



# **AFTINET submission to the JSCOT inquiry on the IPEF agreement relating to a Fair Economy October 2024**

## Contents

Introduction .....	3
Summary and recommendations.....	3
Anticorruption measures .....	4
Recommendations:.....	5
Taxation measures .....	6
Recommendation .....	6
Capacity building and implementation.....	6
Recommendation: .....	7

## Introduction

The Australian Fair Trade and Investment Network (AFTINET) is a national network of 60 community organisations and many more individuals supporting fair regulation of trade consistent with democracy, human rights, labour rights and environmental sustainability.

AFTINET supports the development of fair-trading relationships with all countries, based on the principles of human rights, labour rights and environmental sustainability. We recognise the need for regulation of trade through the negotiation of international rules.

AFTINET supports the principle of multilateral trade negotiations, provided these are conducted within a transparent and democratically accountable framework that recognises the special needs of developing countries and is founded upon respect for democracy, human rights, labour rights and environmental sustainability.

AFTINET welcomes the opportunity to make a submission to this inquiry into the Indo-Pacific Economic Framework for prosperity (IPEF) agreement relating to a Fair Economy between 14 IPEF members: the US, Australia, Brunei, India, Indonesia, Japan, the Republic of Korea, Malaysia, New Zealand, the Philippines, Singapore, Thailand, Fiji and Vietnam.

## Summary and recommendations

IPEF is not a traditional trade agreement in that it does not involve market access to goods through reducing tariffs and there are no trade penalties for non-compliance. The four agreements of IPEF are Pillar 1, Trade (not yet completed), Pillar 2, Supply Chains (already ratified), Pillar 3 Clean Economy and Pillar 4, Fair Economy. There is also a fifth overarching IPEF agreement which establishes a Joint Council and Joint Commission to oversee the three agreements.

The Fair Economy Agreement deals with anticorruption and tax issues. AFTINET supports the broad objectives of the agreement to establish regional coordination for implementation and enforcement of international agreements on anticorruption, money laundering and fairer tax arrangements.

These include standards on criminalisation of foreign and domestic bribery and corruption of public officials, establishing private sector standards, transparency in beneficial ownership, whistleblower protections, asset recovery and exchange of information and capacity building on tax issues.

AFTINET supports commitments to labour rights as an essential part of anticorruption measures and the involvement of a broad range of civil society and community representatives in the development and implementation of anticorruption and tax measures, but believe these should be binding commitments.

There are some binding commitments, mostly based on existing commitments to international agreements. However, some other commitments are weak and nonbinding, using language like “recognise”, “may” or “intend to”, and some are qualified by options for government discretion to implement them.

The agreement consists of Section A Scope and Definitions, Section B Anticorruption Issues, Section C Tax Issues and Section D Capacity Building and Implementation. Annex 1 outlines a Capacity Building Framework for implementing the agreement, including the establishment of a Technical and

Capacity Building Coordination Group of government departmental representatives. However, until the Supply Chain and Clean Economy Agreements, there is no recommendation for a five-year review of the implementation of the fair Economy agreement.

This submission comments on relevant sections and makes the recommendations summarised below.

#### **Summary of Recommendations:**

1. That the Australian government advocate at the annual meeting of the Joint Commission established by the IPEF overarching Agreement, also being reviewed by JSCOT, for a five-year review of the implementation outcomes of the IPEF Fair Economy Agreement, as is planned for the IPEF Supply Chain Agreement and the IPEF Clean Economy Agreement.
2. That the Australian government advocate in the five-year review for binding commitments on criminalisation of bribery, on labour rights and on civil society and community engagement on development and monitoring of anticorruption measures.
3. That the Australian government advocate for the five-year year review to include assessment of the outcomes of the tax commitments in the agreement.
4. That the Australian government support in the five-year assessment of the effectiveness of the anti-corruption and tax capacity building programs and consider whether further ODA contributions to developing countries are required.

## **Anticorruption measures**

The agreement affirms the binding obligation of governments to the UN Convention Against Corruption (UNCAC) provisions on

- transparency in public sector recruitment and promotion and codes of conduct for public officials to prevent corruption
- private sector codes of conduct to prevent corruption
- bribery of national public officials and foreign public officials
- embezzlement or misappropriation of property by public officials
- prevention of money laundering
- asset recovery
- promoting integrity and transparency in government procurement<sup>1</sup>

For governments that are a party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Anti-Bribery Convention), the agreement affirms their obligations under that Convention<sup>2</sup>.

---

<sup>1</sup> DFAT (2024) Text of the IPEF agreement relating to a fair economy, articles 5.2 and Articles 6, 7, 11,12, and 14-17 [https://www.apf.gov.au/-/media/02\\_Parliamentary\\_Business/24\\_Committees/244\\_Joint\\_Committees/JSCT/2024/IPEF\\_Fair\\_Economy/Treaty\\_Text.pdf?la=en&hash=F6A55ED25C99FB00EC27463F3AD7B7CCF7C80738](https://www.apf.gov.au/-/media/02_Parliamentary_Business/24_Committees/244_Joint_Committees/JSCT/2024/IPEF_Fair_Economy/Treaty_Text.pdf?la=en&hash=F6A55ED25C99FB00EC27463F3AD7B7CCF7C80738)

<sup>2</sup> DFAT(2024) IPEF text Article 5.2 d)

There are also specific commitments on protection of whistleblowers and transparency in beneficial ownership and real estate transactions<sup>3</sup>.

However, the strength of the commitments vary, and governments have discretion in implementing them.

For example, each government affirms its commitment not to fail to effectively enforce corruption offences through a sustainable recurring course of action or as an encouragement for trade and investment. However, each government retains the right for its law enforcement and judicial authorities to exercise discretion with respect to the enforcement of the measures it has adopted or maintained to prevent and combat bribery, and to take bona fide decisions with regard to the allocation of resources to such enforcement<sup>4</sup>.

The agreement recognises the commitments of governments under the International Labour Organisation Declaration on Fundamental Principles and Rights at Work, including freedom of association and the right to collective bargaining, and that access to these labour rights for workers are an important element in preventing bribery and corruption. There are commitments that each government shall take appropriate measures to prohibit employers or their agents from interfering with the rights of workers to exercise freedom of association or collective bargaining and prevent bribery to corruptly influence those rights<sup>5</sup>.

The agreement also encourages governments to have transparent anticorruption and tax laws and policies and to involve a wide range of civil society organisations including business, unions, women, Indigenous People, people with disabilities, rural communities and other groups in their development. However, the measures to promote civil society engagement in anticorruption measures are nonbinding using the language 'intends to' rather than 'shall'<sup>6</sup>.

The test of the agreement will be to what extent governments actually implement commitments to improve anticorruption measures, labour rights, community consultation and improved taxation outcomes. Unlike the IPEF Supply Chain Agreement, there is no provision for a five-year review. Such a review would provide some form of accountability for national governments and to other stakeholders.

## Recommendations:

1. That the Australian government advocate at the annual meeting of the Joint Commission established by the IPEF overarching Agreement, also being reviewed by JSCOT, for a five-year review of the implementation outcomes of the IPEF Fair Economy Agreement, as is planned for the IPEF Supply Chain Agreement and the IPEF Clean Economy Agreement.
2. That the Australian government advocate in the five-year review for binding commitments on criminalisation of bribery, labour rights and on civil society and community engagement on development and monitoring of anticorruption measures.

---

<sup>3</sup> DFAT(2024) IPEF text Articles 8

<sup>4</sup> DFAT (2024) IPEF text Article 5.11

<sup>5</sup> DFAT(2024) IPEF text Article 14

<sup>6</sup> DFAT (2024) IPEF text Article 12

## Taxation measures

As the DFAT national interest assessment notes<sup>7</sup>, the Section C commitments on tax are non-binding. They recognise the importance of equitable and efficient tax systems in ensuring that the benefits of economic growth are shared. They recognise the importance of transparency and information exchange and sharing best practices between tax authorities, and of capacity building, and express support for the OECD 2-Pillar Solution to Address Tax Challenges Arising from the Digitalisation of the Economy, the G7 Financial Action Task Force (FATF) and the OECD's Global Forum on Exchange of Information and Crypto-Asset Reporting Framework. They also express support for global and regional technical and capacity building efforts for implementing both the anti-corruption commitments and consistent and efficient tax administration<sup>8</sup>.

### Recommendation

3. That the Australian government advocate for the five-year year review to include assessment of the outcomes of the tax commitments in the agreement.

## Capacity building and implementation

Section D of the agreement deals with the mechanisms for the implementation of capacity building, which are detailed in Annex 1 Capacity Building Framework. This framework establishes the Technical Assistance and Capacity Building Coordination Group (TACBCG), comprised of government officials. Governments may share information on capacity building, technological innovation, and stakeholder engagement on both anticorruption and tax issues<sup>9</sup>.

The TACBCG will encourage governments to consider technical cooperation activities and training programs at national levels and to cooperate on transnational corruption offences and on international tax matters<sup>10</sup>.

The TACBCG will also make recommendations on development aid funds to assist IPEF developing countries in capacity building for implementing the commitments in the agreement.

This includes funding for Overseas Development Assistance to developing countries from industrialised countries like Australia to assist with implementation. Australia has committed a total of \$21 million for implementation of all 4 pillars of the agreement. This is spread amongst potentially six developing countries and over four agreements and which means that the resources Australia has allocated for implementing this agreement could be quite limited.

---

<sup>7</sup> DFAT (2024) National Interest Analysis Paras 56-60

[https://www.aph.gov.au/-/media/02\\_Parliamentary\\_Business/24\\_Committees/244\\_Joint\\_Committees/JSCT/2024/IPEF\\_Fair\\_Economy/NIA.pdf?la=en&hash=BDAD4ED0BACCAD54A7E5B67FBE53573691A3DE48](https://www.aph.gov.au/-/media/02_Parliamentary_Business/24_Committees/244_Joint_Committees/JSCT/2024/IPEF_Fair_Economy/NIA.pdf?la=en&hash=BDAD4ED0BACCAD54A7E5B67FBE53573691A3DE48)

<sup>8</sup> DFAT (2024 ) IPEF text Article 16

<sup>9</sup>DFAT (2024) IPEF text Article 20.1

<sup>10</sup> DFAT (2024) IPEF text Annex1, para 3

### Recommendation:

4. That the Australian government support in the five-year assessment of the effectiveness of the anti-corruption and tax capacity building programs and consider whether further ODA contributions to developing countries are required.