



**AFTINET**  
Australian Fair Trade  
& Investment Network

## AFTINET BULLETIN August 2015

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### **Public Debate as thousands protest China-Australia Free Trade Agreement (ChAFTA)**

The China FTA is being debated fiercely since the Joint Standing Committee on Treaties began its public hearings last week. The [AFTINET submission](#) argues that the ChAFTA, its side letters and Memorandum of Understanding for projects over \$150 million together represent an unprecedented expansion of the use of temporary labour in a trade agreement, despite government denials. AFTINET coordinator Dr Patricia Ranald gave evidence on July 31 and presented copies of relevant parts of the text, side letters and MOU to Committee members who seem surprised to see the text in black and white. The submission also criticises the inclusion of Investor rights to sue governments (ISDS) and the lack of commitments by either government to enforceable labour rights and environmental standards. AFTINET has made a similar submission to the [Senate Inquiry](#) on ChAFTA. If you have not done so, you can still make a [submission](#) to the Senate Inquiry by August 28.

A [union and community rally](#) outside the ALP conference on July 24 urged the ALP to vote against the ChAFTA implementing legislation in the Senate, and the conference adopted a policy critical of ChAFTA provisions on temporary labour and ISDS (see article below for details).

The [Daily Telegraph](#) hosted a debate between Union Secretary Michael O'Connor and Trade Minister Andrew Robb, and labour law expert [Dr Joanna Howe](#) criticised the temporary labour provisions. Dr Patricia Randal was interviewed on Adelaide 5AA talkback radio and spoke to a packed public meeting of over 100 in Adelaide on July 28. On July 27, 2000 people protested outside [JSCOT hearing](#) in Brisbane, and 5000 protested outside the [Sydney hearing](#) on July 31.

**There will be a ChAFTA protest in Canberra on August 10 at 12 noon in Garema Place, Civic.**

Further protests are planned for Perth on August 25, Devonport August 27 and Melbourne August 28, locations to be advised. AFTINET will publicise these events when we have the details.

## **TPP Ministers miss yet another deadline, campaign continues as more talks planned for late August**

A storm of public debate and media coverage in Australia and other countries contributed to the failure of the TPP Ministers to reach agreement on the TPP text on July 31. The [Public Health Association of Australia](#) (PHAA) wrote to all Federal MPs and Australian State and Territory Health Ministers asking them to stop trade-offs on access to medicines in the TPP. Dr Deborah Gleeson from the PHAA travelled to Hawaii to monitor and comment on the TPP negotiations.

The campaign and media debate helped to pressure Trade Minister Robb to announce publicly that he would not agree to stronger monopolies leading to higher prices on biologic medicines, and would not agree to foreign investor rights to sue government (ISDS) without adequate "safeguards". These were two of the major sticking points which contributed to the failure of the talks. The US also failed to make meaningful offers for access to its own agricultural markets to Australia and New Zealand, and there are still market access disputes between the US and Japan, and the US, Canada and Mexico.

However the danger remains that the Australian government will trade off medicines and ISDS if the US makes increased market access offers in areas like sugar and dairy. [AFTINET](#) continues to argue that these are decisions that affect domestic policy and should be decided through normal democratic parliamentary processes. They should not be secretly traded off as part of trade negotiation. TPP ministers say they will meet again before the end of August and we will need to continue our campaign. AFTINET will monitor and keep you informed of campaign actions. [Getup](#) has also become more active in campaigning against the TPP.

## Winning the public debate

In the lead up to the TPP Ministerial Meeting, an [Essential Media](#) poll showed 61% of voters across the political spectrum reject the inclusion of ISDS clauses in the TPP.

There was critical coverage of the TPP on Channel 10's' [The Project](#), ABC Radio National [Sunday Extra](#), the [Australian Journal of Pharmacy](#), [ABC TV 7.30](#), [News Limited online news](#), and [ABC Radio National Breakfast](#), [The Australian](#) and [The Age](#).

The *Sydney Morning Herald* also published a major [editorial](#) criticising the TPP.

Dr Deborah Gleeson's comments on the negotiations were published in, the [Sydney Morning Herald](#) and [The Australian](#). Dr Patricia Ranald was quoted in *Sydney Morning Herald* and *The Age* articles on [medicines](#) and [unacceptable US pressures](#) to change Australia's domestic law. Dr Kyla Tienhaara and Dr Deborah Gleeson criticised TPP "safeguards" for ISDS in [The Drum](#), and published an oped in the [Canberra Times](#) on ISDS and the cost of Philip Morris tobacco case. Dr Thomas Faunce criticised TPP rules on State-Owned Enterprises in the [Canberra Times](#), and [Senator Peter Whish-Wilson](#) called for the government to withdraw from the negotiations.

## ALP conference policy debate China FTA and TPP

Union and community groups including AFTINET [protested](#) about the China FTA and the TPP outside the ALP National Conference in Melbourne on July 24. The ALP platform was amended as described below. As always, the amendments were a compromise but they do represent a strengthening of the policy in the areas listed below. It will still take a very strong community campaign to influence ALP members of Parliament to vote against the implementing legislation of the China FTA and the TPP on the grounds that they are not in the public interest.

The full amended platform is not yet available on the ALP website but should be there soon.

### ISDS

The amendments included stronger criticism of ISDS, which is described as undermining Australia's judicial independence and the Australian people's sovereign right to legislate and implement policies in their interest through democratic processes. There is a commitment not to include ISDS in any trade agreements negotiated by future ALP governments and a commitment to review and remove ISDS clauses from existing agreements. The policy does not commit the ALP in opposition to vote against all trade agreements containing ISDS.

There is also a commitment to work for long-term change to the ISDS system, including an independent judiciary, and the introduction of precedents and appeals. This would change the nature of the ISDS system but is not likely to happen any time soon.

### **Trade Agreement process**

The amendments adopted some (but not all) of the recommendations of the Senate Inquiry on the trade agreement process, including publication of priorities and objectives at the beginning of the negotiations and allowing business, and unions and community groups to be consulted about negotiating texts and proposals. There are commitments to a comprehensive social, economic and regional impact assessment of the negotiated treaty text once a negotiation is completed and before it is signed, to inform parliamentary debate and community discussion, and ensuring that Parliament will debate the treaty text as well as the implementing legislation.

However there is no commitment to change the decision-making process for signing agreements, which will remain a Cabinet process.

### **Labour rights**

The policy has been elaborated to reinforce the inclusion of enforceable reciprocal obligations for countries to adopt and maintain in their laws internationally recognised labor principles, as stated in ILO conventions, in all trade agreements.

### **TPP**

The existing critical policy was retained, and will now be read in the light of the ISDS and other changes. This requires that the Policy on the TPP is consistent with the provisions of the national platform, specifically that it does not undermine the Pharmaceutical Benefits Scheme, does not include ISDS, does not require Australia to remove protection of its cultural industries, retains the Foreign Investment Review Board and its powers to review foreign investment in the public interest; retains legitimate quarantine provisions for reducing risk of imported pests and diseases, retains the flexibility to encourage industry development, including through research and development, regional development and appropriate environmental, employment and procurement policies, contains enforceable labour rights based on ILO standards and contains enforceable environmental clauses based on UN international environmental agreements.

### **China FTA**

There is a separate resolution on the China FTA which commits to “explore every possible option and pursue all possible parliamentary processes to remove the significant faults in the CHAFTA agreement, to ensure:

- Australian workers are not disadvantaged and restricted from access to work by the agreement;
- Chinese workers are not exploited; and
- All workers in Australia have the necessary skills to do their job safely and effectively”.

This appears to mean that the ALP will work with Greens and independents in the Senate to amend the implementing legislation to remove the offending parts from the text of the agreement and to remove the MOU on projects over \$150 million. This would delay the implementing legislation, but is not a clear commitment to vote against it.

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