



BULLETIN December 2022

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1. Introduction

Dear Members,

The first formal Indo-Pacific Economic Framework (IPEF) negotiating round took place in Brisbane from December 10-15, 2022, and AFTINET and other civil society organisations were able to present to negotiators in one session on December 13. This is a significant new US initiative, but one clouded by vague statements, ambiguity, and secrecy.

The World Trade Organisation TRIPS Council (Trade-Related Intellectual Property Rights) again failed to provide fair access to COVID-19 treatments and tests by its self-imposed deadline of December 17, due to opposition from the US and Switzerland in particular. Australia did not take a strong stand in support of the proposal from South Africa, India and over 60 other countries.

Australia and the UK have now both ratified the A-UK Free Trade Agreement, Australia and India are expected to start formal negotiations for a Comprehensive Economic Partnership Agreement in January 2023, and AFTINET will be preparing a submission for this which will be circulated to members as soon as possible.

We held a successful on-line AFTINET AGM on December 7, with Special Guest Speaker Alison Rahill, a prominent anti-modern slavery campaigner. A new Working Group was elected.

AFTINET does not receive any corporate or government funding, and relies on your support to continue our campaigns. If you have not already done so, you can renew your AFTINET membership [here](#), and / or give AFTINET a Christmas present by donating [here](#).

Please share items from this Bulletin with your networks and friends.

Thanks and keep safe.

The AFTINET Team

2. Indo-Pacific Economic Framework (IPEF) negotiations in Brisbane December 10-15, plus Public Forum recording

IPEF negotiators from 14 Indo-Pacific countries met in Brisbane from December 10-15. They include the United States, Australia, Brunei, Fiji, India, Indonesia, Japan, South Korea, Malaysia, New Zealand, the Philippines, Singapore, Thailand and Vietnam.

IPEF is a US initiative to diversify its supply chains away from China towards its allies and create US-style rules in the region. It is not a traditional trade agreement with binding commitments because the US is not offering any more access to its own markets, but relying on investment projects as incentives, especially for developing countries. The US is chairing most negotiations and pushing for quick agreements.

The Labor government's [policy](#) on trade transparency promises more transparent and accountable trade negotiations, including access to negotiating texts and independent evaluation of costs and benefits of trade agreements.

AFTINET, the Australian Council of Trade Unions and other civil society organisations, alongside business organisations, were able to make presentations to negotiators on the morning of December 13. Our presentations included the need for transparency, enforceable labour rights and environmental standards, the rights of women and Indigenous Peoples, and the danger of deregulation of digital trade when governments are struggling to regulate for consumer privacy, cyber security and to protect the rights of gig economy workers. The session was well-attended, and we were also able to meet negotiators informally after the session.

But this consultation is a one-way street because the US required that Australia and other IPEF countries sign [secrecy agreements](#) pledging to keep all negotiating documents secret until five years after the negotiations finish. Meaningful input is difficult without access to the details of negotiating proposals.

It was also clear that business organisations had more extensive contact with negotiators through hiring a room in the conference centre and offering specific events for negotiators to attend.

IPEF's four pillar negotiating goals include digital trade, agriculture, diversification of supply chains, labour and environment standards, inclusion of women, indigenous peoples and people with disabilities, cooperation on clean energy technologies and carbon emissions reduction, and cooperation on tax avoidance and corruption.

Governments can choose which pillars to be involved in. Given the diversity of IPEF members, it will be difficult to reach agreement on all pillars. For example, India has [opted out of the trade pillar](#), with concerns about digital trade deregulation and commitments on labour rights and environmental standards.

Business groups are promoting binding trade agreements like the US-Canada-Mexico Agreement as models for binding commitments on the [regulation of digital trade](#) and other issues. But it is not clear that the positive negotiating goals on labour rights, environmental standards and inclusion of women and indigenous people will involve binding commitments.

AFTINET organised a public forum on IPEF in Brisbane featuring Australian and overseas speakers. See the recording [here](#).

For background information on IPEF see Dr Patricia Ranald's article in [The Conversation](#).

3. Community groups slam delay on TRIPS waiver extension to Covid-19 treatments and tests

AFTINET, Amnesty International Australia and the Public Health Association of Australia (PHAA) published the following media release on December 15, 2022:

The same dynamics that slowed and watered down the decision on the initial TRIPS waiver at the World Trade Organisation (WTO) now look likely to prevent a timely decision on expanding the waiver to cover treatments and tests. Calls for an extension to the original deadline of 17 December 2022 being led by the EU, Switzerland, Japan and the UK have been slammed by an alliance of health, human rights and fair-trade organisations.

Dr Patricia Ranald, Convener of the Australian Fair Trade and Investment Network, said: "The World Trade Organisation appears likely to miss the December deadline to waive some monopoly patent rules and ensure more equitable access to Covid-19 treatments and tests for millions of people in low-income countries. High income countries have shown more regard for the profits of pharmaceutical companies than for saving lives. The Australian government should support a decision on December 17 to expand the June WTO waiver to include Covid-19 treatments and tests."

Ry Atkinson, Strategic Campaigner for Amnesty International Australia, said: "Throughout this pandemic, pharmaceutical companies have lobbied relentlessly to hold up the passage of an effective waiver while they've filled their pockets. Their strategy has always been to delay, 'compromise' on something they know to be unworkable and then point to its failure. But there's a lack of courage at the WTO to stand up to them. We're calling on the Australian Government to take a leadership role here and do exactly that. The December 17 extension to include treatments and tests is non-negotiable."

Associate Professor Deborah Gleeson, Convener of the Political Economy of Health Special Interest Group of the Public Health Association of Australia, said: "Waiving intellectual property rules for Covid treatments and tests is vitally important to help low- and middle-income countries manage the pandemic, treat vulnerable people and reduce unnecessary illness and death. Extending the TRIPS waiver to cover these products can achieve more than the existing waiver for vaccines, as many of them are easier to reverse engineer, and are less reliant on the transfer of trade secrets, something the limited waiver doesn't support."

4. Australia-UK FTA and interim India Trade Agreement ratified, submissions needed for Comprehensive India Agreement

As reported in a special bulletin on November 24, 2022, the Australian Parliament passed enabling legislation for [both these agreements](#) on November 22, 2022. The UK parliament has also passed its enabling legislation so the agreement may come into force soon.

The Interim India agreement will come into force on [December 29, 2022](#). Negotiations are now proceeding for an Australia-India Comprehensive Economic Cooperation and Trade Agreement, which the government hopes to conclude by mid-2023.

AFTINET's [submission](#) to the Joint Standing Committee on Treaties (JSCOT) for the interim agreement had recommendations about the content of the comprehensive agreement. AFTINET will make a further submission to DFAT about the comprehensive agreement, and circulate a draft to members.

Since negotiations will resume in January, submissions on the comprehensive agreement should be made to the Department of Foreign Affairs and Trade as soon as possible, indiafta@dfat.gov.au.

5. AFTINET's AGM December 7: Modern slavery and enforceable labour rights in trade agreements: link to recording

AFTINET's virtual AGM on December 7 was well attended, with special guest speaker Alison Rahill's talk on the review of the Modern Slavery Act provoking lively questions and discussion. Links were drawn between the Modern Slavery Act's provisions to make large corporations accountable for modern slavery in their supply chains and AFTINET's campaigns for government to make enforceable commitments to labour rights in trade agreements. See the recording [here](#).

6. EU rejects 'reformed' Energy Charter Treaty - 'historic moment' for climate action

All 53 State Parties to the ECT were to meet on November 22 to adopt or reject the 'modernised' ECT, but instead the Europeans opposed having the modernisation on the agenda. The European Union cannot accept the ECT's Investor-State Dispute Settlement (ISDS) provisions, which enable corporations to sue governments if they can argue that changes in law or policy reduce their profits. There have been [many cases by fossil fuel companies](#) against regulation to reduce carbon emissions.

On November 24, the [European Parliament](#) called on the European Commission to propose the withdrawal of the EU from the ECT, and for the European Council to support this. Germany, France, Spain, Netherlands, Poland, Slovenia and Luxemburg have announced their decision to withdraw from the ECT, Italy left the ECT in 2015, and other EU Member States are still considering the option of leaving the ECT.

Amandine Van Den Berghe, ClientEarth lawyer, said: "This is a historic moment in the fight to protect our planet from the fossil fuel giants whose business has been protected by the Energy Charter Treaty.

"This is a great victory, but not the end of the fight. Member states that have signalled their withdrawal, or those that have withdrawn [from the ECT], represent around 75 per cent of the EU population: they should now pressure the Commission to urgently design a plan to leave the ECT and solve the current political and legal confusion.

"Neither the European Union nor the member states can adopt the new ECT, and they cannot remain a party to an agreement that fundamentally conflicts with EU law. The Commission is left with no choice but to propose a full EU withdrawal."

ClientEarth lawyers said that the Commission must now facilitate and coordinate the departure with other member states and negotiate an internal agreement that neutralises the sunset clause – the 20-year extended effect of the ISDS provisions of the ECT.

Van Den Berghe called on non-EU members the UK and Switzerland to also leave the ECT, adding: “The end of the ECT should be the beginning of a complete rethinking of EU’s investment policy – because yes, there are [alternatives](#).”

Besides the ECT, there are still thousands of [bilateral investment agreements](#) with ISDS that can be used to stifle climate action.

The Australian Labor government has recently confirmed that it will [exclude ISDS](#) from all trade agreements and has a policy to negotiate to remove it from existing agreements.

7. Over 380 civil society organisations demand world governments quit ISDS as Australia pledges to do so

During the COP27 Climate Change Conference, held in Egypt in November, more than 380 civil society organisations from over 60 countries across the world, including AFTINET, [called on governments](#) to put an end to a system of secretive tribunals which threaten global climate goals.

The system is known as Investor-State Dispute Settlement or ISDS, and is included in many trade and investment agreements. ISDS empowers transnational corporations to sue governments in secretive tribunals outside of the national legal system, over law and policy changes that they fear could reduce their profits. Often the amounts involved can be hundreds of millions if not billions of dollars, and are far higher than would be available in domestic courts.

Fossil fuel corporations are [already suing](#) over coal phase-out, the cancellation of a Canada-US tar sands oil pipeline, a ban on offshore oil drilling, and fracking regulation.

This year’s [IPCC report](#) from climate scientists was clear that ISDS risks blocking the phase-out of fossil fuels. AFTINET Convener Dr Patricia Ranald said, “We must urgently get rid of the ISDS system. The evidence of years of damage to the environment, land, health and self-determination of peoples all around the world is stark, and the renewed urgency of the climate imperative is beyond doubt. Governments must take immediate action to put an end to the risks of ISDS.

“We welcome the Australian Trade Minister's [statement](#) confirming that the Australian Labor government will exclude ISDS from agreements it negotiates, and urge it to implement its policy of reviewing and removing ISDS in existing agreements.”

Read the full civil society statement [here](#).

8. AFTINET in the Media

November 14 – AFTINET quoted in an [AFR article by Andrew Tillett](#), welcoming government rejection of ISDS in new trade agreements.

December 9 – our article on IPEF was published in [The Conversation](#), and republished by [Yahoo News](#), the NZ publication [interest.co.nz](#), and the Indian publication [Qrius](#).

December 12 – Pat Ranald was interviewed about IPEF by 2SER radio program [The Wire](#).