



BULLETIN March 2023

Inside this edition:

1. [Introduction](#)
2. [Parliamentary debate on investor rights to sue governments \(ISDS\)](#)
3. [403 US Labor and Civil Society Groups speak out on Indo-Pacific Trade Deal](#)
4. [Government urged to support equitable global access to medicines at WHO Pandemic Treaty meeting](#)
5. [100 climate academics tell UK to quit Energy Charter Treaty](#)
6. [AFTINET submission to the Review of ISDS in the Australia-NZ-ASEAN free trade agreement](#)

1. Introduction

Dear Members,

The Coalition decided to object to the Albanese Labor government policy against Investor-State Dispute Settlement clauses in trade agreements, and put forward a private member's motion which was debated on March 6.

The Indo-Pacific Economic Framework (IPEF) initiative of the US Biden administration is holding negotiations in Bali, Indonesia in mid-March, and a powerful array of over 400 union and civil society organisations in the US have challenged President Biden to prioritise workers' rights and climate change in the talks.

Meanwhile the World Health Organisation (WHO) has initiated negotiation of a Pandemic Treaty in response to the calamitous failure to fairly respond to the COVID-29 pandemic. AFTINET and other national church, international aid and human rights groups have written to the Health, Foreign and Trade Ministers urging them to support fair global access to medicines in these WHO talks.

ISDS is a major threat to concerted global climate action. European states are now leaving the Energy Charter Treaty (ECT) as a result. While Australia is not a party to the ECT, rejection of ISDS there will strengthen the Labor government's commitment to its own policy against ISDS. This is being tested now in a review of the Australia-ASEAN-NZ Free Trade Agreement, to which AFTINET has made a submission.

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 donate to AFTINET [here](#).

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

Thanks and keep safe.

The AFTINET Team

2. Parliamentary debate on investor rights to sue governments (ISDS)

In November 2022, the Trade Minister confirmed Labor's [policy](#) to exclude Investor-State Dispute Settlement (ISDS) in new trade agreements and to review it in existing agreements. The policy was first adopted under the Gillard government in 2011 in response to community campaigning by AFTINET and others when the Philip Morris tobacco company sued the Australian government over our plain packaging law.

Kevin Hogan, National Party Member for Page and Shadow Trade Minister, moved a private member's motion in the Federation Chamber on Monday March 6, 2023, criticising the government policy and praising ISDS.

Labor members successfully defended the policy against ISDS, using examples of ISDS cases against health, environment and wages policies. See the speech by Josh Wilson, MP, Chair of the Joint Standing Committee on Treaties, <https://youtu.be/SHDvyxnBNXk>.

3. 403 US Labor and Civil Society Groups speak out on Indo-Pacific Trade Deal

Over 400 US labor and civil society organisations have written to President Biden outlining their priorities for the pending [Indo-Pacific Economic Framework](#) (IPEF) trade agreement. [The letter](#) comes shortly before the Office of the US Trade Representative is expected to introduce US proposals for IPEF's labor, environment and digital trade chapters during a key negotiating round being held in Bali, Indonesia, on March 13-19.

"A wide range of organizations across the United States are ready to fight for an Indo-Pacific trade deal that furthers the President's vision of creating a new model for trade and international cooperation that prioritizes working people, combats global climate change and reins in Big Tech abuses," said Arthur Stamoulis, executive director of Citizens Trade Campaign, which organized the letter. "Whatever labor, environmental and digital positions the US ultimately introduces will play a big role in determining whether IPEF is helpful in advancing these goals."

The 403 organisational signers on the letter include: Amazon Labor Union Amnesty International USA, Asian Pacific American Labor Alliance, BlueGreen Alliance, Communications Workers of America (CWA), Greenpeace USA, International Association of Machinists and Aerospace Workers, International Brotherhood of Teamsters, National Association of Consumer Advocates, National Family Farm Coalition, National Organization for Women, Public Citizen, Presbyterian Church USA, Rethink Trade, Sierra Club, Trade Justice Education Fund, United Steelworkers (USW) and many others.

These organisations expressed interest in working with the administration "so that any final deal corrects the errors of past trade pacts and becomes a useful model for future agreements that deliver real benefits to people and the planet." They offered the following joint recommendations:

On Labor: "To advance your administration's promised worker-centred trade model, IPEF must include strong labor rights commitments based on standards set in the International Labor Organization's core conventions."

On the Environment: "Given that previous US trade agreements, including the US-Mexico-Canada Agreement (USMCA), fail to even mention the term 'climate change,' IPEF will need to be particularly ambitious in its climate provisions if it is to help the United States and Indo-Pacific region achieve their climate and environmental justice goals. Among other environmental measures, IPEF must require that countries adopt, implement and maintain binding climate standards, and must likewise extend swift-and-certain enforcement mechanisms to those provisions."

On 'Digital Trade': "On the matter of 'digital trade', IPEF's terms must not be allowed to undermine the administration's domestic anti-monopoly and tech regulation agenda by locking in international rules that threaten consumer privacy, data security, worker rights, civil rights, algorithm justice and competition policy here and throughout the Indo-Pacific.

The letter also addresses IPEF's potential Good Regulatory Practice and Agricultural provisions. Regarding IPEF's negotiating process, it called on the administration to withdraw confidentiality agreements between negotiating parties and take other specific steps to improve transparency and public participation.

A copy of the letter and complete list of signers is available online [here](#).

4. Government urged to support equitable global access to medicines at WHO Pandemic Treaty meeting

Media Release February 27, 2023: World Health Organisation (WHO) member governments will meet in Geneva this evening AEDT to start debating a [draft Pandemic Treaty](#) intended to learn from the lessons of the COVID-19 pandemic and develop better strategies for future pandemics, to be completed in 2024.

Leading public health, fair trade, church, human rights and aid and development organisations have written to the Ministers responsible for Health, Foreign Affairs and Trade asking them not to repeat the "catastrophic moral failure" of inequitable global access to COVID vaccines, treatments and tests. The letter is attached. Quotes from organisation leaders are below.

[The letter](#) notes that World Trade Organization (WTO) rules for 20-year patents and other intellectual property rights on COVID-related products meant that most of the global production of vaccines, often produced with publicly -funded research, were sold at high prices to rich countries, with very low access for low-income countries. The COVAX vaccine donation scheme [did not reach its modest targets](#) of 20 per cent vaccination rates in low-income countries by the end of 2021, and even today these rates remain at only [27.7 per cent](#).

Because of delaying tactics by a few high-income countries, it took 20 months of negotiations for members of the WTO to agree to a limited change to patent rules for COVID vaccines only in June 2022. During this time research shows that over a million lives may have been lost through [lack of access to vaccines](#). There is even less access to treatments and tests, and consideration of a waiver from WTO rules for them has again been delayed.

The letter urges the government to support proposals in the draft WTO Pandemic Treaty for:

- temporary waivers of WTO rules on patent and other intellectual property rights to enable global production of vaccines, treatments and tests at affordable prices for low-income countries;
- incentivise technology transfer for manufacturing of pandemic-related products in low and middle-income countries;

- make public funding for research and development of pandemic-related products conditional on open licensing and sharing of intellectual property, technology and know-how, and include terms and conditions in contracts related to prices of products.

Associate Professor Deborah Gleeson, representative of the Public Health Association of Australia said: “The yawning gap in access to vaccines, treatments and tests between rich and poor countries during the COVID-19 pandemic can’t be allowed to happen again. Negotiation of the WHO Pandemic Treaty is an opportunity to do things differently in future pandemics. The Australian government should grasp this opportunity with both hands.”

Arunn Jegan, Advocacy Coordinator, Médecins Sans Frontières Australia said: “MSF calls on governments – while drafting a global Pandemic Treaty - to take concrete steps to rethink and reform the biomedical innovation system to ensure that lifesaving medical tools are developed, produced and supplied equitably where monopoly-based and market-driven principles are not a barrier to access. It is time to prioritise saving lives instead of protecting corporate and political interests.”

Dr Patricia Ranald, Convener of the Australian Fair Trade and Investment Network said: “The WHO Pandemic Treaty is an opportunity to avoid the failures of the COVID-19 pandemic and put saving lives above pharmaceutical company profits in future pandemics. Patents and other monopolies on vaccines, treatments and tests must be waived from the beginning of the pandemic to ensure that they can be produced at affordable prices and made available on an equitable basis to low-income countries.”

Ry Atkinson, Strategic Campaigner at Amnesty International Australia said: “Through the Pandemic Treaty we have the opportunity to help ensure the next health crisis does not become a human rights crisis. To achieve that, governments around the world will need to grow a backbone and finally stand up to the pharmaceutical companies and their lobby groups. Failure to do so in responding to COVID-19 cost more than a million lives and we cannot let that happen again.”

5. 100 climate academics tell UK to quit Energy Charter Treaty

On February 9, 2023, 110 academics urged the UK government to leave the controversial 50-member [Energy Charter Treaty](#) (ECT), which includes Investor-State Dispute settlement (ISDS), a secret court system that enables fossil fuel companies to sue governments for huge sums over policies that could affect future profits. Their [letter](#) stated that “continued membership of the ECT will harm our prospects of limiting global warming to 1.5°C because it will prolong the UK’s dependence on fossil fuels and impede the transition to renewable energy.”

The academics’ letter was sent to Grant Shapps, the secretary of state for the new Department for Energy Security and Net Zero. “Investors have already brought cases against countries for phasing out coal-fired power stations, banning the exploitation of oil and gas near their coastline, and requiring environmental impact assessments,” the group said.

“There is also evidence that countries are shying away from introducing new legislation for fear of being challenged in claims under the ECT,” the academics said. “We urge you to take this opportunity to announce that the UK will withdraw.”

The [European Commission](#) said that remaining part of the treaty would “[clearly undermine](#)” [climate targets](#) and that an exit by EU countries appeared “inevitable”. Seven EU countries, including France, Germany, Spain and the Netherlands, have already said they will quit the ECT. Australia is not a member of the ECT.

The UK and Japan are the last large economies not to have said they will leave the ECT.

Oil, gas and coal firms have been awarded more than US\$100 billion (A\$145 billion) by ECT tribunals. The UK oil firm Rockhopper was [recently awarded A\\$275 million](#) in a case it brought against Italy, which is contesting the decision. ECT critics have estimated the final cost in compensation to fossil fuel companies could rise to [more than A\\$1.448 trillion](#). Some renewable energy companies have also used the ECT to sue for compensation after subsidy changes.

The Guardian revealed in November 2022 that the [ECT court system was accused of institutional bias](#), self-regulation issues and perceived conflicts of interest. “The Energy Charter Treaty is not consistent with the Paris climate agreement,” said Patrice Dreiski, a former ECT executive. “The main goal of the ECT is to promote and protect fossil fuel investment, which is not at all the goal of the Paris Agreement.”

AFTINET submission to the Review of ISDS in the Australia-NZ-ASEAN free trade agreement

The revision of the ASEAN agreement (AANZFTA) was begun under the Morrison Coalition government and Labor Trade Minister Farrell [announced last November 14](#) that in-principle agreement has been reached on most issues. The text will not be released until after it is finalised. The Regional Comprehensive Economic Partnership (RCEP) and Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) texts are being used as models. The provisions on corporate rights to sue governments (Investor-State Dispute Settlement or ISDS) arrangements are still being reviewed.

AANZFTA was signed in 2010. The ISDS rights were heavily qualified by some ASEAN governments. AFTINET’s submission argues that the government should implement its policy to review and remove ISDS provisions from existing agreements.

The AFTINET submission provides evidence of the harmful use of ISDS over the last decade against public regulation on health, indigenous rights, the environment and most recently against policies to reduce carbon emissions. See the AFTINET submission [here](#).