



BULLETIN

March 2018

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Introduction

It's been a big month for AFTINET. The TPP-11 was tabled in Australian parliament this week, and our campaign to secure a Senate inquiry to consider whether the deal is in the public interest was successful. Now we will need to intensify our campaigning efforts. There will be resources on our website and we will be circulating a draft submission to you soon. The Peru-Australia FTA is also facing a Joint Parliamentary Inquiry. Many of you will have noticed US trade is becoming more unilateral and contradictory, as the Trump administration threatens China tariffs while shifting US focus to new FTAs. Thankfully, Jim Stanford from the Australia Institute published an article setting out alternatives to both Trump's unilateralism, and to corporate-dominated trade deals like the TPP. Read on to find out more.

You're invited to the annual AFTINET fundraising dinner

It's that time of year again – the AFTINET trade justice fundraising dinner. We hope you'll join us for an evening of delicious Turkish food, entertaining speakers and great company. Our guest speaker this year is Kate Lappin, the Asia Pacific Regional Secretary for Public Services International, the global union federation covering 20 million workers delivering vital public services across the world. Kate has been based in Southeast Asia for the past decade, working to advance labour rights, women's human rights and development justice. She will talk about the impact of the TPP-11 on public services.

Details: 6pm, Tuesday 22 May

Erciyes Turkish Restaurant, 409 Cleveland St Surry Hills, 2010.

\$77 per person or \$616 for a table of eight.

To attend, please [pay via PayPal](#) or fill out and return the [booking form](#) by May 15, 2018.

AFTINET welcomes TPP-11 Senate inquiry as victory for transparency and accountability

Dr Patricia Ranald, Convener of the Australian Fair Trade and Investment Network, has welcomed the Senate [decision](#) yesterday for an Inquiry by the [Senate Standing Committee on Foreign Affairs, Defence and Trade](#) to assess whether the rebadged Comprehensive Progressive TPP-11 is in the public interest, before Parliament considers the implementing legislation.

Achieving a Senate Inquiry is a victory in our campaign more transparency and accountability in the trade agreement process. The motion for the Inquiry was initiated by NXT Senator Rex Patrick and supported by Labor and the Greens.

The rebadged Comprehensive Progressive Trans-Pacific Partnership (CPTPP) without the US was signed by 11 governments on March 8 and tabled in the Australian Parliament on March 26.

But the campaign is not over yet. The agreement cannot proceed unless the implementing legislation is passed. The legislation will be reviewed by the Joint Standing Committee on Treaties, on which the government has a majority, and which will consider a report from the Department of Foreign Affairs and Trade, which negotiated the agreement and always recommends in favour of the implementing legislation. It is important that this inquiry receives critical submissions from a range of organisations and individuals to counter this report.

But the government does not have a majority on the Senate inquiry. This inquiry can conduct a more open and independent assessment of the TPP-11 and we will campaign for the Senate to block the TPP-11 implementing legislation if it is not in the public interest.

So, our campaign needs to intensify over the next 4 months.

We urge all members and supporters to make submissions or send letters to both Inquiries. You can send the same submission to both. We will also be organising social media and public events during the Inquiries.

Joint Standing Committee on Treaties: submissions due by April 20, will report by August 22, text and more information [here](#).

Senate Standing Committee on Foreign Affairs Defence and Trade, report date September 18, submission due date to be announced soon.

We will circulate our draft submission to members and provide on our website points for those who wish to make short submissions.

We need your support to maximise pressure on the Senate majority of Labor, the Greens, NXT and independent Senators to vote against the TPP-11 implementing legislation if it is not in the public interest.

Peru-Australia FTA faces Joint Parliamentary Inquiry: submissions due April 20

Peru is part of the TPP-11 agreement, one of three countries with which Australia did not already have a free trade agreement. It appears the government wanted to have a separate agreement as insurance against the failure of the TPP-11.

The agreement was signed on February 12, 2018, the text has been tabled in Parliament, and the Joint Standing Committee on Treaties will review the implementing legislation. The government has a majority on this committee and it will rely on a report from the Department of Foreign Affairs and Trade that negotiated the agreement.

Preliminary analysis of the text shows that it is very similar to the TPP text, and still contains ISDS. It is important that the committee receive critical submissions to counter the DFAT report. The committee is calling submissions by April 20, and will report on by August 22.

The JSCOT Inquiry website with more information and links to the text is [here](#). AFTINET will circulate a draft submission to members.

ACTU responds to the TPP-11

Australia has made commitments under the TPP-11 to remove labour market testing for contractual service providers, a category which includes hundreds of skilled trades occupations. Australian employers may hire temporary workers from six new countries (Mexico, Chile, Japan, Canada, Vietnam and Malaysia) without first testing if local workers are available.

The [ACTU believes](#) Australia has done less than other partner countries to protect local jobs in the TPP-11. The Turnbull government claims it has received 'reciprocal' offers from the governments of the six countries above. But these countries have only made offers to remove labour market testing for occupation categories like senior executives and specialist highly qualified professionals. Here, 'reciprocal' does not mean equal.

ACTU Secretary Sally McManus [says](#) that unfair trade agreements are contributing to casualisation, the underpayment of wages and to increase numbers of vulnerable temporary workers which are tied to one employer. She called for a return to 'permanent migration with temporary visas used only for genuine shortages and with strong protections against abuse.'

Governments should always retain their ability to regulate labour market policies, which need constant adjustment to ensure workers are not exploited. This can only be ensured by not including temporary labour arrangements in trade agreements.

Trump tariff threat to China as US policy shifts to FTAs

US trade policy has become more dangerously unilateral and contradictory. US President Trump has [threatened](#) to impose tariffs on US\$60 billion of Chinese exports to the US, and China has

threatened to retaliate with its own tariffs on US goods. Of course, global stock markets plunged in response to the news.

Although such unilateral tariff action from the US would violate WTO rules, ironically Trump has also threatened to lodge a WTO dispute against China for presiding over violations of WTO intellectual property rules. US has also disrupted the WTO dispute process by refusing to nominate arbitrators to it.

US Trade Representative Robert Lighthizer has [said](#) his office is now ready to pursue separate Free Trade Agreements with Japan, the Philippines and an unnamed African country. He said any new FTAs would be quickly finalised, and that agricultural exports would be a priority.

These moves follow last week's announcements of tariffs on steel and aluminium imports into the US, again after a "consultation" period that maximises US bargaining power. This naked and contradictory use of economic power shows that the current system is broken. We need fairer trade rules for an open democratic trade system that includes all governments, based on labour rights and environmental sustainability.

ISDS tribunal awards \$24 million to mining company that ignored Indigenous land rights

An international investment tribunal has [ordered](#) in favour of a mining company over the Peru government, in a case heard under the Investor-State Dispute Settlement provisions of the Canada-Peru Free Trade Agreement.

The Peru government has been ordered to pay Bear Creek mining company \$18.2 million in compensation, because the government cancelled a mining licence for one of Bear Creek's projects. The license was cancelled after the company failed to obtain informed consent from Indigenous land owners about the mine, leading to mass protests. A dissenting minority judgement about the costs noted that Bear Creek had failed to implement provisions of the [ILO Convention on Indigenous Peoples](#) to which Peru is a party.

This is a very disturbing precedent. It may encourage other mining companies to use ISDS provisions in agreements like the TPP-11 in the Australian context, where there is no general exemption which would totally exclude a similar ISDS case. The reference to the importance of indigenous rights inserted by Canada into the preamble is not legally binding, unlike the rest of the agreement.

Indonesia WTO case may delay Australian FTA

Indonesia has initiated a [WTO dispute](#) alleging that Australia's anti-dumping tariffs on Indonesian A4 copy paper break WTO rules, which allow anti-dumping measures if exports are priced below their real costs of production. Australia's Anti-Dumping Commission found that Indonesian paper was priced below its real cost because of Indonesian government subsidies, and Australia imposed tariffs of 13 per cent to 33 per cent on five Indonesian paper producers last week. Indonesia is challenging the method of calculating costs used by the Anti-Dumping Commission.

The Indonesian dispute was lodged on March 16, on the same day that Prime Minister Turnbull met Indonesian Prime Minister Joko Widodo at the Sydney ASEAN summit and announced they hoped to conclude a free trade agreement soon.

The [Australian Financial Review](#) reported that the paper tariffs caused "extreme frustration in Jakarta", and that Indonesian Trade Minister Thomas Lembong made a more cautious statement saying that the FTA might be concluded "by the end of this year."

A fair alternative to both Trump and free trade ideologues

We spend a lot of time critiquing bad trade agreements, but what would fairer trade look like? Jim Stanford from the Australia Institute has set out an alternative to both Trump's unilateralism, and to corporate-dominated trade deals like the TPP, by developing some [key principles for fairer trade](#):

- trade deals should not prevent governments from regulating markets and businesses in the public interest
- trade deals should not give extra rights to foreign corporations to sue governments (ISDS) and should not strengthen monopolies for drug companies
- governments should retain the right to regulate foreign investment and speculative capital flows
- trade deals should have enforceable commitments to international labour rights and environmental standards
- a progressive trade policy must recognise there are winners and losers from trade, and must include high standards of social protection, inclusion and job creation

Government fights to keep Philip Morris costs secret

Although Australia won the ISDS case against Philip Morris tobacco over plain packaging laws, it took over four years and reportedly cost over \$50 million in legal costs. Both the proportion and the total costs were blacked out of the [final decision](#) in that case, and the government has refused to release the details. In February the Australian Information Commissioner gave the Federal government 28 days to release the costs or lodge an appeal. The Government has lodged an appeal.

Senator Patrick, who waged a [long FOI battle](#) on this case, thinks the Department of Health's appeal is a 'delaying tactic', and will be 'keeping an eye' on how much the appeal costs taxpayers too. He is worried that the rebranded 'Comprehensive Progressive' Trans-Pacific Partnership, which contains ISDS, could lead to other ISDS cases against Australia with huge costs.

Japan pushes to conclude RCEP by 2018, but slow progress

Japan [insists](#) that it is possible to reach an agreement on the Regional Comprehensive Economic Partnership (RCEP) before the end of 2018, although key differences remain on issues like medicine monopolies and investment rules.

In a [joint statement](#) issued after the talks, RCEP Ministers reported progress on tariffs, and 'growing convergence' on differences over investment. They 'recognized the divergence in the levels of ambition in some areas', and called on negotiators to find 'creative, innovative and pragmatic landing zones' to settle those differences.

There will be two further meetings in April and June, and another ministerial meeting in July before the ASEAN economic ministers' meeting in August.

Two articles discuss the cost of free trade agreements

After the TPP-11 text was finalised, much of the news coverage was uncritical or positive. However there has also been some [more useful analysis](#) of the deal and its potential consequences.

[This article](#) by Anna Patty in the SMH discusses ISDS, using background and quotes from AFTINET and Dr Stuart Rosewarne from the Department of Political Economy at Sydney University. And Ross Gittins has [an article](#) in the SMH which discusses a recent paper by Harvard Professor Dani Rodrik titled '[What Do Trade Agreements Really Do?](#)'. Gittins notes that deals like the TPP-11 are more about changing domestic regulation than reducing tariffs. He then considers four 'worrying' aspects of these deals - intellectual property provisions, restrictions on a country's ability to manage cross-border financial flows, investor-state dispute settlement (ISDS), and the harmonisation of regulation - and argues that all of these must be critically analysed to see who benefits and who loses.