



AFTINET BULLETIN: March 2016

Inside this edition:

- Introduction
- TPP: Early election could affect timing of vote
- US politics and the future of the TPP
- TPP news wrap
- PNG “not ready to sign” PACER-Plus
- India bilateral deal may slow down
- Indonesian Trade Minister visits Australia to restart FTA talks
- RCEP
- EU-Aus trade agreement on the cards
- Hong Kong and Taiwan FTAs

Introduction

Welcome to the March edition of AFTINET’s regular Bulletin.

In this edition you’ll find an update on the TPP and its process through the Australian Parliament. The recall of parliament in April makes an early election very likely. This means timing of the TPP vote in the Australian Parliament is likely to be after a July election.

We will be holding events and producing evaluations of party policies on trade. We are still asking you to tell Labor, Greens and independent Senators to vote no to the TPP's implementing legislation.

You or your organisation can help by sharing our advocacy piece [TPP: what you need to know and what you can do about it](#) on your website, blog, member communications or through your social media accounts.

This issue also includes coverage of the US elections as they relate to the TPP, an update on bilateral talks with India and Indonesia and an overview of the PACER-Plus and RCEP negotiations.

Thanks for your continued support.

TPP: Early election could affect timing of vote

JSCOT inquiry

Many submissions, including AFTINET's, were sent to the Joint Standing Committee on Treaties (JSCOT) by the deadline of March 11. They will be posted on the committee website after the committee has met to register them.

You can check which submissions have been posted on the committee website [here](#). AFTINET's submission will also be posted on our website once it is approved.

Our submission advocates for changes to the trade agreement process and the need for independent studies of the TPP. It also critically analyses the TPP text on foreign investor rights to sue governments (ISDS), stronger monopolies and higher prices for biologic medicines, temporary workers, labour rights, the environment and future restrictions on food labelling standards.

Our assessment of the costs and benefits of the TPP concludes that the TPP is not in the public interest and asks the committee to recommend against the implementing legislation.

Election timing and the TPP vote

Prime Minister Turnbull announced on March 21 that he will recall Parliament on April 18 to consider the Australian Building and Construction Commission Bill. The Government aims to call an early [double dissolution election](#) on May 11 if the Senate does not pass the bill. The election would be held on July 2.

If this happens, it is most likely that the JSCOT public hearings and report would be postponed until after the elections. AFTINET will continue our campaign during and after the elections.

Critical public forums on the TPP are planned for Sydney, Melbourne and Perth in late April, and we will be at May Day marches on May 1-2. Details of these events will be advertised as soon as possible.

AFTINET will also publish an evaluation of the trade policies of the major parties, and information about how the TPP could impact on other policies, including workers' rights, public health, social equity and the role of global corporations.

US politics and the future of the TPP

Those who have been keeping an eye on the US elections will have observed that all the leading candidates are opposed to the TPP (albeit for very different reasons).

Hilary Clinton is the most likely Democratic Party candidate and while she did support the TPP negotiations as Secretary of State, after the text was released she said it didn't meet her standards and she could not support it.

"I want to make sure that I can look into the eyes of any middle-class American and say, 'this will help raise your wages.' And I concluded I could not," [she said](#).

Her rival, Bernie Sanders, is even [more strongly opposed](#), and has a record of having opposed previous agreements like the North American Free Trade Agreement (NAFTA).

For his part Republican frontrunner Donald Trump [has said](#) the TPP is a "disaster" negotiated by "incompetent people."

Free trade is a major election issue in the US

The recent results of primaries in Michigan and Mississippi show that free trade is now a key election issue for both Democrat and Republican voters.

Hilary Clinton [ramped up](#) her criticism of the TPP recently after she lost a key primary vote in Michigan due in large part to Bernie Sanders' stronger anti-TPP stance.

Trade has steadily become a divisive issue in the US ever since the 1994 North American Free Trade Agreement (NAFTA) came into force and its effects were felt across the country. US citizens have put up with wage stagnation in recent years and a declining manufacturing sector, despite promises of benefits from trade deals.

Jared Bernstein, former Democrat trade adviser, wrote on March 14 in the [New York Times](#) that FTAs have "long devolved into handshakes between corporate and investor interests on both sides of the border, allowing little voice for working people."

This publication of this and other similar articles is a sign of growing popular opinion that trade deals like the TPP are increasingly written for the interests of large global corporations and at the expense of ordinary people.

What does this mean for the future of the TPP?

The TPP has to be ratified by at least six countries including both the US and Japan before it can come into force.

So what does it mean for the agreement if the main US presidential candidates don't support it?

Let's take a look at a couple of scenarios:

Scenario 1: Obama passes the TPP legislation through Congress this year

The current Congress remains in session after the presidential election in November until the end of December (this is known as the "lame duck" Congress).

Just weeks ago, President Obama [said](#) he would present the TPP implementing legislation to Congress this year and was "cautiously optimistic" that the agreement would be passed.

It is up in the air whether that will actually happen, given the strong opposition from both Democrats and Republicans in the current Congress - but it is still possible and that is what the deal's corporate supporters are banking on.

Since Congress did pass 'Trade Promotion Authority' last year it will make it less complicated to get the TPP through than it otherwise would be: it means the Congress will have to vote either yes or no to the whole agreement.

Scenario 2: Congress does not pass the TPP legislation this year

If Obama can't get the numbers to pass the TPP in Congress before his term ends, the deal will be left in the hands of the new president to re-submit it for a vote to the newly elected Congress. It's not at all clear in that scenario whether the new President would do so, or what a newly elected Congress will do.

Of course, even if this happens and either Trump or Clinton are elected, they could still change their minds about the deal or decide to put it to a vote regardless.

In summary, there's a good chance the US Congress itself could fail to pass the implementing legislation and therefore prevent the deal from ever making it into force.

But there is also a chance that the Congress will pass it and that's why we can't let our guard down and consider it a doomed deal just yet.

TPP news wrap

Robb's two different stories on medicines

When then Trade Minister Andrew Robb signed off the TPP he promised the Australian people it would not result in longer monopolies or extra costs for life-saving biologic medicines.

Prime Minister Turnbull [told](#) *Fairfax Media* at the time: "This deal has no impact on the Pharmaceutical Benefits scheme, it's not going to make drugs more expensive in Australia whatsoever."

But in February, Mr Robb [promised](#) US pharmaceutical companies that as a result of the TPP, they would receive at least 8 years of monopoly rights for biologic medicines in Australia, and potentially as long as 12 to 17 years.

Australia's current law only guarantees five years of monopoly data protection.

It's true that the TPP won't require an actual change to legislation - these extra years of protection will be provided for through "other measures."

The outcome, however, could be the same - this will mean more expensive medicines for longer, which is likely to cost the PBS hundreds of millions of dollars a year.

[Read AFTINET's media release here.](#)

Government accused of "wilful blindness"

The Age Economics Editor Peter Martin this month questioned whether Prime Minister Malcolm Turnbull - or anyone else for that matter - would mind if the TPP "fell over".

He argues that economic modelling finds the benefits of the deal for Australia to be "almost non-existent," criticises DFAT's National Interest Analysis for "merely summarising" the deal, and accuses leaders of "wilful blindness" to both the TPP's benefits and its costs.

He is also critical of new Trade Minister Steve Ciobo's approach. He writes:

"Hillary Clinton is misguided. Her opposition to the Trans-Pacific Partnership is based on "misinformation". Malcolm Turnbull's new trade minister says so.

The woman most likely to be the next US president, the former secretary of state who ran America's missions abroad, the woman who criss-crossed the world pressing flesh about the Trans-Pacific Partnership, knows less about it than Steven Ciobo."

[Read the full article here](#)

More news from our website:

[TPP puts our food labelling laws in jeopardy](#): Consumer advocacy group Choice has launched a new campaign to 'get rid of the devil in the detail' of the TPP. [Read more...](#)

[DFAT does not want Productivity Commission to scrutinise TPP](#): The Australian Government continues to rule out commissioning an independent study of the TPP's benefits and costs to

Australia, despite calls from community groups representing millions of Australians. [Read more...](#)

TPP literally a Mickey Mouse deal: The CEO of Disney has boasted of influencing the intellectual property chapter of the TPP in a letter to his employees. [Read more...](#)

Trade rules derail India's clean energy plan: This week the World Trade Organisation put a roadblock in the way of India's efforts to invest in renewable energy while creating jobs for its people. [Read more...](#)

TPP to stall climate change action: The *Saturday Paper* has published an excellent article critical of the TPP and its impact on climate change action. [Read more...](#)

MPs' critical responses on TPP: Many MPs responded critically to the Government's National Interest Analysis of the TPP tabled in Parliament last week. [Read more...](#)

People around the world unite against TPP: Watch this video bringing together voices from Australia, New Zealand, Malaysia, Vietnam, Peru, Mexico, Chile, the US, Canada, Japan and beyond! [Read more...](#)

PNG "not ready to sign" PACER-Plus

As we have reported in previous Bulletins, PACER-Plus negotiations between Australia, New Zealand and Pacific Island nations accelerated last year. The aim remains to conclude the deal in June this year.

However, Fiji and PNG have become more critical of the negotiations in the last few months making this deadline increasingly unlikely. This month, PNG [made headlines](#) by announcing it was "not ready to sign." It is now not clear whether these issues will be resolved before the scheduled Ministerial meeting in June.

Pacific Island workers exploited in Australia

The Pacific Islands want the expansion of seasonal worker schemes in exchange for concessions they make to Australia and New Zealand. However, unions in the Pacific Islands and Australia are concerned about the rights of workers participating in these programs.

The ABC 7.30 report recently [revealed](#) that a group of Pacific Island workers in Australia on the Seasonal Worker Program were receiving as little as \$60 a week after deductions.

Seasonal worker arrangements should include guarantees for workers' rights, obligations on employers to implement them and regulation of migration agents and labour hire companies to prevent exploitation.

RCEP

The Regional Comprehensive Economic Partnership ([RCEP](#)) is being negotiated between the 10 ASEAN countries, plus China, Japan, India, Korea, Australia and New Zealand. The 12th round of RCEP talks are scheduled to be held in Australia on April 22-29 in Perth.

Trade envoy Andrew Robb is pushing for [convergence](#) of the two agreements, and leaked documents have revealed that Japan and Korea have tabled TPP-like proposals on [stronger monopolies](#) for medicines. [ISDS](#) is also on the agenda. There may also be proposals to include movement of temporary workers, following the examples of the China FTA and TPP. AFTINET is planning a public forum on the TPP and RCEP in Perth around April 27. Further details will be circulated soon.

India bilateral deal may slow down

According to DFAT and [statements](#) made by new Trade Minister Steve Ciobo, bilateral talks between Australia and India are still a high priority and nearing conclusion. It has been the aim for negotiations to finish early this year and for legislation and ratification to take place before the end of the 2016.

However, recent news reports may indicate that momentum has slowed. An article in the local Indian press suggests that the Indian Government thinks that a bilateral deal with Australia may cause it to “lose leveraging power” in RCEP negotiations, which are also ongoing. Another article in the [Australian Financial Review](#) cites India’s domestic debate around manufacturing and revenue cost as reasons for a slowdown.

DFAT claims that negotiations are ongoing, with further talks likely in April.

The major issues in this agreement are the likely inclusion of some form of ISDS, and reduced labour market testing and visa changes for temporary migrant workers. AFTINET will continue to monitor these talks.

Indonesian Trade Minister visits Australia to restart FTA talks

Formal trade talks with Indonesia are scheduled to [restart](#) in May this year with the aim to conclude a bilateral deal within 18 months. Negotiations had lapsed because of diplomatic tensions over a range of issues. However the timing may be affected by an early election.

Indonesia’s Trade Minister Thomas Lembong was in Australia on March 16 and the two issued [a joint statement](#). This emphasised both economic cooperation projects which could begin immediately as well as formal negotiations for a legally binding trade agreement.

They also announced the reactivation of the Indonesia-Australia Business Partnership Group (IA-BPG) to ramp up business links.

Australia and Indonesia already have arrangements to reduce tariffs in many areas through the Australia-New Zealand-ASEAN free trade agreement, and both are involved in the RCEP negotiations. So why a bilateral agreement?

Australia is seeking more market access to Indonesian markets in some areas of agriculture, which are controversial, like live beef exports and sugar. But the main focus for reaching quick agreement is likely to be increased exports of Australian services including education, infrastructure, horticulture, design, professional services and financial services.

Investment, including ISDS, is also on the agenda, but may be less urgent because the ASEAN FTA already has a form of ISDS, and it is also being discussed in the RCEP.

Indonesia already has tariff-free access for most goods, but is likely to be seeking increased access to Australia for students and temporary workers.

As always, AFTINET will be monitoring the progress of this deal from an environment, human rights and labour rights perspective, and demanding a more transparent process. Keep an eye on our website for all the latest news.

EU-Aus trade agreement on the cards

The Australian Government has begun preliminary discussions with the European Union towards an EU-Australia free trade agreement. At this stage negotiations are not expected to start until next year.

AFTINET has made a submission to the feasibility study, which you can download [here](#).

Our main concern is that this deal will be part of the same trade architecture as the TPP and the Transatlantic Trade and Investment Partnership (TTIP). We will be advocating for greater transparency in the negotiation process, against extension of monopoly rights on medicines and against the inclusion of ISDS in any form.

The EU has recently proposed an investment dispute [model](#) in the TTIP negotiations that does attempt to address some of the structural flaws of the current ISDS system. It proposes establishing a panel of judges to serve on tribunals and a more qualified panel of judges to serve on an appeals tribunal. However, [critics](#) have noted that this is still not an independent judiciary because these judges would be able to accept other work at the same time and would not have the same independence as have full time judges in a national court system.

Hong Kong and Taiwan FTAs

Adding to the proliferation of bilateral trade agreements, Trade Minister Steve Ciobo [announced](#) on March 7 that the Government is considering talks for agreements with Hong Kong and Taiwan. Both countries are reportedly interested in the initiative, but no formal talks have begun, and there is no official information as yet on the Australian Government website. AFTINET will monitor these developments.

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