

The Trans-Pacific Partnership (TPP) still faces a rocky road through Parliament

After almost 6 years of secret negotiations the TPP Ministers Meeting finalised the text of the agreement in Atlanta on October 6, 2015.

The text was not released publicly until November 5, and the text confirms our fears. See AFTINET's initial analysis [here](#).

The Australian process for trade agreements continues to be secret and undemocratic. Earlier this year AFTINET helped initiate and made submissions to a Senate Inquiry into the trade agreement process. The process was strongly criticised by the Senate Inquiry Report aptly entitled [Blind Agreement](#). However the Coalition government has not implemented its recommendations. Following intense media criticism, and complaints from some members of parliament, selected members of parliament were allowed to view parts of the text on conditions of strict confidentiality.

The Australian Cabinet, not Parliament has the constitutional authority to sign trade agreements. The text will then be tabled in Parliament for 20 sitting days and reviewed by the Joint Standing Committee on Treaties, on which the government has a majority. There will also be a Senate Committee review, on which the government will not have a majority, which is likely to produce a more critical report. These reviews can only make recommendations and they cannot change the text of the agreement. Parliament does not vote on the text of the whole agreement, but only on the implementing legislation.

Because of the 20 sitting days and the Christmas break until the first week of February, these reviews are not likely to finish before February. The vote on the implementing legislation could be in February at the earliest, possibly March. The implementing legislation will contain tariff changes, and other legislative changes required to implement the agreement. However, many controversial aspects of the agreement, like ISDS or future restraints on government regulation in particular areas like medicines or copyright, may not require legislative change.

Parliament can only vote for or against the implementing legislation. If amendments to the implementing legislation are proposed, they would require re-negotiation of those aspects of the agreement. This did occur in 2004 with the US-Australia free trade agreement, when amendments were moved on medicines and on Australian content in media. The Howard government had to negotiate with the US for side letters to the agreement to incorporate these amendments.

The government does not have a majority in the Senate and AFTINET will be campaigning for the ALP, Greens and independents to block the implementing legislation. There is a huge campaign against the TPP in the US, where it is opposed by most Democrats and many Republicans, and the US Congress may not pass the implementing legislation.

If the implementing legislation is passed in Australia and elsewhere, the government will exchange letters with the 11 other governments to finally ratify the agreement and enable the agreement to come into force. In the case of the TPP it could take up to 2 years before the agreement comes into force in all 12 countries.