



BULLETIN - October 2019

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1. [Introduction](#)

Dear Members,

After seven years of tireless campaigning in Australia and across the region, the Malaysian Trade Minister announced earlier this month that foreign investor rights to sue governments (ISDS) has been dropped from the Regional Comprehensive Economic Partnership (RCEP) agreement negotiations. This is a huge victory for our campaigns here and abroad!

It also raises important questions about the future of ISDS, at a time where governments are increasingly concerned about the impact it can have on public interest policy-making. The proposed RCEP is the biggest of all the regional agreements, covering 16 nations, including China, India, Japan, South Korea and 10 ASEAN countries and includes half the world's population. The decision to exclude ISDS sets an important precedent for other trade deals.

RCEP negotiations are ongoing, with governments still asserting that negotiators are aiming to conclude the deal by the end of 2019. However, reports from negotiations held last week in Da Nang, Vietnam suggest that progress continues to be slow. AFTINET continues 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. Save the date: AFTINET AGM, Wednesday 13 November 2019

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, 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. RCEP updates: ISDS victory and parliamentary forum

ISDS victory: RCEP won't allow corporations to sue governments

AFTINET Convener, Dr Pat Ranald, published an op-ed in the [Conversation](#) on September 17 about progress in RCEP negotiations after Malaysia's trade minister Datuk Darell Leiking revealed that Malaysia and each of the other 15 parties to the RCEP negotiations had agreed to exclude ISDS provisions from the deal. Dr Ranald argues that the tide is turning against ISDS, with the decision to exclude ISDS from the RCEP showing that concern is growing about the risks of including ISDS provisions in trade agreements.

In the Australian context, the government's apparent agreement to remove ISDS provisions from the RCEP raises questions about why it is continuing to pursue such provisions in the [Indonesian](#) and [Hong Kong](#) trade deals currently being reviewed by the parliament's Joint Standing Committee on Treaties. It also raises the question of whether Labor, the Greens and the Centre Alliance, each of which has policies opposing ISDS, will support the agreements when the implementing legislation comes before the parliament after the committee report on October 9.

However, Dr Ranald also warns that concerns remain about other provisions in the RCEP agreement, including proposals for [longer monopolies for medicines](#) that would delay the the availability of cheaper medicines and would have the worst impacts in developing countries.

September 12. AFTINET Parliamentary Forum on the RCEP trade agreement

AFTINET held a [Parliamentary Forum](#) on the Regional Comprehensive Economic Partnership (RCEP) Agreement on Wednesday 11 September in order to inform Parliamentarians of the social and environmental risks of the agreement and provide an update on progress in the negotiations.

The Forum was hosted by Labor Senator Tim Ayres and speakers included AFTINET Convener Dr Pat Ranald, ACTU President Michele O'Neil, ANU Academic Dr Belinda Townsend, and ActionAid Australia Executive Director Michelle Higelin. Speakers addressed:

- The social and environmental risks of proposals to include ISDS provisions (now excluded from negotiations) that would enable corporations to sue governments if they implemented policies that undermined their profits.
- the inclusion of provisions that would increase the number of temporary migrant workers that are vulnerable to exploitation
- Intellectual property right provisions that would extend medicine monopolies in many of the low and middle-income countries, which would increase the cost of medicines, delaying access to affordable generic medicines
- Provisions that could increase the privatisation of public services in developing countries, which could reduce the availability, accessibility and affordability of public services for women and low-income communities.

September 24. New video shows the risks of the RCEP for Cambodian communities

Social Action for Community and Development, Focus on the Global South and other Cambodian civil society organisations have developed a [short video](#) showing the risks that the RCEP poses to communities across Cambodia, including farmers and workers.

4. Investor-state dispute settlement updates

September 25. South Africa, Brazil and Indonesia call for alternatives to ISDS in UN review

The South African Government's [proposals](#) to the United Nations Commission on International Trade Law (UNCITRAL) [review of ISDS](#) have criticised the "one sided and undemocratic" nature of the system in which "the state is always defendant and cannot bring counter-claims against investors." The submission says ISDS should not be included in new trade agreements, and makes strong recommendations for alternatives to ISDS, as well as proposing fundamental reforms to the existing system.

September 16. Netherlands faces ISDS threat after decision to ban coal-based power generation by 2030

German company Uniper has [threatened to bring an ISDS case](#) against the Dutch government after a decision to ban coal-based power generation by 2030. The ban would force Uniper to close its coal-fired plant that was opened in the Netherlands in 2016. The plant has an expected lifespan of 40 years. The company has now threatened an [ISDS case](#) against the Dutch government if it goes ahead with the ban, reportedly arguing that a government proposal that the company switch to biomass is not viable.

September 9. South Centre release report on ISDS claims relating to Intellectual Property

[The South Centre](#), an intergovernmental organisation of developing countries, released a new report analysing ISDS cases relating to Intellectual Property rules in international investment agreements and trade agreements with investment provisions.

5. Indonesia trade deal faces Senate hurdles

September 26. [The Canberra Times](#) and [SBS news](#) have reported that the Australia-Indonesia trade deal could face Senate opposition after key cross benchers, including the Greens, Centre Alliance and One Nation expressed concerns about aspects of the deal, including provisions for an additional 5000 temporary seasonal fruit and vegetable pickers each year who are vulnerable to [wage theft](#) and other forms of exploitation.

ACTU president Michele O'Neil said "We are deeply concerned that the Morrison government has done yet another dodgy deal that opens the door to an increased number of temporary workers being exploited when we should be prioritising hiring and training local workers."

Labor has yet to decide its position on the deal, with Shadow Trade Minister Madeleine King saying "Labor will continue to speak with stakeholders, within the labour movement and beyond, to ensure we reach a consensus position on this agreement."

6. MPs consider delay in trade agreement ratification amidst concerns about human rights abuses in Hong Kong

September 5. Concern about human rights abuses against pro-democracy protesters in Hong Kong could lead to a delay in the ratification of the Hong Kong trade and investment agreements. This comes after [civil society and Union groups](#), including AFTINET and the ACTU, called on the government to delay voting on the implementing legislation for the agreements until after the human rights situation was resolved.

MP's from Liberal, Labor and the Greens have all expressed concerns about the situation in Hong Kong and said that it would be a factor in deciding whether to approve the deals.

[The Sydney Morning Herald](#) is reporting that Liberal MP Dave Sharma, who is the chair of the Joint Standing Committee on Treaties, which is currently reviewing the agreements, said that he is watching the events in Hong Kong and would be "mindful" of the situation when deciding on how to proceed with the agreements.

Labor MP Peter Khalil stated that "it would not prudent for the government to ratify during such a period of ongoing instability and uncertainty."

These sentiments were shared by Greens leader Richard Di Natale who stated that "This is the chance for the Australian government to back up its words of concern with action. It is the perfect opportunity to show that there are repercussions for trampling human rights."

7. ANU convenes capacity building roundtable on trade and health

September 30. Public Health academics at the School of Regulation and Global Governance at Australian National University convened a [capacity building roundtable](#) on September 6th that addressed the impact that trade and investment agreements have on health and health policy. In a context where noncommunicable diseases such as coronary heart disease and lung cancer are the cause of nine out of ten deaths in Australia, the roundtable brought together academics and advocates, with an interest in health policy, including AFTINET, to identify the challenges that trade and investment rules pose to the development of comprehensive and effective health policies including:

- The impact that trade liberalisation can have on increasing consumption of harmful commodities
- Investor-state dispute settlement and regulatory harmonisation provisions increase opportunities for corporations to influence the policy and regulation
- Intellectual property rights that extend pharmaceutical monopolies, delaying access to cheaper medicines and thus delaying treatment

Participants agreed to share information, work together to build trade literacy in the public health sector and identify opportunities to challenge the current approach to trade policy.

8. Austria rejects Mercosur trade deal over Amazon fires

September 23. [Austrian lawmakers](#) have rejected a trade agreement between the EU and the South American block of Brazil, Uruguay, Paraguay and Argentina (Mercosur) in response to the Amazon fires in Brazil.

Members of the Austrian parliament's EU subcommittee, from across the political spectrum, voted against the deal. The legally binding decision now means that the government must vote against the deal at the EU level.

Lawmakers cited concerns about the impact that the deal could have on the environment, workers' rights and agriculture. Jörg Leichtfried, deputy leader of the centre-left SPÖ, said that "the agreement would have been bad for our agriculture, but especially bad for climate protection and workers' rights in South America."

The subcommittee decision comes after French President [Emmanuel Macron](#) and Irish Prime Minister [Leo Varadkar](#) said they would not to pass the deal last month, with Macron labelling the fires an "ecocide" and Varadkar stating that "there is no way that Ireland will vote for the EU-Mercosur free trade agreement if Brazil does not honour its environmental commitments."