



AFTINET
Australian Fair Trade
& Investment Network Ltd

128 Chalmers Street
Surry Hills, NSW, 2010
Phone: 02 9699 3686
Fax: 02 9699 3717
Email: campaign@aftinet.org.au
ACN 097 603 131
ABN 83 659 681 462
www.aftinet.org.au

MEDIA RELEASE

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Trans-Pacific trade (TPP) leak confirms foreign investors could sue over PBS, Medicare, food regulation

“The attached leaked investment chapter from the Trans-Pacific Partnership (TPP) negotiations in January confirms that foreign companies could sue the Australian government for damages over decisions of key institutions like the Pharmaceutical Benefits Scheme, Medicare, the Therapeutic Goods Administration and the Office of the Gene Technology Regulator, which regulates GE crops and food,” Dr Patricia Ranald, Coordinator of the Australian Fair Trade and Investment Network, said today.

The chapter includes provisions for foreign investors to sue governments for damages in an international tribunal if a change in law or policy can be argued to harm their investment, known as ISDS.

“The Australian government appears about to agree to ISDS, “under certain conditions” (p.20) and has sought specific exemptions from ISDS for the above institutions, (p.55) but the brackets in the text show that these exemptions have not been agreed. If specific exemptions from ISDS are needed for them, what other Australian institutions could be exposed to ISDS? What about the proposed legislation for food labelling in the wake of the contaminated berries scandal?” said Dr Ranald.

“The so far unsuccessful attempt to protect these specific institutions from ISDS shows that the government does not believe its own assurances, given for ISDS in the [Korea](#) and China free trade agreements, that general carve-outs or exceptions for health, environment and public welfare regulation will prevent governments from being sued for regulating in these areas,” said Dr Ranald.

“The Australian government is using ISDS as a bargaining chip in the hope of improved access to US agricultural markets. But the US–Japan market access negotiations have stalled and they have not even made offers on agricultural market access to Australia.

This dangerous trade-off game will expose our democratic laws and institutions to more cases like the Philip Morris tobacco company suit for billions of dollars of damages against plain packaging legislation,” said Dr Ranald.

“Giving foreign investors the right to sue governments over health and other public interest regulation undermines our democracy and sovereignty. We call on the Australian government to reject shameful trade-offs on ISDS and other issues and to release the TPP text for public and parliamentary scrutiny before it is authorised for signing by Cabinet,” said Dr Ranald.

Contact Dr Patricia Ranald AFTINET Coordinator, 0419 695 841