



BULLETIN January 2023

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1. Introduction

Dear Members,

Our very best wishes to you for the New Year 2023!

The Albanese Labor government is implementing its trade transparency policy and as a result AFTINET and many other organisations are now being invited onto consultative panels. This is very welcome as far as it goes, but it doesn't go as far as World Trade Organisation or European Union trade transparency, since access to negotiating texts is still denied prior to any agreement being signed. As well, the commitment to uphold human rights, labour rights and environmental standards in trade agreements is being tested in the India free trade agreement (AICECA) negotiations and a possible Free Trade Agreement (FTA) with the United Arab Emirates (UAE).

The US Trade Representative and the US Commerce Dept have put out an intense program of negotiations for the Indo-Pacific Economic Framework (IPEF) initiative, with the negotiations on Pillars 2-4 taking place in India on February 8-11.

The Australia – UK FTA has run into difficulties in the UK House of Lords over the impact on cattle farmers, but Australia has already ratified it.

AFTINET has now made its submission on the Australia – India Comprehensive Economic Cooperation Agreement, and has also submitted to a review of the Australia – ASEAN – New Zealand FTA.

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 New Year present by donating [here](#).

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

Thanks and keep safe.

The AFTINET Team

2. AFTINET submission to the Australia – India Comprehensive Economic Cooperation Agreement

The Australia-India Comprehensive Economic Cooperation Agreement (AI-CECA) negotiations began in late January 2023 and are expected to finish by June. The interim agreement, which was negotiated by the previous Morrison Coalition government, mainly dealt with trade in goods and services, and movement of temporary workers. The comprehensive negotiations will deal with issues like labour rights, environmental standards, digital trade, intellectual property, and government procurement.

The AFTINET submission is [here](#).

Our submission advocates for review of some provisions in the interim agreement to ensure that the government retains the right to increase regulation in essential services like aged care, and that provisions on temporary workers are consistent with government policies on skill development and permanent migration.

The submission notes that India has recently adopted legislation that *reduces* labour rights and *discriminates* against Muslims, and that there are other documented violations of human rights. The government should seek India's commitment to a program to address these issues.

We advocate that both governments should commit to enforceable labour rights and environmental standards based on ILO and UN agreements.

We also advocate that any commitments on digital trade data flows should not prevent governments from regulating to protect privacy and other human rights in a rapidly changing digital environment.

Commitments on government procurement should be consistent with government policy for local industry development and retain existing exceptions for small and medium enterprises, indigenous enterprises and local government.

The submission also sets some red lines for exclusions from the negotiations. There should be no corporate rights to sue governments over changes in government policy, known as Investor-State Dispute Settlement (ISDS). We also advocate strongly against any extension of monopolies on medicines, which would delay the availability of cheaper medicines. This is particularly important given India's role as the world's largest producer of affordable generic medicines desperately needed in low-income countries.

3. Free Trade negotiations with the United Arab Emirates (UAE) should not proceed

The previous Coalition government initiated scoping negotiations for a Free Trade Agreement (FTA) with the United Arab Emirates (UAE), comprising the following emirates: Abu Dhabi, Dubai, Sharjah, Ajman, Umm Al-Quwain, and Fujairah and Ras Al Khaimah, and with the Gulf Cooperation Council (GCC), which includes Saudi Arabia and Qatar. AFTINET made a submission to the previous government in April 2022 arguing that both negotiations should not proceed because of gross violation of human rights and labour rights in these countries.

As of January 2023, the GCC negotiations were not proceeding, but scoping discussions were continuing with the UAE, and the Labor government had not yet made a decision about whether to proceed with negotiations.

AFTINET's [updated submission](#) on the UAE made in January 2023 argues that negotiations should not proceed because of the UAE's gross violations of human rights and labour rights.

The Labor government has a policy of upholding human rights and requiring enforceable labour rights in trade agreements. Granting preferential trading rights beyond existing WTO rules to the UAE would legitimise violations of human rights and labour rights in the UAE, which are subject to consistent criticisms and investigations, documented by both the UN and human rights organisations.

The UAE is not a signatory to key UN and ILO human rights and labour rights conventions. There is no commitment to civil and political rights, and discriminatory legislation against women remains. Migrant workers form more than 90 per cent of the workforce in the UAE and are subjected to the *kafala* bonded labour system. In this system they are tied to one employer with no effective rights, leading to systemic exploitation, discrimination and modern slavery. Women domestic workers experience sexual abuse and trafficking under the *kafala* system. The submission argues that, given these gross violations of human rights and labour rights, negotiations with the UAE should not proceed.

4. Indo-Pacific Economic Framework (IPEF) negotiations to intensify with next round in India, February 2023

Indo-Pacific Economic Framework (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.

For a summary of background information on IPEF see Dr Patricia Ranald's article in [The Conversation](#). There is more detail in our November [IPEF submission](#) to the Department of Foreign Affairs and Trade (DFAT) and in the recording of our December 13 IPEF public seminar [here](#).

We reported on AFTINET presentations to the IPEF negotiations held on December 10-15 in Brisbane in our *December Bulletin*, which focussed on the trade Pillar 1 of the negotiating objectives.

The US is pushing for an intensive negotiation program in 2023, beginning with negotiations in [India on February 8-11](#). Civil society groups and unions from India and neighbouring IPEF countries will make presentations to negotiators. India is not part of Pillar 1 trade negotiations. The India meeting

will discuss the other three pillars on diversifying supply chains, clean economy through transition to renewable energy, and fair economy, dealing with tax and corruption issues.

Further IPEF negotiations may take place before or after Asia-Pacific Economic Cooperation (APEC) meetings which the US is chairing at regular intervals in 2023, leading to the APEC Leaders' Meeting in November 2023.

APEC is a discussion forum of 20 Pacific Rim [member economies](#), including China and Russia, which are not part of IPEF. IPEF's 14 members could take the opportunity of APEC gatherings to meet separately.

5. Australian Agriculture Minister flies to London as Lords debate the Australia – UK FTA

Australian Agriculture Minister Senator Murray Watt flew to London in the week of January 16 to shore up support for the Australia-UK Free Trade Agreement, which is being debated in the UK parliament and is still to be ratified by the Sunak Conservative Government.

Minister Watts tweeted: "I'm in London & Berlin to advocate for Aus ag. With National Farmers President Fiona Simson in a joint Govt-industry push for: ratification of the Aus-UK FTA; a good deal in the Aus-EU FTA & promotion of Australia's sustainable ag credentials."

In the House of Lords [second reading](#) of the Trade (Australia and New Zealand) Bill on January 9, 2023, a series of concerns were raised about the FTA. These included claims about Australia's lower standards for agricultural pesticide and animal welfare, the rate of deforestation and land clearing in some regions of Australia and the impact of the deal of Australian beef and lamb imports on hill farmers in Northern Ireland, Wales and Scotland. Reductions in tariffs and quotas on beef and lamb would phase in over 15 years.

Labour Baroness Young of Old Scone, said, "How far can Australia's less stringent regulation of pesticides interplay with and give an unfair competitive advantage to them over UK producers?"

"The flaw in these agreements is that they offer us very small markets which already have only low-tariff barriers, so there is not a huge benefit in the agricultural sphere to this country. On the downside, both of the countries with which we are making free trade agreements are big exporters, which could swamp our smaller-scale UK markets. ... Can the Minister tell us how swamping UK markets can be prevented in future negotiations with even bigger producing and exporting nations? Or does he really want us to be a niche agricultural product nation?" she said.

Lord Liddle, Labour, said, "I come from Cumberland and I know that its hill farmers earn very little: £10,000 to £15,000 per year. They are among the most hard-working, low-paid workers in the country. The noble Lord, Lord Frost ... talked of how they would have to adjust. In what ways would they have to adjust and what would be the social and environmental costs, as well as the costs to the traditions that they have pursued for generations? We would like to hear answers from the Government on that question."

6. Chile ratifies CPTPP – but resists Investor-State Dispute Settlement (ISDS) provisions

Just prior to Christmas, on the night of December 22, 2022, the Chilean Ministry of Foreign Affairs [confirmed](#) that Chile's instrument of ratification of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP or TPP-11) was deposited in New Zealand.

The agreement was approved by the Chilean Senate on October 11, 2022, and will enter into force during February 2023.

This followed [divisions about the agreement](#) in the progressive Chilean government coalition elected in February 2022. President Boric and the more progressive parties opposed it, but more moderate parties in the coalition voted to ratify it in the Senate with some conditions. These apparently included side-letters to modify or exclude the Investor-State Dispute Settlement (ISDS) provisions of the agreement.

The Foreign Ministry reported that Chile had signed side-letters about ISDS with New Zealand, Malaysia and Mexico, and had signed a declaration with Canada in which they agreed to work on the revision of the ISDS provisions.

Chile is reportedly working with Australia to obtain a similar declaration. Australia and New Zealand have a CPTPP side letter agreeing not to apply ISDS to each other.

Background: In March 2017, after the US pulled out of the Trans-Pacific Partnership, Chilean civil society organisations urged the Chilean government to reject the TPP, opposing the ISDS provisions in particular. When negotiations for the TPP continued among 11 countries without the US, a broad coalition of Chilean groups organised strong protests against the agreement, resulting in Parliamentary inquiries that delayed ratification. A people's plebiscite organised by social movements in July 2019 attracted over half a million votes with [92% rejecting the deal](#). The progressive government elected in February 2022 also delayed ratification until now, four years after it was signed in March 2018.

7. El Salvador government arrests key activists who defeated OceanaGold ISDS case

On January 20, 2023, 251 organisations including AFTINET, from 29 countries, [called on the Salvadoran government](#) to drop spurious murder charges against five leading Water Defenders arrested on January 11, 2023. The five arrested are Miguel Ángel Gámez, Alejandro Laínez García, Pedro Antonio Rivas Laínez, Antonio Pacheco, and Saúl Agustín Rivas Ortega, from the Santa Marta community in the north of the country. They now face six months of pre-trial detention.

These five were among leaders of National Roundtable on Metals Mining, the [historic and successful campaign](#) that convinced the Salvadoran legislature to unanimously pass a ban on metals mining in 2017 to save the nation's rivers and fresh water supply.

During that struggle, a Canadian – Australian gold mining company, OceanaGold, used Investor-State Dispute Settlement (ISDS) provisions in the US-Central America Free Trade Agreement to sue El Salvador for US\$250 million for future lost profits. This was a huge threat to a poor country, amounting to half of its annual education budget. The case dragged from 2009-2017, [costing El Salvador US\\$12 million](#) to defend, and in the end the international tribunal found that OceanaGold had never had a permit to mine in the first place.

Today, thanks in part to its 2021 decision to make Bitcoin a national currency alongside the US dollar, the Salvadoran government is under enormous pressure to find new revenues. The government is reportedly considering overturning the mining ban and allowing environmentally-destructive mining. Environmental and human rights organizations in El Salvador see the arrests as an effort to silence these Water Defenders and to demobilize community opposition at this critical moment.

The five are accused by El Salvador's Attorney General of an alleged murder over 30 years ago during the brutal civil war in El Salvador that claimed the lives of 75,000. Water defenders and other activists have in fact been victims of repression and murder which were being investigated by the courts under the previous government. The current government has [blocked those investigations](#).

Over the years, hundreds of groups around the world, including AFTINET, worked with the Salvadoran Water Defenders in the successful campaign to save the country's rivers from toxic gold mining.

The 251 organizations are now demanding that the Salvadoran government drop the charges against the five Water Defenders or if not, to release them from prison to await their trial.

These groups are based in Argentina, Australia, Austria, Bolivia, Canada, Chile, Colombia, Dominican Republic, Ecuador, El Salvador, France, Germany, Guatemala, India, Ireland, Mexico, Netherlands, New Zealand Aotearoa, Paraguay, Peru, Philippines, Serbia, South Africa, Spain, Sweden, Switzerland, Thailand, United Kingdom, United States.

8. US authorities challenge India's Sun Pharmaceuticals' generic drug quality

Australia's [ABC News](#) reported on January 24, 2023, that the US Food and Drug Administration (FDA) has claimed that it found sub-standard production processes of generic medicines at Sun Pharmaceutical Industries' production facility at Halol, Gujrat. The FDA does not accept the company's response as adequate, and could block the entry of its products into the USA. The FDA wrote officially to Sun Pharmaceutical in December 2022, giving them 15 working days to respond.

This is part of a bigger picture of global competition for the pharmaceutical market, which is affecting universal access to quality medicines at affordable prices. The global market is structured by 20-year monopolies granted to patents under the World Trade Organisation's (WTO) Trade-Related Intellectual Property Rights (TRIPS) agreement.

India is the [world leader](#) in production of generic medicines, which contain the same active ingredients as the original version, and go on the market after the original patent has expired. India's top pharma firms include Cipla, Aurobindo Pharma, Lupin, Dr Reddy's Laboratories and Sun Pharmaceutical Industries.

The [FDA expressed concern](#) at any possible disruption to medicine supply as Sun Pharmaceutical responds to its demands, and will negotiate with the company if such a disruption is likely.

Its letter set out five significant failures leading to risks of contamination, including lack of appropriate equipment, cleaning standards and recording of batch checking against specification standards.

The willingness of the FDA to negotiate indicates that the risk of contamination was not severe enough to justify the threat to lives of cutting off the supply of affordable medicines.

[India's generic manufacturers](#) have been lifesavers in the supply of low-cost treatments for HIV / Aids and COVID-19 vaccines, and are seen as crucial in achieving the health-related sustainable development goal ([SDG 3](#)).

In August 2020, US President Trump issued an [executive order](#) that called for the gradual elimination of drug imports, both as active ingredients and formulations. [France and Germany](#) look to be heading in a similar direction.

The threat to India's role as "Pharmacy to the World" makes the FDA action very sensitive, and the broader market dynamics are pushing India's generic manufacturers to sell into middle-income countries with products with higher profit margins, and higher consumer prices.

Big Pharma in the West is notorious for putting profits before lives, and for gouging public funds for research and development of new drugs, which the firms then patent, enjoying TRIPS monopoly prices. But India's generic firms are now also displaying the "too big to fail" characteristic.

Dinesh Thakur once headed research and development at India's Ranbaxy Laboratories. He was the whistleblower in the '[Ranbaxy case](#)' and is now a public health activist focused on improving the quality of affordable medicines.

He argues that the key problems identified in multiple FDA inspections over many years are the lack of cleanliness and sanitary conditions, and the fabrication of the data about the production processes. He notes that only Ranbaxy has ever been held to account, because of the corporate power of the big Indian generic companies. "It is all about profits, because quality comes at a price."

The COVID-19 pandemic shows the limitations of the current global patent and market systems, with most vaccines sold at high prices to high-income countries. Vaccination rates in [low-income countries](#) are still only 26 per cent, and there is even less access to treatments and tests. Pharma company patent holders influenced rich country governments to block suspension of WTO patent rules during the pandemic. The challenge for the global trade and global health systems is how to ensure more equitable access to new medicines in pandemics and longer-term access to quality generic medicines at affordable prices.

9. AFTINET in the Media

December 23, 2022 Pat Ranald was interviewed about the India FTA by Ben Westcott from [Bloomberg](#).