



AFTINET
Australian Fair Trade
& Investment Network

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Trans-Pacific Partnership (TPP) text agreed, but still secret: fuzzy on medicines, includes corporate rights to sue governments

Resistance to the TPP intensified in the lead up to the TPP Trade Ministers' meeting on September 30. Amid [protests](#) and public meetings, [150 health experts](#) called for no TPP concessions on medicines. On September 17 a UN Human Rights [Report](#) condemned investor rights to sue governments (ISDS) in the TPP, saying it was incompatible with human rights. GetUp produced a new 45-second satirical [video](#) on ISDS in the TPP which ran as a TV advertisement in the Canning by-election.

The Trade Ministers' announcement of agreement on the text on October 6 without release of the text meant governments could put a positive spin while the detail remains secret. The text is expected in November. But there has also been much critical [media commentary](#).

Trade Minister Andrew Robb claims the credit for holding out against extension of monopolies on costly life-saving biologic medicines beyond the current Australian legal standard of five years. The US government was seeking an extension from 5 to 8 years which would cost the Pharmaceutical Benefits Scheme [hundreds of millions of dollars](#) for every year of delay before cheaper versions to become available. This would lead to pressure for higher prices at the chemist.

But Minister Robb's heroic claims are weakened by the fact that the US government and pharmaceutical companies are claiming that 5 years is a minimum standard and there is a provision using administrative delays for an [additional three years](#).

Australia has also agreed to the inclusion of ISDS in the TPP. There are increasing numbers of such cases against health and environmental law, like the Philip Morris tobacco company case against Australia's plain packaging law. Claimed '[safeguards](#)' for health and environment legislation have not prevented such cases.

The TPP text will be released in November after Cabinet makes the decision to sign it. It will then be reviewed by parliamentary committees. But the text cannot be changed and Parliament will only vote on the implementing legislation, not the whole text of the agreement. The implementing legislation is likely to be considered by Parliament from February 2016. AFTINET's team of experts will analyse the text, produce plain language summaries and mobilise critical debate. If the agreement is not in the public interest we will campaign for the Senate to block the implementing legislation. See public forum below

Public Forum on the devils in the TPP text: Wednesday, November 17, Jubilee Room NSW Parliament House 1-2 PM



Public Forum
The Trans-Pacific Partnership
(TPP): what's the devil in the
detail?
Wednesday November 18, 2015,
1pm-2 pm,
Jubilee Room
NSW Parliament House, Macquarie
St, Sydney

Secret TPP negotiations between Australia, the US, Japan and nine other Pacific Rim countries concluded on October 6. The text is due to be signed and made public in November.

Speakers:

Dr Patricia Ranald, Australian Fair Trade and Investment Network: Overview of the TPP and foreign investor rights to sue governments

Jon Edwards, Doctors without Borders (MSF): Access to Medicines

Professor Kimberlee Weatherall: Copyright and internet restrictions (tbc)

Tom Skladzien AMWU economist: Labour Rights, temporary labour

Limited places – please RSVP by November 17 to campaign@aftinet.org.au

China FTA campaign forces changes in Migration Act regulations but other problems remain

The last two months saw a strong union and community campaign against provisions of the China-Australia free trade agreement, which allow increased numbers of temporary migrant workers and reduced skills assessment and licensing for occupations like electricians. A Memorandum of Understanding for Investment Facilitation Projects give Chinese investors in projects valued over \$150 million additional rights to bring in temporary migrant workers and negotiate their numbers, occupations, pay and conditions, which could be below local rates. The campaign also targeted the inclusion of investor rights to sue governments over changes in domestic legislation, known as Investor-State Dispute Settlement or ISDS.

The agreement was signed in April but not made public until June, when it was tabled in Parliament and reviewed by a Joint Standing Committee on Treaties. Thousands protested outside the committee hearings in Sydney, Melbourne, Canberra, Perth, Brisbane and Hobart, there were dozens of local community meetings and tens of thousands signed petitions and sent messages to MPs and Senators.

The intense media debate continued as [independent academics](#) found that the agreement does **not** require labour market testing for local workers before decisions to employ temporary workers, despite the Trade Minister's claims. The ALP criticised the government's [misleading statements](#) about the China FTA, and the [Greens](#) condemned the deal.

The Age economics editor Peter Martin's [fact check](#) revealed that the government-commissioned economic study shows that the Japan, Korea and China FTAs together will only create an additional 5434 jobs after 20 years, not the 178,000 claimed by government ministers. The China FTA also emerged as an issue in the [Canning by-election](#).

Parliament does not vote on the whole text of the agreement, only the implementing legislation. The union and community campaign pressured the ALP to prepare amendments to the Migration Act which aimed to protect the rights of both temporary migrant workers and local workers in the context of the China FTA and other trade agreements. The campaign also influenced the Coalition Government, which, after months of denying any problems and vilifying critics, agreed to negotiate on the amendments. However, these negotiations did not address ISDS or other problems with the China FTA.

The [agreement](#) reached between the government and the ALP on October 21 involves changes to the regulations of the Migration Act, not the Act itself. These will include labour market testing for Investment Facilitation Agreements, raising the minimum rate of pay for all temporary migrant workers to local market rates and ensuring that skilled workers have the relevant license or registration within 90 days. It remains to be seen how effective these regulations will be in practice without additional resources for enforcement, given the many [current examples](#) of workers on temporary visas being exploited. The deal means that the ALP will support the China FTA implementing legislation and it will pass in the Senate in the week of November 9. Greens and Independent Senators remain opposed to the agreement.

Unions and community groups welcomed some increased protection for workers' rights, but were critical that they fell short of legislative change, and noted that other problems like ISDS remain in the China FTA. The campaign will continue into November, with a series of local [public meetings](#) in marginal electorates across the country.

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