



BULLETIN March 2014

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Thank you for your continued support

AFTINET sent out membership renewals this month and we have been receiving a steady flow of renewals and new memberships. We'd like to say a huge thank you to all of our supporters for your continued support and especially to those who made an additional donation.

We would also like to thank all of those who attended our Planning meeting on the 12th of February and made an invaluable contribution to our campaign direction into the New Year.

February TPP talks in Singapore end without agreement: campaign continues

AFTINET's January Bulletin reported that the twelve TPP governments had failed to meet their deadline of completing negotiations at their December meeting in Singapore, and that talks would continue into 2014. However, despite assurances that the talks were very advanced, when leaders met in Singapore from February 22-23 they again failed to announce a deal.

The Economist published a blog on the agreement titled '[No end in sight](#)' after the recent meeting of TPP leaders in Singapore, in which the author wrote "it was hard to avoid the conclusion that any agreement is months or years away."

In response to community campaigning, there are still major differences on medicine patents, [Investor-State Dispute Settlement \(ISDS\)](#), labour rights and environmental standards. These will be negotiated in the light of market access offers on goods and agriculture.

But a major obstacle is the rift between the US and Japan on market access issues, including agricultural products and motor vehicles. This has prevented the two biggest economies from making comprehensive market access offers to other governments. This puts countries like Australia in a very weak bargaining position, waiting in the wings for decisions from the most powerful players.

The Australian government has said it is prepared to include ISDS (investor rights to sue) in the agreement as a trade-off for access to US and Japanese agricultural markets. Trade Minister Andrew Robb [said at a press conference](#) in Singapore that his government is "prepared to consider [ISDS] in the context of TPP provided there is a substantial market access result and other conditions were met." Under the previous Labor government, Australia had been the only country in the negotiations to refuse ISDS provisions altogether.

Any trade off to include ISDS in the TPP is unacceptable as it would undermine our democracy and sovereignty.

Meanwhile, the US is still unable to guarantee that any TPP deal will pass the US Congress, with continued [opposition](#) by senior US Democrat and Republican Congress members to Fast Track Authority, prompted by a massive community campaign. This means that Congress is refusing to give up its ability to amend the text of the agreement. Other governments negotiating the agreement cannot have confidence that the US government can deliver on what has been negotiated. All these factors show that community campaigning in the US, Japan, Australia and other countries is making a difference and contributing to delays in the negotiations. See AFTINET's website (www.aftinet.org.au) and the events below for actions you can take as part of the campaign.

Australian study warns of public health impacts of TPP

Senior health academics from seven Australian universities released a [policy brief](#) which outlines the potential negative effects of the TPP on the health of Australians.

The study concludes that the US proposals for stronger patents on medicines would increase the cost of Australia's Pharmaceutical Benefits Scheme (PBS) for the government and taxpayers, and that investor rights to sue governments would reduce the ability of the Australian Government to tackle the harm caused by tobacco and alcohol. You can download the full brief [here](#).

Also on health, Jon Edwards from Médecins Sans Frontières (MSF) wrote a powerful opinion piece for [The Drum](#) about why any increase in patents on medicines in the TPP negotiations is a concern. [Read the article here](#).

AFTINET believes that Australian policies should be decided through democratic public and parliamentary debate, not by secret trade negotiations.

Calls to release the TPP text in Australia and internationally

Concern about the lack of transparency and secrecy surrounding the TPP negotiations has led to a widely supported public campaign in Australia for the text to be released before the agreement is signed.

The current Australian process is that Cabinet signs off on the text of the agreement before it is released for public and parliamentary scrutiny. You can find more information about the Australian parliamentary process for trade agreements [here](#).

Consumer group CHOICE collected more than 14,000 signatures on their [petition](#) for the government to release the text of the TPP, which was presented in Canberra in early February. To coincide with the petition presentation, they also coordinated a social media 'Thunderclap' – a process where thousands of people coordinate to send the same Tweet or Facebook message at the same time. Through this initiative, CHOICE estimates they reached 222,000 people, and their hashtag **#ReleaseTheText** trended on social media in a number of major cities.

A survey by [The Australia Institute](#) found that a majority of Australians support the demand to release the text of the TPP. The survey also found that 55 per cent of respondents did not know about the TPP, and another 19 per cent were not sure. These results were published in the *Sydney Morning Herald* in an article titled "[Trans-Pacific Partnership is a big deal, but hardly anyone knows](#)".

AFTINET has also been calling for the text to be released since TPP negotiations began.

Internationally, senior legislators Australia, Canada, Japan, Malaysia, Mexico, New Zealand and Peru [have called for the release of the TPP text](#), asking governments to public the draft text of the agreement before it is signed, with sufficient time to enable effective legislative scrutiny and public debate.

Greens Senator and Trade Spokesperson Peter Whish-Wilson endorsed the statement. Included in the statement is the motion from Senator Penny Wong, the Opposition Trade Minister, which was passed in the Senate in December calling for the release of the text.

Korea-Australia FTA signed and text released: safeguards against investor rights to sue won't work

Despite AFTINET's petition and other petitions against investor rights to sue governments, signed by 13 000 people in total, the Korea-Australia Free Trade Agreement (KAFTA) was endorsed by Cabinet and the text has been released, and cannot be changed. There may be a formal signing ceremony by both governments in the next few weeks.

The KAFTA text reveals that the Australian Government has agreed to Investor-State Dispute Settlement (ISDS). ISDS enables foreign investors to sue national, state or local governments for hundreds of millions of dollars of damages if they can allege a domestic law or policy "harms" their investment. The disputes are heard in international tribunals without the legal protections of national legal systems: arbitrators can be practising advocates and there are no precedents or appeals.

The Trade Minister claims that there are "safeguards" which will prevent foreign investors from suing governments over laws which deal with public welfare, health and the environment.

The "safeguards" seek to limit the definition of "indirect expropriation", which enables foreign investors to sue governments over domestic laws. But the sentence to exempt public health, safety and the environment begins with the words "except in rare circumstances." This leaves a huge loophole which recent cases have used to advantage. Another "safeguard" is a more limited definition of "fair and equitable treatment" for foreign investors. But tribunals have ignored these limitations and applied the previous higher standard.

These same "safeguards" have been included in other recent trade agreements, including the Central American Free Trade Agreement and the Peru-US Free Trade Agreement. The key substantial safeguard clauses in the Korea FTA are the same as in these two agreements, and they have not worked to protect governments from being sued. The Government of El Salvador has been sued by Pacific Rim Mining Corporation under the Central American Free Trade agreement, over a ban on mining to protect the nation's limited groundwater resources. The US Renco mining company is using ISDS in the Peru-US Agreement to contest a local court decision that it was responsible for pollution from its lead mine. Both cases are ongoing and may take several years.

Even if governments win these cases, they will have taken years and cost millions of dollars in legal fees. There will be no guarantee that the "safeguards" will work in future cases, because the arbitrators do not have to base their decisions on previous precedents meaning that the outcomes of future cases are unpredictable.

In an article published in *The Canberra Times*, academics Kyla Teinhaara and Jeffrey Mcgee also argue that ISDS should not be included in any trade agreements, because the "safeguards" to protect a government from legal action over health or environmental laws have not been effective in other agreements, and cite examples. [Read the article](#)

An excellent article titled ["ISDS: The Devil in KAFTA's detail"](#) was published by Matthew Cawood in the Fairfax rural press, and critically discusses the inclusion of investor rights to sue governments in the Korea FTA and in the Trans-Pacific Partnership Agreement (TPP).

For more information about KAFTA listen to this [ABC PM radio segment](#) in which Trade Minister Andrew Robb and AFTINET's Dr Patricia Ranald are interviewed.

Upcoming Events

Sydney Open Forum, March 5th

Time: 8pm, Wednesday March 5

Venue: Humanist House, 10 Shepherd St, Chippendale (Opposite Broadway Shopping Centre)

AFTINET's campaigner, Jemma Williams, will discuss the Trans-Pacific Partnership (TPP). Event organised by David Duffy. \$4 donation at door which includes supper. For more details contact David on (02) 4782 1130

TPP community forum in Sydney, March 10

Time: 6.30pm, Monday March 10

Venue: Newtown Neighbourhood Centre, 1 Bedford St, Newtown NSW (Opposite Newtown Station)

Speakers:

Dr Patricia Randal, Australian Fair Trade and Investment Network

Michael Whaites, NSW Nurses and Midwives Association

Isobel McIntosh, Lock the Gate Alliance

Simon Frew, Pirate Party

For more information and to invite your friends see the [event's Facebook page](#).

March in March, March 16

Time: 1pm, Sunday March 16

Venue: Belmore Park, Hay St, Sydney

AFTINET is encouraging our members and supporters to have a presence at the March in March Sydney event. This will include bringing banners, posters and fliers about the TPP. Details to be confirmed. Please contact campaign@aftinet.org.au for more information or to get involved.

AFTINET's Annual Fundraising Dinner, May 29

Save the date! More details to come.

Organise an event!

Please consider [organising a local or workplace meeting](#) in your area, and let us know about it by emailing campaign@aftinet.org.au.

Take Action!

Here's a few things you can do to campaign for a **fair deal or no deal** in all trade agreements.

- **Distribute AFTINET's new TPP leaflets.** We've had our leaflet 'Corporate Power vs Peoples' Rights' updated! If you'd like to help distribute these contact our office on campaign@aftinet.org.au or give us a call on (02) 9699 3686.
- **Share content on social media.** Like AFTINET on Facebook and follow us on Twitter to receive regular updates about our campaigns, and help us spread the word by sharing these with your networks. You can start by sharing our [message to the Trade Minister](#) and encouraging your contacts to send it.
- **Help us create content for social media.** AFTINET is looking for graphic designers and other creative people who can volunteer their skills to help create short messages with visuals we can use on social media. Please contact us for more information at campaign@aftinet.org.au
- **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
- **Contact your local councillors** and ask them to discuss the implications of the TPP for local governments in Council, and to send a message to the Trade Minister. AFTINET has already sent a [letter to all local councils](#) in the major states. We need our members to help us by following up with individual councillors.
- **Make a donation to support the campaign** - You can [donate online via E-Give](#) or email campaign@aftinet.org.au for other options.