



BULLETIN - December 2019

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1. [Introduction](#)

Dear Members,

Thank you to everyone who attended AFTINET's Annual General Meeting on Wednesday 13 November where our Convenor Pat Ranald gave an update on our campaigning in 2019 and Dr Jonathan Bonnitche from UNSW, spoke about the impact of ISDS on public interest policies and the ongoing global ISDS review and reform processes.

Three trade agreements with Indonesia, Hong Kong and Peru were ratified by Parliament this month, despite strong pressure from AFTINET and other civil society groups. These agreements all include investor-state dispute settlement provisions (ISDS) and other damaging provisions. Read below for more information.

The RCEP campaign will continue into the new year after Australia and 14 other governments committed to sign the agreement in early 2020. We have joined with 94 community organisations across the region to demand the immediate release of the text and we will continue to campaign against damaging provisions in the deal next year.

If you haven't already done so, please [Sign the Petition](#) to the Senate against damaging clauses in the RCEP and in favour of enforceable workers' rights and environmental standards.

Thank you for your support in 2019! We wish you a joyful holiday season and look forward to working with you in 2020.

The AFTINET Team

2. AFTINET's achievements in 2019

Thanks to all our members and supporters who sustain our work. Special thanks to the AFTINET Working Group members and to Sophie Hardefeldt, who has been with us for four days a week as an analyst and campaigner since April and has made an enormous contribution to our work.

Political Parties' policies and trade deals with Peru, Indonesia and Hong Kong

We succeeded in obtaining commitments from Labor, the Greens and Centre Alliance to [support significant trade justice policies](#) before the May election. These included policies against special rights for foreign investors to sue government (ISDS), the inclusion of provisions that can extend medicine monopolies, increase the numbers of temporary workers who are vulnerable to exploitation, and enable the deregulation of essential services. They agreed to support enforceable labour rights and environmental standards, release of texts and independent economic and social evaluation of texts before they are signed.

After the election AFTINET campaigned to hold political parties to account for these policies on the Peru, Hong Kong and Indonesian free trade agreements, which contained ISDS and had no enforceable labour rights or environmental standards. We also made a submission on the Uruguay-Australia investment agreement, which includes ISDS. We met with politicians, including many newly elected ones. We made [submissions](#) to parliamentary inquiries and worked with Indonesian civil society groups to publish a [joint statement](#) opposing ISDS. We participated in a [public rally](#) protesting the violations of human rights by the Hong Kong government.

AFTINET also organised a [letter](#) signed by the ACTU, the Australian Catholic Social Justice Council, ActionAid Australia, the Australian Conservation Foundation, Friends of the Earth Australia and the Public Health Association of Australia to all Labor and cross-bench MPs, asking them to implement their policies and oppose the enabling legislation for the three agreements in the Senate. Unions also lobbied publicly against the deals.

After a bitter internal debate, the majority in the Labor caucus [decided](#) on October 17 to support the enabling laws for the three deals, which was passed on November 26. The Greens and Centre Alliance stuck to their policies and voted against the legislation.

The Shadow Trade Minister justified Labor's position by obtaining commitments from the government to cancel the old Indonesian Investment treaty, to improve conditions for migrant workers and to review the trade agreement process. But the agreements still include ISDS and other proposals contrary to Labor policy. We will monitor these commitments and use the review of the trade agreement process to advocate for transparency and democratic accountability.

The RCEP campaign

The Regional Comprehensive Economic Partnership (RCEP) negotiations originally involved the sixteen governments of Australia, New Zealand, China, India Japan, Korea and the 10 ASEAN countries. [Leaked documents](#) showed a corporate agenda of proposals that have been resisted by developing countries like India and the ASEAN countries, including ISDS, longer medicine monopolies deregulation of essential services and deregulation of e-commerce. There are no commitments on enforceable labour rights or environmental standards.

When RCEP negotiations were planned for Melbourne in July 2019. AFTINET organised a letter to the Minister signed by 52 union and community organisations, and meetings with RCEP negotiators. Working with unions, ActionAid, public health, environment and other organisations we held a public meeting and public rally, and received coverage in the [Melbourne Age](#) and other Fairfax media, on ABC Radio National [Late Night Live](#) and on regional radio, and in specialist [health](#), [environmental](#) and [development](#) media.

We publicised in September the announcement by Malaysia that [ISDS had been excluded](#) from the RCEP negotiations. showing the impact of campaigns here and in other RCEP countries. However, we will not know this for sure until after the text is released.

Fifteen governments [announced](#) agreement about the text of the RCEP on November 5, without India. As usual, the text is still secret and will not be revealed until after the deal is signed in 2020.

We explained in [The Conversation](#) and on [ABC Radio National](#) that India's refusal to join is not only about its resistance to lower tariffs, but reflects Indian social movements' opposition to the RCEP corporate agenda, including ISDS, and called for the release of the text. We also received coverage on ABC TV news 24, and on commercial radio.

India's absence severely diminishes claimed market access gains for Australian exports because Australia already has a free trade agreement with the 10 ASEAN countries and has bilateral free trade agreements with all of the other countries. India was the only country with potential significant additional market access.

On December 6 we sent to the Trade Minister a regional letter calling for release of the RCEP text, which was endorsed by 94 civil society organisations from 14 RCEP countries, and was released to the media. See the media release and letter [here](#).

We are continuing to promote our [RCEP petition to the Senate](#) against harmful proposals in the RCEP and for the release of the text and independent evaluation of it before it is signed. We urge you to sign it and share widely.

We are also monitoring the Australia-EU free trade negotiations, which are expected to continue into next year. ISDS has been excluded from these negotiations, but there are proposals for stronger medicine monopolies and deregulation of services and e-commerce.

Thanks to Sophie's work we have produced an updated briefing on the RCEP, and fact sheets on [trade and environment issues](#) and [trade and health](#) which together with our [updated briefing on ISDS](#) are available on our website.

So despite setbacks, over the last year, working with our international allies, we have had some tangible achievements. We have educated a new crop of politicians and influenced their policies. We have received media coverage in the Nine (previously Fairfax) media, and on ABC and SBS national TV and radio, and on commercial radio. We have expanded our links with unions and Action Aid in the RCEP campaign, and deepened our work with public health groups who have set up a network to monitor trade and health issues. There will be no ISDS in the EU FTA and we may have kept it out of the RCEP. We will continue to campaign against these and other harmful proposals in all agreements.

Call for members to join AFTINET's 20th Anniversary Working Group

AFTINET is turning 20! We are looking for members to join our 20th Anniversary working group to help us plan our celebrations! If you're interested in getting involved please get in touch via campaign@aftinet.org.au and 02 96993686.

RCEP updates

Reports suggest Japan not considering RCEP without India

[Japan's Deputy Minister for Economy](#), Trade and Industry, Hideki Makihara, has stated that Japan is "not thinking at all" about a Regional Comprehensive Economic Partnership (RCEP) deal without India, calling into question the future of the deal.

The comments came ahead of a series of talks between India and Japan last week, that addressed India's concerns with the RCEP agreement amongst other issues. Reports suggest that Japan is seeking to consolidate its relationship with India to mitigate China's increasing regional dominance.

Business economists critical of claimed RCEP economic benefits

Business economist [Ian Verrender](#) has criticised the Regional Comprehensive Economic Partnership as another example of overlapping bilateral and regional trade agreements with complex rules that will not deliver claimed economic benefits but could do harm.

Economist decodes India's decision to withdraw from the RCEP

[Professor Biswajit Dhar from Jawaharlal Nehru University](#) in Delhi has analysed the Indian government's decision to withdraw from the RCEP. Highlighting the ongoing disagreement between India and other RCEP countries on market access provisions, the protection and promotion of

foreign investment and e-commerce provisions as central to [India's decision to withdraw from the negotiations](#).

Women's rights advocates warn of RCEP risks

Kate Lappin, Asia Pacific Regional Secretary of Public Services International, and Michelle Higelin, Executive Director of ActionAid Australia, have [warned of the danger](#) that the Regional Comprehensive Economic Partnership agreement (RCEP) poses to the 1.1 billion women living in RCEP member countries, arguing that "a gender equitable trade policy is possible. But it would look nothing like the RCEP."

E-commerce provisions important in India's withdrawal from the RCEP

Kanksshi Agarwal, a policy and political researcher based in Delhi, has [analysed](#) the role that e-commerce provisions in the Regional Comprehensive Economic Partnership (RCEP) have played in India's decision to withdraw from the agreement.

3. 20 years after the Battle of Seattle the WTO needs real change, not Trump unilateralism

[Deborah James](#) argues that, 20 years after huge protests surrounded the Seattle WTO Ministerial meeting, World Trade Organisation (WTO) promises of prosperity and job creation remain unfulfilled.

The protests from unions, environmentalists and other community organisations delayed the meeting, while developing countries inside the meeting refused to agree to new WTO negotiations that would have ignored their development needs. In 2001, developing countries did agree to a new round of WTO trade talks, dubbed the 'Doha Development Round' which promised to address development needs, but those promise have not been met.

James argues that, as the protestors predicted, WTO agreements on trade in goods, agriculture, trade related intellectual property rights and trade-related investment measures have met the needs of global corporations but constrained government regulation in the public interest, especially in developing countries, without any safety nets to prevent erosion of labour rights and environmental standards. WTO agreements have restricted regulation to make medicines affordable and for food security in developing countries.

She also criticizes the current e-commerce talks taking place between a minority of mostly industrialised WTO members as an attempt by Tech industry giants like Google and Facebook to control the [global \(digital\) economy](#), 'while handcuffing governments from regulating the industry in the public interest.'

James slams the 'false nationalism' of the Trump administration in blocking appointments to the appeals body of the WTO Dispute Settlement Mechanism (DSM), while pursuing its own bilateral deals that are still dominated by corporate interests.

Instead she argues for trade based on multilateral principles that facilitates decent jobs, access to affordable medicines, healthy food, and a thriving environment.

She concludes that a blueprint for achieving these goals can be found in "A New Multilateralism for Shared Prosperity: Geneva Principles for a Green New Deal" published by the [UN Conference on Trade and Development \(UNCTAD\)](#).

4. Leaked documents from US-UK trade talks show NHS at risk and US pushing for hard Brexit

[Leaked documents](#) from US-UK trade talks show that the US has been pushing the UK towards a hard Brexit and that the National Health Service (NHS) has not been excluded from trade discussions.

The explosive documents from six roundtable discussions between US and UK trade negotiators cover everything from the UK's Brexit policy to medicine prices and food standards, e-commerce provisions and the inclusion of ISDS. They confirm many of the concerns raised by civil society organisations in the UK about the social and economic risks of a trade agreement with the Trump administration.

The documents confirm that the US is using trade talks to push the [UK to lower its food safety and labelling standards](#) after leaving the EU.

The documents also confirmed that the US proposed that the agreement include Investor-state dispute settlement (ISDS), which enables corporations to sue governments for policy decisions that impact on their investments. They also confirm that, while the US has [banned any mention of climate change](#) in the discussions, the UK's NHS remains on the table and [discussions also addressed medicine patents which could lead to an increase in UK medicine prices](#).

5. Government could delay response to ACCC report amid tech industry lobbying

A recent article in the [Australian](#) suggests that the government may delay its response to the Australian Competition and Consumer Commission (ACCC) digital platforms inquiry report amid strong lobbying from the tech industry.

After the release of the digital platform inquiry report in July, [AFTINET](#) raised concerns about the compatibility of the ACCC recommendations with e-commerce provisions in several Australian trade agreements as well as with discussions that Australia is leading at the WTO on the development of a plurilateral agreement on digital trade. Globally, [civil society organisations argue](#) that e-commerce rules in trade agreements could undermine privacy rights and consumer protections and restrict governments from regulating the digital economy in the public interest.

There is evidence to show that the WTO discussions are [highly influenced by the tech industry lobby](#). What we are now seeing is that tech giants like Facebook, Google and Twitter are also trying to influence domestic processes. The Australian reports that lobbyists from tech companies and their industry body Digital Industry Group Inc (DIGI) met with Senior MPs last week, arguing that the ACCC recommendations were too harsh. DIGI also established a "Parliamentary Friends of the Digitally Enabled Economy" group that was co-founded by Liberal MP Dave Sharma and Labor's Anne Aly.

Opposition technology spokeswoman Clare O'Neil expressed concern about tech industry influence, stating "we know the big tech companies are very concerned about it because they are very worried the Australian legislation will set a global precedent for the obligations owed by tech companies and I'm worried they are exerting undue influence."

6. Uruguay investment agreement endorsement underlines undemocratic process for trade deals

The government announced that a new Bilateral Investment Agreement between Uruguay and Australia was signed on April 5, 2019. As is the usual practice, the text was tabled in parliament only after signing, and the agreement was reviewed by the Joint Standing Committee on Treaties (JSCOT), which [reported](#) on December 3. Since the government has a majority on the committee, the report recommended that the government ratify the agreement. The previous 2002 Uruguay-Australia bilateral agreement will be terminated when this agreement enters into force.

The agreement contains Investor-State Dispute Settlement (ISDS). The government argued that the new agreement is a better version of ISDS because it is more explicit about governments' right to regulate than the old agreement, and has some improved procedural processes. AFTINET's [submission](#) to the JSCOT inquiry argued that, although the new agreement did have some changes, it still gives additional legal rights to global corporations that already have enormous market power, and does not actually prevent ISDS cases from being launched against health, environment and other public interest laws.

There were critical comments from the Labor and Greens members of the committee about ISDS and the lack of consultations about the agreement.

Unlike the practice with other agreements, there was no information on the DFAT website about the negotiations and no public invitation for submissions during the negotiations. AFTINET was not aware that the agreement was being negotiated until the government announced that the agreement had been signed.

This is a new low in lack of public consultation during negotiations. But there is more.

Since the Uruguay agreement deals only with investment and requires no changes to legislation, there is no enabling legislation and no opportunity for parliament to debate or vote on it. The broader parliament therefore has no role at all in the decision about its implementation. This underlines once again the democratic deficiencies in the trade agreement process. AFTINET will be pursuing this in the upcoming review of the trade agreement process which is expected in 2020.

7. EU Members agree to treaty that prevents intra-EU ISDS cases

The [European Commission](#) has announced the conclusion of a treaty between EU members that will terminate intra-EU bilateral investment treaties and prevent investor-state dispute settlement (ISDS) cases being brought between EU member states.

The treaty comes after a decision by the European Court of Justice in 2018 which found that the inclusion of ISDS clauses in bilateral investment agreements between EU member states was contrary to EU law.

According to the European Commission statement, most EU members have signed the text and will now start domestic ratification processes. However, discussions are ongoing with a minority of governments who have not yet agreed to sign the termination treaty.

Discussions will also continue about the status of ISDS clauses in the [Energy Charter Treaty](#), which most EU members are signatories to, but which also includes non-EU members. The [Energy Charter](#) has led to more ISDS claims than any other investment agreement globally.

8. New working paper calls for progressive trade agenda beyond NAFTA

A new working paper by the Canadian Centre for Policy Alternatives, Institute for Policy Studies, and Rosa Luxemburg Stiftung calls for a new progressive trade agenda.

[Beyond NAFTA 2.0: Toward a Progressive Trade Agenda for People and Planet](#) argues that it is not enough for the progressive movement to react neoliberal trade agreements as they are developed. We must put forward an alternative vision for international economic cooperation and global development that puts people and the environment ahead of corporate profit.

The report uses the newly signed, but not yet ratified, United States–Mexico–Canada Agreement, otherwise known as the NAFTA 2.0, as a case study to identify the problems with neoliberal trade agreements as well as to outline an alternative and more progressive approach to trade agreements.