



## BULLETIN January 2014

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## TPP talks and campaign continue in 2014 as opposition grows

### TPP 2013 deadline missed: April possible new target

The Trans-Pacific Partnership is a free trade agreement being negotiated by Australia, the US and ten other Pacific Rim countries. The negotiations have dragged on for four years because of harmful proposals driven by the US government on behalf of its most powerful industries and corporations. These proposals threaten to [raise the price of medicine](#), give foreign investors [rights to sue governments](#) over health and environment laws, threaten our [internet freedom](#), [restrict mandatory labels](#) for nutrition, GMOs, tobacco and alcohol and to [reduce Australian content](#) in film, television and other media. Despite promises, there is no agreement for the TPP to include [enforceable labour rights and environmental standards](#).

TPP leaders had hoped to complete the agreement by the end of 2013, a deadline which they missed due to continuing contentious issues and rising community opposition in most TPP countries. There has been no new deadline set, after so many have been missed, but the US is now suggesting that a visit to Asia by US President Obama in April 2014 could be the new target.

The negotiations are secret, and the most detailed information has come from leaked documents.

### Leaked chapter shows the TPP enhances corporate rights at the expense of the environment

In January the draft text of the TPP's environment chapter was [leaked](#), leading to widespread criticism from environment groups. Despite promises from the US that the agreement would include enforceable protections for the environment, the chapter shows that most countries, including Australia, are supporting only weak obligations which are not enforceable, and which do not even clearly ensure countries commit to enforcing their own environmental laws.

In contrast, we know that there is a push to include strong, enforceable protections for investors through investor-state dispute settlement (ISDS), which would give foreign corporations [rights to sue governments for damages](#) over domestic legislation, including laws and policies which aim to protect the environment.

There are many cases of mining companies using these provisions to undermine legislation intended to protect the environment. For example, the Renco lead mining company is suing the Peruvian government under the Peru-US Free Trade Agreement after they were required to clean up their lead pollution.

### Attempts to fast track the TPP face strong opposition in the US Congress

A bill to fast track the TPP was tabled in the US Congress in January. The bill would restrict the power of Congress so it is unable to change the text of trade agreements, but can only vote yes or no to the whole deal. This is important because it would reassure TPP negotiating countries that the Obama administration can actually deliver on the commitments made in the TPP. Without it, other governments would be foolish to make concessions to US proposals in the negotiations.

However, opposition to fast track from both Democrats and Republicans is growing strongly, fuelled by campaigning from a wide range of community groups. [151 Democrats](#) have vowed not to support fast track, and the US Senate Majority Leader Harry Reid has joined the senior Democrat Sandy Levin in the House of Representatives in [opposing the Bill](#).

## **US and Japan fail to agree on market access**

A further obstacle to the TPP negotiations is the recent failure for the US and Japan to come to an agreement on market access for agricultural and industrial products at negotiations on the sidelines of the World Economic Forum in Davos. They were aiming to reach agreement before a TPP negotiating round scheduled for mid-February. Other governments are unlikely to agree to US demands unless there are significant market access offers from the US and Japan.

Despite these obstacles and the growing opposition to the TPP, negotiations continue. The Coalition Government, in contrast to the previous ALP Government, has said it is prepared to negotiate on issues like investor rights to sue governments and access to medicines. We need to keep up the pressure here in Australia for a fair deal or no deal.

### **AFTINET campaign in 2014**

The Australian Fair Trade and Investment Network held public seminars, and rallies, addressed many community meetings and received widespread media coverage last year. Over 80,000 people have sent messages or signed petitions about the TPP through social media.

This year we are continuing to campaign for a fair deal in the TPP. We have [written to local councils](#) asking them to discuss the implications of the TPP for local governments and to send a message to the Trade Minister. We are also asking our supporters to [organise local meetings](#) in their community or workplace, and continuing to promote our online [letter to the Trade Minister](#).

You'll find information about how you can take action to support these initiatives or attend our upcoming planning meeting in the following pages.

## **Korea-Australia Free Trade Agreement**

AFTINET Convener Dr Patricia Ranald and Campaigner Jemma Williams travelled to Canberra this week to present [our petition](#) 'Stop foreign investors suing our governments – reject the Korea trade deal' to the Minister for Trade.

In just one month, the petition attracted more than 3,000 signatures calling for a rejection of investor-state dispute settlement (ISDS) in the Korea Free Trade Agreement.

This builds on a previous [petition](#) signed by over 8,000 people opposing the inclusion of foreign investor rights to sue in all trade agreements, sent to the Trade Minister in December.

The Korea FTA petition notes that including ISDS in the agreement would mean that foreign investors can sue national, state and local governments if investors claim that laws or policies have "harmed" their investment.

In response to claims by the Trade Minister that health and environment have been excluded, the petition argues that these same exclusions in other agreements have not been effective. Despite the same exclusions in the Peru –US Free Trade Agreement, and the Central American Free trade Agreement the Renco lead mining company sued the Peruvian government when they were required to clean up their lead pollution, and the Pacific Rim company sued the El Salvador Government because it refused a mining license for environmental reasons.

The Korea-Australia FTA has not yet been signed, but Cabinet is expected to endorse the agreement this month.

AFTINET is also calling for the text of this agreement to be released before it is signed. An explanation of the current Australian parliamentary process for trade negotiations follows.

## Australian Parliamentary process for trade agreements: why the text should be released before signing

By Dr. Patricia Ranald

Over the last decade the growing opposition to secrecy in trade negotiations has resulted in some examples of greater transparency. Since 2003 World Trade Organisation proposed texts, offers and background papers have been placed on the [WTO public website](#). In the case of the Anti-Counterfeiting Trade Agreement (ACTA), which dealt with extension of intellectual property rights, there was so much controversy that governments agreed to [release the text in 2011](#) before it was signed. So there are precedents the release of the text before it has been signed by governments. The demand for release of the text has been a feature of campaigns on the TPP and other trade agreements, and has been endorsed by the Senate, but so far the Australian government has not agreed to do this.

In Australia the current process for trade agreements is that the text remains secret until after it is has been agreed by the negotiators and signed by governments.

**The Trade Minister presents the text to the Cabinet, which is made up of the Prime Minister and other Cabinet Ministers. The decision to sign the text is made by Cabinet, not the whole Parliament.**

**The text cannot be changed after it is signed.**

After signing, the text is tabled in Parliament for 20 sitting days and goes to the Joint Standing Committee on Treaties for review before the legislation to implement the agreement is presented to parliament. The final ratification of the agreement will take place after the implementing legislation has been passed by both the House of Representatives and the Senate.

At this point the text becomes public. There is an opportunity for public submissions to the review. But the Committee cannot change the text of the agreement and can only make recommendations.

Because it is a Joint Standing Committee of both the House of Representatives and the Senate, the government of the day, which has a majority in the House of Representatives, will have a majority on the committee, and the committee is likely to recommend that the agreement be finalised through the Parliament passing the implementing legislation, even if there are critical submissions.

Parliament only votes on the implementing legislation, not on the whole text of the agreement. The Trans-Pacific Partnership (TPP), for example, has 29 chapters and only a few of these will require changes to legislation. One example which would require legislation change is changes to tariffs or taxes on imports.

However, many other chapters will restrict the ways in which current and future Australian governments can legislate, but will not require legislation. For example, the inclusion of the right of foreign investors to sue governments over domestic legislation ([investor-state dispute settlement](#) or ISDS) does not require a change to Australian legislation. Other changes, like changes to the Pharmaceutical Benefits Scheme, could be done by changing regulation rather than through legislation.

If the government does not have a majority in the Senate, as is the case with the Abbott Coalition Government, the Senate can have an impact on agreements like the TPP by holding its own inquiry or review of the agreement, and by voting against or amending some or all of the implementing legislation.

Voting against the implementing legislation would prevent or delay the final ratification of the agreement.

## Upcoming Events

### **AFTINET Annual Planning Meeting, February 12**

Time: 5.30pm, Wednesday, February 12

Venue: Finance Sector Union, Level 2, 321 Pitt St, Sydney.

Our annual Planning Meeting is a great opportunity for our members to play an active role in shaping our activities in 2014. We will outline the major trade issues and invite your suggestions for the coming year in all areas of AFTINET's work, including our campaigning, advocacy work and fundraising activities.

### **ACTU Seminars in Sydney and Melbourne**

Sydney: February 13

Melbourne: February 18

The ACTU is running full-day seminars in Sydney and Melbourne for union and community activists to discuss the latest developments in the TPP campaign and how their union or community groups can be involved in the campaign. You need to register in advance by filling in the registration form. For more information and registration [follow this link](#).

### **Politics in the Pub, Sydney February 20**

Time: 6.30pm, Thursday, February 10

Venue: Harold Park Hotel, Cnr Wigram Rd and Ross St, Glebe

Dr Patricia Ranald from AFTINET and Jon Edwards from MSF (Doctors without Borders) will speak on 'The Trans-Pacific Partnership Agreement - Neither Partnership Nor Trade - A corporate threat to the public interest'.

For more information: <http://www.politicsinthepub.org.au/>

### **TPP community forum in Sydney, March 10**

Time: 6.30pm, Monday March 10

Venue: Newtown Neighbourhood Centre, 1 Bedford St, Newtown NSW 2042

Dr Patricia Ranald from AFTINET will join representatives from environment and public health groups to address a community forum on the Trans-Pacific Partnership in Newtown. More details to come.

### **New TPP song by Paul Greene**

Musician Paul Greene has written a song called 'Anything less is a compromise' which aims to raise awareness about the TPP. You can listen to it and watch the clip [here](#).

## Take Action!

Here's a few things you can do to campaign for a **fair deal** in all trade agreements.

- **Send a message to the Trade Minister** from [our website](#) and share the link on social media
- **Organise a local meeting** or meeting in your workplace to discuss the TPP and to take action. These local meetings will build momentum for larger public events over the next few months. For more information, you can [download the information kit](#) for organisers, or request one by emailing [campaign@aftinet.org.au](mailto:campaign@aftinet.org.au)
- **Contact your local councillors** and asking them to discuss the implications of the TPP for local governments in Council, and to send a message to the Trade Minister. See AFTINET's [letter to local councils](#)
- **Make a donation to support the campaign** - You can [donate online via E-Give](#) or email [campaign@aftinet.org.au](mailto:campaign@aftinet.org.au) for other options.