

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

After almost 6 years of secret negotiations the twelve Pacific Rim\* TPP Trade Ministers finalised the text of the agreement in Atlanta on October 6, 2015. The TPP text was not released publicly until November 5, and confirms our fears. See AFTINET's initial analysis [here](#).

The Australian process for trade agreements continues to be secret and undemocratic. In 2015 AFTINET helped initiate a Senate Inquiry into the trade agreement process, which received hundreds of critical submissions. The trade agreement process was strongly criticised by the Senate Inquiry Report aptly entitled [Blind Agreement](#).

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 may 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.

These reviews are likely to start in February 2016. The vote on the implementing legislation could be in late March or April. 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 US Congress also used its [certification process](#) to force further changes to [Australian copyright law](#) before it would agree to finalise and ratify the agreement.

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. This could delay the process, because the agreement cannot come into force without the US and Japan, the two largest economies.

If the implementing legislation is passed in Australia and elsewhere, the government will exchange letters with other TPP governments which have passed their implementing legislation to finally ratify the agreement and enable it to come into force. The US, Japan and at least four other countries (six countries making up 85% of the total GDP of the 12 TPP countries) are needed for this to happen. This process could take up to two years.

*\*The 12 TPP countries are Australia, New Zealand, US, Canada, Mexico, Peru, Chile, Japan, Malaysia, Singapore, Brunei and Vietnam*