



BULLETIN - November 2019

Inside this edition:

1. [Introduction](#)
2. [AFTINET AGM, Wednesday 13 November 2019: ISDS guest speaker and please RSVP](#)
3. [India abandons RCEP as AFTINET condemns expansions of corporate rights and demands release and independent evaluation of the deal](#)
4. [Labor set to support Indonesia, Hong Kong and Peru agreements that contravene policy platform despite civil society opposition](#)
5. [New AFTINET Fact Sheet: The impact of trade and investment rules on public health](#)
6. [Economist argues against Australia joining trade deals that undermine sovereignty](#)
7. [The role of the TPP-11 in protests across Chile](#)
8. [New article says e-commerce rules could reduce corporate tax, undermining efforts to meet the Sustainable Development Goals](#)

1. [Introduction](#)

Dear Members,

Fifteen governments including Australia announced on November 4 that they had completed negotiations for the Regional Comprehensive Economic Partnership (RCEP). The Indian government has refused to join but there may be further negotiations. The text remains secret and will not be released until after governments sign the agreement in early 2020.

This follows an announcement by the Malaysian Trade Minister in October that foreign investor rights to sue governments (ISDS) had been dropped RCEP negotiations. This was a [victory for our campaigns](#) here and abroad, but will not be confirmed until the text is released.

AFTINET has condemned the secrecy and is calling for the text to be released and for independent evaluation of the costs and benefits of the deal before it is signed. We will continue to campaign against proposals for stronger medicine monopolies that would delay access to cheaper medicines, restrictions on government regulation of essential services and increased the numbers of temporary migrant workers who are highly vulnerable to exploitation, and we are calling for the inclusion of enforceable commitments on human right, labour rights and environmental standards.

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

The AFTINET Team

2. AFTINET AGM, Wednesday 13 November 2019: on ISDS and please RSVP

The AFTINET Annual General Meeting will be held on Wednesday 13 November 2019 at 5.30pm. All members and supporters are welcome to attend. Our guest speaker, Dr Jonathan Bonnitcha from UNSW, worked for the Australian government defence against the Philip Morris tobacco case and will speak about impact of ISDS on public interest policies and ongoing global ISDS review and reform processes.

The address is Level 7, 321 Pitt St Sydney (near corner of Bathurst St, 5 mins from Town Hall station). Please come to the ground floor lifts and follow instructions to get to level 7. Please RSVP to campaign@aftinet.org.au so we can organise enough drinks and snacks.

3. India abandons RCEP as AFTINET condemns expansions of corporate rights and demands release and independent evaluation of the deal

India's departure from the RCEP as other governments [announced](#) agreement about the text is not only about its resistance to lower tariffs, but reflects the RCEP corporate agenda that could restrict future government regulation by giving more rights to global corporations.

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

As usual, the text is still secret and will not be revealed until after the deal is signed in early 2020.

[Leaked documents](#) have revealed that the industrialised countries, including Japan, South Korea and Australia have been pushing non-tariff rules that suit their major corporations. These include foreign investor rights to bypass national courts and sue governments for millions of dollars in international tribunals if they can argue that a change in law or policy will harm their investment, known as Investor-State Dispute Settlement or ISDS. Strong civil society pressure resulted in India opposing this provision which was [reportedly dropped](#) from the negotiations in September 2019. We will not know whether ISDS remains excluded until we see the text after it is signed in early 2020.

There were also proposals that pharmaceutical companies should be [given longer patent monopolies on medicines than the current 20 years](#), which would delay the availability of cheaper medicines, at greatest cost to developing countries, and for developing countries to adopt rules for patenting seeds and plants which would prevent small farmers from using their own seeds and plants as they have for centuries.

The RCEP also includes an e-commerce chapter that facilitates free cross-border data flows for global corporations like Google and Facebook but makes it more difficult to for governments to regulate them. For example, if trade rules forbid requirements to store data locally, national privacy laws and other consumer protections cannot be applied to data stored in other countries.

The recent [Digital Platforms Report](#) of the Australian Consumer and Competition Commission has recommended more, not less regulation of these corporations in the face of scandals about violations of consumer privacy, misuse of data in elections and tax evasion. [Developing countries](#) are also concerned that rules favouring the global tech companies will lock in their market dominance at the expense of local tech industry development.

Without India, claimed market access gains are even more questionable for Australia and must be evaluated against the risks and costs of expanded corporate rights and restraints on future government regulation. AFTINET is calling for the text of the RCEP to be released before signing and for an independent evaluation of its costs and benefits for Australia

See AFTINET media release [here](#), interview with ABC Radio National [here](#) and analysis in The Conversation [here](#).

4. Labor set to support Indonesia, Hong Kong and Peru agreements that contravene policy platform despite civil society opposition

AFTINET, Unions and other community organisation have criticised the Labor Party's decision to endorse the Indonesia, Hong Kong and Peru trade agreements. These agreements include Investor-state dispute settlement (ISDS) provisions which enable foreign investors to sue governments for policy decisions that undermine their investments. The Indonesia and Peru FTAs also expand the number of temporary workers vulnerable to exploitation. Both provisions contravene Labor's policy Platform.

The decision came after [AFTINET and other community organisations](#) wrote to Labor and cross bench MPs and Senators asking them to vote against the implementing legislation for the three agreements. We also met with many MPs. The ACTU also released [polling](#) that revealed that in the seats of Bass, Brand, Corio, Hunter and Rankin 75 - 80 per cent of voters oppose trade agreements that allow additional work visas without first testing if local workers can fill available jobs and that include ISDS provisions. This came on top of [a push to delay the Hong Kong agreement](#) until the human rights situation in Hong Kong is resolved.

Labor [obtained](#) some assurances from the government for a review of the Indonesian ISDS provisions after five years, that existing labour laws will apply to temporary workers and some other issues.

AFTINET Convener Dr Patricia Randal questioned these assurances [saying that](#) "Labor has decided to approve the enabling legislation for the Indonesia, Hong Kong and Peru agreements despite the fact that they contain damaging provisions that are contrary Labor policies, in return for some fairly weak assurances from the government that may not be delivered,"

ACTU President [Michelle O'Neill](#) said "The decision by the ALP to side with the government is an abandonment both of their own platform, and of their responsibility to stand up for fair trade deals which deliver jobs for local workers, that protect Australia's public services, sovereignty and visa workers from exploitation and that ensure international labor standards in the countries we trade with."

The implementing legislation has been tabled in parliament and [Trade Minister, Simon Birmingham](#), has said that he expects the legislation to be passed by the end of the year.

5. New AFTINET Fact Sheet: The impact of trade and investment rules on public health

AFTINET's new [Fact Sheet](#) on the impact of trade and investment rules on public health outlines how trade agreements impact on our access to medicines, the way our health services are managed and our health warning labels. Trade and investment rules can impact public health by:

- Delaying access to affordable medicines
- Undermining the provision of quality public services
- Restricting public health regulation

AFTINET calls for a healthy approach to trade policy that ensures that trade agreements contribute to improvements in health and wellbeing.

6. Economist argues against Australia joining trade deals that undermine sovereignty

A [new article](#) by Richard Denniss, chief economist at The Australia Institute, argues against Australia signing free trade agreements that undermine our sovereignty. Denniss calls out the hypocrisy of the Morrison government that has ratcheted up populist rhetoric while signing up to agreements that grant excessive rights to international investors at the expense of the Australian community.

He points to recently signed trade agreements with Indonesia and Hong Kong that include investor-state dispute settlement (ISDS) provisions that enable international investors to sue governments for policy decisions that harm their investments. He argues that these deals "give foreign trade dispute tribunals — otherwise known as "unaccountable internationalist bureaucracies" — the power to compel Australian governments to compensate foreign companies that feel aggrieved by decisions of the Australian Parliament."

Denniss highlights the real-world impact of these provisions, referring to an IDSD case brought against Australia's plain-packaging legislation for cigarettes (although the case was actually brought by Phillip Morris not British American Tobacco as he states in the article). [AFTINET has written extensively](#) about the impacts of this case, which was won by the Australian government but still cost tax payers \$12m in legal fees.

7. The role of the TPP-11 in protests across Chile

October 23, 2019: A [new article](#) from Luciana Ghiotto, a researcher at CONICET and a contributor to the Transnational Institute, has identified how the public movement against the Trans-Pacific Partnership Agreement (TPP-11) has contributed to this week's nationwide protests, which have resulted in government repression and [declaration of martial law](#).

Chile signed the TPP-11 agreement in March 2018, but despite being the country with the the most Free Trade Agreements, the ratification process has been marred by public opposition. There have been strong protests against the agreement, resulting in Parliamentary inquiries which have been successful in delaying the ratification for 10 months. A people's plebiscite organised by social movements, resulted in more than 580,000 Chileans rejecting the deal.

Ghiotto also highlights the risks facing the protesters. With Chile set to host the APEC summit on November 16-17 and the Conference of the Parties (COP25) on climate change in December, there is significant risk of an escalation of violence to quell the protests.

In this context, Ghiotto argues that it is "imperative that the People's Summit that will take place parallel to both events be filled with Chileans, but that they also have a strong presence of the organizations and committed academics of the region, in order to show strong solidarity with the process of struggles in Chile."

8. New article says e-commerce rules could reduce corporate tax, undermining efforts to meet the Sustainable Development Goals

October 3, 2019: A new [article](#) by Deborah James from the Center for Economic and Policy Research shows how e-commerce rules limit developing countries' ability to tax the business activities of transnational corporations, reducing much needed revenue for public services and the development of decent employment and to fund their digital industrialisation.

James argues that attempts to implement a permanent waver on customs duties for electronic transmissions, which includes electronic products provided by some of the biggest players in the tech industry including Netflix movies and tv series, Youtube videos, and Amazon books, could result in significant revenue losses for developing countries. A waver on tariffs has been in place at the WTO since 1996, and research shows that developing countries, which are more reliant on revenue from tariffs, have lost 40 times more revenue than developed countries.

James also argues that e-commerce rules that put a ban on local data storage and local presence requirements and that prevent governments from reviewing source code make it more difficult for governments to assess corporations' tax liability and to hold them to account for these obligations.

The concern is that the big tech lobby is establishing rules that enable them to access more markets and more data while making it increasingly difficult to ensure they pay their fair share of tax. For developing countries this can have serious flow-on effects for their ability to redress poverty and inequality and to achieve their development agendas.