



AFTINET
Australian Fair Trade
& Investment Network

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Thanks for your support and happy New Year!

This has been an incredibly busy year and our resources have been stretched. We are now about to enter the Parliamentary process on the monster TPP agreement, and we report on four other agreements that may be finalised in the first half of 2016. We have few resources and without your support we could not achieve so much.

If you would like to donate to our campaigns, you can do so through PayPal on our website [here](#), or directly to our bank account BSB: 062 005 Account: 1033 9684 Ref: your name.

Have a good break, Merry Christmas and Happy New Year!

Devils in the detail of TPP text, strong campaign needed in 2016

The TPP Trade Ministers' announcement of agreement on the TPP on October 6, without release of the text, meant governments could put a positive spin before the text was released. But there has also been much critical [media commentary](#).

The TPP text of 30 chapters and thousands of pages was released on November 5. AFTINET's team of experts were quoted very widely in the [media](#), especially on [medicines](#) and [ISDS](#). We have produced plain language summaries and analysis which are on our [website](#). Although some of the worst proposals in leaked documents have been removed, there are many devils in the detail. The TPP still extends monopoly rights for corporations at the expense of people's rights, and, despite promises, does not provide effective enforceable environmental standards or labour rights. Key issues in the text are:

Foreign investor rights to sue governments over domestic laws (Chapter 9)

- Public health campaigning has resulted in a specific TPP clause to exclude future tobacco regulation from ISDS cases (Chapter 29, Article 29.5). This is a victory and should prevent future cases like the still ongoing Philip Morris tobacco company case against our plain packaging law.
- But the need for the specific exclusion of tobacco regulation shows that the general “safeguards” for other public interest laws are [weak](#), similar to clauses in other recent agreements, and will not prevent corporations from bringing cases (Annex 9-B 3b and 9.15).
- “Safeguards” in the definition of “fair and equitable treatment” for investors (Article 9.9.6) are still open to wide interpretation by tribunals, as shown by the recent [Bilcon v Canada case](#).
- Procedural improvements (Article 9.21.6 and 9.23) do not address the [fundamental flaws](#) that ISDS tribunals have no independent judiciary and no precedents or appeals.

Stronger monopoly rights for pharmaceutical corporations and medicine price rises (Chapter 18)

Pharmaceutical companies already have 20 years of patent monopoly and higher prices on new medicines before cheaper versions become available.

Public health campaigning removed some of the most extreme proposals, but for many countries, the TPP will strengthen patent rights and provide additional monopoly rights for the costly biologic medicines used to treat cancer and other serious diseases. Australian [health experts](#) and [Doctors without Borders](#) (MSF) say the TPP will restrict and delay access to lower-priced medicines for millions of people, especially in developing countries.

Australian law on biologic monopolies will not change immediately, but the text is ambiguous, referring to “other measures” which would “deliver a comparable market outcome,” and to a future review which could result in up to three extra years of monopoly (Article 18.52).

Each year of delay in the availability of cheaper biologic medicines would cost the Australian government [hundreds of millions of dollars](#), creating pressure for higher consumer prices.

Environment Chapter: principles not legally binding (Chapter 20)

- Only mentions four out of promised seven International agreements, and only one is enforceable (trade in endangered species)
- Does not refer to climate change, only to voluntary measures for lower emissions
- Contrast with strong legal rights of foreign investors to sue governments.

Labour Chapter: (Chapter 19) weak on implementation

- Must prove “sustained or occurring violations” of labour rights in a manner “affecting trade or investment”: does not cover non-traded sectors
- Products of forced labour not banned, instead “recognise goal” of elimination
- Lengthy complaint process has not resulted in effective action in similar chapters in other agreements.

Temporary movement of people (Chapter 12)

Officials have confirmed that this chapter removes the requirement for labour market testing for temporary contractual service workers from Brunei, Canada, Mexico, Malaysia and Vietnam.

Debating the TPP text and making politicians accountable in 2016

AFTINET presented its preliminary analysis of the text at our public forum at New South Wales Parliament House on November 18. See video [here](#). We also spoke at a public forum on November 30 at Parliament House in Canberra, organized by the [cross-party Parliamentary TPP group](#) and attended by 50 members of parliament and their staff.

Our campaign will take off again in late January.

TPP Trade Ministers are likely to hold a signing ceremony in New Zealand on February 4, and the text is likely to be tabled in the Australian parliament in the first week of February.

There will be Parliamentary inquiries over February and March before Parliament votes on the implementing legislation. We will be seeking your support for public events, social media and actions to make politicians accountable during the Parliamentary Inquiries and the vote on the implementing legislation. See our messages and website for updates.

PACER-Plus faces resistance

Australia and New Zealand are accelerating the negotiations with 14 Pacific Island countries, aiming to finish by mid-2016. Intersessional negotiations were held in Melbourne on October 5-8 and Fiji on December 7-9.

Public Services International (PSI) and ACTU held a very successful seminar on October 5 for Pacer-Plus negotiators in Melbourne, addressed by Dr Deborah Gleeson (PHAA) on health issues, Michael Whaites (PSI) on public services, and Grant Belchamber (ACTU) on seasonal workers' rights. Peter Lunenborg (South Centre), gave a very detailed analysis of the implications of PACER-Plus for development and industry policy in island economies. The speakers were well received by the negotiators.

APHEDA, the ACTU and AFTINET sponsored a [lunchtime protest](#) outside the PACER-Plus negotiations in Melbourne on October 7, emphasising the importance for Pacific Islanders of addressing climate change as a priority over trade negotiations.

Some Island governments are now resisting the rush to finish the negotiations. At the December negotiations, the [Fiji government](#) and [PNG government](#) expressed strong criticism of the impact on governments' right to regulate, and signalled possible withdrawal from the negotiations.

Australia-India FTA talks to finish early 2016: ISDS and temporary labour

The ninth round of Australia-India Comprehensive Economic Cooperation Agreement (CECA) negotiations took place in New Delhi on 21-23 September 2015. Talks have intensified this year with four visits by trade Minister Andrew Robb, and the establishment of an [Australia-India Leadership Dialogue](#) of senior politicians from both major parties and business leaders.

However, the ambitious target of finishing the talks by the end of 2015 has now been postponed, with further negotiations likely in January 2016, with the aim of concluding in the first few months of 2016.

AFTINET's recent [submission](#) expressed our concerns about the inclusion of investor rights to sue governments (ISDS) and the impact on labour rights of arrangements for entry of temporary skilled workers.

India has a model set of ISDS clauses, based on their [new draft model Bilateral Investment Treaty](#), which places many more restrictions on the ability of foreign corporations to sue governments than any previous version of ISDS, except the latest [European proposals](#). The Australian government position is to negotiate ISDS on a case-by-case basis, which often means using it as a bargaining chip to gain more market access for Australian agricultural and services exporters.

India is seeking removal of labour market testing for skilled workers and contractual service providers, as has occurred in other trade agreements, and improvements in access for students and IT workers. The danger is that this will lead to more examples like the exploitation of temporary workers in the [food industry](#) and [7-Eleven stores](#). There is no intention to include labour rights or environmental standards in the agreement.

Regional Comprehensive Economic Partnership (RCEP) talks continue in 2016

RCEP talks between the 10 ASEAN countries, China, Japan, India, South Korea, Australia and New Zealand are also being accelerated with the aim of finishing in 2016. Talks were held in Busan, South Korea in October, with more planned in 2016 for Brunei February 15 -19, Perth April 22-6, and Auckland June 12-18.

AFTINET has made submissions on our major areas of concerns on [access to medicines](#) and [ISDS](#).

Trade in Services leak shows threat to environmental regulation

As climate change talks began in Paris, [leaked documents](#) from secret Trade in Services (TISA) talks showed the agreement could undermine government laws to encourage investment in renewable energy by outlawing discrimination between renewable and non-renewable energy services. The TISA talks, initiated by wealthy countries including the US, EU and Australia, aim to increase global trade in services and [decrease government regulation](#) of them.

Indonesia FTA talks to resume 2016 and possible EU-Australia FTA in 2017

Stalled talks for an [Indonesia-Australia FTA](#) may restart from January 2016. [Australia and the EU](#) have also announced that they will begin preliminary talks with a view to commencing FTA negotiations in 2017.

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