concerned that the text was negotiated and [announced in November 2019](#) before the COVID-19 pandemic and does not address the flaws in current trade rules exposed by the pandemic. These include over-dependence on global production chains and lack of local manufacturing capacity to produce medicines and medical equipment, deregulation and opening up of essential services to private foreign investment and entrenchment of the [20-year patent monopoly on new medicines](#), which can delay access to cheaper versions of those medicines.

The letter noted that the realities of the pandemic have forced governments to act in the public interest, at times outside the limitations of current trade rules. The Australian government has [directed private hospitals](#) to treat pandemic patients, assisted local firms to produce [facemasks](#) and

[ventilators](#) and [ramped up](#) screening of foreign investment to prevent predatory takeovers as prices fall. Trade rules should not restrict governments from acting to save lives.

There is a current [parliamentary inquiry](#) by the Joint Standing Committee on Foreign Affairs Defence and Trade into the implications of the pandemic for trade and other policy. The results of this inquiry should inform the RCEP negotiations.

[Ninety-four community organisations from RCEP countries](#) have also asked for the release of the text for public and parliamentary debate before it is signed, and for it to be revised to ensure that there are no rules which prevent governments from taking action to save lives during this and future pandemics.

[Two hundred and ninety-three community organisations from around the world](#) have called on governments to suspend WTO and regional trade negotiations to enable them to focus on saving lives during the pandemic, and to review existing trade rules to maximise timely access to affordable medicines and medical equipment now and in the future.

6. 630 civil society groups warn of corporate threats to sue governments over actions taken to save lives during the COVID-19 pandemic

An [open letter](#) endorsed by 630 international and national civil society organisations was sent to Trade Minister Birmingham on June 25, 2020, warning him that Australia could face a wave of cases from global corporations claiming millions in compensation for actions taken to respond to the pandemic. Corporations can do this using rules in trade deals known as investor-state dispute settlement, or ISDS.

ISDS cases are heard by international tribunals that are not independent and are mainly concerned about whether the corporation has suffered a loss, not whether the government action was in the public interest. Governments generally have to pay millions in legal costs even if they win.

Peru has already been [threatened with an ISDS case](#) by private road toll operators because it cancelled road tolls to ease transport of essential goods during the pandemic.

Law firms like [Aceris Law](#) are advising corporations of possible cases, saying “*While States may invoke force majeure and a state of necessity to justify their actions, as observed in previous crises that were economic in nature, these defences may not always succeed*”.

The letter asks the Trade Minister to cooperate with trading partners to withdraw consent from ISDS provisions to prevent a wave of cases from global corporations suing governments for millions because they took actions to save lives. We also want governments to remove ISDS from agreements in the longer term.

The organisations endorsing the letter represent hundreds of millions of people and include:

- international and regional union confederations including the [International Trade Union Confederation](#), [Public Services International](#), [IndustriALL](#), and the [International Union of Foodworkers](#).
- global health networks such as the [Peoples’ Health Movement](#), [Médecins Sans Frontières Access Campaign](#) and the [International Treatment Preparedness Coalition](#).
- other international groups such as [Oxfam](#), Greenpeace, the [European Environmental Bureau](#), the [Asian Peoples’ Movement on Debt and Development](#) and the [Arab NGO Network for Development](#).
- in Australia, almost 30 organisations including AFTINET, the ACTU, ActionAid, Friends of the Earth, the Public Health Association of Australia and the Sisters of Charity.

Trade impacts in the Global Coronavirus Crisis

A *Special Issue* of the [Journal of Australian Political Economy](#) focuses on the political economic fallout from the Coronavirus crisis. It contains 26 articles, written by Australian and international authors, reflecting on what can now be done to pursue a more progressive agenda – for more secure jobs, less inequality and a more sustainable environment.

Articles examine the primary health dimension, and also the economic, social, political and ecological dimensions of what is now dubbed the Global Coronavirus Crisis.

AFTINET's Convenor, Dr Patricia Ranald, contributed [an article on the trade aspects](#) of the economic impact of the crisis. The volume and value of international trade have plunged. The pandemic has exposed the flaws in the global trading system, ranging from over-dependence on global production chains to exposure to global corporations suing governments, opening the debate about the need for change.

The JAPE editors point out that the current crisis has global characteristics that differ from the Global Financial Crisis of 2008-09. The three T's of 'trade, travel and tourism' are tottering, not to mention international student enrolments on which universities have increasingly come to depend.

Several articles locate the structural origins of the virus in the dynamics of capitalism – especially those relating to industrial agriculture, destruction of ecosystems and trade in threatened species.

There are also articles on the experience of particular countries and on the Global South where the crisis is deepening existing inequality, poverty and political repression.

All 26 articles of the new JAPE can be [can be viewed on this website](#) – the [new home of JAPE](#) on Progress in Political Economy (PPE).

7. US – China standoff undermines post-Covid-19 global recovery prospect

During April and May 2020 the institutional arrangements for global cooperation to cope with the COVID-19 pandemic – the UN Security Council, the World Health Organisation, the G7 and G20 – failed to provide leadership, largely due to the US Trump Administration.

On May 29, 2020, President Trump confirmed that the US would [cancel its contribution to the WHO](#) budget.

Sheila Smith, a Senior Fellow of Japan Studies at the Council on Foreign Relations in Washington DC, is [sounding the alarm](#). "The Trump administration's lack of interest in a global response to COVID-19, or even extending a helping hand to its allies and partners, is bringing home the possibility that US leadership may be [gone for good](#)", she argues.

She also criticises the Chinese government for "not rising to the challenge of this global pandemic either, with its bluster and false claims of superiority". But the deeper concern is that the absence of a US lead on a post-pandemic recovery will mean more economic damage than might otherwise happen, and even sharper international conflicts.

[US anti-China hawks](#) had already been pushing for a "decoupling" of the US and Chinese economies, before the pandemic and demanding that countries like [Australia do the same](#). China's [actions against Australian barley and beef exports](#) are a damaging escalation of this conflict.

All these actions contribute to more general international tensions and polarisation caused by a trade war, which will only damage the global trading system and hobble efforts to overcome the pandemic.

Trade wars [undermine the multilateral trading system](#) and had already had a [negative impact](#) on global economic growth before the COVID-19 pandemic hit.

AFTINET advocates for a rules-based trading system with fair trade rules based on human rights, labour rights and environmental sustainability. International cooperation, not unilateral action, is needed now more than ever in the context of the pandemic to ensure access to medicines and medical products that will save lives, and to deal with economic recovery.

8. Australian Unions and Community Organisations urge Global Social Protection Fund during COVID-19 pandemic

Eight Australian trade union and civil society organisations including AFTINET called on the Australian government on June 4, 2020, to [support the world's poorest countries](#) to deal with the health, economic, and social consequences of the COVID-19 pandemic.

“The majority of the world’s people have [no social protection](#): 55% have no access to social protection, and a further 20% have little coverage of essential services or income measures.

The letter from the eight organisations urged the Australian government to push for the creation of a Global Social Protection Fund to address the social protection gaps in the world’s poorest countries. This would be a pooling of resources at the global level by the richest countries in order to address the recovery needs of the most disadvantaged countries.

“Given the interconnectedness of the global economy, it is also in our national interest to support countries to become resilient to crises,” said the letter.

Around US\$35 billion would secure 5-year funding for the poorest 28 countries in the world to provide emergency relief now and build resilience over time to weather the next crisis. An additional US\$100 billion would address social protection coverage gaps in lower to middle income countries. With total global spending on the COVID-19 crisis [projected to reach US\\$10 trillion](#) or more, these amounts are affordable.

A Global Social Protection Fund would enable the governments of the poorest countries to guarantee social protection floors of basic income security through pensions, child benefits, income support benefits and services for the unemployed; and universal access to essential and affordable social services such as health, education, food security, sanitation and housing.

This concept has been on the agenda for years - the [2012 ILO Recommendation 202](#) on Social Protection Floors, and [UN Sustainable Development Goal 1](#) which aims to achieve social protection floors for all and substantial coverage of the poor and vulnerable by 2030.

The call was issued by the Australian Council of Trade Unions, Union Aid Abroad-APHEDA, Australian Fair Trade and Investment Network, Oxfam Australia, Jubilee Australia, ActionAid Australia, Aid/Watch, and the Uniting Church in Australia – Synod of Victoria and Tasmania.

9. 37 countries back WHO’s new COVID-19 Technology Access Pool - medicines as global public goods

Thirty-seven countries supported the formal launch on May 29, 2020, of the World Health Organization’s [COVID-19 Technology Access Pool](#) (C-TAP), an initiative to increase access to knowledge needed to produce vaccines, tests, treatments and other health technologies to fight COVID-19. The Pool was first proposed in March by President Carlos Alvarado of Costa Rica.

The initiative would help to address the 20-year monopolies on medicines enshrined in trade agreements and enable access to cheaper medicines for all countries.

“Vaccines, tests, diagnostics, treatments and other key tools in the coronavirus response must be made universally available as global public goods,” said President Alvarado. “The COVID-19 Technology Access Pool will ensure the latest and best science benefits all of humanity.”

“Global solidarity and collaboration are essential to overcoming COVID-19,” said WHO Director-General Dr Tedros Adhanom Ghebreyesus. “Based on strong science and open collaboration, this information-sharing platform will help provide equitable access to life-saving technologies around the world.”

However, the United States, the United Kingdom, Switzerland, and the EU Commission, hosts to most of the world’s largest pharmaceutical companies which have poured billions into COVID-19 vaccine research, have [failed to publicly support the C-TAP](#). Nor has Australia yet supported it. Big pharma companies have largely dismissed the initiative. But individual European countries including the Netherlands, Belgium, Norway and Luxembourg are supporting it.

WHO and the co-sponsoring countries have also issued a [“Solidarity Call to Action”](#) to ask governments, donors, researchers, industry, and civil society to join and support the initiative.

C-TAP will serve as a sister initiative to the Access to COVID-19 Tools (ACT) Accelerator and other initiatives to support efforts to fight COVID-19 worldwide.

Argentina, Bangladesh, Barbados, Belgium, Belize, Bhutan, Brazil, Chile, Ecuador, Egypt, Honduras, Indonesia, Lebanon, the Maldives, Mexico, Mongolia, Mozambique, Norway, Oman, the Netherlands, Pakistan, Palau, Panama, Peru, Portugal, Dominican Republic, St. Vincent and the Grenadines, South Africa, Sri Lanka, Sudan, Timor Leste, Uruguay and Zimbabwe have come out in support of the call.

10. Australian WTO win marks final victory for tobacco plain packaging law and public health

The World Trade Organisation appellate body [decision](#) on June 9, 2020, against several countries that challenged Australia’s plain packaging law is the final victory in a ten-year battle against tobacco companies’ use of trade and investment law against public health.

The Australian law passed with bipartisan support in 2011. It was recommended by the [World Health Organisation](#) and designed to reduce the numbers of young people becoming new smokers. Research showed that young people were attracted to the glamorous images on the packaging, and that plain packaging could reduce the attraction.

The tobacco companies responded with a three-pronged strategy to obstruct the law. They claimed billions of dollars of compensation in the [High Court](#), which found there was no case for compensation under Australian law and ordered the companies to pay all of the government’s legal costs.

The US Philip Morris company also claimed to be a Hong Kong company and took a case to an international tribunal using a provision in an Australia – Hong Kong investment agreements that allowed single foreign investors to sue governments for compensation over changes in law or policy (Investor-State Dispute Settlement or ISDS). It claimed billions of dollars in damages. It took over four years for the tribunal to decide in [December 2015](#) that Philip Morris was not a Hong Kong company. Despite winning, the [Australian government had to pay \\$12 million](#) of the total of its \$24 million in legal costs, which were not decided until 2017, and not published until 2019.

The tobacco companies also [supported three countries](#) to lodge [a government-to-government dispute](#) in 2012 to the WTO alleging that the law was a breach of WTO trade rules on intellectual property rights and technical barriers to trade. Australia won the first level of the dispute in 2018, which was then taken to the WTO appellate body. The final decision in favour of Australia was published on June 9, 2020.

The tobacco cases reinforce our arguments that ISDS should be excluded from trade and investment agreements, and that we need a multilateral rules-based trade system that is consistent with public health, human rights, labour rights and environmental sustainability. A blueprint for achieving these goals can be found in "A New Multilateralism for Shared Prosperity: Geneva Principles for a Green New Deal" published by the [UN Conference on Trade and Development \(UNCTAD\)](#).

11. AFTINET supports Termination of Indonesia-Australia 1993 Investment treaty but criticises corporate rights to sue governments

The [AFTINET submission](#) to the Joint Standing Committee on Treaties inquiry into the termination of the 1993 Indonesia-Australia investment treaty supports the termination of the treaty, including termination of its 15-year survival clause. However it maintains our analysis that trade agreements should not give to global corporations extra legal rights to sue governments in unfair international tribunals, known as Investor-State Disputes Settlement or ISDS.

The submission explains that new Indonesia-Australia Comprehensive partnership ratified last year has a version of ISDS with more procedural safeguards and excludes cases against public health regulation. However it does not exclude cases against other areas of public interest regulation like the environment or workers' rights, which would cost governments years and millions of dollars to defend. The 1993 investment treaty had no procedural safeguards or exclusions at all, and should have been terminated when the new agreement was ratified.

12. NZ Trade Unions criticise greenwash trade proposal

New Zealand with Costa Rica, Fiji, Iceland and Norway launched a new initiative - [the Agreement on Climate Change, Trade and Sustainability](#) (ACCTS) – on September 25, 2019, on the fringe of the United Nations General Assembly Leaders Meeting in New York. The New Zealand Ministry of Foreign Affairs stated that their objective was to use trade policy to reduce subsidies for fossil fuels, in order to help achieve the goal of limiting global warming to 1.5°C.

They calculate that global subsidies for fossil fuel use are over US\$500 billion per year.

However, fossil fuel subsidies are only one of three key targets in the proposed negotiations:

- Elimination of tariffs on environmental goods and new commitments on environmental services
- Disciplines to eliminate fossil fuel subsidies
- The development of guidelines for voluntary eco-labelling programmes and associated mechanisms to encourage their promotion and application.

The 27 trade union members of the [New Zealand Council of Trade Unions Te Kauae Kaimahi](#) criticised the process because negotiations actually started prior to public consultation, and do not involve most of the 164 members of the World Trade Organisation. They are also critical of the content of the proposed ACCTS.

The NZCTU said a more effective approach on trade and the environment would be to [empower nations to impose border charges](#) on products from countries which do not commit to the Paris Climate Agreement and other international environmental standards.