**Trans Pacific Partnership Q and A**

**Q: What is the TPP?**

**A:** ‘TPP’ stands for the Trans Pacific Partnership– a so-called free trade deal between 12 nations rimming the Pacific Ocean.It is really more about entrenching multinational corporate power than free trade, with only six out of the thirty negotiation chapters in the treaty having anything to do with trade.The signatory nations are Australia, US, Canada, New Zealand, Vietnam, Singapore, Malaysia, Brunei, Chile, Peru, Japan, and Mexico. It is the biggest ‘free trade’ deal in history. Australia still needs to ratify its agreement through possible legislative changes, and this is likely to happen early in 2016, if these changes are passed by the Senate. The TPP contains [ISDS](http://www.thefreelibrary.com/Expropriating+public+health+policy%3A+tobacco+companies'+use+of...-a0386339166) (corporate powers to sue in offshore tribunals), allowing multinationals to bypass our legal system and sue Australia, offshore in a foreign tribunal, if they believe at any time that our environmental and other public interest laws are impacting their profits here.

**Q:** **Will the TPP benefit Australia economically?**

**A:** There is great doubt around this. The TPP is often described as not about trade but about enforcing the rights of multinational corporations to over-rule democratic governments, their citizens and communities. Australia’s Productivity Commission – established to give independent advice to the Government on economic matters - as recently as June 2015 was [deeply critical](http://www.smh.com.au/business/the-economy/free-trade-agreements-preferential-and-dangerous-says-productivity-commission-20150624-ghw7rk.html) of Australia's latest series of free trade agreements, saying they ‘grant legal rights to foreign investors not available to Australians, expose the government to potentially large unfunded liabilities and add extra costs on businesses attempting to comply with them’.

Under the TPP, some tariff changes for Australian agriculture exporters will be slowly lowered in stages over years, but on the negative side, for example, labelling of national origin of foods is very likely to be prohibited, impacting on local producers and retailers who currently proudly promote their products on the basis of ‘made in Australia.’ The Philippines may in the future join the TPP, meaning that our banana industry could face disease threats.

Trade policies are contentious because they are approximately zero-sum games. There are domestic winners and losers, and although the national welfare gain is not zero, it is usually small. Unlike a good health or social policy, which can make everyone a winner, [a trade policy tends to pit the interests of one part of the community against those of another](file:///E:\Kathy\Downloads\.%20%20%20%20http:\www.abc.net.au\news\2015-09-08\the-conversation-piece\6758170)

**Q: What is ISDS?**

**A:** [ISDS](http://www.thefreelibrary.com/Expropriating+public+health+policy%3A+tobacco+companies'+use+of...-a0386339166) stands for ‘**I**nvestor-**S**tate **D**ispute **S**ettlement’. This is a potent legal tool incorporated into the TPP which will allow multinational corporations (but not national ones) to sue Australia in an offshore tribunal, away from our legal system, when they believe that the Government’s environmental, health or other public interest regulations threaten to reduce their profits here. A current example of this is tobacco giant Philip Morris which, after losing its claim over our plain packaging laws in Australia’s High Court, is now suing Australia in Singapore under an old trade treaty which contains ISDS provisions. Note that it is only the ‘investors’ or ‘multinational corporations’ in each FTA who can initiate ISDS challenges against Governments. Governments like Australia can only act within our own legal system and can’t sue multinational corporations offshore in an ISDS tribunal.

**Q: How could multinational corporations ever have the resources to over-rule nations?**

**A**: Any doubt that multinational corporations have the capacity to take on national governments should be swept aside: of the world’s 100 largest economic entities, corporations (53) now outnumber nations (47).

**Q: Surely we can trust huge corporations to act morally and ‘do the right thing’?**

**A:** Huge multinational corporations act in their own and their shareholders’ interests.There is a long and continuing history of corporate bad behaviour which gives us little confidence that multinational corporations will always act morally. The [BP oil disaster in the Gulf of Mexico](http://www.theguardian.com/commentisfree/cif-green/2010/jun/25/double-standards-multinationals-ecological-disasters) , Chevron oil pollution in Ecuador, the appalling Shell oil pollution in Niger, Bopal poisoning in India are just a few examples of corporate bad behaviour. There are many more.

**Q:** **Have any countries ever been sued by multinational corporations using ISDS provisions in free trade deals?**

**A:** Between the late 80s and 2000, only 50 such cases around the world had occurred. In the 15 years since, more than 500 ISDS cases have been launched under various trade treaties containing ISDS – the majority of these relating to environmental regulations. Canada alone - a country very similar to Australia democratically and in terms of wealth - has been sued 36 times. Australia is currently being [sued under ISDS by Philip Morris](https://au.news.yahoo.com/thewest/a/29064155/tobacco-giant-sues-australia/) over our plain-packaging tobacco legislation using an old trade agreement containing ISDS between Hong Kong and Australia to sue us in a secretive tribunal based in Singapore. So far it has cost Australia $50 million to defend the on-going case.

**Q:** **Why would the Turnbull Government sign a free trade deal that threatens Australians’ democratic rights?**

**A:** The TPP is the ultimate expression of ‘economic neoliberalism’, which has been the preferred ‘ideology’ of conservative governments since the 80s. Many of our current Government members are neoliberal fundamentalists who believe that the market should decide just about everything. The aim of economic neoliberalism is to turn the "nation-state" into a "market-state," with the primary agenda of facilitating global capital accumulation without too much interference from Government regulations aimed at protecting community rights and the environment. The TPP, with its potential to circumvent democratic protest by allowing offshore adjudication of ISDS challenges to environmental regulations, represents the perfect neoliberal solution to curtailing what many conservative politicians have been calling ‘green tape’ and ‘lawfare’.

**Q: The Turnbull Government’s Trade Minister, Andrew Robb claims that he has secured Australia’s health and environment regulations from ISDS challenges under the TPP. Is this true?**

**A:** [New York arbitration lawyer George Kahale](http://www.theguardian.com/business/2015/nov/10/tpps-clauses-that-let-australia-be-sued-are-weapons-of-legal-destruction-says-lawyer), chairman of the world’s leading legal arbitration firm – Curtis, Mallet-Prevost, Colt & Mosle LLP : *‘If the trade minister is saying, “We’re not at risk for regulating environmental matters”, then the trade minister is wrong’*

[Kahale](http://www.theguardian.com/business/2015/nov/10/tpps-clauses-that-let-australia-be-sued-are-weapons-of-legal-destruction-says-lawyer) points toa major loophole in the Investment (ISDS) Chapter, section 9.15, which says: *“Nothing in this chapter shall be construed to prevent a party from adopting, maintaining or enforcing any measure otherwise consistent with this chapter that it considers appropriate to ensure that investment activity in its territory is undertaken in a manner sensitive to environmental, health or other regulatory objectives.”* Kahale makes it clear that the phrase *‘otherwise consistent with this chapter’* neatly negates any protection from ISDS challenge that this chapter is purporting to give to signatory nations like Australia. Kahale then goes on to ask ‘“Why would you spend so much time and effort doing a great job in negotiating narrow provisions to this treaty, when you have a ‘most favoured nation’ clause?” an MFN clause is tantamount to a classic wipe out move. It would enable foreign corporations from TPP states to make a claim against Australia based on the ISDS provisions in any other trade deal Australia has signed, no matter which country it was signed with. That means it does not really matter how carefully the TPP is drafted: foreign investors can cherry pick another treaty Australia has signed, and sue the Australian government based on the provisions included in that treaty. Kahale has described MFN as “a dangerous provision to be avoided by treaty drafters whenever possible” because it can turn one bad treaty into (corporate) protections “never imagined for virtually an entire world of investors”.

**Q: Are any other countries around the world refusing to accept ISDS provisions in trade treaties?**

A: In 2015, faced with opposition to ISDS in several European countries, the European Parliament adopted a resolution requiring that any new dispute settlement scheme included in TTIP (the European version of the TPP) "must be replaced by a new public and transparent system of investment protection, in which private interests cannot undermine public policy and which is subject to public law.” Foreign investors can protect themselves against egregious governmental abuse by purchasing political-risk insurance, [points out Terra Lawson-Remer](http://www.economist.com/news/finance-and-economics/21623756-governments-are-souring-treaties-protect-foreign-investors-arbitration), an economist at the Brookings Institution. Brazil continues to receive lots of foreign investment, despite its long-standing refusal to sign any treaty with an ISDS mechanism.

Other countries are beginning to follow Brazil’s lead, including Bolivia, Ecuador, and Venezuela. South Africa says it too will withdraw from treaties with ISDS clauses and India is considering doing the same. Indonesia plans to let its treaties with ISDS lapse as they come up for renewal.

**Q: When the TPP is finally passed through Parliament, will I still be able to read labels on products telling me what the contents are, what preservatives are present, and where the product comes from?**

**A:** Very unlikely – there’s every chance that you won’t know where, for example, your fish comes from, whether it was sustainably caught, or whether your dessert product contains palm oil. The TPP agreement text contains legal loopholes that mean labelling of this kind can be challenged (by transnational corporations using ISDS) as discrimination between products on the basis of their manufacture and origin. AsChoice, the consumer organisation, noted: ‘*the government recently committed to improving country of origin labelling for food products. The TPP says that if Australia implements a law meant to protect legitimate public welfare objectives, such as public health or the environment, as long as the law doesn't discriminate against particular countries, then ISDS action cannot be taken... except in 'rare circumstances'. While it looks like this should protect policies like country of origin labelling, it could still leave the Australian government open to being sued. What is a 'rare circumstance'? What if the policy is for consumer rights reasons, not public health or the environment? There is a lot of room for corporations to wiggle around this protection.’*

**Q: Could the recent growth in ISDS challenges world-wide be driven by corporate lawyers and arbitrators** **who have a significant career interest in the ISDS system?**

**A:** Arbitrators, far from being neutral, have become powerful players who have shaped the pro-corporate ISDS arbitration system that we see today. This small group of frequently appointed arbitrators has a significant career interest in the system. This is problematic because it poses the danger of making arbitrators even more receptive to the multinational corporations who are the only party in a free trade deal who can initiate ISDS challenges.

**Q:** **How much does an ISDS arbitrator earn per ISDS case?**

**A:** How much an arbitrator earns per case will depend on the case’s length and complexity, but for a US$100 million dispute, arbitrators could earn on average up to US$350000. It can be far more. The presiding arbitrator in the case between Chevron and Texaco v. Ecuador, received US$939,000. In another case, the tribunal president billed for 719 hours at an hourly rate of US$660.

**Q:** **What are commentators saying about ISDS?**

**A*:***

*‘This is a watershed moment for the Liberals and the mining industry in their continuing assault against environmental protections in Australia. ISDS will provide a massive chilling effect against improvements in environmental law at a local, state and federal level’ (*[*Tasmanian Greens Senator Peter Whish-Wilson*](http://tasmaniantimes.com/index.php?/weblog/article/The-TPP-Charade-and-Tasmanias-GMO-moratorium/#sthash.RW7P1iLU.dpuf)*)*

***‘****In effect, countries joining the TPP will have to* [*surrender big chunks*](http://www.awid.org/get-involved/call-endorsement-resist-trans-pacific-partnership#sthash.yJe8ULPl.dpuf) *of their national sovereignty to the trade pact’s dominant players.’*

*‘It was always about using these sweeping deals, as well as a range of other tools, to lock in a global policy framework that provided maximum freedom to multinational corporations to produce their goods as cheaply as possible and sell them with as few regulations as possible – while paying as little taxes as possible’ (Naomi Klein from ‘This changes everything’)*

*‘A whole industry of third-party financing and specialized law firms has sprung up to extract our taxpayer dollars and roll back key public interest policies using the investor-state system’ (*[*Public Citizen's Global Trade Watch*](http://www.citizen.org/Page.aspx?pid=3147)*)*

*‘Do we really want to create an Australia where we have to pay a foreign corporation not to dig up or destroy our coastline or native forests?’ (*[*Tom Warne-Smith*](http://www.abc.net.au/news/2014-01-09/warne-smith-the-environment-will-pay-for-free-trade/5192156) *- Policy & Law Reform lawyer at the Environment Defenders Office, Victoria)*

*‘If the trade minister is saying, “We’re not at risk for regulating environmental matters”, then the trade minister is wrong’ (*[*New York arbitration lawyer George Kahale*](http://www.theguardian.com/business/2015/nov/10/tpps-clauses-that-let-australia-be-sued-are-weapons-of-legal-destruction-says-lawyer)*, chairman of the world’s leading legal arbitration firm – Curtis, Mallet-Prevost, Colt & Mosle LLP)*

*‘Arbitral tribunals set up under ISDS provisions are not courts, nor are they required to act like courts, yet their decisions may include awards which significantly impact on national economies and on regulatory systems within nation states.’ (*[*Robert French*](http://www.hcourt.gov.au/assets/publications/speeches/current-justices/frenchcj/frenchcj09jul14.pdf)*, the chief justice of Australia’s high court)*

*‘ISDS clauses and tribunal rulings provide a ‘negative incentive on a national level for environmental and social regulations, for fear of being sued for “indirect taking” via regulation. This is what has been termed “regulatory chill.”’ (*[*University of Pennsylvania Journal of International Law*](http://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1898&context=jil)*)*

*“Wall Street and other big corporations have won again. It is time for the rest of us to stop letting multinational corporations rig the system to pad their profits at our expense,” (*[*US Senator Bernie Sanders*](http://www.theguardian.com/business/2015/oct/05/tpp-or-not-tpp-whats-the-trans-pacific-partnership-and-should-we-support-it)*)*

**Q: Can you provide examples of how the text in the TPP provides loopholes for multinationals to sue governments using ISDS?**

**A:** Yes, many**.** Take for instance in the Environment Chapter, item 20.2.3*:*

***‘****The Parties further recognise that it is inappropriate to establish or use their environmental laws or other measures in a manner which would constitute a disguised restriction on trade or investment between the Parties’*.

This gives corporate lawyers an opportunity to argue that democratically driven environmental regulations aimed at reducing, for example, the level of clear-felling and wood chipping of native forests was a disguised restriction on, say, a US corporation’s investment in forestry in this country. This could provide the US corporation with a basis for threatening to sue Australia for multi millions in a foreign ISDS tribunal. Even the threat of mounting a costly defence against this in a foreign ISDS tribunal (costs are often not awarded) could force an Australian government to back down on regulations protecting the forests, as has already happened in numerous ISDS cases around the world.

The TPP text is frequently loose and ambiguous, providing numerous legal challenge opportunities for corporate lawyers. For example, the Investment Chapter says that if Australia implements a law meant to protect legitimate public interest objectives, such as public health or the environment, as long as the law doesn't discriminate against particular countries, then ISDS action cannot be taken... except in [*'rare circumstances'*](http://www.abc.net.au/news/2015-03-26/tianhaara-these-tpp-safeguards-wont-protect-us-from-isds/6350358). There are loopholes in this which could allow multinationals to sue: *‘except in rare circumstances'* provides an unmistakeable opportunity for legal argument about whether enacting any new regulation might constitute a ‘rare circumstance’. Defining health or the environment leaves many other regulatory areas open to challenge – for example, if the new regulation is for consumer rights reasons, such as labelling for the presence of certain additives or preservatives in processed food. And any new regulation designed to protect the Australian community or environment could potentially be challenged as not consistent with the standards accepted by the majority of other signatory nations and therefore is ‘discriminatory’.

[New York arbitration lawyer George Kahale](http://www.theguardian.com/business/2015/nov/10/tpps-clauses-that-let-australia-be-sued-are-weapons-of-legal-destruction-says-lawyer), chairman of the world’s leading legal arbitration firm – Curtis, Mallet-Prevost, Colt & Mosle LLP points toa major loophole in the Investment (ISDS) Chapter, section 9.15, which says: *“Nothing in this chapter shall be construed to prevent a party from adopting, maintaining or enforcing any measure otherwise consistent with this chapter that it considers appropriate to ensure that investment activity in its territory is undertaken in a manner sensitive to environmental, health or other regulatory objectives.”* Kahale points out that the phrase *‘otherwise consistent with this chapter’* neatly negates the protection from legal challenge that this chapter is purporting to give to signatory nations like Australia.

Much of the TPP’s Environment Chapter urges ‘voluntary’ and ‘flexible’ measures to protect environment. This soft approach to environmental protection contrasts with the very severe penalties available to multinationals in the ISDS (investment) chapter if a signatory nation introduces environmental regulations which threaten a multinational’s potential profits. Elsewhere the Environment Chapter encourages nations to strengthen environmental protection *‘as long as it is not a barrier to trade’.* This chapter also urges environmental standards to be ‘relevant’ to international standards which may be interpreted to mean that environmental protection that is ‘cutting edge’ or high level and specific to a site or species may not be relevant to or consistent with environmental standards in the majority of other signatory nations, and therefore subject to challenge. See also: [**https://www.sierraclub.org/sites/www.sierraclub.org/files/uploads-wysiwig/tpp-analysis-updated.pdf**](https://www.sierraclub.org/sites/www.sierraclub.org/files/uploads-wysiwig/tpp-analysis-updated.pdf)

**Q: Can you provide an example of an ISDS case overseas which parallels typical Australian environmental conflicts?**

**A:** There are many, but a recent Canadian case is useful because Canada is very similar to Australia socially, legally and democratically. The case is [Bilcon vs Canada](http://thetyee.ca/Opinion/2015/10/17/Trade-Deals-Core-Community-Values/) under NAFTA (NAFTA is the free trade agreement which provided the model for the TPP).

In March 2015 the US company Bilcon succeeded in its claim that Canada had treated Bilcon unfairly when the government, following due process, accepted the advice of an independent environmental review panel. Under review was a proposal by Bilcon to build a huge rock quarry, together with a processing and ship loading facility, on the shores of Nova Scotia’s fabulous Bay of Fundy.

The environmental review panel recommended that the governments involved (both federal and provincial) reject Bilcon’s proposal because of its adverse environmental affects to the significant land, marine and human environments.

In response, Bilcon elected to pursue large monetary compensation through an ISDS tribunal rather than through Canadian courts.

The ISDS tribunal concluded that Canada had run afoul of its international trade commitments by following the environment panel’s recommendations not to proceed with the project. The tribunal found that there was discrimination, on the basis that other similar projects had been authorized in the past using a less strenuous environmental review process. University of Ottawa law professor Donald McRae - one of the three tribunal members - did put in a minority dissenting [report](http://www.italaw.com/sites/default/files/case-documents/italaw4213.pdf) however, concluding that the ISDS tribunal had added a layer of control over environmental review processes that would give rise to a “chill” on the use of future environmental review panels. The ISDS decision amounted to a “remarkable step backward in environmental protection,” he maintained. With ISDS included in the TPP the appalling Bilcon vs Canada ruling has major implications for any Australian community opposed to natural gas terminals, fracking and mining projects.

**Q: The Turnbull Government justifies its acceptance of ISDS in the TPP (Labor and the Greens oppose ISDS) by saying that ISDS will provide Australian corporations operating overseas with legal recourse if a nation which is a signatory to the TPP stops the Australian company’s project on environmental or social grounds. Can you provide an example of where this has happened already under another treaty which has ISDS?**

**A:** Yes. [El Salvador is being sued](http://www.theguardian.com/commentisfree/2014/oct/03/australian-mining-is-poisoning-el-salvador-it-could-soon-send-it-broke-too) for $300 million (its entire education budget!) for trying to stop a joint Canadian-Australian company which wants to gold mine in the tiny Central American nation’s last remaining pristine water supply. This is occurring under the Central America Free Trade Agreement (CAFTA) which contains ISDS provisions like those in the TPP.

**Q: Are there any alternatives to ISDS provisions for multinational corporations?**

**A:** Foreign investors can protect themselves against what they believe to be ‘egregious governmental abuse’ by purchasing political-risk insurance, points out [Terra Lawson-Remer, an economist at the Brookings Institution.](http://www.huffingtonpost.com/terra-lawsonremer/the-obscure-trade-provisi_b_7297342.html?ir=Australia) Corporations can also protect themselves from sovereign risk when operating in foreign countries by negotiating specific binding contracts with the state that they are investing in. [There are alternatives to ISDS](http://www.huffingtonpost.com/terra-lawsonremer/the-obscure-trade-provisi_b_7297342.html?ir=Australia)

Foreign investment has always and will always carry a certain level of risk. However, it also comes with the prospect of very lucrative rewards. We do not provide protection for individuals that bet on risky ventures in the stock market; why should we do so for multinational corporations?

**Q: Can Australia pull out of the TPP and ISDS?**

**A:** We could, but any multinational corporation that won approval to develop a mine, frack etc while Australia was in the TPP would have an expectation that ISDS rights to challenge would continue to prevail for the life of the mine (ie 20 years or more). Once ratified, the likelihood of Australia pulling out of the TPP would be low because some of our exporters would immediately have tariffs put on the products they export – making them uncompetitive, and hence politically angry. It will be much better if the Turnbull Government responds to overwhelming Australian citizen pressure **now** and seeks a re-negotiation of the TPP **without ISDS** before it ratifies the TPP with ISDS inclusions early in 2016. [There are alternatives to ISDS](http://www.huffingtonpost.com/terra-lawsonremer/the-obscure-trade-provisi_b_7297342.html?ir=Australia).

**Q: What is ‘regulatory chill’?**

**A:** ISDS cases cost vast amounts for nations to defend (with no guarantee of being awarded costs) and, as has been the case for Canada, nations can lose more than half the corporate challenges they face. The threat of this creates a reluctance on the part of nations to introduce new or improved environmental and social regulations, for fear of being sued. This is what has been termed “regulatory chill. *(See this paper from the* [*University of Pennsylvania Journal of International Law*](http://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1898&context=jil)*)*

**Q: Can you provide some more examples of ISDS challenges involving the environment?**

**A:** The majority of ISDS challenges around the world (over 550 cases since 1990) involve disputes between national governments and multinational corporations on environment or energy. Here are a few:

i) Chevron v. Ecuador: See video about the TPP which also tells the appalling story of Chevron v. Ecuador, in which oil giant Chevron successfully sued the Ecuadorian Government in an international tribunal because an Ecuadorian court ordered Chevron to pay for the pollution caused by its operations in the Ecuadorian rain forest. [(See the video)](http://aftinet.org.au/cms/node/566)

ii) Renco Group Inc using the ISDS system to demand $800 million from Peru’s taxpayers and to derail a U.S. court case seeking compensation for children in La Oroya injured by toxic contamination:<http://www.citizen.org/documents/peru-tpp-investment-memo.pdf>

iii) An American company sues the Canadian government for more than $250 million over Quebec's controversial moratorium on hydraulic fracturing or fracking <http://www.cbc.ca/news/business/ottawa-sued-over-quebec-fracking-ban-1.1140918>

iv) Mining company Pacific Rim, now owned by Australian/Canadian OceanaGold, is suing El Salvador for halting mining within its borders because El Salvador wants to protect its last source of clean water: A decision by an international trade tribunal could determine whether mining resumes <http://www.theguardian.com/sustainable-business/2015/may/27/pacific-rim-lawsuit-el-salvador-mine-gold-free-trade>

v) Ethyl Corporation v.s. Government of Canada: *Now Investors Can Use NAFTA to Challenge Environmental Safeguards*: <http://www.citizen.org/trade/article_redirect.cfm?ID=6221>

vi) S D Myers vs Canada: U.S. waste treatment company S D Myers challenges Canadian ban of toxic PCB exports. Ban was compliant with multilateral environmental treaty on toxic waste trade November 2000 – NAFTA ISDS tribunal dismisses S.D. Myers claim of expropriation, but upholds claims of discrimination and equates this violation with a violation of the minimum standard of treatment required by international law. **Canada loses** and pays out $4.8 million. <http://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/disp-diff/SDM.aspx?lang=eng>

vii) Sunbelt Water v. British Columbia, Canada. Sunbelt brought a claim against Canada for the loss of potential future earnings from bottled water exports, due to a change in Canadian government policy regarding water resource exports. Sunbelt water is suing BC for $10.5 billion! Claims of this kind could ultimately deter a country from passing legislation to protect natural resources. <http://www.cbc.ca/news/canada/u-s-firm-sues-canada-for-10-5-billion-over-water-1.180821>

viii) Metalclad vs Mexico: US company Metalclad sued the Mexican Government for damages under Chapter 11 of NAFTA for losses they accrued after the Mexican Govt refused permits for them to continue operating a waste dump that was polluting a town’s water supply. The main water well was about 60 metres from the stream flowing through the location where Metalclad was dumping its material. The ISDS tribunal found in favour of Metalclad and awarded the company $15 million <https://en.wikipedia.org/wiki/Metalclad>

**Q: Where can I find out more about ISDS in the TPP?**

**A:** See the Australian Fair Trade Network website: <http://aftinet.org.au/cms/>

**Q: When will the Turnbull Government ratify the TPP with ISDS? (ie, when will the TPP be ‘sealed and dealed’ for Australia?)**

**A:** It is anticipated that the Turnbull Government will attempt to ratify the agreement early in 2016, possibly as early as February.

In accordance with Australian treaty-making processes, implementation of the TPP will include the following steps:

• The Australian Government will seek approval from the Federal Executive Council to sign the Agreement.

• Before binding treaty action is taken, the Trans-Pacific Partnership Agreement and accompanying National Interest Analysis will be tabled in the Australian Parliament for 20 joint sitting days.

• Following tabling, the [Joint Standing Committee on Treaties](http://www.aph.gov.au/jsct) (JSCOT) will conduct an inquiry into the Trans-Pacific Partnership Agreement and will report back to Parliament.

• Parliament will consider any legislation or amendments to existing legislation that may be necessary to implement the Agreement.

• Other countries that negotiated the Trans-Pacific Partnership Agreement will undertake their own domestic treaty-making processes.

• The TPP will enter into force 60 days after all original signatories have notified completion of their domestic legal procedures.

**Q: What can I do to stop the Turnbull Government from ratifying the TPP with ISDS?**

**A:** Write to your local federal member and senators, objecting to the inclusion of ISDS in the TPP. Urge them to support you in seeking a re-negotiation of the TPP **without ISDS**. Write to each of the members of the [Joint Standing Committee on Treaties](http://www.aph.gov.au/jsct) which will be providing a final report on the TPP before the Turnbull Government moves to ratify the agreement.

Above all, let as many people as you can know about the threat that ISDS poses to our future environmental, social, health and internet regulations.