



BULLETIN June 2013

Inside this edition:

- [17th round of Trans-Pacific Partnership \(TPPA\) negotiations in Peru : Actions and outcomes](#)
- [Opposition LNP Policy supports Investor rights to sue governments \(ISDS\)](#)
- [Digital coalition demands fair deal on TPPA copyright provisions](#)
- [Wall Street Attacks Finance Regulation through Trade Deals](#)
- [Obama's Covert Trade Deal : New York Times](#)
- [AFTINET Submission on the Regional Comprehensive Economic Partnership](#)

17th round of TPPA negotiations Peru May 13 -24: actions and outcomes

International Days of Action in May

People on four continents took action leading up to the Lima negotiations, concentrated on World Fair Trade Day on May 11. In Australia there were protests in Sydney and Melbourne reported below.

Educational events about the TPP took place in the United States in Minneapolis, Portland, Seattle, St Louis, Washington. Detroit, New York, Berkley, San Antonio, Chicago and Tampa.

In Canada there was a community assembly in Toronto and a speakers' tour throughout British Columbia.

There was a major TPP demonstration in Tokyo, Japan; an earlier rally in Kuala Lumpur, Malaysia; a teach-in in Wellington and banner drops in Auckland, New Zealand; and, of course, educational events and a rally outside the TPP negotiations themselves in Lima, Peru.

Civil society Actions in Peru

Peruvian civil society groups organized a series of events in Lima to highlight their opposition to TPP provisions on pharmaceutical IP rights, copyright and investor-state dispute settlement. The groups, led by non-governmental organization RedGe also collected signatures for a petition to Peruvian President Ollanta Humala urging him to establish non-negotiable limits that guarantee the rights of Peruvians in these three areas.

Events included the presentation on May 14 of a new civil society report on TPP's impact on access to medicines; a May 15 press conference with civil society representatives; a series of public fora on May 16 focusing on IP, investment and labor rights issues; and a public protest on May 17. There was a strong presence from La Oroya community affected by lead poisoning from the Renco mine, the owners of which are suing the Peruvian government because it dared to hold them accountable for the mine's pollution.

See <http://citizen.typepad.com/eyesontrade/2013/05/recap-from-lima-tpa-round-17.html>

A lunch meeting on the La Oroya case was held for investment & environment negotiators, addressed by the Peruvian Former Vice Minister of Environment, was well attended. Eduardo Bianco, a doctor from Uruguay also held meetings with negotiators on the Phillip Morris case against Uruguay's tobacco advertising regulation and warned that this could happen under the TPPA ISDS proposal. Philip Morris is also using an obscure Australia-Hong Kong investment agreement to sue the Australian Government over its plain packaging legislation.

Chile's former TPPA chief negotiator Rodrigo Contreras warned that TPPA proposals would restrict options for development in health and education, in biological and cultural diversity other public policies See <http://aftinet.org.au/cms/node/589>

South American consumer groups declared that proposals at TPP negotiations in Peru would weaken protections for consumers on food, privacy and labour standards. See <http://aftinet.org.au/cms/node/588>

Australian actions: media, symposium and rallies

Dr Deborah Gleeson and Professor Sharon Friel published an article on *The Conversation* blog about the impact of trade agreements on increases in unhealthy foods entering the domestic market. The TPPA could go even further and increase the influence of the food industry on domestic regulatory regimes and policies. See <http://aftinet.org.au/cms/node/578>

Drs Gleeson and Professor Friel also organised a successful symposium about the TPPA impact on health on May 9 at the Australian National University in Canberra. See <http://nceph.anu.edu.au/news-events/new-generation-trade-policy-maximising-benefits-equity-nutrition-and-human-health>

As part of the international day of action on world trade day on May 11, AFTINET organised protest rallies on the TPP in Martin place in Sydney and Bourke streets in Melbourne. See pictures on the AFTINET Facebook page at <https://www.facebook.com/pages/Australian-Fair-Trade-and-Investment-Network-AFTINET/219004528130731>

Developments in the Negotiations

The TPPA leaders announced last year that they were aiming to finish the negotiations by October 2013. Negotiators are under pressure to complete as much text as possible, leaving only serious areas of disagreement to be determined by leaders at the political level at a side meeting of the TPPA to be held at the APEC meeting in Bali in October. However, the entry of Japan into the negotiations from July is expected to slow the pace, as Japan is reluctant to open markets in areas like rice and car imports. There is also a strong Japanese movement which opposes the TPP proposals on medicines, copyright and investor rights to sue governments.

It was reported that there was progress made on sanitary and phytosanitary measures, e-commerce, rules of origin, and legal and institutional issues.

The areas with the biggest differences still include intellectual property rights, involving both patents on medicines and copyright issues, environment, state-owned enterprises, and market access for goods, services and government procurement

US texts on intellectual property and medicines, and on proposed changes to medicine pricing schemes like the PBS, were rejected in previous rounds by most governments. The US is reportedly reconsidering these proposals, but still did not table a new text in Lima.

There is also continuing disagreement about the copyright provisions of the intellectual property chapter, because of disagreement with the US proposals for greatly increased protections for copyright holders and inadequate safeguards for consumers, especially on the Internet.

The US proposal to for legally binding restrictions on state-owned commercial enterprises, purportedly to prevent them from competing unfairly with other businesses, remains controversial.

There is still disagreement over how labour standards will be enforced in the labour chapter. The environment chapter is further behind, with no agreement about either standards or enforceability.

There are still differences over the investment chapter. Australia is still refusing to agree to apply investor-state dispute process, which would give foreign corporations the right to sue governments for damages if a law or policy harms their investment.

It is still unlikely that the US will offer any increases in access to its own markets for countries like Australia which have existing bilateral agreements with it. The US government does not have the trade promotion authority it needs from Congress to sign the agreement, and there is increasing Congressional unease in the US about the secrecy of the agreement (see New York Times opinion piece below). This plus the entry of Japan means that the negotiations are likely to continue into 2014.

Eighteenth negotiations July 15-25 in Malaysia

The next round of negotiations will be held in Malaysia from July 15-25.

Opposition LNP Policy supports Investor rights to sue governments (ISDS)

The Australian election is on September 14. If there is a change of government, the Liberal National party has already signalled that it may be willing to agree to investor state disputes in trade agreements in order to conclude a deal. In 2011, from Senator Julie Bishop, the Opposition spokesperson on trade was quoted in *The Australian Financial Review* April 2, 2013.

The article reported that the Coalition would consider removing a major obstacle to Australia finalising trade deals with South Korea and Japan, in a bid to resolve an impasse that exporters argue is costing them dearly.

The article noted that the Labor government has resisted the inclusion in trade deals of so-called investor state dispute settlement (ISDS) provisions, which would allow foreign companies to claim compensation for policy or legal decisions that hurt their investments.

The article then reported that the opposition foreign affairs and trade spokeswoman Julie Bishop said a Coalition government would be prepared to consider including these provisions in a range of bilateral and multi-lateral trade talks.

"I'm informed by South Korean representatives that the failure to include in the negotiations an investor state dispute settlement provision is the reason an agreement cannot be concluded. This is gross negligence or incompetence on the part of [Trade Minister] Craig Emerson," she told *The Australian Financial Review*.

"By not even including it in the first round, we have no bargaining position on the issue. The beef exporters are furious the government has backed itself into a corner and proven to be so inept at negotiating a deal with South Korea when the United States has achieved one," Ms Bishop said.

"The Coalition would, as a matter of course, put ISDS clauses on the negotiating table and then negotiate ISDS provisions on a case-by-case basis."

AFTINET is seeking discussions with the Coalition about this and other aspects of their trade policy.

Digital coalition demands fair deal on TPPA copyright provisions

A coalition of organisations has started a 'Fair Deal' campaign against copyright provisions in the Trans-Pacific Partnership (TPP) Agreement

The Fair Deal coalition includes the Australian Digital Alliance, Electronic Frontiers Australia and InternetNZ and represents Internet users, schools, universities, consumers, IT firms and business.

It has called on TPP negotiators to reject copyright proposals which would restrict internet use by requiring [the] termination of Internet access for infringement of copyright or encourage service providers to police Internet use. See <http://aftinet.org.au/cms/node/587>

Wall Street Attacks Finance Regulation through Trade Deals

Wall Street Seeks to Change Dodd Frank rules Via Trade Deals

U.S. bankers and insurers are trying to use trade deals, which can trump existing legislation, to weaken parts of the Dodd-Frank Act designed to prevent a repeat of the 2008 financial crisis.

Their effort is drawing fire from groups who argue that Wall Street wants to make the trade negotiations a new front in its three-year campaign to stop or alter the law. See <http://aftinet.org.au/cms/node/590>

Obama's Covert Trade Deal: New York Times oped

By Lori Wallach and Ben Beachy

Published: New York Times June 2, 2013

WASHINGTON — THE Obama administration has often stated its commitment to open government. So why is it keeping such tight wraps on the contents of the Trans-Pacific Partnership, the most significant international commercial agreement since the creation of the

The agreement, under negotiation since 2008, would set new rules for everything from food safety and financial markets to medicine prices and Internet freedom. It would include at least 12 of the countries bordering the Pacific and be open for more to join. President Obama has said he wants to sign it by October.

Although Congress has exclusive constitutional authority to set the terms of trade, so far the executive branch has managed to resist repeated requests by members of Congress to see the text of the draft agreement and has denied requests from members to attend negotiations as observers — reversing past practice.

While the agreement could rewrite broad sections of nontrade policies affecting Americans' daily lives, the administration also has rejected demands by outside groups that the nearly complete text be publicly released. Even the George W. Bush administration, hardly a paragon of transparency, published online the draft text of the last similarly sweeping agreement, called the Free Trade Area of the Americas, in 2001.

There is one exception to this wall of secrecy: a group of some 600 trade "advisers," dominated by representatives of big businesses, who enjoy privileged access to draft texts and negotiators.

This covert approach is a major problem because the agreement is more than just a trade deal. Only 5 of its 29 chapters cover traditional trade matters, like tariffs or quotas. The others impose parameters on nontrade policies. Existing and future American laws must be altered to conform with these terms, or trade sanctions can be imposed against American exports.

Remember the debate in January 2012 over the Stop Online Piracy Act, which would have imposed harsh penalties for even the most minor and inadvertent infraction of a company's copyright? The ensuing uproar derailed the proposal. But now, the very corporations behind SOPA are at it again, hoping to reincarnate its terms within the Trans-Pacific Partnership's sweeping proposed copyright provisions.

From another leak, we know the pact would also take aim at policies to control the cost of medicine. Pharmaceutical companies, which are among those enjoying access to negotiators as "advisers," have long lobbied against government efforts to keep the cost of medicines down. Under the agreement, these companies could challenge such measures by claiming that they undermined their new rights granted by the deal.

And yet another leak revealed that the deal would include even more expansive incentives to relocate domestic manufacturing offshore than were included in NAFTA — a deal that drained millions of manufacturing jobs from the American economy.

The agreement would also be a boon for Wall Street and its campaign to water down regulations put in place after the 2008 financial crisis. Among other things, it would practically forbid bans on risky financial products, including the toxic derivatives that helped cause the crisis in the first place.

Of course, the agreement must eventually face a Congressional vote, which means that one day it will become public.

So why keep it a secret? Because Mr. Obama wants the agreement to be given fast-track treatment on Capitol Hill. Under this extraordinary and rarely used procedure, he could sign the agreement before Congress voted on it. And Congress's post-facto vote would be under rules limiting debate, banning all amendments and forcing a quick vote.

Ron Kirk, until recently Mr. Obama's top trade official, was remarkably candid about why he opposed making the text public: doing so, he suggested to Reuters, would raise such opposition that it could make the deal impossible to sign.

Michael Froman, nominated to be Mr. Kirk's replacement, will most likely become the public face of the administration's very private negotiations and the apparent calculation that underlies them. As someone whose professional experience has been during the Internet era, he must know that such extreme secrecy is bound to backfire.

Whatever one thinks about "free trade," the secrecy of the Trans-Pacific Partnership process represents a huge assault on the principles and practice of democratic governance. That is untenable in the age of transparency, especially coming from an administration that is otherwise so quick to trumpet its commitment to open government.

Lori Wallach is the director of Public Citizen's Global Trade Watch, where Ben Beachy is the research director.

AFTINET Submission on the Regional Comprehensive Economic Partnership

Negotiations for the Regional Comprehensive Economic Partnership (RCEP) between Australia, New Zealand, China, Japan, India, South Korea and the 10 ASEAN countries began in May. The Australian government called for submissions in April.

AFTINET's submission advocates for fair trade based on human rights, labour rights and environmental sustainability, with no reduction in the right of governments to regulate in the public interest. See <http://aftinet.org.au/cms/node/570>